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18 July 2024

Dear Sirs,

RE: ENVIRONMENTAL IMPACT ASSESSMENT (EIA) PROCESS & DRAFT EIA REPORT FOR TENDELE MINING PROJECT (KZN 30/5/1/2/2/10041MR) – SUBMISSION OF COMMENTS

1. All Rise Attorneys for Climate and Environmental Justice ("All Rise") represents the following organisations in the above matter:
   1.1. Mfolozi Community Environmental Justice Organisation ("MCEJO"),
   1.2. Global Environmental Trust ("GET"),
   1.3. Mining Affected Communities United in Action ("MACUA"),
   1.4. ActionAid South Africa,
   1.5. South African Human Rights Defenders Network ("SAHRDN"),
   1.6. African Conservation Trust, and the
   1.7. South African Conservation Fund.
2. We hereby submit comments on the EIA process and the draft EIA Report dated 15 May 2024, inclusive of the public participation record, specialist studies, and the Environmental Management Programme (EMPR) (collectively referred to as the "draft EIA reports").

Introduction:

3. The EIA process is now in its 27th month since Bam J handed down her judgment on 4 May 2022, ordering Tendele to redo its EIA and public participation process. A normal EIA (Scoping & Environmental Impact Reporting) process, inclusive of decision-making, should take approximately 10 months as per the time periods in the EIA Regulations, 2014.

4. Despite an abnormally long period, Tendele and its consultants have failed to use this time wisely to fully identify and assess impacts and determine acceptable mitigation. They have also failed to use this time to properly consult with Interested and Affected Parties (I&APs), especially the resident and host communities who will be adversely affected by mining operations. Instead, the EIA process has yielded an EIA report and EMPr that:

   4.1. is filled with bias, gaps, ambiguities, errors, and inconsistencies;

   4.2. has ignored issues repeatedly raised by community members;

   4.3. has not been sufficiently or meaningfully consulted on;

   4.4. does not ensure that negative impacts will be avoided, alternatively minimised, and remedied (and therefore, does not fulfil the purpose of an EIA[1]);

   4.5. will mislead the decision-maker; and

   4.6. will result in the inequitable distribution of adverse environmental impacts, thereby, unfairly discriminating against vulnerable and disadvantaged persons.

5. The EIA and public participation conducted by Tendele and its EIA consultants have violated our clients' rights and those of other community members to a procedurally fair process, specifically as a result of the following deficiencies:

   5.1. Failure to provide access to all material information.

   5.2. Failure to comply with the Public Participation Guidelines and Chapter 6 of the EIA Regulations, 2014.

   5.3. Failure to provide reasonable, adequate, appropriate, equitable, and effective opportunities for our clients to participate in the EIA process.

[1] The purpose of an EIA is "*to avoid or mitigate detrimental impacts on the environment, and to optimise positive environmental impacts"* (Regulation 2 of the EIA Regulations, 2014.)

5.4. Failure to identify and consult all people whose rights are affected.

5.5. Failure to ensure that affected parties facing language, literacy, and other disadvantages were assisted through reasonable alternative methods to participate in the process.

5.6. Failure to ensure consensus and effectively address community conflict, heightened by the EIA process.

5.7. Failure to seek our marginalised voices.

5.8. Failure to consider our clients' comments on the draft Scoping Report of October 2023 submitted on 20 November 2023 and to include them in the Final Scoping Report of March 2024.

5.9. Failure to identify and assess all feasible and reasonable alternatives.

5.10. Failure of the specialists' reports to address our clients' comments submitted during Scoping.

5.11. Failure to perform the work in an objective manner, including failure to acknowledge and report views and findings that are not favourable to the application.

5.12. Failure to recognise traditional and ordinary knowledge.

5.13. Failure to report all gaps in the study.

5.14. Failure to apply the mitigation hierarchy and the polluter pays principle.

5.15. Failure to recognise and include traditional and ordinary knowledge.

5.16. Failure to incorporate all the specialist findings into the EMPr.

5.17. Failure to include a map per mining area at an appropriate scale which superimposes the proposed mining activities and their associated structures and infrastructure on the environmental sensitivities of the preferred development footprint indicating any areas that should be avoided, including buffers.

5.18. Failure to prepare an EMPr that is clear, consistent and enforceable, and that ensures that negative impacts will be avoided, alternatively minimised, and remedied.

6. These defects and others are set out in more detail below and have been grouped under the following 9 categories:

6.1. A: Flawed scoping;

6.2. B: Flawed public participation process in the EIA phase;

6.3. C: Withholding and omission of material information;

6.4. D: Misrepresentation by providing incorrect and misleading information;

6.5. E: Lack of objectivity in the EIA Reports;

6.6. F: Failure to identify and assess alternatives;

6.7. G: Gaps in information;

6.8. H: Specialist studies; and

6.9. I: Flawed EMPr.

A. Flawed Scoping

7. The flaws in the Scoping process, including the public participation component, are detailed in the numerous submissions made during Scoping, including the comments submitted on 20 November 2023 on the draft Scoping Report of October 2023. The consequences of the flawed Scoping process are that:

7.1. not all I&APs were consulted, including local residents whose rights will be affected as well as relevant organs of state;

7.2. not all I&APs were able to participate freely due to ongoing violence and intimidation;

7.3. not all material information was presented;

7.4. the information that was presented was not presented in a way that people could understand to overcome challenges of language, literacy, and lack of scientific skills;

7.5. not all issues and impacts were raised or captured in the Scoping Report;

7.6. not all issues and impacts were provided for in the Plan of Study for EIA which defines the scope of the specialist studies and level of assessment as well as the consultation requirements for the EIA phase.

8. The Final Scoping Report submitted to the Minister on 11 March 2024 did not include or address our comments submitted on 20 November 2023. The result of ignoring these comments is that:

8.1. There was no agreement on the Plan of Study for the EIA contained in the Scoping Report and therefore, no agreement on the level of assessment and consultation for the EIA phase.

8.2. Many of the issues and impacts raised were not assessed or addressed in the specialist reports and EIA Report, and there is inadequate mitigation of these impacts in the EMPr.

