



Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002

Email: [Appeals@environment.gov.za](mailto:Appeals@environment.gov.za)

#### APPEAL RESPONSE REPORT

PROJECT NAME/TITLE: GRANTING OF AN ENVIRONMENTAL AUTHORISATION TO ZULULAND ANTHRACITE COLLIERY (PTY) LTD IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) (AS AMENDED) AND THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS, 2014 (AS AMENDED) ON THE PORTION 11 OF THE FARM NO.15832, RESERVE NO.12 (PROPOSED MGENI ADIT) IN THE ZULULAND DISTRICT MUNICIPALITY IN THE KWAZULU NATAL REGION

PROJECT LOCATION: PORTION 11 OF THE FARM NO. 15832, RESERVE NO. 12

PROJECT REFERENCE NUMBER: KZN 30/5/1/2/2/217MR

DATE PROJECT/ACTIVITY AUTHORISED: 30/03/2021

DATE NOTIFIED OF DECISION: 14/04/2021

Initial/s:

DETAILS OF THE 1 <sup>ST</sup> APPELLANT	DETAILS OF THE 2 <sup>ND</sup> APPELLANT	DETAILS OF THE 3 <sup>RD</sup> APPELLANT	DETAILS OF THE APPLICANT
<b>Name of Appellant:</b> GLOBAL ENVIRONMENTAL TRUST	<b>Name of Appellant:</b> UMFOLOZI BIG FIVE TRUST	<b>Name of Appellant:</b> Mr Ndukenhle Shawn Duma	<b>Name of Applicant:</b> ZULULAND ANTHRACITE COLLIERY (PTY) LTD
<b>Appellant's representative (if applicable):</b> ALL RISE Attorneys for Climate and Environmental Justice Janice Tooley	<b>Appellant's representative (if applicable):</b> JEREMY RIDL, ATTORNEY	<b>Appellant's representative (if applicable):</b>	<b>Applicant's representative (if applicable):</b> Mr M Buthelezi/ Ms M Pillay
<b>Postal address:</b> P.O. Box 6189, Zimbali, 4418	<b>Postal address:</b> P.O. BOX 1498 HILLCREST 3650	<b>Postal address:</b> P. O. Box 6 Nongoma 3960	<b>Postal Address:</b> Zululand Anthracite Colliery (Pty) Ltd Private Bag X71 Ulundi 3838
<b>Email Address:</b> <a href="mailto:jtooley@allrise.org.za">jtooley@allrise.org.za</a>	<b>Email Address:</b> jaridl55@gmail.com	<b>Email Address:</b> nszduma@gmail.com	<b>Email Address:</b> MsawenkosiB@zulac.co.za m.pillay@canyoncoal.com
<b>Telephone number:</b> 032 814 0244 / 083 650 5691	<b>Telephone number:</b> 0825555481	<b>Telephone number:</b> 0715889479	<b>Telephone number:</b> 035 874 7326 / 011 783 7996 / 072 905 8196
<b>Fax Number:</b> -	<b>Fax Number:</b>	<b>Fax Number:</b>	<b>Fax number:</b> -

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GROUNDS OF APPEAL – 1 <sup>st</sup> APPELLANT	RESPONDING STATEMENT BY THE APPLICANT	COMMENTS BY THE DEPARTMENT
<p><b>1. In granting the Environmental Authorisation (EA), the competent authority <u>failed to consider or adequately consider the negative socio-economic impacts on local residents, especially vulnerable and disadvantaged persons</u> as is required by Regulation 18 of the EIA Regulations, 2014 read with Sections 2, 23, 24(4) and 24O of NEMA.</b></p> <p><i>This is because there is:</i></p> <p><b>1.1. <u>A lack of description of the social and economic aspects of the project</u></b></p> <p>1.1.1. A Basic Assessment Report (BAR) is required in terms of <b>Regulation 19(1)(3) read with Appendix 1 of the EIA Regulations 2014</b> to describe the environmental attributes associated with the project focusing on <i>inter alia</i> the social and economic aspects. A proper understanding of the receiving environment is an essential component of identifying and assessing impacts necessary for the competent authority to be able to make an informed decision on an application for EA about the need, desirability and sustainability of a development, including a mining-related activity.</p>	<p>Introduction</p> <p>The final Basic Assessment Report (BAR) with specialist reports submitted as well as the granted Environmental Authorisation (EA) should be read in conjunction with this answer. We do not annex the full Final BAR submitted in order to avoid excessive documentation provided. However, a full set of the Final BAR with specialist reports can be made available on request.</p> <p>The first appellant's grounds of appeal are mutually destructive. There is no logic in the reasoning of the first appellant to contend that the decision-taking authority as a matter of fact failed to consider the socio-economic impacts and then in the same breath contend in the sub-paragraphs to the grounds of appeal that the applicant's BAR lacks a description of inadequate identification and inadequate assessment of the socio-economic impacts.</p> <p>The listed activities which must be considered are in fact clearance of a fairly small area of indigenous vegetation of less than 20 ha. and the development of a road to be utilised in the existing mining activities.</p> <p>In the context of the existing Mining Right these activities will have a minimal effect on the approved rights of Zululand Anthracite Colliery (ZAC).</p> <p>The grounds of appeal raised are, in the light hereof, emphasised and dramatized. If it is accepted that the first appellant has no <i>locus standi</i> to readdress</p>	

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<p>1.1.2. The BAR for the proposed Mnjeni Adit does not in any meaningful way describe the socio-economic conditions of the receiving environment – it does not describe the communities <u>directly</u> affected by the Adit and underground workings; the associated service infrastructure (the three pipelines, new section of access road, and powerline); and the route that will be used by large trucks to haul the coal to the processing plant. It also does not describe the communities who will be <u>indirectly</u> affected by the project as a result of having to live next to or downstream of a coal processing plant which will continue to operate for an additional five years as a result of the opening of the Mnjeni Adit.</p> <p>1.1.3. GCS makes the following statements in a <b>Disclaimer</b> in the <b>BAR (page iii):</b></p> <p><i>"Environmental and <u>social data, as well as Environmental Impact Assessment, provided in this report is based on information supplied by specialists in their respective fields, as well as existing information pertaining to the area in question (including previous site investigation data).</u> It has been assumed that the information provided to GCS to perform the outcomes of this report is correct" [own emphasis].</i></p>	<p>aspects such as socio-economic issues, the appeal should be dismissed without dealing with the aspects raised in paragraphs 1.1 to 1.3 and their sub-paragraphs.</p> <p>Ad paragraphs 1.1.1 and 1.1.2</p> <p>Currently mining is taking place at the Deep E shaft which has a remaining 3-year life. Once the resource at Deep E is depleted, it is proposed that mining takes place at the Mnjeni Adit. Therefore, mining at the Mnjeni Adit is crucial for ZAC as it will result in an extension to the life of mine by 12 years.</p> <p>If the extension to the life of mine is not realized, this will result in the termination of:</p> <ul style="list-style-type: none"> <li>a) 506 existing employment contracts.</li> <li>b) Contracts with external contractors that employ 400 employees.</li> <li>c) The provision of water to the surrounding communities and their livestock some 80 000 people are dependent on the water supplied by ZAC. This may have to be stopped if ZAC can no longer mine as a result of the EA not being approved.</li> <li>d) Contractors in place worth R42 million for the lining of 2 slurry dams and 3 pollution control dams.</li> <li>e) The investments worth R5 million for equipment for training and employment of the community to keep the roads maintained and dust free.</li> <li>f) The installation of a R14 million filter press plant for the main plant will not be injected into the</li> </ul>	
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<p><i>No responsibility is accepted by GCS for incomplete or inaccurate data supplied by others (the client and external sources). Where gaps have been identified these are listed for consideration by the responsible decision-makers.</i></p> <p><b><u>GCS's opinions conclusion and recommendations are based upon information that existed at the time of the start of the production of this document</u></b>" [own emphasis].</p> <p>1.1.4. Notably, there was no social specialist appointed to the EIA to inform the EIA and BAR and because this is a "greenfields" site as the BAR states, it is likely that the existing information on the social environment is limited. Further, even though the BAR contains sections which purport to describe the social environment, it is clear that they are woefully inadequate in terms of describing the affected communities within ZAC's mining areas, in particular the proposed Mngeni mining area (Masokaneni village) and wash plant (Okhukho), and are limited to the following few, sparsely worded subsections under Section 4 of the BAR: "<b>ENVIRONMENTAL ATTRIBUTES</b>":</p> <p>1.1.4.1. <b>Section 4.1 (page 38 of the BAR)</b> is headed "<i>Municipal Planning Context</i>". <b>Subsection 4.1.1</b> provides only high-level census statistics (2016 and 2011) for the Zululand District and Nongoma Local Municipalities as a whole.</p>	<p>South African economy.</p> <p>g) The Social and Labour Plan ("SLP") is aimed at improving the socio-economic condition of the host community. In the last 5 years, ZAC contributed an amount of R40 596 859.00 which comprises of bursaries, internships, learnerships and local economic development projects as well as cooperate social investment projects. The current 5 years SLP budget is R23 384 000.00.</p> <p>As indicated in the BAR, the proposed new Mngeni Adit is located within an existing Mining Right (KZN 64 MR) held by Applicant on the property Reserve No. 12, No. 7638. This Mining Right was issued to ZAC with an authorised Environmental Management Programme Report (EMPR) that was submitted with the Mining Right application. The social and economic considerations were considered during the initial application that was submitted when the Mining Right Application was lodged as well as in the SLP that is in place for the mining operations.</p> <p>Furthermore, the Listed Activities applied for made provision for the clearance of vegetation as well as the construction of a road. As such, the impact assessment included in the BAR that was conducted as part of the application related directly with these Listed Activities, i.e., the action of the clearance of vegetation as well as the action of constructing the required roads. Neither of the Listed Activities required an extensive assessment of the social and economic conditions on the site as their reach does not extend that far.</p> <p>In any event the appeal ground that the environmental authorisation lacks description of the</p>	
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<p><b>Table 4-2 in subsection 4.12</b> provides information on annual household income at the Zululand District Municipality (DM) level only, which, bearing in mind, also comprises large towns such as Ulundi and Vryheid which are not comparable to small villages like Masokaneni where the proposed Mngeni Adit is to be located.</p>	<p>socio-economic aspects in respect of the project is factually untrue. As appears from the BAR the socio-economic aspects were dealt with at several places therein even in circumstances where the effect thereof are not substantial.</p> <p>Consequently, the grounds of appeal in these paragraphs have no factual or legal basis.</p>	
<p>1.1.4.2. Notably, <b>subsection 4.1.2</b> also contains the following paragraph drawn from the Zululand DM's IDP, 2016:</p> <p><i>The Zululand District does not have many large economic investments to boost the local economy. <u>Until the late 1990's, heavy coal mining was the basis of the economy; however, that has since changed to tourism and agriculture.</u> Although this has assisted in filling the void left by mining, this still does not meet what the mines contributed to the economy. <u>There has been a significant increase in tourism, and the high agricultural potential of the land is thought to be the way forward</u>" [own emphasis].</i></p>	<p>The ground of appeal in this paragraph relates to Consultant's Environment Practitioner's Assessment (GCS Water and Environmental Consultants) disclaimer which is removed from the decision that was taken and is unrelated to the merits which served before the decision-taking authority. The so-called disclaimer relates to data, information and opinions of specialists. The data and reasons relied upon by the applicant were disclosed and related to the timeframe when the Authorisation was sought. If the appellants were serious and bona fide about the criticism it could address the data and information as well as opinions which they intend to challenge. A mere criticism against the disclaimer is subsequently baseless.</p>	
<p>1.1.4.3. However, agriculture and tourism are not discussed further in Section 4 despite the area that will be affected by the proposed Adit being of high agricultural potential as shown in a screening tool report (created for purposes of the appeal) using the Department of Forestry, Fisheries</p>	<p>Initial/s:</p>	

<p>and Environment's (DFFE's) on-line screening tool (see page 9 of Annexure "GET1").</p> <p>1.1.4.4. <b>Section 4.12 of the BAR (page 80)</b> describes the land use of the receiving environment in very general terms and only in relation to the larger area for which ZAC holds mining rights; it is not specific to the area affected by the proposed Mngeni Adit.</p> <p>1.1.4.5. <b>Section 4.16 of the BAR (page 89)</b> is even less detailed in describing the socio-economic environment. This section states that "<i>[t]he information regarding the socio-economic environment has been obtained from the Ulundi Local Municipality IDP (2017/2018) and Nongoma Local Municipality IDP (2017/2018)</i>" but does not go on to provide any such information. The only other information in this subsection is the economic contribution of the mine to the region and the number of jobs. However, this is not in sufficient detail to know whether Masokaneni residents will directly benefit or not from the Mngeni Adit despite being exposed to numerous significant adverse impacts.</p> <p>1.1.5. In addition to not commissioning a specialist to conduct a social impact assessment, there is little or no evidence to indicate that</p>	<p>The first appellant clearly misconstrues the impact of the Authorisation and the purpose thereof. The information relied on is not high-level. It also relates to "Zululand District and smaller districts" in the table which was applied and relied upon by both the first appellant and the applicant.</p> <p>The economic trends and comparisons between mining, tourism and agricultural must be valued against the facts under consideration. Agriculture was not an option in the light of the existing mining rights and the purpose of the Adit. The further discussion in respect of tourism and agriculture which the appellant calls for are irrelevant and will serve no purpose.</p> <p>The ground of appeal that the socio-economic aspects were only addressed in general terms and based on the Local Authority's 2017/2018 IDP are misleading and is in fact untrue. The BAR in fact confirms that the applicant's Mining Right falls within the area of jurisdiction of the Zungu, Ximbe, Matheni and Mandlakazi Tribal Authorities. – (See BAR: para 4.12 p 800)</p> <p>In addition, it confirms that the proposed Adit that forms part of the mining activities will contribute directly to 114 additional employment opportunities. The existing contribution by the applicant to the nearby communities are well documented and not in dispute. (See BAR: 4.16 p 89). The ground of appeal that the socio-economic facts and motivations are insufficient and only in general terms is, with respect, baseless and should be dismissed.</p>	
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<p>the GCS attempted in any way to gather information through direct observation or engagement with the affected communities to understand the social environment. This complete disregard for vulnerable and disadvantaged persons is inexcusable especially as it is very obvious that there are numerous homesteads in close proximity to the proposed Adit complex and many which are situated directly above the underground workings.</p>	<p><b>Ad paragraph 1.1.5 – 1.1.9</b></p> <p>The grounds of appeal in these paragraphs relate to the impact of blasting on nearby residences. The allegation that these residences were not identified is untrue; the proposed site layout is indicative of the fact that the residences were identified in figures 3-2 and 3-4 (pp 28 &amp; 35 of the BAR).</p> <p>The generation of noise and vibration were also addressed, as well as the blasting and drilling in the development phase.</p> <p>The predicted noise contributions are not anticipated to exceed the boundary limit of 70 dB(A).</p>	
<p>1.1.6. Our assertion is supported by <b>Figure 3-2</b> in the BAR which presents the “<i>Proposed Mngeni Adit Site Layout</i>” (page 28) and clearly shows numerous homesteads in close proximity (less than 500 m, one even as close as 40 m) to the proposed Adit complex. Although only part of the underground workings are shown in Figure 3-2, their full extent showing even more affected homesteads is evident in <b>Figure 3-4</b> (page 35 of the BAR). Despite including this figure in the BAR, no attempt is made to describe the social environment that is clearly evident.</p>	<p>The blasting and machinery movement will take place in the vicinity of the existing mining operations. (See BAR 3.5.4 p 32).</p> <p>This aspect was specifically addressed in the public participation process. The blasting and underground mining operations are subject to Safety and Health Regulations which the applicant is compelled to adhere to and is incidental to the Authorisation granted to it by law. Through this process of the regulating of blasting activities there will be no household within 500 metres of the boundary where blasting is to take place.</p>	
<p>1.1.7. It is thus also questionable as to why GCS responds to a question about the impact of blasting on the nearby houses raised at a community meeting on 29 August 2019, by incorrectly stating the following:</p>	<p>Although the mining activities will be underground, no households have been identified that fall within the 500-metre boundary.</p> <p>The assessment undertaken by the applicant before blasting took place and the auditing thereof by independent auditors under the supervision of the competent authority will address the fears which were raised by the first appellant in these paragraphs.</p>	

