



the federation for a sustainable environment

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PPM PLANT EXPANSION PROJECT  
DREAD Ref. No. NWP/EIA/87/2013  
DMR Ref. No. NW30/5/1/2/2/320MR

The following comments are submitted on behalf of the Federation for Sustainable Environment (FSE). The FSE is a federation of community based civil society organisations committed to the realisation of the constitutional right to an environment that is not harmful to health or well-being, and to having the environment sustainably managed and protected for future generations. Their mission is specifically focussed on addressing the adverse impacts of mining and industrial activities on the lives and livelihoods of vulnerable and disadvantaged communities who live and work near South Africa's mines and industries.

We respectfully request the EAP to respond to our comments in a meaningful and intelligent manner and not merely by the response "*noted*", which is meaningless. In substantiation, we refer to the DMR's presentation at the DEA's EIA Sector Seminar titled "*Working towards Improved Relations*", which was held in Pretoria on the 12<sup>th</sup> of March 2019. (Please see Appendix "B.")

#### Public Participation Process: Scoping Phase

We are informed by the EIA/EMPR Report that meetings pertaining to the Scoping Phase of the project were held with key stakeholders during 2013 and 2014. Reference is made on page 37 of the EIA/EMPR Report that a scoping meeting was held with the FSE on the 8<sup>th</sup> of May 2014.

The Environmental Impact Assessment / Environmental Management Programme Report (EIA/EMPR) is dated March 2019 and we are advised on page (i) of the Report that the comment period is from 18 March to 7 May 2019 after which the final EIA/EMPR will be submitted to the DREAD and the DMR for decision-making.

Kindly provide clarity why there was an effluxion of 5 (five) years between the Scoping Phase and the EIA phase.

### Existing Approvals

On page 2 of the EIA/EMPR we are informed that the amendment of the closure objectives of the Tuschenkomst Pit from backfilling and the re-establishment of land to a water supply and tourism hub facility were approved by the DMR in 2012.

This comes as a surprise to the FSE since the FSE appealed the authorisation by the DMR in 2013. At the time we were informed as follows:

1. On the 10th of January, 2013 Mr. Zingaphi Jakuja, on behalf of the DMR, responded as follows to Ms. Sue Blaine of Business Day: *“The time frame for deciding on the matter cannot be confirmed. (Several allegations were made which warrant thorough investigations not only by DMR but other organs of state such as the Department of Water Affairs, Dept of Labour etc). The MPRDA does not spell out time frame for this matter; however the complainant shall be notified once a decision has been arrived at and the matter is viewed in a serious light and is treated as such”*. (Emphasis added.)
2. On the 21st of January 2013, the FSE was requested by the Director General (Mineral Resources) to furnish the office of the DMR with a reply to the response by the PPM, dated the 17th of January, 2013.
3. The Director General of DMR advised the FSE, in its letter, dated the 21st of January 2013: *“Please note that should you fail to respond as aforesaid, we shall then proceed with the processing of the appeal without further notice to you.”*
4. The FSE supplied the office of the DMR with a response within the prescribed time period of 21 days. The FSE received an electronic copy from the DMR confirming receipt of the document. It follows hence that the FSE was entitled to be notified by the Director General of Mineral Resources of the DMR’s decision regarding this matter.
5. On the 13th of February, 2013 Mr. Zingaphi Jakuja, on behalf of the DMR, publicly stated to Carte Blanche that: *“It must be noted that although the addendum to the approved Environmental Management Programme was approved for the change in closure objectives, the conditions of the approval letter clearly state that the project is approved for “complete backfilling”*. (Emphasis added.) This was the essence of the FSE’s appeal, namely the complete backfilling of the pit and not a partial backfilling.
6. On the 11th of August, 2013, the FSE, enquired, in an electronic mail, from Ms. Fiona Bolton of SLR Consulting the status of the Amendment of the Pilanesberg Platinum Mine EMP Closure Objectives (Environmental Impact Assessment and Environmental Management Programme: Amendment).