9. The flawed Scoping process has contributed to the defective EIA reports, which could lead to a misinformed and procedurally unfair decision by the Minister (if he dismisses our clients' appeal) and, ultimately, the inequitable distribution of adverse environmental impacts, thereby unfairly discriminating against vulnerable and disadvantaged persons.

B. Flawed Public Participation Process in the EIA process

10. Having participated in the public participation process for the EIA Phase, it is evident that it, too, is flawed. We make this submission for the reasons set out below.

11. Firstly, the process failed to ensure that affected parties facing language[2], literacy[3], and other disadvantages were assisted through reasonable alternative methods to participate in the process. We say this because:

11.1. Almost the whole EIA report (99.98%), 8500+ pages, was provided in English only.

11.2. The 19-page summary of the EIA report that was made available in isiZulu is wholly inadequate and inaccurate because:

11.2.1. More than half the summary i.e. the first 10 pages, is taken up by 2 title pages, background information, introduction, and public participation methodology and not the key findings of the EIA reports. There are also many inaccuracies in the summary (these arise from incorrect and misleading information, set out in Sections C and D below).

11.2.2. Only one-third of a page describes the mining operation. It is very vague and does not provide material information about Tendele's mining activities for each of the phases of the project or timeframes, nor are any figures provided to show the location of the mining activities and their nature and scale.

[2] The home language of the community members affected by the mining is isiZulu. The majority of adults, especially the elders, cannot speak or read English.

[3] The majority of the population has no schooling (Section 3.2.3, p32 of the Socio-Economic Impact Assessment Report, Urban Econ, 2024).

11.2.3. The Need and Desirability of the Project is almost one page in length but focuses only on the benefits of anthracite instead of on questions of ecological sustainability and justifiable economic and social development.

11.2.4. Five pages of the isiZulu summary are used to describe the Baseline Environment. Certain specialist studies have been omitted, including visual, palaeontology, culture, and traffic. The information that has been included contains numerous inaccurate and misleading statements and also contradicts the contents of the Impact Assessment Summary that follows. This section of the summary also omits key information, which prevents an understanding of the full extent of negative impacts. Also, not all the sections in the English version have been translated into isiZulu. (The misleading and incorrect statements made in the EIA Report, including the Executive Summary, are detailed in Section D below).

11.2.5. A small paragraph on project alternatives merely states that certain alternatives were considered but provides no description or maps of these alternatives and no real motivation as to why they were discarded and not assessed in full.

11.2.6. The “Impact Assessment Summary”, which should be the main focus of the summary, is presented in English not in isiZulu .

11.2.7. The description of the impacts is very brief to the point of being cryptic; no proper explanation of the impacts is provided; no proper explanation is provided of the methodology used to assess the impacts; no explanation of the colour coding used in the table or what is meant by the numbers, or “high”, medium” and “low”.

11.2.8. Further, there is no differentiation of impacts for the three mining areas – they are all lumped together.

11.2.9. The mitigation measures that have been recommended to address the impacts have been omitted from the “Impact Assessment Summary”.

11.2.10. There are no maps in the isiZulu summary to show the mine layout for each area, the haul road routes, the buffer zones, or the biodiversity offset areas.

11.2.11. As with the rest of the summary, the two pages of “Conclusions and Recommendations” contain many factual inaccuracies, misleading statements,

and contradict the information provided in the Impact Assessment Summary (again these inaccuracies are detailed in Section D below).

11.2.12. In view of this, we submit that the "isiZulu" summary is neither comprehensive nor accurate, and in parts, it is misleading. This is yet another example of Tendele's and its consultants' tick-box approach to the EIA process and consultation – so that at the end of the process, they can claim that they have consulted the community in isiZulu.

11.3. Insufficient time was allocated to orally explain the extensive and highly technical findings of the EIA reports (impacts and mitigation) in isiZulu, and the limited information that was presented was not explained in a way that people could understand.

11.3.1. Only three hours were allocated for each of the four community meetings held on 8 and 9 June 2024[4] which was insufficient to present the key findings of the 8 500+ page reports, most of which are highly technical and complex.

11.3.2. The presentation slides used at the four community meetings on 8 and 9 June 2024 (***Appendix A***) were inadequate for presenting the findings of the draft EIA Report, inclusive of the EMPR and specialist studies, the main reasons being:

- There was a significant amount of material information that was omitted from the text and images, particularly key specialist findings (impacts and recommended mitigation measures).
- The figures / maps were far too small to read and key ones had been omitted.
- There was no apparent attempt to explain technical terms in simple language or with appropriate illustrations.

11.3.3. Despite us requesting substantial changes to correct the deficiencies in the presentation and to provide answers to additional questions, the same set of slides was used by the EAP at the MCEJO meeting on 11 July 2024. The EAP stated at the meeting that it was impractical to present all 8000 pages which was why he had not changed the slides.

[4] Notably, the 4th meeting at Machibini Sports Complex was less than three hours, having started late and the EAP having to leave early to catch a flight.

11.3.4. Answers to the questions submitted to the EAP prior to the meeting on 5 July 2024 have still not been provided at the date of submitting these comments. (***A copy of these requests and questions are attached as Annexure B***).

11.3.5. A full complaint regarding the inadequacies of the 11 July 2024 meeting is contained in a submission made to the EAP on 15 July 2024 (***Appendix C***), in which we requested further consultation. At the date this submission was made, no response had been received from the EAP.

12. Secondly, there was no assistance provided to us or our clients to understand the specialist reports and findings, which are highly technical in nature.

12.1. On 20 May 2024, shortly after the draft EIA Reports were made available for comment, we requested virtual meetings with specialists to assist our understanding of the specialist studies.

12.2. The EAP denied this request, saying it would require several long meetings and accusing us of using it as a delay tactic.

12.3. As a result, we had to take several weeks to try to understand 22 specialist reports on our own, but even after doing this, we still have many queries.

12.4. We submitted a list of questions to the EAP for the respective specialists to answer on 10 July 2024, with the balance on 11th and 12th July (See Section H below for list of questions submitted). It is evident from this submission that the need for direct interaction with specialists is valid. Without this interaction, we and our clients are unable to have a good understanding of the findings of the EIA reports to be able to comment meaningfully. At the time of this submission, we had not received a response to these questions.