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<p><i>“GB noted that in accordance with best practice, it should be ensured there are no households within 500m from the boundary of where blasting is to take place, before activities commence. <u>In accordance with current investigations, no households have been identified</u>, prior to commencement further assessment to confirm household presence (or not) is to be undertaken by the mine” [own emphasis].</i></p>	<p>(See Public participation process: Appendix C, Letter 29 August 2019.)</p>	
<p>1.1.8. There is no indication in the BAR that further attempts were made by the EAP between the meeting on 29 August 2019 and 27 February 2020 when the BAR was finalised for submission to DMR to establish the local socio-economic conditions despite a number of issues being raised by local residents at the meeting that clearly required investigation.</p>	<p>In any event, the decision-taking authority was presented with an Impact Rating Table as Annexure G to the BAR in which it evaluated the different impacts. The blasting complained of was identified as an impact and was measured as a medium impact in the Rating Table.</p> <p>All footprint areas of the proposed mining areas were evaluated which included homesteads within a 400-metre radius around the blasting areas as well as the local Primary School.</p>	
<p>1.1.9. So, despite it being obvious that there are houses well within 500 m of the proposed Adit and as well as houses directly above the underground workings, the BAR makes no effort to quantitatively or qualitatively describe them. These houses should also have been obvious to Mr KG Moodley, the DMR official who conducted a site visit on 26 February 2021 before issuing the EA shortly thereafter (para 2.3 on page 9 of the EA) and yet these issues are not mentioned in the EA.</p>	<p>The applicant accepts and will be obliged to employ a qualified blasting expert to design the blasting activities in order to ensure that nearby residents are not affected by the vibration and blast.</p> <p>In paragraphs 1.3.1, 4.1.6, 8.2.4 of the BAR the aspects relating to socio-economic aspects were defined at different levels which include the motivation of the activity and the effect of the closure.</p> <p>In summary the essential aspects hereof are quoted from the BAR which reads as follows:</p> <p>“It has been identified as one of the key areas in which jobs can be created and provide economic growth in the area. The proposed adit will contribute 114 additional employment opportunities in the local area over the 12-month construction phase. There may be indirect benefits in the form of increased household income and spending power in the local community, but given the short-term nature of the project, this is not anticipated to be a significant impact.</p>	

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<p>1.1.10. There is also no mention of the schools and creches in the area that may be affected despite Masokaneni Primary School being one of the locations where GCS placed a site notice (page 3 of Appendix E). Although Figure 3-2 has been cropped and does not show the school, it is less than 500m away from the Adit as evidenced by the same Figure 3-4 mentioned above. The school is also directly above the underground workings as is most of the village.</p> <p>1.1.11. The BAR is also silent on the location of schools in relation to learners' homes along the coal haulage routes. This is relevant because most learners in the area walk to and from school and thus are vulnerable to increased traffic, especially large trucks. According to the <b>Traffic Study (pdf page 602 of Appendix D8)</b>, once the site is operational, there will be approximately 52 truck trips a day travelling to and from the Adit and the wash plant along a dirt road (equating to a maximum of approximately 13 truck trips in the peak hours) in addition to the 48 passenger cars and 3 minibus taxi trips during peak hours transporting employees.</p> <p>1.1.12. Further, despite acknowledging that "<i>much of the area is undeveloped (greenfield) and is currently grazed by goats and cattle and crisscrossed with access paths and roads</i>", there is</p>	<p><b>Ad paragraphs 1.1.10 – 1.1.11</b></p> <p>In these paragraphs the first appellant contends that schools and creches in the area were not considered when the EA was granted. This is not correct. As already referred to, the impact on the schools were assessed in the blasting evaluation. The Masokaneni Primary School is not on any of the foreshadowed underground mining area. Refer to <b>Annexure A</b>.</p> <p>ZAC's mining operations contribute to the nearby communities with educational and skills development programmes such as adult basic education and training, supplementary matric classes, HIV/AIDS awareness programmes, sports development and schools' uniform donations, finance assistance for community infrastructure and community subsistence projects. (Mining Weekly 19/05/2017) ZAC mining employed 1350 people predominantly local and contributes R1 685 000 to the GDP. The proposed adit will employ local people for five years of the LOM and contribute to local economic development."</p> <p><b>Ad paragraphs 1.1.12 – 1.1.19</b></p> <p>In these paragraphs the first appellant endeavours to rely on different communal aspects on a speculative basis to support its grounds of appeal. In reality, the Community is very involved in the mining activities with the assistance of the applicant. The specific aspect relating to community issues was raised and address, such as livestock, grazing, agricultural and</p>
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<p>no attempt made to understand what these paths and roads are used for and whether there will be an impact on access for livestock to grazing areas or water sources and how these will be obstructed by the Adit complex. Community members in the area are concerned about will happen to their access to the nearby uGowaneni Stream that flows into the Black Mfolozi River about 500m away which is used to water their livestock. Approximately 30 households graze their livestock in the area where the Adit is proposed totalling an estimated 1,000 head of cattle and goats.</p> <p>1.1.13. The BAR has also not provided a description of community livelihoods, their dependence on natural resources and the rural economy. Based on our understanding of the area, these resident families are heavily reliant on subsistence agriculture and natural resources for their livelihoods and survival. Thus, in order to understand the associated impacts of the mining activities, this information should have been included in the BAR. Instead, the BAR has focussed solely on jobs, which appear to be limited to a one-year construction period for local residents. The BAR has also not disclosed what type of jobs and how many jobs will be available to the residents of</p>	<p>employment potential, were dealt with in the BAR under the different topics, for example at the meeting relating to the traffic study catering for interested and affected parties (meeting on 29 August 2019). The grounds set out in these paragraphs are opportunistic and, for this reason, should be dismissed.</p> <p>Insofar as the appellants complain about the effect that infrastructure services will have on the community the reality is that these services in principle contribute to the quality of life of the community under the control of the local authority.</p> <p>Within this context it must also be pointed out that the proposal for the erecting of the 11kV powerline has been removed from the application. No overhead lines are therefore part of the application or the EA.</p> <p>The grounds of appeal now raised are directed at mining activities and specifically socio-economic aspects, should have been lodged at the issuance of the Mining Right authorisation in 2010. Using the appeal period associated with the current approval of the Listed Activities to appeal the mining activities is not logically and/or legally correct and infringe on the Applicants existing rights to develop the mine in accordance with their approved right.</p>	
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<p>Masokaneni who will be the most directly affected by the mining activities.</p> <p>1.1.14. The BAR has also not described where local residents get their water or water for their livestock. In most rural villages, rainwater is collected from the roofs of houses for domestic use but in areas where there is coal mining, this water becomes contaminated and cannot be used. Instead, water has to be purchased at great expense. Although the BAR does state that currently ZAC is supplying the surrounding communities with potable water abstracted from the Black Mfolozi River for its mining activities (Sections 1.3.1, page 8 and 3.4.1, page 26), it would appear from the annual and monthly water balances presented in Tables 4-3 and 4-4 (page 46 of the BAR) that the potable water supply to the Mngeni Shaft will not be shared with the Masokaneni community. This is confirmed by residents from Okhukho, Mgwabe and Sheleza who have had to purchase their own water for household use for years.</p> <p>1.1.15. It is also apparent that the EIA process and BAR has completely ignored the local community dynamics. It is well known in the area that the Traditional Authority is extremely supportive of the mine and actively discourages community members from criticising the mine despite their genuine</p>		
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<p>complaints. There is a long history of incidents in response to ZAC's unkept promises about jobs and contracts, including arrests and burning of trucks as well as numerous complaints lodged with ZAC for the drying up of water sources, the pollution of water resources, sinkholes, cracked houses uncovered coal trucks which also speed which compromise the safety of local residents and create significant dust.</p> <p>1.1.16. The placement of a new Adit in the Masokaneni village has a strong probability of creating the same type and level of conflict. It is understood that the Ingonyama Trust Board and the Traditional Authority receive payment from ZAC to be able to mine in the area. Already there are reports that the residents of Masokaneni village have been warned not to speak out against the mine by the traditional leadership who have also been telling them that the mining will proceed at Masokaneni long before the requisite licences were issued. As described below, the public participation was limited to a single meeting and for the reasons detailed under item 2 below, is considered to be inadequate to have allowed for meaningful participation.</p> <p>1.1.17. Also, had there been more engagement with local residents, it is likely that the EAP would have gained the necessary level of understanding of the social and socio-economic environment.</p>		
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<p>1.1.18. It is apparent from the issues raised above, that the BAR does not provide an adequate description of the social and economic aspects of the area. Understanding the receiving environment is integral to identifying and assessing impacts, and a relevant factor that needs to be taken into account by the decision-maker.</p> <p>1.1.19. By not providing an adequate description of the social and economic aspects, the BAR not only does not comply with the prescribed requirements, but also inhibits full identification of potential impacts and mitigation thereof. <b><i>These material omissions in the BAR potentially influenced the outcome of the decision by the competent authority and for this reason, the EA should be set aside.</i></b></p> <p>1.2. <b><u>Inadequate identification of social and socio-economic impacts</u></b></p>	<p><b>Ad paragraph 1.2 and its sub-paragraphs</b></p> <p>The so-called inadequate identification and assessment of socio-economic impact is misplaced. The fact of the matter is that the first appellant endeavour in this paragraph to raise aspects unrelated to the Environmental Authorisation which forms the subject matter of this appeal, namely the clearance of vegetation and development of the road, alluded to above.</p> <p>In respect of the real issues, the impact and mitigation measures have been extensively addressed.</p> <p>The change of land use from agricultural to construction, due to the restriction on access for</p>	
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<p>1.2.1. As mentioned above, the failure to properly describe and understand the receiving environment in the EIA has hindered the identification and inclusion of impacts in the BAR.</p> <p>1.2.2. The failure to appoint a specialist to conduct a social impact assessment is also a flaw in the EIA process, especially as it is obvious that the project has the potential to adversely and significantly impact hundreds of people.</p> <p>1.2.3. Even though other specialists were appointed to look at specific impacts that affect people such as noise and air quality, we submit that these studies do not identify and assess the full extent of these impacts in context of a greenfield site and Masokaneni which is a small isolated rural village.</p> <p>1.2.4. For example, the following statement is made in the BAR in respect of the “Generation of Noise and Vibrations” (Section 3.5.4 on page 32):</p> <p><i>“The mining at the proposed Adit will take place in the vicinity of existing mining operations such as blasting and machinery and a mechanical ventilation plant. <u>The people in the vicinity of these mining activities are already used to the increased noise levels created by the mining activities, hauling vehicles and motor-vehicles</u>”.</i></p>	<p>grazing has been provided for through fencing and securing of the works area. Similarly, where vehicle movement will create an inherent danger for the Community and their livestock, the activity will be controlled and their restriction of speed and travelling on the access road controlled, to allay such fears.</p>	
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<p>1.2.5. This statement is not only unfounded, but it also shows a complete disregard for people's environmental rights, especially those who are vulnerable and disadvantaged. It is also misleading as mining at the old Mngeni Shaft ceased in 1996 (page 22 of the BAR), and the nearest current mining operations are several kilometres away from Masokaneni village (Figure 3-1 on page 24 of the BAR).</p> <p>1.2.6. The deficiency of the specialist studies and the BAR is also likely a result of lack of technical information. For example, it is not stated in the BAR that the new Mngeni Shaft is likely to operate 24 hours, seven days a week for a five-year period and therefore, the mitigation measures that have been recommended to contain activities to working hours can only be applied to the construction phase. It is not explicit in the BAR that once operational, and for a period of five years, the Adit complex will be illuminated with bright lights, and that noise will be continuous, especially from the ventilation / extraction fans, vehicles and machinery and the dumping of coal from the conveyor belts onto the temporary coal stockpiles; all this in close proximity to numerous dwellings that exist in a quiet rural setting.</p>		
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<p>1.2.7. Also, although the BAR describes the construction traffic it omits the daily traffic of 52 large coal haulage trucks travelling on the dirt road between the Mngeni Adit to the wash plant, as well as the 48 passenger vehicles and 3 minibus taxis, for the five-year operational phase. As mentioned above, the BAR has not identified whether there are any schools in the area where this additional traffic will pose a threat to learners' safety. The local roads used by ZAC are already treacherous as a result of large coal trucks which frequently speed, churn up significant dust on the roads, pose a danger to pedestrians and when uncovered, which they sometimes are, allow coal dust to blow off the vehicles and large pieces of coal to fall off into the road. These impacts are likely to be similar if and when the Mngeni Adit project commences,,, and yet they are not adequately covered in the BAR.</p> <p>1.2.8. A number of concerns and potential impacts were also raised at the public meeting on 29 August 2019, which were not incorporated or adequately incorporated into the BAR including:</p> <p>1.2.8.1. Subsidence as a result of the underground workings and damage to structures. (GET is also aware a number of</p>		
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<p>sink holes in the area where ZAC has been mining and which have never been rehabilitated).</p> <p>1.2.8.2. Impacts of blasting and damage to housing.</p> <p>1.2.8.3. Dust caused by trucks.</p> <p>1.2.8.4. Depletion of water in the Mfolozi River as a result of abstraction of water for the mine..</p> <p>1.2.9. As explained in more detail below under item 2, not only does the BAR not incorporate all the issues raised by affected parties at the meeting, but the public participation process was also inadequate. Had there been more engagement with local residents, and not just a once-off meeting where local dynamics hindered free participation, and information and time were limited, it is likely that far more issues and impacts would have been raised.</p> <p>1.2.10. Other potential impacts also not identified in the BAR, but which are typical of mining operations include contamination of rainwater from dust emissions which makes the water collected off roofs undrinkable; contamination of rainwater in depressions after rain that is drunk by livestock; and contamination of soil and water by the dust suppressant used</p>		
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<p>by mining companies. It should also be noted that a dust suppressant used by ZAC until relatively recently, caused the death of a number of livestock.</p> <p>1.2.11. In light of the above, there are thus at least two of Section 2 principles in NEMA that the competent authority is supposed to consider in its decision-making, that appear to have been ignored, namely, that:</p> <p>1.2.11.1. The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment (Section 2(4)(i)); and</p> <p>1.2.11.2. Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons (Section 2(4)(c)).</p> <p><b>1.2.12. Because the BAR has failed to adequately identify and assess all social and socio-economic impacts, which we submit are significant and will adversely affect the well-</b></p>	<p><b>Ad paragraph 1.3 and sub-paragraphs</b></p> <p>The issues raised by the I&amp;APs related to the impacts that the mining activities may have on the surrounding environment. As no application for any Listed Activities that relate to mining activities were necessary as the area is already subject to an authorised Mining Right (issued in 2010), no consideration were given to these comments. These would have been considered during the Environmental Impact Assessment that was conducted during the Mining Right Application</p>	
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<p><i>being and health of local residents, the EA which is informed by the BAR should be set aside.</i></p> <p>1.3. <b><u>Inadequate assessment of social and socio-economic impacts</u></b></p> <p>1.3.1. Appendix 1 of the EIA Regulations, 2014 stipulates that a BAR must contain “<i>a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them</i>” [own emphasis].</p> <p>1.3.2. <b>Appendix E to the BAR</b> contains a record of the public participation process conducted for the proposed Mnjeni Adit and associated activities. <b>Table 5-1</b> of Section 5 of this Public Participation Report (<i>starting on page 4 of Appendix E of the BAR</i>) contains an “<b>ISSUES AND RESPONSE SUMMARY</b>”, which includes the comments raised by community members at a meeting held on 29 August 2019 (pages 17 – 20 of Appendix E of the BAR).</p> <p>1.3.3. It is apparent from the responses recorded in Table 5-1, that many of the comments raised by community members at that meeting, which was their only opportunity to comment, went unanswered. As per the examples already provided above,</p>	<p>process that led to the authorisation of the current Mining Right.</p> <p>The assessment of these concerns is not relevant to the current Environmental Authorisation as the authorisation deals with the Listed Activities of the clearance of vegetation and the construction of access roads. The mining activities have already been assessed and authorisation in accordance with the authorisation Mining Right and it prejudices the Mining Right holder's authorised rights to act upon this right to consider these impacts at this stage.</p>	
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<p>there is no proper response given to questions about subsidence and blasting.</p> <p>1.3.4. It is also apparent that the summary does not indicate where in the BAR these issues have been incorporated as is required by Appendix 1 of the EIA Regulations, 2014.</p> <p>1.3.5. The consequence of not indicating how I&amp;APs concerns were addressed is that it hinders the competent authority's ability to determine whether all impacts have been recognised, assessed and effectively mitigated and ultimately, whether the project is in fact sustainable development and can be authorised.</p> <p>1.3.6. We submit that we have shown that very few social and socio-economic impacts were identified and incorporated in the BAR, including those raised by local residents at the community meeting. This includes blasting and subsidence.</p> <p>1.3.7. The issue of subsidence was also raised by the aquatic specialist who identified the following gap in the Bar (page 134):</p> <p>"The depths of the proposed mining operation were not defined at the time of writing this report. Considering this, the potential and risk for</p>		
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<p>subsidence is unknown. Thus, based on the precautionary principle, it is assumed that mining will be shallow and there is a risk for subsidence to occur".</p> <p>1.3.8. The aquatic specialist recommended that a "<i>Rock Engineering Subsidence Risk Assessment is completed to define areas of high subsidence risk</i>" (" (Section 7.4, page 122 of the BAR).</p> <p>1.3.9. Although this study was recommended specifically to protect surface water resources, a similar study should have been conducted to identify subsidence risk areas for people and their livestock.</p> <p>1.3.10. The BAR also identifies subsidence as a potential latent impact as "<i>there is the possibility of subsidence that could occur in future related to the underground mining operations post closure</i>" (page 125). It is further stated under the closure section of the BAR that the "<i>nature and possible extent of surface subsidence within the ZAC mining rights area is not fully known and should be further investigated by undertaking a survey to map possible areas and the possibility of subsidence occurring</i>" (page 132).</p> <p>1.3.11. Subsidence is just one example of the impacts that were partially identified but not properly assessed, yet despite it</p>		
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being a significant impact, not only on the social environment but also on water resources, it was never assessed as part of the BAR. Despite this omission, the competent authority proceeded to grant environmental authorisation regardless. For these reasons, we request that the EA should be set aside.		
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<p><b>1. The EA was granted despite the public participation process not providing adequate and appropriate opportunity to local residents to participate in the basic assessment process that led to a decision that will adversely affect the environment and their environmental right to health and well-being.</b></p> <p>1.1. Public participation requirements are not limited to the minimum requirements prescribed in the EIA Regulations, 2014. Depending on the circumstances, the level of public participation required for a specific project may need to be significantly more than these minimum requirements, as is expressly stated in the applicable 2017 Public Participation Guideline published in terms of Section 24J of NEMA.</p> <p>1.2. This is particularly so when the project is:</p> <ul style="list-style-type: none"> <li>1.2.1. a greenfields site;</li> <li>1.2.2. already suffers from socio-economic or environmental problems, and the project is likely to exacerbate these;</li> <li>1.2.3. has a wide variety of impacts (socio-economic and ecological);</li> <li>1.2.4. when there is potential social conflict;</li> </ul>	<p><b>Ad paragraph 1: and sub-paragraphs - Public Participation Process</b></p> <p>1. The public participation process was conducted in full compliance with the National Environmental Management Act (Act No. 107 of 1998): Environmental Impact Regulations (2014), as amended. A fact that is confirmed by the relevant authority in the issued Environmental Authorisation.</p> <p>It must be pointed out again that the actions taken in any Application for Environmental Authorisation is largely governed by the Listed Activities that pertain to the application. In this regard, the Listed Activities that were applied for and was authorised relates to the clearance of vegetation and the establishment of roads associated with the opening of the Mngeni Adit on the existing, authorised Mining Right Area. Based on the Listed Activities that were applied for, it is believed that the application of the minimum requirements for Public Participation as</p>	
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<p>1.2.5. where there is a high level of unemployment in the area; and</p> <p>1.2.6. where there are special needs for example, language and literacy challenges.</p> <p>1.3. In such circumstances, which apply to the proposed Mngeni Adit project at Masokaneni, the Public Participation Guideline requires a far more extensive public participation process including:</p> <p>1.3.1. Extensive consultation with I&amp;APs before a decision is taken on the project in order to gather more information, and to ensure that there is minimal impact on the environment;</p> <p>1.3.2. Extensive consultation with I&amp;APs within the area to gather more information on both the socioeconomic and environmental problems.</p> <p>1.3.3. Thorough consultation needs to be conducted with I&amp;APs, in order to address a variety of impacts.</p> <p>1.3.4. Additional consultation might be needed to ensure that issues of conflict are addressed effectively.</p> <p>1.3.5. Consultation should include mechanisms that will ensure full participation by people.</p>	<p>per the National Environmental Management Act (Act No. 107 of 1998): Environmental Impact Assessment Regulations (2014), as amended are not only adequate, but also reasonable and fair.</p> <p>The Public Participation Process that was undertaken for the mining operations would have been conducted as part of the Environmental Impact Assessment associated with the Mining Right Application and as such, was considered to be adequate as the relevant authority authorised the said Mining Right in 2010.</p> <p>It must therefore be stressed that the Public Participation Process as detailed by the Appellant is not associated with any of the mining operations (as these have already been authorised), but rather for additional Listed Activities that were not considered as part of the authorisation of the Mining Right for the area.</p> <p>This ground of appeal is without merit or foundation and is based on unfounded and unsubstantiated</p>	
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<p>1.4. Thus, just because GCS satisfied the prescribed <b>minimum</b> requirements, which is stated as a key decision-making factor in the EA (para 3, page 10), it does not mean that there was "<b>adequate and appropriate opportunity for public participation</b>" that is required in terms of Section 23(2)(d) of NEMA. This is true especially where it is evident that the 24J Guidelines were not adequately applied.</p> <p>1.5. Comparing the public participation record in the BAR (Appendix E) against the checklist of minimum public participation requirements prescribed in Chapter 6 of the EIA Regulations, 2014, it is agreed that <b>most</b> of these were complied with. However, when engaging with directly affected residents in a rural area whose mother tongue is isiZulu not English and literacy levels are likely to be relatively low, even if site notices were in isiZulu and a community meeting was held with isiZulu translation services provided, it is not enough to claim that such public participation was adequate and appropriate.</p> <p>1.5.1. Firstly, the BAR does not contain evidence that <b>all</b> local residents ("occupiers of the site" and "occupiers of land adjacent to the site") were notified of the proposed development and EIA process. It may be that the EAP relied on the Induna to facilitate attendance at the community meeting</p>	<p>allegations regarding negative impact on socio-economic and environmental problems.</p> <p>It is clear from the Public Participation process that all reasonable steps were undertaken to inform the interested and affected parties and that they were given fair opportunity to comment on the BAR.</p> <p>The grounds of appeal on which the first appellant relies for its complaint in respect of the non-compliance with public participation principles is hypothetical and not based on undisputed facts. Examples of this is the first appellant's contention not all "local residents" were notified of the proposed development. In support hereof it refers to unidentified residences which it is contended are 40 and 500 metres respectively away from the Adit complex. These residents are not identified or support the first appellant in any way, which one would have expected to be the case.</p> <p>The same is applicable to the Shembe Church and Okhulo residents which it contends have to be consulted. This contention that the information and</p>	
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<p>on 29 August 2019, and that there were over 100 people who attended such a meeting, but there is no certainty for example, that the family living in the homestead 40m away from the Adit complex, or all those within 500m of the site were informed and given the opportunity to participate. There is also no record of the Shembe church leaders having been directly consulted even though they will be required to relocate if the project proceeds or that the Okhukho residents next to the wash plant were given notice. (They will be adversely affected by the continued operation of this plant for a further five years should the Mngeni Shaft mining operations proceed).</p>	<p>impact disclosed by the applicant was severely limited is based on its misconception of the ambit of the Environmental Authorisation which is required (and which has already been alluded to).</p>	
<p>1.5.2. Secondly, it is evident from the presentations made at the public meeting (pdf pages 174 – 224 of Appendix E) that the information provided on the project and the impacts was severely limited. This therefore could not have allowed for a full understanding of the project or the potential impacts that is required in terms of public participation, especially in one meeting where the presentation was first presented in English and then in isiZulu and also served as the public participation opportunity for the water use licence application as well. The other complaint that attendees had was that the translation was</p>	<p>The cracking which Ms Maphisa referred to at the public participation meeting in August 2019 by the soccer field was in all likelihood an existing problem. The opportunistic attempt to rely on this complaint for an inadequate public participation process is irrational and has been taken out of context. The proposed construction of the Adit itself is not indicative of the fact that houses on the surface will be affected.</p> <p>The attendees at the public participation meeting as well as experts were provided with all information that informed the Authorisation which had been granted and was available at all times, even where assistance was required and translations called for, as appears from the public participation process.</p>	