7. On the 12th of August, 2013, Ms. Bolton responded that *“it is our understanding that this matter has not yet been resolved, and that IAPs will be notified of the outcome once it has been finalized.”*
8. On the 7th of September 2013 the FSE requested the status of Appeal from Mr Tshoganyetso Mesefo of DMR.
9. On the 10th of September 2013 Mr Brandon Stobart stated at the Pilanesberg Protected Areas Forum: *“SLR is not aware of the adjudication outcome.”*
10. On the 30th of September 2013 at a meeting between the FSE, the DMR, the DWAF and the DEA, Mr Andre Cronje of the DMR stated that the Appeal has not been finalised.
11. In an undated letter in response to Mr Brandon Stobart’s e-mail, dated the 21st of November 2013, Mr. Dean Riley on behalf of PPM informed the FSE: *“This letter serves to confirm that all interested and affected parties (including the FSE) will be informed of the DMR’s decision on this project after the DMR has finalised (sic) its decision. This notification will be distributed on behalf of Platmin by SLR Consulting as part of the normal EIA /EMP notification process.”* (Emphasis added.) The FSE, at the time of writing, did not receive any notification from PPM or from SLR of the DMR’s decision.
12. On the 14th of January 2014 the FSE submitted a request for the status of the Appeal in terms of the provisions of the Promotion of Access to Information Act (2 of 2000) to Messrs Tshoganyetso Mesefo and Abraham Nieman of the DMR.
13. On the 31st of March 2014, in response to another request for the status of the Appeal by the FSE on the 13th of March, 2014, Adv Woods Mogopudi, Senior Legal Officer: Legal Services of the DMR responded: *“Kindly be informed that we still awaiting the response of the Regional Manager: North West on his administrative decision in this matter. A reminder will be send henceforth to the Regional office for their urgent response. We concede that the decision in this matter is long overdue and we shall endeavor to bring it to finality expeditiously.”*
14. On the 1st of April 2014, the DDG: Mineral Regulation of the Department of Mineral Resources, Mr Andre Cronje responded that the matter is *“sub judice”*.

At the time of writing the FSE, as the Appellant, has not been notified that its Appeal against the authorisation of the amendment of the closure objectives of the Tuschenkomst Pit has been dismissed. In terms of the provisions of Section 33 of the Bill of Rights of the Constitution of the Republic of South Africa the FSE has the right to administrative action that is lawful, reasonable and procedurally fair and had the right to be notified of the outcome of its Appeal.

Failure in this regard will result in the sterilisation of the FSE's right to have the decision by the DMR reviewed by the judiciary.

In the light of the statement on page 2 of the EIA/EMPR we kindly request clarity on the matter.

**The FSE firmly holds to the view that the proposed closure plan to allow the Tuschenkomst Pit to be used as a water supply is unsustainable. Analogous to the FSE's view, the DMR (North West), identified using pits as strategic water resources as “unrealistic closure objectives”. (Please see Annexure “A”.) Perplexingly and anomalous to the DMR's expressed statement at the DEA's EIA Sector Seminar titled “*Working towards Improved Relations*”, the DMR authorised the said closure plan to allow the Tuschenkomst Pit to be used as a water supply.**

### Final End Use

The closure objectives are listed on page 29, namely:

- Erosion prevention
- Ensure that all areas are free-draining and non-polluting
- Establishment of vegetation allowing the area to be used for light grazing or wilderness
- Monitor and manage alien plants on site

On page 45 we are informed that the final end use of the area is wilderness, which would be incorporated into the heritage park corridor.

We wish to raise the following concerns regarding the end land use.

In terms of Appendix 5 of the 2014 EIA Regulations a closure plan must include:

*“(d) measures to rehabilitate the environment affected by the undertaking of any listed activity or specified activity and associated closure to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development, including a handover report, where applicable; ...”*

(Emphasis added.)

We consider it necessary for the EIA/EMPR to define the term “wilderness”. If by wilderness the EIA/EMPR means an unspoilt natural area which is biologically intact, undisturbed and which will contribute to the tourism and eco-tourism of the region, it will meet the above-mentioned principle of sustainable development.

If on the other hand the term “wilderness” is employed in the EIA/EMP Report to mean badlands or wastelands or unrehabilitated footprints, then the proposed end land use is a sub-economic and an unsustainable land use, which may reduce the livelihood opportunities and the quality of life of communities who are reliant on the land for their livelihoods.

Please also define the term “light grazing.” It is of the utmost importance that the end land use will provide opportunities for food security, albeit subsistence farming, for seasonal grazing for livestock, for tourist activities and for access to forest foods and water.

Of relevance in this regard are the findings and directives of the South African Human Rights Commission pursuant to its “*National Hearing on the Underlying Socio-Economic Challenges of Mining Affected Communities in South Africa.*” The Commission found that the DMR has not taken adequate steps to secure financial provision for rehabilitating damage to the environment and water resources and that **there is an immediate need for all EIAs and EMPRs to clearly detail land quality and potential post closure land use. Licences should not be granted where long term, sustainable land use cannot be guaranteed.** Please see attached Report.