12.5. As already stated above, the request for certain questions on specialist findings to be answered at the MCEJO community meeting on 11 July 2024 also came to nought.

12.6. Moreover, when we did have an interaction with the social-economic specialist on 15 January 2024 to clarify for our clients who were conducting a survey in the area and to ask a number of questions regarding methodology, we were cut short. After initially agreeing to email the information requested, we received a response from the specialist to say that all work conducted for the Tendele project is subject to a Non-Disclosure Agreement (NDA) preventing her from engaging with us directly. This flies in the face of

an open, transparent, and independent process, and we suspect that all specialists and the EAPs have been made to sign NDAs restricting consultation with I&APs. We request the EAP to confirm this allegation in response to our submission.

12.7. In view of the above, and the outstanding information we have requested (but not received) from the specialists in order to understand their methodologies, findings and recommendations, we are unable to submit informed and complete comments by the deadline imposed by Tendele and its consultants.

12.8. Thus, our submissions herein are only preliminary, and we will be supplementing further comments within a reasonable time of receiving the answers to our questions on the specialist studies, directly to the Minister.

13. Thirdly, material information has been withheld from I&APs, including whole specialist reports, parts of specialist reports, numerous Plans relied upon in the EIA Report and EMPr, and critical project and technical information. Further, the report contains a number of inaccurate and misleading statements as well as information that has been presented in a biased way. These submissions are discussed in detail in separate Sections C and D below.

14. Fourthly, Tendele and the EAP have failed to deal with the issue of conflict. Failure to acknowledge the full extent of the conflict in the community as a result of the mining and the EIA process and take special measures to address this conflict and seek consensus does not meet the Public Participation Guidelines.

15. Fifthly, Appendix 2, the public participation record annexed to the draft EIA report, is defective in that:

15.1. It is incomplete because it fails to include all our submissions made during the Scoping and the EIA process, either in their entirety or parts of thereof. This incomplete capture of comments extends to submissions made by other I&APs too.

15.2. The public participation record is largely without page numbers, there is no index (despite our multiple requests for one), and not all I&AP submissions are in chronological order making it extremely difficult to find responses to comments.

15.3. The full I&AP submissions and responses in their original format are not all provided, and the table used is extremely difficult to read.

15.4. The public participation record does not contain copies of all the presentations given at the meetings.

15.5. All these factors make it extremely difficult to navigate the public participation record not only for I&APs but also for the specialists and, ultimately, the decision-maker, the Minister.

15.6. Notably, it is apparent from the specialist reports that they were not provided with a complete set of issues raised by I&APs to respond to.

16. Lastly, because Tendele and its EIA consultants have focused their consultation on people residing within 500m and 1000m of the mining pits, they have failed to consult all other affected parties who hold rights in the community, firstly during Scoping, and now during the EIA phase. This lack of consultation also applies to the host communities of resettlement and biodiversity offsets, as well as residents along the haul roads.

17. In view of the above, the public participation process has failed to:

17.1. Adequately consult on impacts and mitigation.

17.2. Report back on the issues raised during Scoping, including commitments made at meetings (recorded in the minutes), to provide certain information; investigate additional alternatives; or hold further meetings with smaller groups and individuals, giving them the freedom, safety, and time to discuss specific issues.

17.3. Reach agreement on the level of impact and the proposed mitigation measures.

18. Instead, the public participation process has been conducted as a checklist exercise rather than as a two-way flow of information that seeks agreement and consensus on issues that need to be addressed and how they are addressed.

19. In December 2013, in response to the first EIA process, the DMRE directed Tendele as follows:

> *This office also requires proof that the description of the environment, potential impacts, proposed mitigation measures and closure objectives were compiled or developed in consultation with the interested and affected parties.*

20. Tendele and its consultant chose to ignore this directive, and did not consult accordingly, which Bam J recorded as “offensive” in her judgment.

21. Tendele has once again ignored the requirement to develop mitigation measures and closure objectives in consultation with I&APs. Although on paper it has gone through the motions, by holding 32 meetings for the EIA process, the meetings were meaningless as components of

the EIA reports, in particular the potential impacts, mitigation measures, and closure objectives were not compiled or developed in consultation with affected parties.

22. If one looks at all the presentations given at the various meetings, a significant portion of the project description was repeatedly not provided, nor were the impacts and mitigation measures fully covered or included. At most of the meetings held during Scoping, promises were made about what the specialist studies would include, which never materialised, and answers were deferred to the EIA Phase. However, as described above, the presentations at the meetings in the EIA phase were limited in content and by time. For example, closure objectives were not covered at all in the recent EIA meetings held in June and July.

23. Holding 32 meetings also does not mean that Tendele and its EIA consultants have adequately complied with Chapter 6 of the EIA Regulations, 2014 and the Public Participation Guidelines. To the contrary, as described in detail in our comments submitted during Scoping on the public participation process (and summarised above in Section A: Flawed Scoping and above in Section B: Flawed Public Participation Process in the EIA), the meetings have not served their purpose despite so many being held.

24. It is certainly not true, as claimed by the EIA consultants at the community meetings on 8 and 9 June 2024 and 11 July 2024, that the public participation process is "excessively comprehensive and detailed." This is another example of incorrect and misleading statements in the EIA.

25. It thus appears again, that due process has not been followed and unless and until there is compliance with the legislation and guidelines as required by Bam J in her judgment and order, our clients' rights will continue to be violated.

C. <u>Withholding / omitting of material information</u>

26. Tendele and its EIA consultants have intentionally withheld information from I&APs in the EIA process – information which is material because it is referred to and relied upon in the EIA reports and can influence the Minister's objectivity and his ultimate decision.

27. We have repeatedly requested this information from Tendele, the EAP, and the public participation practitioner. Our correspondence should all be contained in the public participation record, although not all of it is. (The inadequacies of the public participation record have already been discussed above in Section B).

28. The responses that we received previously to these requests were either that the information was private, confidential, or privileged or that it would be provided in the draft EIA Report. Now that we have the draft EIA Report, much of this information has still not been made available.