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<p>provided by a ZAC employee and not an independent facilitator.</p> <p>1.5.3. Thirdly, if one compares the presentation made at the meeting with the BAR, it is evident that very little of the BAR was presented to the local residents. Thus, it is misleading for the EAP to claim the following:</p> <p><i>The CBAR was made available for I&amp;AP's to review at public venues for a 30-day comment period from the 11th of July until the 22nd of August 2019. <b><u>Additionally, a public meeting was held on 29 August 2019 where the content of the CBAR was discussed</u></b> and comments from the I&amp;APs were recorded for inclusion in the final submission to the Department [own emphasis].</i></p> <p>1.5.4. Fourthly, it is evident from reading the responses given to many of the questions asked by the attendees at the meeting, that they were not provided the information they requested. For example, a very real concern about subsidence and cracked houses as a result of underground mining operations (based on direct personal experience) was raised by three different attendees to which ZAC simply replied that mining will be undertaken according to the mine plan, law and correct procedures. Another example is the concern raised about the</p>	<p>In the light hereto the public participation process complied with the statutory provisions and the first appellants appeal should therefore be dismissed.</p>	
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<p>impact of blasting on nearby houses, to which GCS replied that it had not identified any homesteads within 500m. This is simply not true as already discussed above.</p> <p>1.5.5. Fifthly, neither the draft BAR nor a summary of the BAR was provided in isiZulu.</p> <p>1.6. Regulation 40(2) requires that the public participation process "<u>must provide access to all information that reasonably has or may have the potential to influence any decision with regard to an application</u> unless access to that information is protected by law and must include consultation with ..... all potential, or, where relevant, registered interested and affected parties" [own emphasis].</p> <p>1.7. From the evidence provided above, it is clear that public participation as part of the basic assessment process for the proposed Mngeni Adit EIA was not adequate and appropriate and did not provide access to all material information to local residents who will be directly and significantly affected by the project. <b><i>For these reasons, it is submitted that the EA should be set aside.</i></b></p>		
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GROUNDS OF APPEAL – 2 <sup>nd</sup> APPELLANT	RESPONDING STATEMENT BY THE APPLICANT	COMMENTS BY THE DEPARTMENT
<p>COMPLIANCE WITH REGULATION 4(2)(b)(iii)</p> <p>The Appellant did not comply with regulation 4(2)(b)(iii) in that this appeal is lodged within 20 days of receipt of the notification of the environmental authorisation.</p> <p>However, the Appellant sought and obtained consent for the late submission of this appeal.</p>	<p>It is emphasised that it is uncertain if the 2<sup>nd</sup> Appellant submitted its appeal in the correct format as per the Appeals Regulations. Although any person has a right to appeal, in principle, it must do so within the prescribed period. It is not in dispute that the second appellant lodged this appeal outside the prescribed period without any application for condonation. There is therefore no legal basis for the Appeal Authority to consider the second appellant's grounds of appeal.</p>	
<p>1. WRONG ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE FOLLOWED</p> <ol style="list-style-type: none"> <li>1.1. On the evidence provided by the Basic Assessment Report, Listed Activity 17 of Listing Notice 2 (GNR984 of 4 December 2014) will be undertaken.</li> <li>1.2. Regulation 15 requires the scoping and environmental impact reporting process to be followed where activities on Listing Notice 2 are to be undertaken.</li> <li>1.3. This is mandatory.</li> <li>1.4. Simply put, the wrong process has been followed and the competent authority should not have allowed this.</li> <li>1.5. This means that the competent authority has made a decision in error of law, rendering it invalid. If it is not set aside by the Honourable Minister, it will be set aside by the High Court on review.</li> </ol>	<p><b>Ad paragraph 1</b></p> <p>This heading under the grounds of appeal is misleading. The Environmental Authorisation relates to the Environmental Impact Assessment in respect of the proposed Mngeni Adit which falls within the existing mining right. The mining right has taken place since 1985 and has been regulated through environmental authorisations since 2007.</p> <p>The listed activities applied for is incidental to the current authorisations and mining activities.</p>	

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<p>1.6. Because this flaw is fatal to the decision of the competent authority, it should not be necessary for appellants to deal with the matter on the merits as these are complex and require specialist input that is not available to the Appellant.</p> <p>1.7. There are other procedural defects and errors in law that will be dealt with below to reinforce the Appellant's plea that the decision of the competent authority be set aside without further ado.</p>	<p>1. The Appellant's contention in this regard is incorrect as will be indicated in this section and has already been indicated in the preceding sections. The Environmental Authorisation that has been issued relates to the Listed Activities that deals with the clearance of vegetation as well as the construction of roads associated with the opening of the Mngeni Adit rather than for a Mining Right or Mining Permit. The need for the latter is not necessary as an authorised Mining Right is in place for mining operations on the property in question since 2010.</p> <p>As such, the Appellant's contention that the wrong Environmental Process has been followed is not legally correct.</p> <p>It is denied that the applicant followed an incorrect administrative process to obtain the Environmental Authorisation. If the second appellant contends in law that the process followed is reviewable, it should have followed a judicial review process within 180 days as provided for in the Promotion of Administrative Justice Act, 3 of 2000 ("PAJA"). Any</p>	
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	<p>review of the process as contended for will be flawed due to the delay, which is prohibited in section 7 of PAJA. Section 7(1) of PAJA specifically states that any proceeding for judicial review must be instituted without unreasonable delay and not later than 180 days after the person concerned became aware of the administrative action.</p>	
<p>2. NON-COMPLIANCE WITH THE GUIDELINE ON NEED AND DESIRABILITY</p> <p>2.1. In terms of section 24O(1)(b)(viii) of the National Environmental Management Act 107 of 1998 (NEMA) the competent authority any guidelines, departmental policies, and environmental management instruments that have been adopted in the prescribed manner by the Minister.</p> <p>2.2. Item 3(1)(f) of Appendix 1 requires a motivation for the need and desirability for the proposed development including the need and desirability of the activity in the context of the preferred location.</p> <p>2.3. The EIAR does not comply with the Guideline on Need and Desirability as required by regulation 13(1)(b) of the Regs. The following in the relevant guideline was ignored:</p> <p><i>Financial viability should be considered within the context of justifiable economic development, measured against the broader societal short-term and long-term needs. While the financial viability considerations of the private developer might indicate if a development is “do-able”, the “need and desirability” will be determined by considering the broader community’s needs and interests as reflected in an IDP, SDF and EMF for the area, and as determined by the EIA. While the importance of job creation and economic growth for South Africa cannot be denied, the Constitution calls for justifiable economic development. The specific needs of the broader community should therefore be considered together with the opportunity costs and distributional consequences in order to determine whether or not the development will result in the securing of ecological sustainable</i></p>	<p>Ad paragraph 2</p> <p><b>It is believed that the need and desirability associated with the Listed Activities that were authorised were sufficiently addressed in the BAR and complies with the requirements of Section 24O(1)(b)(viii) of the Act.</b></p> <p><b>The needs and desirability associated with the mining operations were addressed as part of the Mining Right Application that was authorised in 2010.</b></p>	