Furthermore, the end land use as proposed by the Applicant is that that “*wilderness*”... “*would be incorporated into the heritage park corridor*”. The EIA/EMPR (page 55), however, informs us that the Lebatlhane Game Reserve, which was previously included in the heritage park, “*no longer operates as a reserve and is used by the community for livestock grazing*”, and that there are numerous challenges that face this initiative, which include but are not limited to a lack of investors, numerous private and community land owners, existing linear infrastructure as well as existing and proposed developments including mining operations. In view of the aforesaid, the proposed end land use may not be realistic or sustainable, and an alternative land use ought to be proposed.

#### Bojanala Platinum District Municipality: Environmental Management Framework (BPDM EMF)

We failed to find reference to the BPDM EMF in the EIA/EMPR.

Since the EMF functions as a support mechanism in the EIA process and is a decision support tool, which ensures that the competent authority has sufficient information to guide EIA authorization decisions within a specific geographical area, the EIA/EMPR ought to have included the findings and recommendations of the BPDM EMF namely:

- o the environmental management priorities of the area;
- o the kind of developments or land uses that would have a significant impact on those attributes and those that would not;
- o the kind of developments or land uses that would be undesirable in the area or in specific parts of the area;
- o inclusion and exclusion areas (if deemed feasible/necessary), or areas of particular sensitivity in terms of the proposed NEMA EIA Regulations list of activities.

#### Air Quality

We understand from the reading of the EIA/EMPR that the proposed KELL Process will result in a reduction of 70% CO<sub>2</sub> emissions. While this is encouraging, we noticed that in terms of the main findings of the AQMP of 2016 that the PM<sub>10</sub> exceeded the SA NAAQS and the dust fallout rates exceeded the SA National Dust Control Regulations’ standard of 1 200 mg/m<sup>2</sup> for non-residential areas. The construction of the proposed infrastructure is likely to contribute to the dust fallout rates, which are already exceeding the NDCR standard.

Monitoring of the dust fallout is recommended as a mitigation measure in the EIA/EMPR. We recommend, in terms of the proposed amendments to the National Dust Control Regulations and in view of the above-mentioned exceedances:

With regards to the monitoring of dust:

- The use of windshields on the dust buckets which should be tailored to allow for tolerance ranges for the bucket diameter (150mm ± 30mm);
- A minimum ratio of depth to diameter (1:2);
- A height of a sampler above ground (2m±0.2m uncertainty)
- The method to allow for both wet and dry sampling (algae control – biocide).

With regards to management of dust:

- Prior to undertaking the proposed activity, the Applicant ought to develop and implement a dust management plan.

We furthermore request that consideration be given to the presentations which were delivered at the Bojanala Air Quality Task Team in order to assist with the assessment of the cumulative impacts of air pollutants within the Bojanala District. (Please see Appendices “D”.)

Page 81 of the EIA/EMPR informs us that at the time of the study no information was available regarding the KELL plant stack locations or stack parameters and that the impacts were based on assumptions and simulated emissions. We are furthermore informed that atmospheric releases occurring as a result of non-routine conditions are not included in the dispersion model modelling.

**We recommend that the project not be authorised unless the above-mentioned uncertainties are addressed. The precautionary principle ought to apply. The mining industry and the State should have gained enough experience from the asbestosis and silicosis catastrophes in South Africa to justify the application of precautionary principles.**

#### Sense of Place (Visual Impacts)

Page 5 of the Visual Impact Assessment informs us that *“in this study the aesthetic evaluation of the study area is determined by the professional opinion of the author based on site observations and the results of contemporary research in perceptual psychology.”* While we acknowledge the experience, the awards and academic contributions of the specialists, and that *“both the objective and subjective or aesthetic factors associated with the landscape were considered”*, we request the decision makers to give serious consideration to Guideline Documentation such as the *“Sense of Place”* by Duard Barnard as well as the findings of the Court in the case of *Director: Mineral Development Gauteng Region and another v. Save the Vaal Environment and others 1999 (2) SA 709 (SCA) at 715C* in which the learned Judge considered the depreciation in property values and the adverse pact on sense of place and the elimination of the spiritual, aesthetic and therapeutic qualities associated with the area, and found in favour of SAVE.

The assessment of the specialist was advised by a site visit on the 12<sup>th</sup> of April 2017 but we are not informed of the site, which the specialist visited and his consultation with directly affected parties, e.g. Bakubung and Kwa-Maritane within the Pilanesberg National Park.