29. The documents and information which are long outstanding, and for which our requests have repeatedly been ignored or denied by the EAP, include but are not limited to:

    29.1. The amended Mining Works Programme.

    29.2. The Gap Analysis Report.

    29.3. A breakdown of the jobs created by Tendele (the exact number and type of jobs for each phase, extraction vs processing plant jobs, employment duration, and which jobs will be available to the residents of the villages affected by the future mining operations of Emalahleni, Ophondweni and Mahujini).

    29.4. On-the-ground understanding of where the fence line will be located and what access will be lost, permanently and temporarily, including loss of arable land, grazing land, water resources, natural resources, community infrastructure, graves/sacred places, and access to footpaths and roads.

    29.5. Layout plans at an appropriate scale that convey on-the-ground understanding of where mining infrastructure (haul and access roads, pits, ancillary structures, etc) will be located in relation to houses and community infrastructure.

    29.6. On-the-ground understanding of all the alternatives that have been identified, in terms of their specific location, nature, and scale.

    29.7. On-the-ground understanding of which access and haul road routes are proposed, including alternatives; what construction activities and crossings are required for each route/road; how close these are to people's houses and other structures such as schools; and the traffic levels and frequency of trucks anticipated[5].

    29.8. The Phase 1 non-blasting mining activities within 100m from houses planned for Emalahleni, which Tendele disclosed in court papers for the first time this year but which has not been assessed or disclosed to I&APs through the EIA process.

    29.9. The start date of construction in each of the three areas and the updated mining works programme pertaining to the reduced mining area.

[5] The approved EMPr, which was not set aside by Bam J, contains a completely different route to widening and upgrading of the R618 and P495 which Tendele is now proposing to construct. Tendele, the previous EAP, and Mr Magongoa promised at the IPILRA, meetings of 22 and 23 October 2022 that alternative routes would be identified, assessed, and communicated. This has not happened to date.

29.10. Resettlement action plans for each area that identify how many people will be resettled and where, identify community infrastructure for re-establishment elsewhere, include timeframes in relation to the proposed mining activities, and provide a livelihood restoration plan.

29.11. An audit on the resettled families from the existing mining areas to determine the success of the resettlement and compensation plans and provide guidance on future relocations.

29.12. A timeframe for when Tendele will rehabilitate the existing mining areas.

29.13. A detailed description of and rationale for the 1000m "zone of influence" used to delineate notification and assessment requirements.

29.14. The proposed biodiversity offsets and planning and consultation process to date and going forward.

30. With regard to the draft EIA Report released for public comment on 15 May 2024, there were three annexures that were not included. These were:

30.1. Appendix 24: Social and Labour Plan

30.2. Appendix 25: Relocation Action Plan

30.3. Appendix 26: Biodiversity Offset Plan (ver. 2.3, 2 May 2024) (Annexure 1 to the agreement) and Annexure 2 to the agreement (HIP wilderness area).

31. On 20 May 2024, we requested copies of these missing annexures. On 31 May 2024, we received the following obstructive response:

> *Appendices 24 and 25 are excluded due to the sensitive and confidential nature of the relevant documentation and will only be submitted to the DMRE. Note that Appendix 26 is not the offset plan but as indicated in the DEIA allocated for the offset agreement as signed with EKZNW. The place holders (Appendix 24 and 25) are specifically included to be sure that these are submitted to the relevant authority. Any I&AP is free to request such documentation from the authority once these have been submitted.* [Our emphasis]
>
> *Kindly review the detail provided in the DEIA provided in respect of all items, including the RAP, the Biodiversity Offset Plan and the SLP . The MOA signed with EKZNW has specifically been included to ensure that all I&AP's are aware of the signed agreement between the relevant parties. This was previously questioned.*

32. On 5 June 2024, we were provided with the Biodiversity Offset Plan. However, certain sections had been redacted, including the figures showing the location of the Biodiversity Offsets. (Notably, this Plan was only sent to us. There is no evidence that it was sent to all I&APs,

including those affected by it. There was also no disclosure of the Plan at the community meetings held in June and July 2024).

33. The Social Labour Plan and the Relocation Action Plan remain outstanding. We subsequently asked for an explanation as to why these reports are "*sensitive and confidential*" but have yet to receive a response.

34. As part of our 20 May 2024 request, we also asked for other documents relevant to the EIA process and mining right appeal. These include:

    34.1. The amended Mining Works Programme (accepting that Tendele is entitled to redact financially sensitive aspects). This document has been requested multiple times since 2022, but such requests were previously denied on the basis that it contained privileged information.

    34.2. The comparative assessment "*made in relation to the previous approved Environmental Authorisations (2014 – 2016)*" and referred to on page xxxiv of the draft EIA Report. This document is used to justify the EAP's statement that there are no new material risk factors tabled by the various appointed specialists (compared to the original 2014 EIA/EMPr) and to justify why the "No-Go" option was not considered.

    34.3. The Gap Analysis Report. We dispute that this is a private document as previously alleged by the EAP and submit that it is material information and part of the public EIA record. We can only assume that Tendele's and the EAP's intention to withhold it from I&APs is because it holds information that is not favourable to Tendele's application.

35. The following response was received on 31 May 2024 in relation to these documents

> *A Mine Works Programme does not reasonably have the potential to influence any decision with regard to the EIA/EMP application. It therefore does not meet the threshold for disclosure specified in the EIA Regulations and accordingly need not be disclosed in the current EIA process.* [Our emphasis]
>
> *In the unreported case of Baleni v Regional Manager: Eastern Cape, Department of Mineral Resources (case no: 96628/2015), it was declared that I&APs are entitled by virtue of 10(1) and 22(4) of the MPRDA to be furnished with a copy of an application for a mining right (Tendele is not applying for a MR as the MR is in place, subject to the right of the applicant for the right and/or the DMRE to redact financially sensitive aspects of the application). Tendele is in the process to update the MWP where applicable, and it is anticipated that it will not be materially different from the existing MWP, and we have requested Tendele to redact all sensitive information from the existing MWP and we will then forward copies.*

The comparative assessment between the 2014 EIA and the 2024 EIA was compiled by MENCO and the EAP for Internal use in order to formulate the Reasoned Opinion. All Rise could perform a similar exercise by comparing Table 7-10 (2014 EIA) with Table 7-2, Part B of the 2024 draft EIA.