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<p><i>development and the promotion of justifiable social and economic development – in other words to ensure that the development will be socially, economically and environmentally sustainable.</i></p> <p>2.4. This means that the Applicant did not take account of the criteria set out in section 24(O)(1)(b)(viii) of NEMA. Since compliance with this section is mandatory, the <b>Respondent's non-compliance</b> renders the decision flawed.</p> <p>2.5. This non-compliance by the EAP and the Applicant are failures that impact both on the procedural and substantive validity of the environmental authorisation and cannot be condoned.</p> <p>3. THE APPELLANT WAS DENIED ITS RIGHT TO PARTICIPATE IN DECISIONS THAT AFFECT IT</p> <p>3.1. The Appellant was not identified as interested and affected parties, and it follows, not including them in the public participation process renders it invalid.</p> <p>3.2. The impacts on the wider community, their tourism, development, agricultural and social aspirations were not considered.</p> <p>3.3. Ignoring the existence of the Appellant and the rights of its community made it impossible for your Department to comply with section 2(2) of National Environmental Management Act 107 of 1998 (NEMA), by placing people at the forefront of its concern, and serving their physical, psychological, developmental, cultural and social interests equitably</p> <p>3.4. As the Appellant has only recently become aware of the application to expand the mining operations at ZAC, it is clear that there has been no opportunity to participate in the EIA process, nor review the findings of the various specialist reports that would accompany such assessment. The development project embarked upon by the Appellant (more fully described below) provides an example of the kind of project that could benefit local communities permanently and sustainably.</p>	<p><b>Ad paragraph 3</b></p> <p><b>The Public Participation Process that was followed for the Application for Environmental Authorisation process was conducted in accordance with the requirements of the National Environmental Management Act (Act No. 107 of 1998): Environmental Impact Assessment Regulations (2014), as amended. As such the Applicant has met his legal obligation in this regard. Similarly, the Environmental Assessment Practitioner that conducted the application process is of the opinion that the Public Participation Process was sufficient</b></p>	
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<p>3.5. The project is not a “once off” lodge development that has been established on the banks of the Black uMfolozi River, but is a component of a larger project that seeks to expand conservation initiatives in the region. With the expansion of mining and the potential that such of compromising one of the pillars of this project, namely Zulu Lodge, the entire eco-tourism initiative in the region may be undermined, or at least set back by some years. Evidently this has consequences for the region’s economy.</p> <p>3.6. It would thus be in the interest of the various authorities mandated to oversee both environmental and water resource management, to set aside the authorisation of the uMngeni Adit and to request ZAC to commence with an inclusive EIA process that allows for engagement with all relevant stakeholders.</p>	<p>considering the specific Listed Activities that were authorised.</p> <p>The Umfolozi Big Five Trust represents the Traditional Councils of Obuka, Somopho and Mandlakazi.</p> <p>The Somopho and Obuka tribal councils are very far away from the Mngeni Adit and closer to White Umfolozi River, therefore they are not to be regarded as interested and affected parties.</p> <p>These Tribal Councils falls within Mhlathuze Local Municipality and the project is in Nongoma Local Municipality. The river serving these Councils is White Umfolozi River and the project is closer to the Black Umfolozi River and they are not even downstream of Black Umfolozi River.</p> <p>The Mandlakazi Tribal council had been aware of the project since its inception via the following methods of communication additional to newspaper adverts:</p> <p><b>i)</b> Background Information Document was sent to all interested and affected parties including</p>	
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	<p>Mandlakazi Tribal Council. Please find <b>Annexure B</b>.</p> <p>ii) Site notices indicating the availability of the Basic Assessment Reports for comments and public meeting was placed in various places including Mandlakazi Tribal Council offices Notice Board on the 11<sup>th</sup> of July 2019. This included details of where the reports can be found for review and commenting. Please find <b>Annexure C</b>.</p> <p>iii) Copies of Basic Assessment Reports were placed in various locations on the 11<sup>th</sup> of July 2019, this included a copy left at Mandlakazi Tribal Council</p> <p>iv) An email notification was sent to all registered I&amp;APs on 19 August 2019, advising of the public meeting to be held regarding the BA and IWUL Applications for the proposed Mngeni Adit. In preparation, a meeting was also held with Induna Mpungose where the transport was made available to collect people from various areas around Masokaneni and surrounding villages. Through his community structures Induna invited</p>	
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	<p>all the community members to the meeting. Please find <b>Annexure D</b>.</p> <p>v) A public meeting was held for all I&amp;APs on 29 August 2019 at the ZAC soccer field, to explain both the BA and IWUL Applications, and allow any comments or questions to be raised and clarified by the I&amp;APs. The meeting was well attended and most of the community members showed a positive reaction to the project. Please find <b>Annexure E</b>.</p> <p>From the above it is clear that one member of the Umfolozi Big Five Trust was indeed consulted, The Mandlakazi Tribal council should have consulted and informed the remaining two Tribal Councils of application.</p> <p>At no stage was the Appellant purposefully ignored as insinuated in the appeal submission, however, it must be noted that Interested and Affected Parties have the responsibility to empower themselves and to ensure that they are aware of the applications in their areas. Especially considering the advertising requirements that are included in the Public</p>	
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<p>4. NEED AND DESIRABILITY HAS NOT BEEN DETERMINED</p> <p>4.1. Need and desirability have been viewed too narrowly and only from the perspective of the Applicant.</p> <p>4.2. The perceived benefits to be derived by the public at large, and especially the local communities, which will bear the brunt of the unavoidable environmental impacts, are outweighed by the negative impacts.</p> <p>4.3. While details of the anticipated pollution of the ambient environment from atmospheric emissions, waste water and leachate from the mine are mentioned, there is no assessment of the assimilative capacity of the receiving environment to absorb the anticipated emissions and discharges.</p> <p>4.4. <b>Emissions and discharges become “pollution” when the assimilative capacity of the receiving environment is exceeded.</b></p> <p>4.5. The specialist report on predicted atmospheric emissions makes no statement on the current state of the air in the ambient environment, given there are other mining operations contributing to pollution in the area. It is possible that the ambient environment has no assimilative capacity, and all atmospheric emissions will be “pollution”.</p> <p>4.6. It follows, if the assimilative capacity of the environment will be exceeded:</p> <p>(a) the Applicant will not be able to comply with the duty of care imposed on it by section 28(1) of NEMA, and will cause unacceptable environmental harm from the day it begins to operate;</p> <p>(b) in making its decision, the competent authority has not complied with its obligation under section 2(4)(a)(ii) of NEMA to ensure that pollution and degradation of the environment are avoided, minimised and remedied;</p>	<p>Participation Process by the Environmental Impact Assessment Regulations (2014), as amended.</p> <p>Furthermore, the Appellant makes the statement that they only recently became aware of the expansion of the mining operations in the area, however, the Mining Right authorisation for the area was granted in 2010. It therefore stands to reason that as the Appellant is a member of the community in the area, that they would be aware of the mining activities in the area as well as the possibility of the mine undertaking expansions in accordance with their authorised Mining Right issued in 2010.</p> <p>Lastly, regarding the Appellant’s own development of a lodge on the banks of the Black uMfolozi River, it is a concern that the Applicant was not included as an Interested and Affected Party for the Application for Environmental Authorisation for the lodge facility. The exclusion of the Applicant in this regard is a concern especially as the Listed Activities that would have been applicable to this Application for Environmental Authorisation would have been more far reaching than the application lodged by the</p>	
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<p>(c) the state will have failed in its duty under section 24(b)(i) of the Constitution to all inhabitants of the region to protect the environment for the benefit present and future generations by preventing pollution and ecological degradation.</p> <p>4.7. South Africa has committed itself to the international community under international treaties and accords to minimise its emission of green-house gases. South Africa is bound by these international agreements. It is highly undesirable for South Africa to be seen to violate these agreements.</p> <p>4.8. Absent proven need and desirability, the competent authority should not have issued the authorisation.</p>	<p><b>Applicant for the clearance of vegetation and the construction of access roads.</b></p> <p>Ad paragraph 4</p> <p><b>As appears from the Department of Environmental Affairs' Guidelines, need and desirability must be determined outside the individual's preference. The socio-economic context of the area is based on, amongst other considerations, the existing land use and IDP for the area. The Environmental Authorisation under attack is in effect merely an implementation of the existing mining right and land uses.</b></p> <p><b>As previously stated, it is believed the that need and desirability associated with the Listed Activities (clearance of vegetation and construction of access roads) that were authorised were sufficiently addressed in the BAR and complies with the requirements of Section 24O(1)(b)(viii) of the Act.</b></p> <p><b>The needs and desirability associated with the mining operations were addressed as part of the Mining Right Application that was authorised in 2010.</b></p>	
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Initial/s:

<p>and wind. He said that South Africa has a competitive advantage in renewable energy and could become a major destination for electricity-intensive industries once the renewable energy sector is ramped up. He said that because of this, electricity from solar and wind would be about 30% lower in unit cost in South Africa than it would be in other parts of the world, which would make the country an attractive destination for companies that were energy-intensive. (News 24 on 5th February 2019).</p> <p>5.5. The pace of climate change is such that it is difficult to rely on historical data regarding prevailing winds and other features of weather. There are increasingly dramatic events such as tornados – a good example is the 2018 tornado that swept through Vaal Marina devastating all before it.</p> <p>5.6. Climate change is not dealt with adequately or at all.</p> <p>5.7. The failure to undertake a competent study on the impacts on climate change was considered in the High Court in <i>Earthlife Africa Johannesburg v Minister of Environmental Affairs and Others</i> (65662/16) [2017] ZAGPPHC 58; [2017] 2 All SA 519 (GP) (8 March 2017).</p> <p>5.8. The decision of the competent authority (the Respondent in this matter, was reviewed and set aside.</p> <p>5.9. The same result can be expected in this matter.</p> <p><i>Impacts on local communities</i></p> <p>5.10. The Hluhluwe Imfolozi Big Five Reserve development (HIP Big 5) is a joint community and private sector development initiative of the Appellant. The reserve is a newly proclaimed conservation / protected area that is considered to be an extension of the existing Hluhluwe Imfolozi Protected Area (HIP). The reserve has been promulgated as a protected area under the NEM Protected Areas Act and will conform to the existing Hluhluwe Imfolozi Park's Management Plan. It is expected that the HIP Big 5 will add, as an initial phase, some 6000ha of land to the HIP, with further phases under consideration and review. The</p>	<p>Furthermore, the mining related impacts were addressed and assessed in the Environmental Impact Assessment that was conducted for the Mining Right Application with the management and mitigation measures for these impacts included in the Approved Environmental Management Programme for the operations. This document was approved in 2010 with the authorisation of the Mining Right.</p> <p>Ad paragraphs 5.1 – 5.9</p> <p>The High Court judgment that is referred to by the Appellant related to an Environmental Authorisation that was granted by the Department of Environmental Affairs for the Listed Activities that makes provision for the construction and operation of facilities that generate electricity. In this particular case, it was for the construction and operation of a coal fired power station. As the Listed Activity requires the Applicant to assess both the construction and operational activities associated with the coal fired power station it can very reasonably be expected that the contribution that the facility will have to global climate</p>	
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Initial/s:

<p>expansion area is under the ownership/jurisdiction of the Ngonyama Trust, but is being leased to the Appellant</p> <p>5.11. In order to elicit economic leverage for the long term sustainability of this newly proclaimed protected area, initial business planning for the region foresaw the need to establish 3 to 4 lodge facilities within the reserve. These lodge facilities were considered to cater for high end user groups and would offer between 3 <b>and 6 star accommodation. The lodges are seen to “unlock” and address demand</b> for such facilities in the park and offer a level of accommodation hitherto unseen in the Hluhluwe Imfolozi Park. In addition, the lodges would support conservation efforts in the region including additional game rangers, security and infrastructure, while such facilities would offer up to 300 additional employment opportunities. Further to the above, the Trust has identified value added linkages with local suppliers of goods to the lodges, while also providing an opportunity for community development.</p> <p>5.12. The HIP Big 5 development entails the establishment of three lodges, all of which have been approved in terms of National Environmental Management Act under EIA DC28/0033/2014. The authorisation approved three lodge developments and entailed approvals and agreements with various parties including EKZN Wildlife, which allowed the establishment of two of the three lodges within the proclaimed reserve. Figure 1 below indicates the position of the three lodges, with Biyela and Mthembu Lodges lying to the south, on the White uMfolozi River and Zulu Lodge, lying to the north on the Black uMfolozi River. With the authorisation of the three lodges having been provided by the relevant authority in September 2016, construction commenced in 2017 on the two southern lodges, with Zulu Lodge was anticipated to commence thereafter. Evidently various matters beyond the control of the Trust have delayed commencement of construction of Zulu Lodge and this facility has been placed in abeyance.</p> <p>(See Figures 1 and 2)</p> <p>5.13. Figure 1 presents the approved layout of Zulu Lodge. Notably the lodge is located on the banks of the Black uMfolozi River, within a <i>Spirostachys africana</i> and <i>Gymnosporia senegalensis</i>, riverine environment. The site was selected on account of the regular movement of larger game in and around the Black Mfolozi,</p>	<p><b>change must be assessed as this could potentially be an operational phase impact.</b></p> <p><b>However, it is believed that the Appellant is overreaching by attempting to apply this case law to the Environmental Authorisation that has been granted by the competent authority for Listed Activities that relate to the clearance of vegetation and the construction of access roads which will have no potential impact to global climate change.</b></p> <p><b>It is therefore the Applicant’s view that to expect the current Environmental Authorisation to be overturned based on a High Court judgement that relates to very different Listed Activities seem unreasonable.</b></p> <p>Ad paragraphs 5.10. to 5.15.</p> <p><b>As the HIP Big 5 development was authorised in 2016 it is assumed that the commencement of the Application for Environmental Authorisation that culminated in this authorisation would have commenced in <i>circa</i> 2015. This being the case, the Applicants in this regard would have been well aware</b></p>	
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<p>as well as the northerly views which are generally unimpeded by settlement and other aberrations in the natural landscape.</p> <p>5.14. All services, with the exception of solid waste disposal, will be addressed on site, including power provision through photo-voltaic systems, as well as the <b>abstraction of water from an instream abstraction point of “borehole”</b> associated with the Black uMfolozi River. Water within the site is to be addressed and made fit for purpose through a flocculation system that would address bacterial pathogens and general remediation of water before use within the facility.</p> <p>5.15. Evidently, the economic and indeed socio-economic success of Zulu Lodge is underpinned by:</p> <ul style="list-style-type: none"> <li>(a) Maintenance of the present aesthetic attributes of the site, and</li> <li>(b) Maintenance of suitable water quality within the identified water source serving the lodge.</li> </ul> <p><i>Impacts of the mine</i></p> <p>5.16. Evidently the extension of the Mgeni Adit has ramifications for Zulu Lodge across three fronts, as described in the following:</p> <ul style="list-style-type: none"> <li>(a) Visual and aesthetic aspects</li> </ul> <p>The mine falls within 1 kilometre of the Black uMfolozi River and as such is positioned just upstream of Zulu Lodge. A viewshed analysis undertaken on the site in 2017 indicates that the lodge has a significant viewshed and numerous points can be considered as receptors. As such, activities, even if only indirectly associated with the mine will be highly visible from the lodge. Therefore, infrastructure such as powerlines or roads and indeed the mere presence of increased vehicular and pedestrian traffic or movement, in this area will be perceptible from the lodge. Notably, noise is a factor that would also be of concern to the lodge owners and may be as significant as visual aspects, particularly where heavy machinery and blasting arises.</p> <p>It follows that the ambience and aesthetic amenity associated with the site would be severely compromised by all aspects of the mining operation.</p> <p>(See Figure 3)</p>	<p>of the presence of the properties that related to the authorised Mining Right that was issued in 2010 when lodging their application. It seems unreasonable of the Appellant (the HIP Big 5) to imply that they were not aware of the presence of the mining operations in the area. Furthermore, if considered that the Appellant was aware of the authorised Mining Right in the area and they continued to locate their lodge(s) in the vicinity of the mining operations, they did so with full knowledge of the possibility of the mining operations being in proximity to their lodges.</p> <p>In addition, it is unknown if the HIP Big 5 engaged with the Applicant associated with the Environmental Authorisation subject to this appeal during their Application for Environmental Authorisation process to determine the Applicant's future expansion plans on the authorised Mining Right Area that dates back to 2010. In the event that the Appellant has not engaged the Applicant in this regard, either directly or indirectly through the Public Participation Process for their application, it stands to reason that the Appellant did not conduct a comprehensive due diligence when</p>	
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Initial/s:

<p>(b) Change in faunal ethos</p> <p>The mining operations fall within habitats that are considered to be vulnerable terrestrial ecosystems, as well as areas of high biodiversity importance and furthermore such areas are designated by the conservation authority as CBA Irreplaceable. Such areas are considered to be of significant value to the lodge as the habitat complex of the Savannah and Sourveld ecosystems, as well as the presence of a significant hydrological system including the Black uMfolozi, are the primary drivers of the presence of, in particular, larger game, in and around Zulu Lodge.</p> <p>The factors identified above as emanating from the mine and having a significant impact on the aesthetic amenity of the lodge, are likely to also affect the ethos or behaviour of fauna (including their presence) within the immediate region (de la Torre, 2000; Allan et al 2007). Noise, light and human presence will also alter faunal behaviour patterns in and around Zulu Lodge. Read (1987), showed that pollution by heavy metals (which are likely to emanate from mining activities) has had an effect on various taxa, both vertebrate and invertebrate - an effect which cascades through various trophic levels. It can be assumed that similar impacts are likely to arise in the vicinity of the proposed Adit and this perhaps subtle and indirect impact would further affect faunal populations in the area around the lodge.</p> <p>(c) Water Quality</p> <p>As mentioned above, the water supply to Zulu Lodge will be an instream, sub surface abstraction system as is presently utilised at Mthembu Lodge, whereby water is abstracted directly from the riverbed. Evidently, the Trust anticipates at the worst case, a reasonably sound and stable water quality, as high levels of chemical or pathogenic contamination in the water not only increases the costs of remediation and treatment, but may have a direct effect on human health. Alternative options have been explored on the other two lodges, in particular</p>	<p>they investigated the viability of their development in the specific locations.</p> <p>Finally, it is noted that the construction of the Zulu Lodge has been placed in abeyance, the reasons for which has not been provided by the Appellant, however, it is assumed that the abeyance of the lodge does not relate to the presence of the authorised Mining Right in the area.</p> <p>Ad paragraph 5.16</p> <p>It must be noted that the impacts associated with the mining operations were identified and assessed in the Environmental Impact Assessment that was conducted for the Mining Right Application which was authorised in 2010.</p> <p>The Listed Activities that are subject to the current appeal does not relate to any mining activities, but rather to the Listed Activities that relate to the clearance of vegetation and the construction of roads within the authorised Mining Right Area to facilitate</p>	
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<p>boreholes, however because of the deeper geologies of the region, ground water has been found to be unsuitable for use in the lodges.</p> <p>It is evident that with the advent of additional mining operations in close proximity to Zulu Lodge and situated proximal to the Black uMfolozi River, which is the <b>lodge's preferred source of supply, water</b> quality is likely to be seriously compromised. This would have concomitant effects on the operations, treatment costs and the viability of the lodge.</p> <p>An external audit of the mine undertaken in 2020, indicated that compliance by ZAC in the present mining operations, particularly in the realm of water quality, was lacking, particularly in respect of monitoring amongst other matters (GCS, 2020). <b>The same audit, undertaken by GCS, who are apparently the mine's</b> appointed environmental consultants, indicated that amongst other issues;</p> <ul style="list-style-type: none"> <li>• compliance with the water chemistry analyses requested by the Department of Water and Sanitation had not been undertaken (Page 75).</li> <li>• the above omission had included the absence of analysis for the presence of chrome and nickel in discharge or ambient waters. Strangely, GCS has stated in <b>this report that "as the mine is not a chromium mine" this parameter should be omitted from the monitoring regime and a request to do so should be lodged with the DWS.</b></li> </ul> <p>The above audit report clearly suggests that ZAC has little or no idea as to its present impact on water chemistry within ambient surface waters. The suggestion by their consultants to omit hexavalent and trivalent chromium is also cause for concern, as this is a known carcinogen and is also known to easily enter surface and groundwaters. Clearly the reason to omit Cr from the analysis should not be based upon whether this is the target of the mining operation, and the DWS would be wise to reject such request. Indeed the presence of Cr in ambient waters would be of significant interest to all parties, including the Trust. It is highly probable that Cr 3+ and Cr 6+ are present in ionic state within waters arising from</p>	<p><b>the Applicant (and holder of the Mining Right) to act upon this Right. No assessment of the mining activities are therefore required as they are not subject to the authorised Environmental Authorisation that is subject to the current appeal.</b></p>	
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Initial/s:

<p>the mining operations. All metals should be the focus of analyses and monitoring in ambient waters, both above and below the mining operations.</p> <p>Given the evident poor monitoring of water quality and disregard of directives from the mandated authority, it is clear that the mine poses a significant risk to water quality within the Black uMfolozi and therefore would pose a risk to the patrons of Zulu Lodge, as well as its operational aspects. As we are not privy to any information that shows either the present state of water chemistry within the Black uMfolozi or any evidence that the mining of the uMgeni Adit would not affect <b>the quality of the lodge's water source. It would thus be incumbent upon the applicant to demonstrate that the mine would have little or no impact on water quality, or that any potential risk could be effectively avoided or mitigated.</b></p> <p>6. CONCLUSION</p> <p>6.1. The impacts disclosed cannot be fully mitigated and will result in environmental degradation and harm to human health that exceeds reasonable levels. This means that the proposed mine will not be able to operate lawfully.</p>	<p><b>Ad paragraph 6.1</b></p> <p>The impacts associated with Listed Activity (clearance of vegetation and the construction of roads) subject to the authorised Environmental Authorisation can in fact be managed and mitigated. These management and mitigation measures are included in the Environmental Management Programme that was authorised as part of the authorisation of the Environmental Authorisation. Furthermore, the management and mitigation measures for the mining related impacts are included</p>	
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Initial/s:

<p>6.2. The competent authority has made a decision that ignores the Appellant's constitutional and statutory obligations, is contrary to the public interest, and must therefore be set aside.</p> <p>6.3. All of this assumes a valid process has been followed, which as initially submitted, is not the case.</p>	<p>in the Environmental Management Programme that was authorised with the authorisation of the Mining Right in 2010.</p> <p><b>Ad paragraph 6.2</b></p> <p>The Environmental Authorisation that was issued by the relevant authority was issued at the end of an Application for Environmental Authorisation that was conducted in accordance with the National Environmental Management Act (Act No 107 of 1998): Environmental Impact Assessment Regulation (2014), as amended which in its content makes provision for the constitutional rights of South Africans. It is therefore considered that since the application was conducted in accordance with the requirements of these regulations, the Appellant's rights were in fact considered.</p> <p><b>Ad paragraph 6.3</b></p> <p>It is considered that the Appellant has failed to provide clear indication of where the process that was followed was not valid or complaint with the National Environmental Management Act (Act No. 107 of</p>	
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Initial/s:

	1998) Environmental Impact Assessment Regulations (2014) as amended for the specific Listed Activities that were applied for and authorised.	
GROUNDS OF APPEAL – 3 <sup>rd</sup> APPELLANT	RESPONDING STATEMENT	COMMENTS FROM DEPARTMENT
<p>It has come to my attention that Zululand Anthracite Colliery (ZAC) has been granted the licence to mine at Masokaneni Area as per the abovementioned reference. As one of the permanent residents of the Masokaneni Area, the news comes as a surprise and shock because I have valid grounds that no proper consultation was conducted during the application for the Mngeni Adit. I have valid grounds that no proper consultation was conducted during the application for the Mngeni Adit</p>	<p><b>It must be pointed out to the Appellant that the Mining Right on the property in question was authorised in 2010 and that the presence of the mine and associated mining operations has been in the area since then. Any concerns or issues that the Appellant might have should have been raised during the Environmental Impact Assessment that was conducted for the Mining Right Application.</b></p> <p>The Environmental Authorisation that is currently subject to appeal is for the Listed Activities that related to the clearance of vegetation and the construction of roads. As such, the impacts associated with these activities were identified and assessed in the Application for Environmental Authorisation process. The management and mitigation measures associated with these impacts were provided for in the Environmental Management Programme that was authorised by the Environmental Authorisation.</p> <p><b>Ad paragraph 1</b></p>	

Initial/s:

<p>Here are some of the reasons why I will be affected by the mining operation. Not only myself but including other residents:</p> <ol style="list-style-type: none"> <li>1. My intention is to open up a local lodge to create sustainable jobs and business opportunities for local residents. Noise, air and water pollution from the Umgeni Adit and any other poisonous contaminants will have bad impact on this lodge that is only 1km away.</li> <li>2. Fifty or more graves will be affected including my biological father and very close family members.</li> <li>1. Wind fan noise will affect Masokaneni Primary School and my domestic animals as I have fifty Borana cattle and one hundred goats.</li> </ol>	<p>1. It must be noted that the Appellant's intention to open a lodge in the area has been taken with the full knowledge of the presence of the authorised Mining Right on the property in question as well as the presence of mining activities in the area. Similarly, the Applicant has not received any notification or information regarding either the planning application or Application for Environmental Authorisation the from the Appellant's intended lodge.</p> <p><b>Ad paragraph 2 and numbered paragraphs 1-7 thereunder</b></p> <p>The Appellant will be engaged to determine the locality of these graves as it is uncertain if these graves will be impacted upon by the clearance of vegetation or the construction of access roads.</p> <ol style="list-style-type: none"> <li>1. The noise from the wind fans are considered mining related impacts that would have been considered as part of the Environmental Impact Assessment that was conducted for the Mining Right Application that was authorised in 2010. The management and mitigation measures for this impact will be included in the authorised Environmental Management Programme issued with the Mining Right Authorisation.</li> <li>2. The impacts associated with stockpile dust are considered mining related impacts that would have been considered as part of the Environmental</li> </ol>	
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Initial/s:

<p>2. Stockpile dust will harm almost all of the possibly affected homes while there is no proper dust suppression plan on the table that is better than at previous shafts.</p> <p>3. Underground mining will damage my extensive residence that is valued at approximately one million rand according to the market value.</p> <p>4. Coal haulage and on-road operations are expected day and night. The road is twenty metres wide and passes next to my workshop. These heavy duty vehicles and the blasting will automatically create cracks and damages to my workshop and other built structures and me and my workers will experience suffocation from dust. I am a small entrepreneur and need to be considered and properly engaged with or consulted with a clear plan of this development when it was proposed not once it has been approved.</p>	<p>Impact Assessment that was conducted for the Mining Right Application that was authorised in 2010. The management and mitigation measures for this impact will be included in the authorised Environmental Management Programme issued with the Mining Right Authorisation.</p> <p>3. The impacts associated with underground mining are considered mining related impacts that would have been considered as part of the Environmental Impact Assessment that was conducted for the Mining Right Application that was authorised in 2010. The management and mitigation measures for this impact will be included in the authorised Environmental Management Programme issued with the Mining Right Authorisation.</p> <p>4. The impacts associated with dust and noise from the haulage roads are considered mining related impacts that would have been considered as part of the Environmental Impact Assessment that was conducted for the Mining Right Application that was authorised in 2010. The management and mitigation measures for this impact will be included in the authorised Environmental Management Programme issued with the Mining Right Authorisation.</p> <p>7. The impacts associated with mine/shaft closure and rehabilitation are considered mining related impacts that would have been considered as part of the Environmental Impact Assessment that</p>	
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Initial/s:

<p>7. For the past twenty-five years ZAC has opened and closed more than three shafts but with no proper rehabilitation measures which causes huge environmental impacts in the area of Masokaneni and neighbours. The mine provides no permanent jobs, no sustainable social development projects, and not even one single entrepreneur has been capacitated by ZAC.</p>	<p>was conducted for the Mining Right Application that was authorised in 2010. The management and mitigation measures for this impact will be included in the authorised Environmental Management Programme issued with the Mining Right Authorisation.</p>	
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ARR comments by Case Officer

Name & Surname:

Date:

Signature:

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Approved by Supervisor

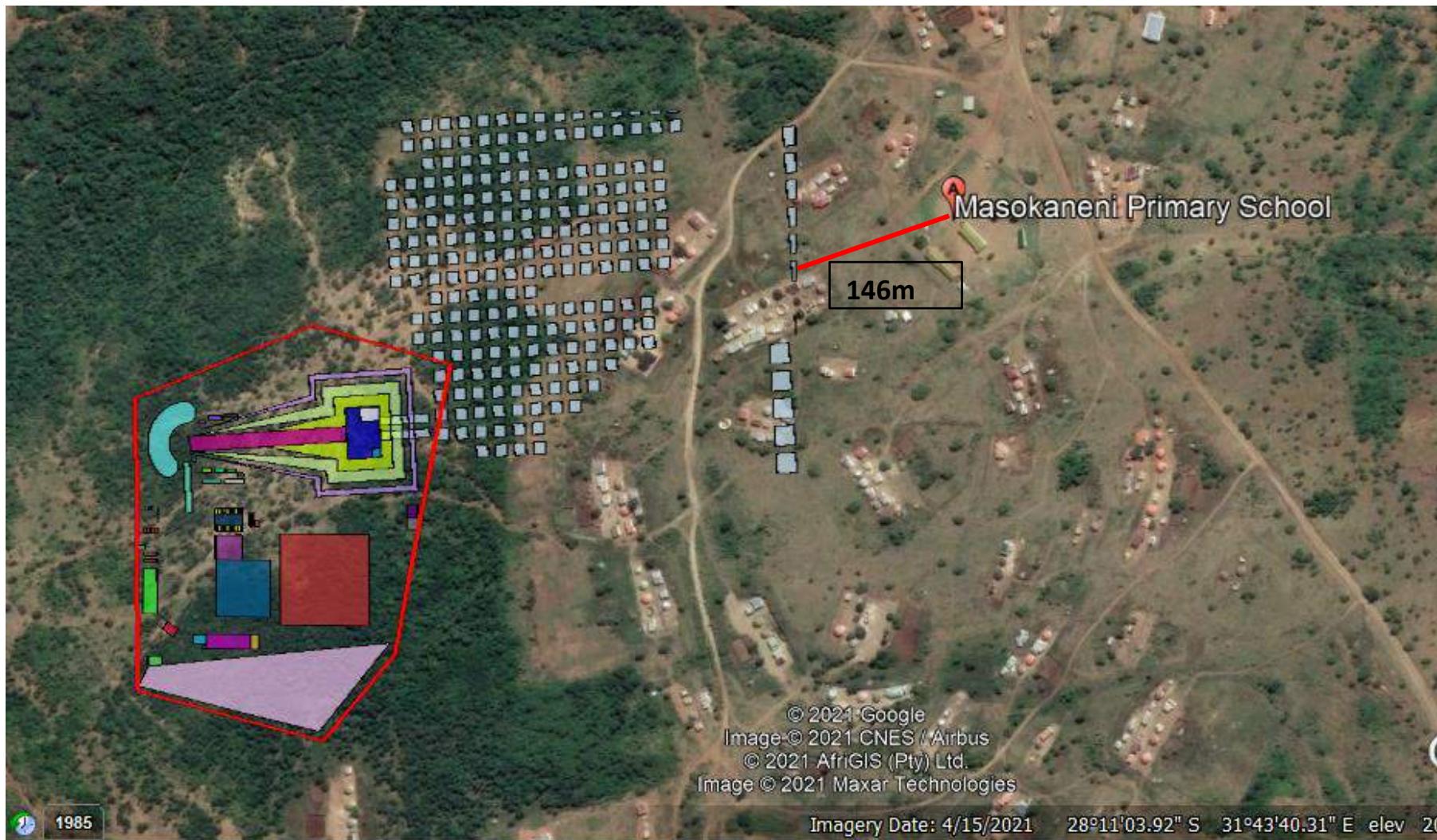
Name & Surname:

Date:

Signature:

.....