We are, however, informed that the bright lights of PPM are noticeable against the otherwise dark sky; that the overall landscape character evokes an aesthetically pleasing scene with a

strong sense of place; and that PPM is in close proximity to the Pilanesberg National Park and the proposed Heritage Park Corridor.

We are furthermore informed that most of the views of the proposed large and tall structures will originate in the Pilanesberg National Park through the 'poort' access to the park and that the sensitive receptors will be tourists travelling through the area to visit the Pilanesberg National Park.

The Visual Impact Assessment Report furthermore informs us that:

- Tourism is one of the main activities in the area and includes high profile conservation areas and tourist destinations such as the Pilanesberg National Park.
- The Pilanesberg National Park is a major, internationally known, tourist attraction and it has attracted significant tourist activity. One of the reasons that tourists go to nature conservation areas such as the Pilanesberg National Park is to get away from the bright lights of the city and to enjoy the darkness of the night sky.
- The reason for tourism to be attracted to the area, in addition to game viewing, is the scenic beauty and sense of place..
- The advent of mining activities has eroded the night time experience of remoteness or wilderness which lacked many light sources.
- The sense of place is being accumulatively impacted upon by mining activities.
- The impact of night lighting is an impact that would continue for the remainder of the mine's life.
- The negative effect of night lighting against a relatively dark sky is particularly annoying to tourist and residents visiting the Pilanesberg National Park.
- The darkness of the night sky, associated with nature tourism, is slowly being compromised in the area north of the Pilanesberg National Park.
- The impact of the existing PPM mine and other surrounding mining activities already have a high negative effect on the visual environment.
- Light pollution is already a problem in the area.
- The Project will contribute to the current negative effects of light pollution.
- The additional lights from the proposed Project will contribute to the existing negative impact of mining/plant activities at night on sensitive tourist areas in the area;
- The UG2 milling and Flotation circuit and the KELL plant and its stack will be visible to the Pilanesberg National Park, the night-time impact of additional lighting will be cumulative in nature as project components will be built into existing mineral processing facilities;

We are alerted to the fact that the proposed Project will extend the current processing activities for an additional forty years. It logically follows that the visual impacts will also be extended for forty years.

The proposed measures to mitigate this impact are to paint the buildings green or brown colours, to fit fixtures to prevent light spillages and to focus the light on precise mine activities and infrastructure, fitted to the ground as low as is practicable.

**We do not consider these mitigation measures to be adequate and we recommend sustained engagements with the Pilanesberg National Park to address the impacts on the sense of place, which has an economic value.**

**The loss of sense of place ought to be costed in order to determine whether the proposed project is economically justifiable.**

#### Mining in sensitive areas

The SAHRC in its Report on the “*National Hearing of the Underlying Socio-Economic Challenges of Mining Affected Communities in South Africa*” directed the DMR and the DEA to immediately issue public notices of applications in sensitive areas and to convene extensive public participation, including with local communities, prior to the granting of such licences.

**Since the proposed project is located mainly within an area of high biodiversity importance according to the Mining and Biodiversity Guidelines and downstream of the TSF and plant in an area of highest biodiversity importance, and the Motlabe River in terms of the NFEBA, a class B river, we request that in compliance with the SAHRC’s directive the DMR immediately issue public notices of this application and convene extensive public participation prior to the granting of this licence.**

#### Financial Provision

Page 82 of the EIA/EMPR informs us that the current financial closure liability does not make allowance for the development.

Page 74 of the EIA/EMPR informs us that, pertaining to closure, the surface and groundwater remediation has not been costed at this stage.

In terms of s 5(c) of the National Environmental Management Act (107/1998): Regulations pertaining to the Financial Provision for Prospecting, Exploration, Mining or Production Operations “*An applicant or holder of right or permit must make financial provision for—remediation and management of latent or residual environmental impacts which may become known in future, including the pumping and treatment of polluted or extraneous water.*”

**It follows hence, in view of the above-mentioned Regulations, that the financial closure liability of the development and the remediation costs for surface and groundwater must be determined prior to the authorisation of the Application.**

#### Community-based initiatives

We request whether the community-based initiatives (an aggregate crusher and brick making project; nursery; vegetable garden and composting area; and car wash) have been agreed upon by the affected parties, community based organisations and other relevant stakeholders; are aligned to the SLP; and whether the SLP has been consulted with the mining affected communities and key stakeholders and have been made available to the mining affected communities and key stakeholders.

SUBMITTED BY:

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CEO: FEDERATION FOR A SUSTAINABLE ENVIRONMENT.

25 March 2019.