The GAP analysis done was an internal working document and is not a public document. [Our emphasis].

36. We disagree with these reasons for withholding information for the following reasons:

36.1. This EIA process ordered by Bam J is not for an "EIA/EMP application" but rather part of an appeal of the DMRE's initial decision to grant the mining right and approve the EMPr. We also disagree with the interpretation of the *Baleni* judgment. Further, we already have a copy of the original Mine Works Programme, as it formed part of the Rule 53 record in the review application. Tendele submitted an amendment in terms of Section 102 on 3 August 2021 to reduce the size of the mining right. With this application, we know that an amended Mining Works Programme was required to be submitted. The executive summary of the EIA report states that a revised Mining Works Programme already exists. We thus await a copy of the amended Mining Works Programme.

36.2. It is not an I&AP's responsibility to perform their own comparative assessment – it is the one performed by the EAP that we require because it is the EAP's assessment that has led him to make substantial statements regarding the specialist studies, recommendations for the project to proceed, and the no-go option. It is impossible for the new findings not to contain more risk factors than the original 2014 findings – the original EIA/EMPr contained only 7 specialist studies – the current EIA process has 22. Also, there are more impacts for which there are high and medium significance ratings after mitigation in the current EIA report than in the original 2014 EIA/EMPr. This is yet another example of misleading information and bias (discussed in more detail in Section D).

36.3. The Gap Analysis report is very much a public document – it was referred to and relied upon in numerous meetings. If these gaps are not relevant, the EAP is obliged to explain why.

36.4. The full set of gaps identified by OMI in the gap analysis report (or "memo") of August 2022 and the subsequent revised 2023 version have been publicly referred to and relied upon by the EAP and public participation practitioner numerous times. Despite the minutes of the meeting of 9 March 2023 which record as an action that this gap analysis report would be provided to All Rise, in a more recent email from Mr Magongoa, WSP,

on 10 November 2023, he declared this document to be “private”. We can only assume from this change of heart that the gap analysis report reflects very badly on the first round of Scoping in 2022, which is why Tendele is refusing to release it. Access to this document should be granted, and if the new (third) EAP disagrees with the gap analysis report, his opinions should be recorded and made public as well. Hiding this information defies the principles of openness and transparency and reflects poorly on the objectivity of the EAP and the intentions of Tendele.

37. We have submitted numerous questions to the specialists to which we require answers (See Appendix E). This is discussed in more detail in Section H: Specialist studies.

38. In summary, when our clients and other community members asked for this material information in order to participate meaningfully in the EIA process and, ultimately, the decision-making process by the Minister, they have been:

    38.1. mostly ignored;

    38.2. promised the information but have not been provided with it;

    38.3. told that the document is not part of the public participation process; and/or

    38.4. told simply that the comment will be recorded in the comments & response report without being given a specific response.

    38.5. told that the information is private, sensitive, and confidential etc.

39. In addition to the information that has been withheld, material information has also been omitted from the EIA reports. The missing records in the public participation record have also been discussed above. The gaps in the EIA Report, specialist reports, and EMPr are discussed in Sections G, H, and I.

40. Thus, despite the defects identified by Judge Bam in the first Scoping process, and the two subsequent gap analyses conducted by two subsequent EAPs, there is still substantial material information that has not been provided to I&APs either in meetings or in the English EIA reports. Further, and as already mentioned, the isiZulu summary of the current draft Scoping Report is even more limited in the information it provides to isiZulu speakers who are for the most part, all the members of the Mpukunyoni community.

41. The withholding of material information is contrary to Chapter 6 of the EIA Regulations and the Public Participation Guidelines, therefore, contrary to Bam J’s judgment and order.

D. Misrepresentation by providing incorrect and misleading information.

42. In addition to the material information that has been withheld or omitted from the EIA reports and public participation process, there are also a number of *incorrect and misleading facts* and statements in the EIA Report. Examples of these are provided below.

43. Important Notice and Background Information (pp iv – vii of EIA Report):

43.1. The following statement is made on page vii:

> *In addition to the above, Tendele reported that they have obtained consent from the communities in Emalahleni and Ophondweni in terms of the provisions of IPILRA and has prepared a revised Mining Work Programme to align with the 2024 EIA/EMP. The IPILRA process was excluded from the MENCO brief.*

43.2. It is misleading because:

43.2.1. Tendele only obtained consent from a minority of community residents who reside within 500m and 1000m from the Emalahleni and Ophondweni pits and who were invited to a meeting on 22 and 23 October 2022 and then invited to vote.

43.2.2. There were many residents who were too afraid to attend due to the ongoing violence and intimidation.

43.2.3. There were many residents who live outside the 1000m zone who exercise rights within the 1000m but were not invited to the meeting.

43.2.4. The findings of a number of specialist studies show that impacts from the mine will extend as far as 4 km away from the pit, and yet these residents were not included.

43.2.5. At the meetings held in October 2022, Tendele and its EIA consultant made numerous promises about consultation, identification and assessment of haul road alternatives, and specialist studies, very few of which have materialised. Thus, the consent that was obtained was conditional and unlikely to have been granted, had people known the true extent of the negative impacts on them.

43.2.6. The EIA process was still in early Scoping at the time of the voting, thus, residents could not have been adequately informed about the adverse impacts of mining at the time.

43.2.7. The statement made by the EAP in the EIA Report also shows bias as there is no

attempt to present the issues mentioned above, despite numerous submissions made by All Rise on behalf of its clients.

44. Executive Summary (pp xi – xxxv):

44.1. On page xi, the EAP states that Tendele has abandoned 92% of the 212km^2 authorised in the 2016 Mining Right[6] and the extent of the retained mining areas (i.e. Emalahleni, Ophondweni and Mahujini) is 27km^2. However, 92% of 212km^2 is 195km^2, thus the remaining areas should total 17km^2 (not 27km^2). In view of the above you are requested to confirm the size (area in km^2) of each of the three mining areas and their combined total.