Initial/s:



**From:** [Public KZN](#)  
**To:** ["info@saveourwilderness.org"](mailto:info@saveourwilderness.org)  
**Cc:** [Simamele Sibya](#)  
**Subject:** Notification of Basic Assessment and Integrated Water Use License for the proposed Mgeni Adit Complex and Deep-E opencast pit at Zululand Anthracite Colliery, Nongoma Local Municipality, KwaZulu-Natal  
**Date:** Thursday, 05 July 2018 10:20:00  
**Attachments:** [17-1186 ZAC BID-04 July 2018ZS.pdf](#)  
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[image003.jpg](#)

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### **NOTIFICATION OF BASIC ASSESSMENT AND INTEGRATED WATER USE LICENSE APPLICATION FOR THE PROPOSED MGENI ADIT COMPLEX AND DEEP-E OPENCAST PIT AT ZULULAND ANTHRACTITE COLLIERY, NONGOMA LOCAL MUNICIPALITY, KWAZULU-NATAL**

#### **GCS REFERENCE NO: 17-1186**

To whom it may concern,

Notice is hereby given in terms of Regulation 40 of the 2014 Environmental Impact Regulations, as amended, under Section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) and the National Water Act, 1998 (Act No. 36 of 1998), of the Basic Assessment and Integrated Water Use License Application processes for the proposed Mgeni adit and associated infrastructure, and the Integrated Water Use License Application process for the proposed open cast pit extension at the Zululand Anthracite Colliery in Nongoma Local Municipality, KwaZulu-Natal.

The processes will be undertaken by GCS Water and Environment (Pty) Ltd (GCS). These processes will be undertaken concurrently to integrate and streamline the processes.

The following listed activities are deemed applicable in terms of the 2014 EIA Regulations, as amended:

- Listing Notice 1 Activity 27: The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation.
- Listing Notice 1 Activity 30: Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
- Listing Notice 3 Activity 4: The development of a road wider than 4 metres with a reserve less than 13,5 metres.
- Listing Notice 3 Activity 12: The clearance of an area of 300 square metres or more of indigenous vegetation.

The following water uses may be triggered in terms of Section 21 of the NWA:

- (a) Abstraction of water;
- (b) Storage of water;
- (c) Impeding or diverting the flow of water in a water course;
- (f) Discharging waste or water containing waste into a water resource through a pipe, canal, sewer, sea outfall or other conduit;
- (g) Disposing of waste in a manner that may detrimentally impact a water resource;
- (i) Altering the bed, banks, course or characteristic of a watercourse; and
- (j) Removing, discharging or disposing of water found underground.

Please see attached the Background Information Document for the application.

All Interested and/or Affected Parties are invited to register in writing with GCS in order to receive further information and correspondence on the project including notices on project progress, meetings and reports. You are further invited to submit written comments related to the project together with your name, contact details, project name and reference number and an indication of any direct business, financial, personal or other interest which you have in the application by fax or email to the contact person below within 30 days of this notice by **13 August 2018**.

**GCS (Pty) Ltd**

Brendan Smith

Tel: 031 764 7130

Fax: 031 764 7140

Email: [publickzn@gcs-sa.biz](mailto:publickzn@gcs-sa.biz)

Postal Address

PO Box 819

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**From:** [Public KZN](#)  
**To:** ["Nqobile.khanyile@dmr.gov.za"](#); ["karoon.moodley@dmr.gov.za"](#)  
**Cc:** ["Simamele Sibya"](#)  
**Subject:** Notification of Basic Assessment and Integrated Water Use License for the proposed Mgeni Adit Complex and Deep-E opencast pit at Zululand Anthracite Colliery, Nongoma Local Municipality, KwaZulu-Natal  
**Date:** Monday, 09 July 2018 10:15:00  
**Attachments:** [17-1186 ZAC BID-04 July 2018ZS.pdf](#)  
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[image002.jpg](#)

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**NOTIFICATION OF BASIC ASSESSMENT AND INTEGRATED WATER USE LICENSE APPLICATION  
FOR THE PROPOSED MGENI ADIT COMPLEX AND DEEP-E OPENCAST PIT AT ZULULAND  
ANTHRACTITE COLLIERY, NONGOMA LOCAL MUNICIPALITY, KWAZULU-NATAL**

**GCS REFERENCE NO: 17-1186**

Dear Karoon and Nqobile,

Notice is hereby given in terms of Regulation 40 of the 2014 Environmental Impact Regulations, as amended, under Section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) and the National Water Act, 1998 (Act No. 36 of 1998), of the Basic Assessment and Integrated Water Use License Application processes for the proposed Mgeni adit and associated infrastructure, and the Integrated Water Use License Application process for the proposed open cast pit extension at the Zululand Anthracite Colliery in Nongoma Local Municipality, KwaZulu-Natal.

The processes will be undertaken by GCS Water and Environment (Pty) Ltd (GCS). These processes will be undertaken concurrently to integrate and streamline the processes.

The following listed activities are deemed applicable in terms of the 2014 EIA Regulations, as amended:

- Listing Notice 1 Activity 27: The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation.
- Listing Notice 1 Activity 30: Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
- Listing Notice 3 Activity 4: The development of a road wider than 4 metres with a reserve less than 13,5 metres.
- Listing Notice 3 Activity 12: The clearance of an area of 300 square metres or more of indigenous vegetation.

The following water uses may be triggered in terms of Section 21 of the NWA:

- (a) Abstraction of water;
- (b) Storage of water;
- (c) Impeding or diverting the flow of water in a water course;
- (f) Discharging waste or water containing waste into a water resource through a pipe, canal, sewer, sea outfall or other conduit;
- (g) Disposing of waste in a manner that may detrimentally impact a water resource;
- (i) Altering the bed, banks, course or characteristic of a watercourse; and
- (j) Removing, discharging or disposing of water found underground.

Please see attached the Background Information Document for the application.

All Interested and/or Affected Parties are invited to register in writing with GCS in order to receive further information and correspondence on the project including notices on project progress, meetings and reports. You are further invited to submit written comments related to the project together with your name, contact details, project name and reference number and an indication of any direct business, financial, personal or other interest which you have in the application by fax or email to the contact person below within 30 days of this notice by **13 August 2018**.

**GCS (Pty) Ltd**

Brendan Smith

Tel: 031 764 7130

Fax: 031 764 7140

Email: [publickzn@gcs-sa.biz](mailto:publickzn@gcs-sa.biz)

Postal Address

PO Box 819

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3603

**From:** [Public KZN](#)  
**To:** ["MandlakaziTC@gmail.com"](mailto:MandlakaziTC@gmail.com)  
**Cc:** ["Simamele Sibya"](#)  
**Subject:** ISAZISO SOKUHLOLA OKUYISISEKELO NESICELO SELAYISENSE YOKUSEBENZISA AMANZI ESAKHIWENI SOMHUBHE WOKUCHITHA AMANZI APHUMA EMAYINI EMNGENI KANYE NOMGODI OMKHULU OVULEKILE OSEMAVININI YAMALAHLE I-ANTHRACITE COLLIERY EHLONGOZWAYO KWAZULU  
**Date:** Monday, 09 July 2018 10:34:00  
**Attachments:** [17-1186\\_ZACMageni\\_Adit and Open Cast\\_Zulu Flyer\\_20180709.pdf](#)  
[image001.jpg](#)  
[image003.jpg](#)

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Inkosi Zulu,

Ngalokhu kukhishwa isaziso ngokoMthethonqubo wama-40 wezi-2014 weMthethonqubo yoMthelela Kwezemvelo, njengoba uchitshiyelwe, ngaphansi kwesigaba 24(5) soMthetho Wokuphathwa Kwezemvelo Kuzwelone, 1998 (uMthetho No. 107 we-1998) (NEMA) kanye noMthetho Wezamanzi Kuzwelone, 1998 (uMthetho No. 36 we-1998), wezinqubo Yokuhola Okuyisisekelo kanye neSicelo Selayisense Edidiyele Yokusetshenziswa Kwamanzi emhubheni wokuchitha amanzi aphuma emayini kanye nengqalasizinda ehambisana nayo, kanye nenqubo yeSicelo Selayisense Edidiyele Yokusebenzisa Amanzi yokunwetshwa komgodi ovulekile okuhlongozwayo eMayini Yamalahle i-Anthracite Colliery Kumasipala Wendawo WakwaNongoma, KwaZulu-Natali.

Lezi zinqubo zizokwenziwa yi-GCS Water and Environment (Pty) Ltd (GCS). Lezi zinqubo zizokwenziwa kanye kanye ukuze kudidiyelwe futhi kwensiwe izinqubo zihambisane.

Le misebenzi esohlwini elandelayo ithathwa ngokuthi isebeza ngokweMithethonqubo ye-EIA yowezi-2014, njengoba ichitshiyelwe:

- **Isaziso Esisohlwini 1 Umsebenzi 27:** Ukukhucululwa kwendawo eyihektha eyodwa noma ngaphezulu, kodwa engaphansi kwamahektha angama-20 anezitshalo zendabuko.
- **Isaziso Esisohlwini 1 Umsebenzi wama-30:** Noma eyiphi inqubo noma umsebenzi ohlonzwe ngokwesigaba 53(1) wokuPhathwa Kwezemvelo Kuzwelone: uMthetho Wezemvelo Enhlobonhlobo, 2004 (uMthetho No. 10 wezi-2004).
- **Isaziso Esisohlwini 3 Umsebenzi 4:** Ukuthuthukiswa komgwaqo ovuleke ngamamitha amane onendawo esele engaphansi kwamamitha ayi-13,5.
- **Isaziso Esisohlwini 3 Umsebenzi 12:** Ukukhucululwa kwendawo engamaskwemitha angama-300 noma ngaphezulu ezitshalo zendabuko.

Ukusetshenziswa kwamanzi okulandelayo kungase kuqaliswe ngokweSigaba sama-21 se-NWA:

- (a) Ukukhishwa kwamanzi;
- (b) Ukugcinwa kwamanzi;
- (c) Ukususa noma ukuchezukisa indlela amanzi ageleza ngayo emgudwini wamanzi;
- (f) Ukukhishwa kwemfucuza noma amanzi aqukethe ukungcola emthonjeni wamanzi ngepayipi, umhubhe, isitamukoko, okuphumela olwandle noma omunye umgudu;
- (g) Ukuchithwa kwamanzi ngendlela engase ibe nomthelela ongemuhle emthonjeni wamanzi;
- (i) Ukushintsha unqenqema, indlela noma isimo somgudu wamanzi; kanye
- (j) Nokususa, ukukhipha noma ukuchitha amanzi atholakale ngaphansi.

Bonke abanentshisekelo kanye/noma Abathintekayo bayamenya ukuthi babhalise ngokubhaliwe ukuze bathole olunye ulwazi futhi babhalelwae maqondana nephrojekthi okubandakanya izaziso ngenqubekela phambili yeprojekthi, nemihlangano, kanye nemibiko. Phezu kwalokho uyamenya ukuthi uthumele izimvo ezbihaliwe eziqondene nephrojekthi kanjalo namagama awo, imininingwane yokuxhumana, igama lephrojekthi kanye nenombolo eyinkomba futhi babhale uma bethinteka ngqo ngokwezebhizinisi, ezezimali, ngokuqondene nabo ngqo noma ezinye izintshisekelo abanazo esicelweni ngefeksi noma nge-imeyli kumuntu okuthintanwa naye ezinsukwini ezingama-30 kukhishwe lesi

saziso engakashayi umhla we-13 Agasti 2018.

**GCS (Pty) Ltd**

**Brendan Smith**

Ucingo: 031 764 7130

Ifeksi: 031 764 7140

I-meyli: [publiczn@gcs-sa.biz](mailto:publiczn@gcs-sa.biz)

Ikheli Leposi

PO Box 819

Gillitts

3603

**From:** [Public KZN](#)  
**To:** [ximbac@gmail.com](mailto:ximbac@gmail.com); [ntomiyenkosi.mthembu@gmail.com](mailto:ntomiyenkosi.mthembu@gmail.com)  
**Cc:** ["Simamele Sibya"](#)  
**Subject:** ISAZISO SOKUHLOLA OKUYISISEKELO NESICELO SELAYISENSE YOKUSEBENZISA AMANZI ESAKHIWENI SOMHUBHE WOKUCHITHA AMANZI APHUMA EMAYINI EMNGENI KANYE NOMGODI OMKHULU OVULEKILE OSEMAVININI YAMALAHLE I-ANTHRACITE COLLIERY EHLONGOZWAYO KWAZULU  
**Date:** Monday, 09 July 2018 10:39:00  
**Attachments:** [17-1186\\_ZACMageni\\_Adit and Open Cast\\_Zulu Flyer\\_20180709.pdf](#)  
[image001.jpg](#)  
[image002.jpg](#)

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Inkosi Ximba,

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saziso engakashayi umhla we-13 Agasti 2018.