44.2. On page xii, the EAP states that:

The approach followed by MENCO and WSP ensures a public participation process designed to provide sufficient and accessible information to Interested and Affected Parties (I&APs) in an objective manner, and is comprehensively covered in the Draft 2024 EIA/EMP and in all of its annexures.

44.3. Again, this is misleading as not all material information has been made available to I&APs and, the information that has, has not been accessible (see Sections B and C of this submission).

44.4. On page xiv, the EAP states that OMI was replaced by Menco due to objections regarding independence. What the EAP omits to say is that similar objections were also made about WSP's independence and yet WSP was not replaced.

44.5. On page xvi, the public comments period for the Revised Draft Scoping Report is recorded as "October 9 to November, 2023". The deadline was actually 20 November 2023, extended by WSP by email.

44.6. On page xvi, it is stated that "*measures* (were) *implemented to ensure free and fair participation in meetings*".

44.6.1. Please explain what these measures were.

44.6.2. Please also explain what other measures were implemented other than "in" the large community meetings held. We have made several submissions about people

[6] This is consistent with Tendele's commitments made in its court papers in the review application.

not attending these big meetings due to the conflict in the community – what measures were in place to consult and seek out comments from these vulnerable affected parties?

44.7. On page xvii, the EAP states that *"Tendele indicated the need that specific reference must be made to the received AMICUS listed under Annexure K of the CRR in this regard".* Firstly, these are affidavits that were annexed to an application brought by MTC, MCMF, AMCU and NUM to intervene as respondents in the interdict application (Case No. 3518/23P), not "Amicus". Secondly, the affidavits are deposed to by approximately 100 family members who have signed agreements to relocate from Emalahleni and Ophondweni. The content of the affidavits are identical and state the person's support for the mining to commence as soon as possible. They were submitted within a specific context - to support the aforementioned application to intervene. There is no reference to the EIA in these affidavits and the EAP does not provide the reason for including them and why they should have "specifical reference".

44.8. Please can the EAP explain the purpose of including these court papers in the EIA report (beyond stating that because Tendele requested it), and why he made no attempt to include all the other affidavits of MCEJO members that raise issues about the adverse impacts of the mining activities.

44.9. On page xviii and xix, the EAP, in describing the Need and Desirability of the Project only speaks about the benefits of anthracite. Also, he misleadingly describes anthracite as "being a cleaner fuel", "having a lower environmental impact", "lower carbon footprint" and "creates less pollutants than regular coal". He cites no scientific evidence to back these statements. Even if these impacts are less than "regular coal", he omits to say they are still high impacts. He also fails to mention that approximately 25% of Tendele's ROM is thermal coal.

44.10. On pages xix to xxviii which describe the "Baseline Environment" , the EAP makes a number of incorrect statements.

44.10.1. There were not numerous specialist studies conducted historically as part of the 2014 EMPr. There were only seven, which was part of the problem with the initial EIA/EMPr and reasons for the mining right being contested in the review application.

44.10.2. Tendele did not only update those seven studies, they commissioned over 20

new specialist reports. Notably, there was no consultation done for those new and adapted reports.

44.10.3. The EAP does not mention that some of the studies were redone completely by new specialists. The EAP also does not provide the reasons for why some of the original and 2020 studies were replaced.

44.10.4. The baseline environment excludes certain environmental aspects, including visual, palaeontology, climate, culture, traffic and geotechnical.

44.10.5. Even the aspects that have been included, do not give a full description of the baseline environment and key sensitive receptors are omitted.

44.10.6. In some instances, such as air quality, the EAP describes the changes to the baseline environment (impacts) and mitigation measures and does not describe the baseline conditions.

44.10.7. Incorrect statements include:

- Only subsistence farming is practiced in the area (when there are many small-scale commercial farmers).
- Significant contributions of PM2.5 and PM10 to ambient concentrations are “limited to isolated areas within proximity to haul roads”. The specialist study states that exceedances for PM10 will occur up to 4 km away from the mining areas.
- The impacts on fauna at each site could potentially be reduced to “low-medium levels” with mitigation which is contrary to the ratings of “medium” in the Impact Assessment Summary table on page xxxi.
- The incorrect assumption that for “Blasting: that receptors will be relocated outside the 500m blast zone, when we know that Tendele has said it will not be relocating Machwetshana Primary School which is located less than 500m from the Ophondweni pit.
- Under “Heritage” the statement that the mine has concluded 139 out of 143 relocation agreements when we know that there are more than 3 families who have not signed and more than 143 households that need to be relocated. Please provide updated accurate numbers.

- The "voting in Emalahleni and Ophondweni in accordance with the requirements of IPILRA indicated support for the mine in excess of 90%". We have already explained above why this statement is incorrect and misleading. We refute that the requirements of IPILRA have been met.

- For geohydrology, it is stated that the "*Overburden lithologies are generally non-PAG*" when the geohydrological specialist report specifically states that:

  > *Based on the geochemical data obtained it is noted that overburden material (mixture of sandstone, clay, carbonaceous shale, and some coal discard fragments) has a PAG potential if oxidation is to take place. Mineral assemblages may also change with mining depth and for rock directly in contact with carbonaceous shales or coal seams.* ***The rock that will be mined at Emalahleni, Ophondweni and Mahujini is therefore highly likely to fall within the Type/Class I category (potentially acid generation (PAG) rock)***.

- The socio-economic section downplays the negative impacts, even though the Impact Assessment Summary table shows that even after mitigation, the negative impact of displacement and resettlement will be high. It also overstates the job creation but does not take into account the loss of livelihoods of not only the families who will need to relocate, but also those who will be forced to remain living next to the mining areas and the host families.

44.11. On page xxix, the project alternative summary does not disclose that the transport alternatives were only looked at by the traffic expert and none of the other specialists and that cost was the motivating factor for recommending the preferred route.

44.12. A table containing a summary of the impact assessment is provided. The impact ratings are presented for all mining areas and not separately. This is misleading as the ratings differ per mining area. Also, no mitigation measures are presented in this section.

44.13. The EAP's "Conclusions and Recommendations" are provided on pages xxxi and xxxv. Given the influence that this section has on decision-making, it is extremely disconcerting to read the misleading statements made therein. These include:

44.13.1. The statement (pxxxii) that "*All correspondence in respect of the public participation had been channelled via WSP to further enhance the independence of the project*" is rejected and in our experience, has had the opposite effect. WSP

has blocked access to information and the ability to freely engage with the EAP and specialists. Please can the EAP disclose the NDAs that the EAPs and specialists have signed with Tendele.

44.13.2. We were told previously that approval was not required for the Scoping Report, inclusive of the Plan of Study. However, the statement on page xxxii says that the Plan of Study has been approved. Please provide a copy of the DMRE's/ Minister's letter of approval.

44.13.3. On page xxxii, the EAP also states that "there is an irreversible impact to the land use and the overall land capability until it is rehabilitated that relates to loss of grazing potential and rural agricultural activities". However, elsewhere in the EIA report and Rehabilitation and Closure Plan, it is stated that the land will only be rehabilitated back to grazing, and then only to a slope of 1:3, which is not suitable for grazing.

44.13.4. On page xxxii, the EAP also states that "the implementation of the mitigation and management measures recommended by the various specialists involved in the compilation of this Draft Reviewed 2024 EIA/EMPr, will aid to reduce the significance of these impacts to minor or negligible significance". This is contradictory to Impact Assessment Summary table, which clearly shows that even after mitigation, the significance ratings for three of the impacts will remain high ("Population displacement and resettlement"; "Destruction of Zululand lowveld biome" and "Direct medication of wetland habitat") and a further 21 will remain medium. This statement is thus incorrect for more than 50% of the negative impacts.

44.13.5. On page xxxiii, the EAP again provides incorrect and misleading information about the Community support for the Mine and the number of people who need to relocate and who have signed agreements to relocate. This has already been explained in detail above.

44.13.6. Not all specialist fieldwork has been completed for the Mahujini mining area. Further, not all these gaps have been disclosed by the EAP in Section 20(Part A) of the EIA Report.

44.13.7. There are many reasons why Tendele should not be allowed to proceed with mining in Emalahleni, Ophondweni, and Mahujini—many of which come from the

specialist reports and I&AP comments and have largely been ignored.

44.13.8. The comparative assessment referred to on page xxxiv does not show that there are no new material risk factors. Our reasons have been provided in Section C above.

44.13.9. The final paragraph on page xxxv only gives a summary of the positive impacts (which total 4 in the Impact Assessment Summary table) and completely disregards all the significant negative impacts, particularly those that residents will have to endure, either a result of resettlement or being forced to reside next to a dusty and noisy mine which will result in loss of livelihoods, water and other natural resources, and affect their health and well-being.

44.13.10. It is also highly disconcerting from reading the specialist studies such as the blasting, noise, air quality and visual reports, that unacceptably high impacts will extend beyond the 500m zone from which people will be relocated. Thus the people who will remain living and using the land adjacent to the mine and haul roads will be subject to these adverse impacts, in some cases up to 4 km away. The EAP is silent on this and also on just how many people will be affected. The EAP has not provided a map for each area at an appropriate scale which shows which people (receptors) will be affected and how severely. To omit this information from the executive summary and the main body of the EIA Report is misleading.

45. The submissions made herein about misleading and incorrect information also apply to similar statements, which are made in the body of the EIA Report under their respective sections.

46. There are too many other false and misleading statements to include in this submission. However, some of these include:

46.1. Page 57 – “With specific reference to the Relocation Act Plan, the special needs of the elderly had been taken into account due to the expected stress and trauma that are associated with relocation” – firstly there is no Relocation Action Plan for Emalahleni and Ophondweni; secondly there are many elderly people who have experienced, and are experiencing significant psychological trauma as a result of the pressure that Tendele, the traditional leaders and the mining beneficiaries (employees and contractors) are exerting. Further, environmental justice goes beyond the needs of the elderly.

46.2. The EIA Report states that there is no commercial agriculture. This is incorrect. There are many small scale farmers that will be affected by the mining operations.

46.3. There is no amicus in this EIA process. Assuming the “Amicus” to mean the MTC, MCMF, AMCU and NUM, it is incorrect that they represent 200 000 people of the community. The total population of Mpukunyoni is not even 200 000 and there is no evidence provided that the full population supports mining. Our courts have made it clear that the traditional leaders do not represent the community residents in matters like these.

46.4. On page 181 of the EIA report falsely states that “ground vibration levels may be unpleasant to BSRs when blasting takes place within approximately 800 m from structures used for residential activities (precautious evaluation using a worst-case scenario)." However, the blasting and vibration report actually states "[t]hat ground vibration levels may be unpleasant to BSRs when blasting takes place within approximately 2,200 m from structures used for residential or business activities (precautious evaluation using a worst case scenario)." (p80). The EIA report also falsely states that "[t]here may be a risk of Medium significance of fly rock to BSR, livestock and mine equipment/infrastructure. Management measures are available to ensure that risks are minimised" whereas that specialist study states that "[t]here may be a risk of High significance of fly rock to BSRs or BSRs, and blasting close to the mine equipment and infrastructure may result in fly rock damage. Management measures are available to ensure that risks are minimised."

E. Lack of objectivity in the EIA Report

47. One of the main criteria for the independence of an EAP is objectivity.

48. The lack of objectivity on the part of the consultants in the EIA process since Scoping commenced in July 2022 has been a common thread and a major contributor to the flawed public participation process, Scoping Report, EIA Report, EMPr and specialist studies.

49. The first and second EAPs were replaced due to complaints regarding their lack of objectivity. The third and current EAP is no better, as evidenced by the biased reporting evident in the EIA Report. This bias is a result of:

49.1. Omission of facts that are not favourable to Tendele’s case in the appeal.

49.2. Overstating or incorrectly stating, without substantiated evidence, the benefits of the project.

49.3. Ignoring comments raised by I&APs.

49.4. Failing to assess impacts as promised to I&APs in writing and at meetings.

49.5. Refusing to acknowledge the violence and intimidation that our MCEJO clients face on a daily basis despite an assassination, several assaults, shootings, threats made telephonically and in person, and threats made to their children.