**GCS (Pty) Ltd**

**Brendan Smith**

Ucingo: 031 764 7130

Ifeksi: 031 764 7140

I-meyli: [publiczn@gcs-sa.biz](mailto:publiczn@gcs-sa.biz)

Ikheli Leposi

PO Box 819

Gillitts

3603

**From:** [Public KZN](#)  
**To:** ["precioustz@gmail.com"](mailto:precioustz@gmail.com); ["mathenitc@gmail.com"](mailto:mathenitc@gmail.com)  
**Cc:** ["Simamele Sibya"](#)  
**Subject:** ISAZISO SOKUHLOLA OKUYISISEKELO NESICELO SELAYISENSE YOKUSEBENZISA AMANZI ESAKHIWENI SOMHUBHE WOKUCHITHA AMANZI APHUMA EMAYINI EMNGENI KANYE NOMGODI OMKHULU OVULEKILE OSEMAPININI YAMALAHLE I-ANTHRACITE COLLIERY EHLONGOZWAYO KWAZULU  
**Date:** Monday, 09 July 2018 10:40:00  
**Attachments:** [17-1186\\_ZACMageni\\_Adit and Open Cast\\_Zulu Flyer\\_20180709.pdf](#)  
[image001.jpg](#)  
[image003.jpg](#)

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Inkosi Zulu,

Ngalokhu kukhishwa isaziso ngokoMthethonqubo wama-40 wezi-2014 weMthethonqubo yoMthelela Kwezemvelo, njengoba uchitshiyelwe, ngaphansi kwesigaba 24(5) soMthetho Wokuphathwa Kwezemvelo Kuzwelone, 1998 (uMthetho No. 107 we-1998) (NEMA) kanye noMthetho Wezamanzi Kuzwelone, 1998 (uMthetho No. 36 we-1998), wezinqubo Yokuhola Okuyisisekelo kanye neSicelo Selayisense Edidiyele Yokusetshenziswa Kwamanzi emhubheni wokuchitha amanzi aphuma emayini kanye nengqalasizinda ehambisana nayo, kanye nenqubo yeSicelo Selayisense Edidiyele Yokusebenzisa Amanzi yokunwetshwa komgodi ovulekile okuhlongozwayo eMayini Yamalahle i-Anthracite Colliery Kumasipala Wendawo WakwaNongoma, KwaZulu-Natali.

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saziso engakashayi umhla we-13 Agasti 2018.

**GCS (Pty) Ltd**

**Brendan Smith**

Ucingo: 031 764 7130

Ifeksi: 031 764 7140

I-meyli: [publiczn@gcs-sa.biz](mailto:publiczn@gcs-sa.biz)

Ikheli Leposi

PO Box 819

Gillitts

3603

**From:** [Public KZN](#)  
**To:** [zungutc@gmail.com](mailto:zungutc@gmail.com); [mkhululiximba@gmail.com](mailto:mkhululiximba@gmail.com)  
**Cc:** ["Simamele Sibya"](#)  
**Subject:** ISAZISO SOKUHLOLA OKUYISISEKELO NESICELO SELAYISENSE YOKUSEBENZISA AMANZI ESAKHIWENI SOMHUBHE WOKUCHITHA AMANZI APHUMA EMAYINI EMNGENI KANYE NOMGODI OMKHULU OVULEKILE OSEMAVININI YAMALAHLE I-ANTHRACITE COLLIERY EHLONGOZWAYO KWAZULU  
**Date:** Monday, 09 July 2018 10:42:00  
**Attachments:** [17-1186\\_ZACMageni\\_Adit and Open Cast\\_Zulu Flyer\\_20180709.pdf](#)  
[image001.jpg](#)  
[image002.jpg](#)

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Inkosi Zungu,

Ngalokhu kukhishwa isaziso ngokoMthethonqubo wama-40 wezi-2014 weMthethonqubo yoMthelela Kwezemvelo, njengoba uchitshiyelwe, ngaphansi kwesigaba 24(5) soMthetho Wokuphathwa Kwezemvelo Kuzwelone, 1998 (uMthetho No. 107 we-1998) (NEMA) kanye noMthetho Wezamanzi Kuzwelone, 1998 (uMthetho No. 36 we-1998), wezinqubo Yokuhola Okuyisisekelo kanye neSicelo Selayisense Edidiyele Yokusetshenziswa Kwamanzi emhubheni wokuchitha amanzi aphuma emayini kanye nengqalasizinda ehambisana nayo, kanye nenqubo yeSicelo Selayisense Edidiyele Yokusebenzisa Amanzi yokunwetshwa komgodi ovulekile okuhlongozwayo eMayini Yamalahle i-Anthracite Colliery Kumasipala Wendawo WakwaNongoma, KwaZulu-Natali.

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Ukusetshenziswa kwamanzi okulandelayo kungase kuqaliswe ngokweSigaba sama-21 se-NWA:

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**GCS (Pty) Ltd**

**Brendan Smith**

Ucingo: 031 764 7130

Ifeksi: 031 764 7140

I-meyli: [publiczn@gcs-sa.biz](mailto:publiczn@gcs-sa.biz)

Ikheli Leposi

PO Box 819

Gillitts

3603

**From:** [Public KZN](#)  
**To:** [ntombiyenkosi.mthembu@gmail.com](mailto:ntombiyenkosi.mthembu@gmail.com)  
**Subject:** ISAZISO SOKHOLOLA OKUYISISEKELO NESICELO SELAYISENSE YOKUSEBENZISA AMANZI ESAKHIWENI SOMHUBHE WOKUCHITHA AMANZI APHUMA EMAYINI EMNGENI KANYE NOMGODI OMKHULU OVULEKILE OSEMAYININI YAMALAHLE I-ANTHRACITE COLLIERY EHLONGOZWAYO KWAZULU  
**Date:** Monday, 09 July 2018 11:31:00  
**Attachments:** [17-1186\\_ZACMeni Adit and Open Cast\\_Zulu Flyer\\_20180709.pdf](#)  
[image001.jpg](#)  
[image003.jpg](#)

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**GCS (Pty) Ltd**  
**Brendan Smith**  
Ucingo: 031 764 7130  
Ifeksi: 031 764 7140  
I-meyli: [publiczn@gcs-sa.biz](mailto:publiczn@gcs-sa.biz)

Ikheli Leposi  
PO Box 819  
Gillitts  
3603

**Site notices indicating the availability of the Basic Assessment Reports**



**Janice Callaghan**

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**From:** Janice Callaghan  
**Sent:** 20 August 2019 01:33 PM  
**Subject:** Zululand Anthracite Colliery's proposed Mngeni adit  
**Attachments:** 17-1186 ZAC Mngeni Public Meeting Notification 29Aug2019\_Final.pdf

**Bcc:** 'siboniso.mbenze@kzndae.gov.za'; 'Muzi.mdamba@kzndae.gov.za'; 'william.mngoma@kzndae.gov.za'; 'Skhumbuzo.mpungose@kzndae.gov.za'; 'sibusisiwe.mngoma@kzndae.gov.za'; 'sbusisozz57@gmail.com'; 'Ntokozo.ngcamu@kzndae.gov.za'; 'Khumbulani.Mbatha@kzndae.gov.za'; 'MoonsamyC@dws.gov.za'; 'gravel@dwa.gov.za'; 'reddyp@dwa.gov.za'; 'BrudvigR@dwa.gov.za'; 'Mdlalosen2@dwa.gov.za'; 'kassien@dws.gov.za'; 'elijah.cele@kznhousing.gov.za'; 'peter.woolf@kzndhs.gov.za'; 'nqobile.khanyile@dmr.gov.za'; 'karoon.moodley@dmr.gov.za'; 'nkosazana.maseko@dmr.gov.za'; '27338975776@vax.co.za'; 'CebileN@daff.gov.za'; 'wisemanr@daff.gov.za'; 'Robert.Lindsay@kzntransport.gov.za'; 'prash.padayachee@kznhealth.gov.za'; 'doreen.msomi@kznhealth.gov.za'; 'info@ulundi.gov.za'; 'sjbuthelezi@ulundi.gov.za'; 'thandekav@hotmail.com'; 'nsikhakhane@ulundi.gov.za'; 'senzob@mtnloaded.co.za'; 'capson.zulu@gmail.com'; 'receptionist@nongoma.org.za'; 'capson.zulu@gmail.com'; 'nxumalothomassenzo@gmail.com'; 'info@zululand.org.za'; 'slandman@zululand.org.za'; 'bsibiya@zululand.org.za'; 'greenk@kznwildlife.com'; 'jonesr@kznwildlife.com'; 'wienersd@kznwildlife.com'; Jenny Longmore; 'andyb@kznwildlife.com'; 'sibekop@kznwildlife.com'; 'druced@kznwildlife.com'; 'Jabulani.Ngubane@kznwildlife.com'; 'elliottf@kznwildlife.com'; 'carbuttC@kznwildlife.com'; 'Robertsd@kznwildlife.com'; 'SKruger@kznwildlife.com'; 'hlophej@kznwildlife.com'; 'thembzi@isimangaliso.com'; 'ashleigh.mckenzie@acerafrika.co.za'; 'archaeology@amafapmb.co.za'; 'amafa.pmb@mweb.co.za'; 'james@heritagekzn.co.za'; 'lihra@lantic.net'; 'lmathenjwa@kzn.sahra.org.za'; 'sahranc2@iafrica.com'; 'pakkiesd@ingonyamatrust.org.za'; 'praveshm@ingonyamatrust.org.za'; '27333425045@vax.co.za'; 'mark@groundtruth.co.za'; 'Alex.Searle@sugar.org.za'; 'umfcane@wpd.co.za'; 'martin@mailweb.co.za'; 'michelle.boshoff@rbm.co.za'; 'michelle.brown@ewing.co.za'; 'sallyjackson.conservation@gmail.com'; 'heila.bee@gmail.com'; 'elrossco@gmail.com'; 'michael@listerco.co.za'; 'plantnet@iafrica.co'; 'conservation@wessakzn.org.za'; 'paulcryer@telkom.co.za'; 'roger.m.porter@gmail.com'; 'rosanne@dbnmail.co.za'; 'msizi.myaka@gmail.com'; 'MandlakaziTC@gmail.com'; 'khanyokhanyile@gmail.com'; 'mathenitc@gmail.com'; 'makhosienxumalo@gmail.com'; 'ximbatic@gmail.com'; 'ntombiyenkosi.mthembu@gmail.com'; 'zungutc@gmail.com'; 'mkhululi.ximba@gmail.com'; 'bruceandcally@gmail.com'; 'skhuk072@gmail.com'; Msawenkosi Buthelezi

Dear Interested and Affected Party

This email is in accordance with Regulation of GNR No. 326 of the National Environmental Management Act (NEMA) (Act 107 of 1998, as amended) and the NEMA Environmental Impact Assessment (EIA) Regulations (2014, as amended) with respect to the abovementioned project.

Please kindly refer to the attached notification letter for your attention, for details regarding the public participation process.

Please do not hesitate to contact us should you have any queries.

Kind regards



4a Old Main Road, Judges Walk, Kloof, Kwazulu-Natal South Africa 3610  
PO Box 819 Gillitts 3603 South Africa

Telephone: +27 (0)31 764 7130 Facsimile: +27 (0)31 764 7140  
Web: [www.gcs-sa.biz](http://www.gcs-sa.biz)

**To:** Registered Interested and Affected Party (I&AP)

**Subject:** Zululand Anthracite Colliery's proposed Mngeni Adit operations

**From:** Gerda Bothma

**Date:** 20 August 2019

*Our Reference* 17-1186

Dear Sir/Madam

## **Notification of Public Meeting: Mngeni Adit Basic Assessment Report and Integrated Water Use License Application**

As a registered Interested and Affected Party for the proposed Mngeni Adit operations at Zululand Anthracite Colliery (ZAC), you are hereby notified in terms of Regulation 41 of GNR No. 326 of the National Environmental Management Act (NEMA) (Act No. 107 of 1998) and the NEMA Environmental Impact Assessment (EIA) Regulations 2014 (as amended 2017) of a public meeting that will be held to provide explanations and answer questions regarding the Basic Assessment Report (BAR) of the site that has been compiled, as well as the Integrated Water and Waste Management Plan (IWWMP) for the Integrated Water Use License Application (IWULA). The BAR is available for comment until 22 August 2019 whilst the IWWMP is available until 04 October 2019 at the locations as advertised previously.

Please note the details of the meeting below:

**Date: 29 August 2019**

**Time: 10H00**

**Venue: ZAC soccer field**

Interested and Affected Parties are further invited to provide their comments together with their name, contact details (preferred method of notification, e.g. e-mail address or fax number) and an indication of any direct business, financial, personal or other interest which they have in the

application, to the undersigned, on or before 22 August 2019 for the BAR and 04 October 2019 for the IWWMP (deadline for comments).

We look forward to your valued participation.

Yours Sincerely,



**Gerda Bothma**

**Environmental Unit Manager**

**GCS (Pty) Ltd**

**Email: [publiczn@gcs-sa.biz](mailto:publiczn@gcs-sa.biz)**

**GCS Durban Offices**

T: +27(0) 31 764 7130 F: +27(0) 31 764 7140

Address: PO Box 819, Gillitts, 3603

# PUBLIC MEETING ATTENDANCE REGISTER

DATE:

2019/08/29 VENUE:

PROJECT: ZAC Mengeni Audit - IWWMP & BAR

PROJECT NO.: 17-1186

ZAC Soccer Field

PROJECT NO.: 17-1186

Name & Surname	Company	Position	Telephone	Cell Phone	Email
Bumelile Zungu	Ngolotsha		072 7881100		
Sibonile Dladla	Ngolotsha		061 8848381		
Smangeli Moshwati	Ngolotsha		0606360225		
Dumozile Mngeni	Ngolotsha		021 117393		
Deliswa Mdeli9ose	Ngolotsha		0791301626		
Jekuhile Mngqitha	Ngolotsha		0826912808		
Minenhle Motswana	Ngolotsha		0660663134		
Thabiso Sibisi	Ngolotsha		0663661421		
Burantle Namae	Kwizizwe		0214796310		
Cansis Mngedi	Nzima				
Lingile	NTSELE		0712943120		
Phuzani Seme	MBatha		02790100898		
Khumbulani Dladla	Ngolotsha		07629178080		
Mhlanzi Mthethwa	Ngolotsha		0721817306		
Sogomo Kibonza	Ngolotsha		0824211895		
Thamsanqa Buthezi	Ngolotsha		0715098291		
Mphuphuzeni Ntshwane	Ngolotsha		0194525212		

# PUBLIC MEETING ATTENDANCE REGISTER

DATE:

2019/08/29 VENUE:

PROJECT: ZAC Mengeni Audit - IWWMP &amp; BAR

PROJECT NO:

17-1186

## PROJECT: ZAC Mengeni Audit - IWWMP & BAR

Name & Surname	Company	Position	Telephone	Cell Phone	Email
MENESSI MBELE			0793409224		
Mr. Khamala	ENVIRONMENTAL OFFICE		0799148776		
B. S. NAMANOWE	EDITOR		082 719 9883	071 438 4459	sbanso251@gmail.com
Mr. MESTA	OFFICE		0722490766	0722475065	N/A
Mr. Shange	OFFICE		071394421	071394421	
Mr. Zimba	OFFICE		076555599	076555599	
Mr. Khombe	OFFICE		0722998524	0722998524	MALIBANGWE KHAMVILICO
Mr. Mwabi	OFFICE		0794818521	0794818521	
Mr. Khetulwa	OFFICE	N/A	N/A	0724659462	
Mr. Mphasi	OFFICE	N/A	N/A	0792615201	
Mr. Nsimangase	OFFICE	N/A	N/A	0794644065	N/A
Mr. S. B. Y.	OFFICE	MAN	071575252		
Mr. Ntshangase	OFFICE	OFFICE	0768233887	0768233887	N/A
Mr. Nkandu	OFFICE	N/A	07157510	N/A	
Business N. Shole	OFFICE	N/A	N/A	N/A	N/A
Mr. S. Mole	N/A	N/A	N/A	N/A	N/A
Mr. S. Mole	N/A	N/A	0827668842	0827668842	N/A



PUBLIC MEETING ATTENDANCE REGISTER

DATE:

2019/08/29 VENUE: ZAC Soccer Field PROJECT NO: 17-1186

PROJECT: ZAC Mngeni Adit - IWWMP & BAR

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## PUBLIC MEETING ATTENDANCE REGISTER

DATE:

2019/08/29 VENUE: ZAC Soccer Field PROJECT NO: 17-1186

PROJECT: ZAC Mngeni Adit - IWWMP & BAR

Name & Surname      Company      Position      Telephone      Cell Phone      Email

Name & Surname	Company	Position	Telephone	Cell Phone	Email
M. S. Buthelezi	Umdoni Municipal Council	07347 0026	0729556333	msbuthelezi@gmail.com	
M. Nyandeni	Z.A.C.	Supervisor	0818336239	A114	
T.M. Mhlongo	Mathereni (canal)	Community	0790185885	0790185885	
M/ Mhlongo	Lathengo (LUT)	General worker	0763444807	0763444807	
ST. Dlamini	MATHERENI		082547		
H. Dlamini	RECRUITMENT Com. R. COMMITTEE	0875473044	07228473046	hthdlamini	
MBUYISENI MARANGA	R. COMMITTEE	05797219355	07797219355		
N. Ntshangase	Kwanzungu	R. COMMITTEE	→	0720680655	
Shemawuwa GHAZY	Wandilekazi	Committee	0711767752	0711767752	

# **PUBLIC MEETING ATTENDANCE REGISTER**

DATE:

2019/08/29

PROJECT: ZAC Mngeni Audit - IWWMP & BAR

VENUE: ZAC Soccer Field

PROJECT NO.: 17-1186

Name & Surname	Company	Position	Telephone	Cell Phone	Email
M. Luthuli			071 320 9965		
Ag Mshunbe	N/A		072 8521827	N/A	
S. Biringa	N/A		082 4842891	N/A	
G. Schutte	N/A		082 2271157	N/A	
K. P. Mshube	N/A		082 0226274	N/A	
S. Msimangese	N/A		082 4911337	N/A	
UZ Khumalo	N/A		072 8515569	N/A	
SH Bumza	N/A		076 3816017	N/A	
S. MSHOLE	N/A		072 9455035	Sgt	
D. READEO	N/A		076 0542055	Sgt	
Mkhanya Khumalo	N/A		072 2452989	Sgt	
Sizwe Khumalo	N/A		072 6318836	Sgt	
Dumisile Dlamini	N/A		072 0474433	Sgt	
Ngobeni Mphela	N/A		072 7793140	GSC	
M. Sanganithi	N/A		072 4658462	GSC	
Mogozile Mphela	N/A		071 5743086	GSC	
Nonkobetho Khumalo	N/A		071 6459087	GSC	

# PUBLIC MEETING ATTENDANCE REGISTER

DATE:

2019/08/29

PROJECT: ZAC Mngeni Audit - IWWMP & BAR

PROJECT NO.: 17-1186

Name & Surname	Company	Position	Telephone	Cell Phone	Email
Hlatshuse G Maledi	17/19	—	082	02826760196	N/A
Zolile Msikwana	N/A	—	N/A	0609678482	N/A
<b>No Ma-Zulu/4 Nkabineng</b>	N/A	—	N/A	07102025720	N/A
Nomusa Dangole	N/A	—	N/A	07122299280	N/A
Phumzile Mngeni	N/A	—	N/A	07161805055	N/A
INTombeni Ngobese	17/2	—	N/A	07286209218	N/A
Jabulile Zavolo	N/A	—	N/A	0715858865	N/A
Geumiso Ngobese	N/A	—	N/A	0725801420	N/A
Landeri Miambo	N/A	—	N/A	07020158798636	N/A
Phumzile Mngeni	N/A	—	N/A	071222997361	N/A
Sebiso Schomoe	N/A	—	N/A	0608795156	N/A
Phumzile Ntuli	N/A	—	N/A	0661883329	N/A
Nozesi Mngeni	N/A	—	N/A	0715808532	N/A
Busani Dkhize	N/A	—	N/A	0715808532	N/A
Koloni Khehwezo	N/A	—	N/A	0715808532	N/A
Bozimelwa Khawula	N/A	—	N/A	0715808532	N/A

# PUBLIC MEETING ATTENDANCE REGISTER

DATE:

2019/08/29 VENUE:

PROJECT: ZAC Mengeni Adit - IWWMP & BAR

PROJECT NO.: 17-11186

Name & Surname	Company	Position	Telephone	Cell Phone	Email
Sifundo Nkosi	N/A	N/A	061 444 48827	071 409 6847	N/A
Methu Nkandu	N/A	N/A		0799593808	N/A
Thobane Nkandu	N/A	N/A		076 26301444	N/A
Mondli Mengel	N/A	N/A		0725162396	N/A
Burgess Dominic	N/A	N/A		0226059437	N/A
Dumisani Ntuli	N/A	N/A		0793994479	N/A
Singwini Nkosi	N/A	N/A		0720 600233	N/A
Thobekile Ntuli	N/A	N/A		072 7816237	N/A
Sophus Sotya	N/A	N/A		076 2619426	N/A
Nkosinathi Khosa	Borowaqua	OPERATOR		072 153 9336	N/A
Mondli Mthethwa	Q/A	Q/A		071 631 7159	N/A
Kwilekane Turme	N/A	N/A		064 745 9248	N/A
Sizwe Mthethwa	Q/A	Q/A		099 2350943	N/A
Dheleni Nkosi				0799116491	
Sekokoza Nkosi	N/A	N/A	N/A	0791590337	sekokoza9@gmail.com
Mhazanisi Mthethwa	N/A	N/A		076 503 0845	N/A
Lucas Luthuli	ZAC	St/Boss	0632246242	0632246242	N/D

# PUBLIC MEETING ATTENDANCE REGISTER

DATE:

2019/08/29 VENUE:

PROJECT: ZAC Mengeni Adit - IWWMP & BAR

PROJECT NO: 17-1186

Name & Surname	Company	Position	Telephone	Cell Phone	Email
Aboko Mangelle	N/A	N/A	N/A	0226354533	N/A
S.P. Nkemba/	N/A	N/A	N/A	0768354413	N/A
M. NTULI	N/A	N/A	N/A	N/A	N/A
K. Khoraga	N/A	N/A	N/A	0822997195	N/A
M. Mfizi	N/A	N/A	N/A	N/A	N/A
TS Nkemba	N/A	N/A	N/A	096800671	N/A
S. Cebekhulu	N/A	N/A	N/A	0826341116	N/A
S.N. Ntshulu	N/A	N/A	N/A	0717380883	N/A
TS Mkhize	N/A	N/A	N/A	0727860213	N/A
S. NTshangase	N/A	N/A	N/A	0722450130	N/A
P. Moshelisi	N/A	N/A	N/A	0764591463	Sapphumom@gmail.com
S.T. Dlengano/SC	N/A	N/A	N/A	0793648775	N/A
TS Mkhize	N/A	N/A	N/A	0767538668	N/A
K. Mangelle	N/A	N/A	N/A	076881348	N/A
S.S. Ntshulu	N/A	N/A	N/A	07222814819	N/A
P. Zondo	N/A	N/A	N/A	060669909	N/A
Z. Kranjiye	N/A	N/A	N/A	0729114984	N/A



4a Old Main Road, Judges Walk, Kloof, Kwazulu-Natal, South Africa, 3610  
PO Box 819 Gillitts 3603, South Africa  
**Tel:** +27 (0) 31 764 7130 **Fax:** +27 (0) 31 764 7140 **Web:** [www.gcs-sa.biz](http://www.gcs-sa.biz)

Our Reference 17-1186

Your Reference Mnjeni Adit BAR and IWWMP

## Meeting Minutes

**Subject:** Mnjeni Adit BAR and IWWMP - Public Meeting

**Venue:** ZAC Soccer Field

**Date:** 29 August 2019

**Time:** 10am

**Attendance:** GCS, ZAC, I&APs

**Distribution:** GCS, ZAC, CA

ITEM	RESPONSE
<b>1. Subject</b> <b>1.1.</b> Msawenkosi Buthelezi (MB) from ZAC introduced himself, the GCS Consultants Gerda Bothma (GB) and Janice Callaghan (JC), as well as the proposed project.	N/A
<b>2. Presentation - English</b> <b>2.1.</b> GB provided an overview of the purpose of the meeting, as well as the guidelines on the meeting procedure <b>2.2.</b> GB then discussed the presentation which included the following sections pertaining to the IWWMP and BAR: 2.2.1. Project and Legislative Background 2.2.2. Need and Desirability 2.2.3. Specialist findings and preferred alternative 2.2.4. Discussions/Questions 2.2.5. Way forward and closure	N/A
<b>3. Presentation - Zulu</b> <b>3.1.</b> MB provided an overview of the presentation as outlined above, in Zulu.	N/A

ITEM	RESPONSE
<p><b>4. Discussion</b></p> <p><b>4.1. Induna of Masokaneni raised two concerns:</b></p> <p>4.1.1. The company (ZAC) has not paid site fee (“Khonza fee”) to the King/Chief for the use of the land, which is a traditional requirement. (This money is payable as a once off to the local Chief when you open a new site either building a home or business)</p> <p>4.1.2. The following programmes, required by the DMR and to be implemented by ZAC, are not operational:</p> <ul style="list-style-type: none"> <li>• Blockmaking at Mandlakazi;</li> <li>• Hydroponic garden at Matheni;</li> <li>• Dry cleaning at Mlaba; and</li> <li>• Skills centre in the Nzungu Traditional Authority.</li> </ul>	<p>4.1.1 The community liaison officer (CLO) from ZAC agreed this has not been done and will be addressed soonest.</p> <p>4.2.1 The CLO agrees that the blockmaking and Dry-cleaning operations are not operational due to water scarcity and ZAC is looking at other programmes to replace them with. The Skills centre and hydroponic garden are both operational.</p>
<p><b>4.2. Aaron raised one comment:</b></p> <p>4.2.1. The project is taking place in Masokaneni, so are members from other communities allowed at the meeting?</p>	<p>4.2.1 MB explained that all people who are in the areas surrounding the mine are invited as they can be affected in one way or another, such as by a coal truck potentially hitting one of their livestock for example.</p>

ITEM	RESPONSE
<p><b>4.3. Msizi Myaka had both a positive and negative comment regarding the project:</b></p> <p>4.3.1. He feels that the project will be beneficial to the community as it brings jobs, as well as economic growth to the province and country.</p> <p>4.3.2. However; he does not feel the EAP is completely independent and neutral. By not having an independent translator, the EAP is leaning in the favour of the mine as the translation could be incorrect.</p>	<p>4.3.1 Noted, thank you.</p> <p>4.3.2 GB assured him that the translation of the documents was undertaken by an independent third party, being a professional translator and we are therefore confident it is not biased in any way. The consultants are SACNASP registered and therefore are adequately qualified to be completely independent, as is required by law.</p>
<p><b>4.4. Sipho Zwane raised positive feedback regarding the project:</b></p> <p>4.4.1. He is a Masokaneni resident and feels more community members should have been invited; however, he appreciates that alien and invasive species eradication measures will be implemented and is of the opinion that the mine will be beneficial in many ways to the community.</p>	<p>4.4.1 GB thanked him for his input into the project.</p>
<p><b>4.5. Mr Sithole is a Masokaneni resident and felt that the use of the microphone was not necessary and was wasting time.</b></p>	<p>4.5.1 MB acknowledged the comment and indicated that it is not compulsory to utilise the microphone.</p>

ITEM	RESPONSE
<b>4.6. Bongani Khoza requested clarity on the location of the vent shaft.</b>	4.6 MB explained the location by means of the site layout map in the presentation.
<b>4.7. Representative of the Zungu TA</b>  4.7.1. He requested clarity on how large exactly 1 hectare is to ensure the community is aware of the size in practical terms.  4.7.2. He asked if houses had to be relocated or if any of the surrounding houses would receive compensation.  4.7.3. He raised to point that there are negative connotations associated with the mine. The previous opencast operation negatively affected homes and they are still in discussions with DMR; however, nothing has been resolved to date and the area is still not rehabilitated. He indicated that while they are not actively stopping the mining operations, this is a possibility in the future if this type of action continues.	4.7.1 MB explained the size of 1 ha in terms of the map so that the I&APs understood  4.7.2 & 4.7.3 MB explained that the mine is in discussions with TA's regarding the Shembe temple that falls within the footprint, and that no processes may begin without an agreement. GB emphasised that the mine cannot proceed without coming to an agreement with the communities and an appropriate way forward.

ITEM	RESPONSE
<p><b>4.8. Sanele requested clarity on three points:</b></p> <p>4.8.1. He requested if the proposed project would be opencast or underground.</p> <p>4.8.2. Will the blasting of the underground operations affect the houses nearby? How will the impacts of blasting at surface level differ from underground blasting?</p> <p>4.8.3. Specialist findings show positive impacts. What happens if the specialist recommendations are not followed?</p>	<p>4.8.1 JC indicated that this project would be underground</p> <p>4.8.2 GB noted that in accordance with best practice, it should be ensured there are no households within 500m from the boundary of where blasting is to take place, before activities commence. In accordance with current investigations, no households have been identified, prior to commencement further assessment to confirm household presence (or not) is to be undertaken by the mine.</p> <p>4.8.3 GB indicated that independent auditing is to be undertaken by both independent auditors and the CA to ensure compliance.</p>

ITEM	RESPONSE
4.9. A community member asked what would happen if the pillars of the underground workings are removed? At the previous Mngeni shaft, some were removed which resulted in damage to houses from subsidence.	4.9 The community should never be left in a position worse than before the mine began operating. Every action needs to be undertaken in accordance with the law.
4.10. Mrs Maphisa was born in the area and land subsidence and cracks affected her house. How will the mine stop this from happening again?	4.10 MB indicated that the mine plan will be circulated.
4.11. John Ntshangase explained in his experience as a mine worker, stooping occurred under homes even though it was not supposed to.	4.11 Mining will be undertaken according to the law and correct procedures.
4.12. The Induna questioned how shallow the coal seam was compared to that at Ngwabe, and how has the mine's mining plan changed?	4.12 MB indicated that the mine depth varies with places, where it too shallow to mine without affecting surface infrastructure, it would be avoided.

ITEM	RESPONSE
<p><b>4.13. Mrs Buyisile Sithole questioned whether the graves of her relatives will be affected by the mine's operations.</b></p>	<p>4.13 As can be seen from the sensitivity mapping, no heritage resources is found on the proposed site. The purpose of the HIA was to demarcate the locations of graves in order to protect them.</p>
<p><b>4.14. Mrs Khumalo raised two concerns:</b></p> <p>4.14.1. She stated that the dust suppression method at the old Maye shaft had not been effective and there was a problem with dust created by trucks.</p> <p>4.14.2. She also stated that the old Mngeni shaft had a tap but this has now been taken away. Is it according to law that the Mfolozi river is so dry?</p>	<p>4.14.1 It is proposed that extensive dust suppression measures will be put in place for this project to ensure that dust suppression is adequate.</p> <p>4.14.2 MB indicated Abstraction from the river is monitored. It must be noted that other factors can also influence the level of the river. ZAC is also limited by the allocated volumes in terms of how much can be safely abstracted from Mfolozi river.</p>

ITEM	RESPONSE
4.15. Bhekani Khoza requested a commitment from the mine to employ only local workers.	4.15 MB noted that the purpose of this meeting was to inform the public on the environmental and water applications. There are other committees from the mine that will need to respond to this comment.
4.16. A community member asked why the graves were counted if they were not going to be moved.	4.16 MB and GB noted that all heritage resources need to be identified and demarcated so they can be avoided and protected.
4.17. A community member observed there seemed to be tension between the community and the mine and requested if meetings regarding grievances had been held before.	4.17 MB confirmed that meetings in this regard had been held.

ITEM	RESPONSE
<p>5. Deep E presentation in Zulu</p> <p>5.1. MB then provided a background of the Deep E application and explained its locality.</p> <p>5.2. The Induna then stated that there has been a miscommunication regarding the meeting and many of the affected I&amp;APs were not present.</p> <p>5.3. It was then suggested that the meeting for the Deep E application be held on another day.</p> <p>5.4. The meeting was proposed to be held on 04 September 2019 at the local community hall.</p>	
6. Meeting closed.	