49.6. Accepting without question whatever Tendele says about IPILRA consent and community support.

49.7. Ignoring specialist recommendations because Tendele says they are too costly.

49.8. Incorrectly summarising specialist report findings in the EIA report to favour Tendele.

49.9. Making recommendations and conclusions which support the Mine proceedings despite the evidence and I&AP comments.

50. We reject the draft EIA report and EMPR because it is a sweetheart report. It deliberately misleads the Minister in Tendele's favour, and that if approved, will externalise the environmental, social-economic and cultural costs on thousands of community residents, many of whom are vulnerable and disadvantaged while a relatively few benefit.

F. Failure to identify and assess alternatives

51. Alternatives are a fundamental component of an EIA, to be determined in consultation with interested and affected parties. NEMA Section 2 requires that the "*best practicable environmental option*" is pursued, defined as the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as the short term.

52. It is only by considering alternatives that it is possible to apply the mitigation hierarchy, a principle well embodied in our law. This hierarchy requires, as a first measure, the avoidance of negative impacts. Only where avoidance is not possible may minimisation and remediation of negative impacts be employed as a second measure.

53. It is clear from the EIA reports that Tendele has not considered alternatives in the way the law intends and has not done so in consultation with the community.

54. The options Tendele has selected are self-serving - they are the quickest, cheapest options -

and by commencing with these activities, even prior to the EIA being completed, Tendele has reduced its EIA to mere formality and tick box exercise. It will have stripped the EIA process of its purpose and ability to reduce harm and unduly restricts the Minister's decision-making powers in the appeal.

55. Tendele has selected a haul road route option (R618-P495) that is not approved in the EMPr as it currently reads, and which has not been subject to adequate public participation. It was disclosed for the first time in a notice to the community in March 2023.

56. Tendele and the EAP have also ignored the recommendations of the Noise Impact Assessment specialist study of 2020 to realign the Ophondweni haul road to avoid the impacts on the Machwetshana Primary School. The 2024 Noise Impact Assessment study simply ignores this too.

57. It is clear from the minutes of meetings at Ophondweni and Emalahleni on 22 and 23 October 2022 that the community ("society") does not find these routes acceptable.

58. At the meeting in Ophondweni on 22 October 2022:

> *"Mr Mxolisi Sithole said that he notes that the mining expansion will include the construction of new roads. He expressed that he is concerned that the construction of new access roads will affect their normal road routes by possibly closing some routes and therefore making their travelling routes longer*"

59. At the meeting in Emalahleni on 23 October 2022, the Induna of Emalahleni, Mr JM Gumede ("JM"), Mpukunyoni Traditional Council:

> *"said that according to his knowledge, there is a school in the Qubuka area that had completely stopped operating due to mining impacts. He stated that he does not wish to see the Msiziwamakristu Primary School being impacted on by the proposed mining expansion project to a point where it needs to be shut down like the school in Qubuka. He indicated that the Msiziwamakristu School is very important to the Somkhele community, and therefore urged OMI to investigate alternative routes that could be used for mining activities instead of the road P495. He indicated that the school could be heavily impacted on if Tendele uses the road P495 for its mining activities*." (emphasis added)

60. In response to these issues raised about Tendele's "preferred" routes, commitments were made to community members by Tendele and the EIA consultants to consider alternative road routes that will minimise the impact on the current roads and that stakeholders will be informed about the alternative routes that would be used by the mine.

61. Project alternatives were also one of the main of the gaps identified in the Scoping process

conducted in July - September 2022 by the first EAP. In a presentation to the Mpukunyoni Traditional Council on 4 October 2022 it was specifically stated that “Project alternatives need to be unpacked and discussed”.

62. It is clear from the draft EIA reports as the EIA process nears its end, that these commitments have not been fulfilled. The only specialist study that looked at haul road alternatives was the traffic study and the recommendation for the R618-P495 route is based on economic ground favourable to Tendele and the safety of other road users has been overlooked.. There has been no feedback or evidence that Tendele, through its EIA process, has properly considered alternatives, and it is clear from its intended activities that it has no intention of honouring its commitments made to the community in this regard or complying with the requirements governing EIA.

63. Tendele and the EAP have simply ignored the community’s concerns and sought and obtained approval from the KZN Department of Transport to widen and upgrade the P495 road even before the EIA report had been drafted.

64. Through our submission on the draft Scoping Reports we specifically requested the consideration of alternatives in the EIA, including road routes but these submissions have been ignored. We also made the point that alternatives have not been consulted with I&APs, also ignored.

65. The alternatives we put forward included:

    65.1. The haul road routes.

    65.2. The haul road surfacing options.

    65.3. The different dust control methods for haul roads and mining operations.

    65.4. Resettlement alternatives, including relocating a whole village rather than splitting it; extending the 500m exclusion zone.

    65.5. Leaving out one or more of the three mining areas altogether.

    65.6. Smaller pit sizes to avoid sensitive areas, including homesteads and the wetlands at Ophondweni as recommended by the specialist.

    65.7. Biodiversity offset options.

    65.8. Closure objectives, to include restoring arable land back to arable land and grazing land back to grazing, and ensuring that the land is sufficiently stabilised post-mining so that people can develop it.

66. It is just as relevant now, as it was when we submitted in Scoping that:

> *These alternatives need to be properly described and assessed by the respective specialists. They cannot be dismissed with vague or open-ended reasons. Should they not be considered further, there has to be a proper account given as to why they are not considered feasible and this cannot be based purely on the financial feasibility from the applicant's perspective – the cost to the environment and society has to be taken into account.*

67. It is clear that the EAP has not properly considered the best practicable environmental options, as required in law. The route options that Tendele intends to use have not been shown to provide the most benefit or cause the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term.

68. Instead, the options which are the cheapest ("least construction costs") and quickest ("the shortest travel time ….. which will reduce the overall transportation cost of the project" for Tendele have been rubber stamped by the EIA.

69. The no-go option has also not been assessed by the specialists and EIA Report. Instead, the EAP also relies on a "comparative assessment" (discussed in detail above in Sections C and D), which has been denied to us, to justify why the no-go option was not considered. We reject this on the basis that it is an invalid reason.

G. Gaps in information

70. The EAP in Section 20 fails to disclose many of the gaps in, and assumptions made in the specialist reports. These include:

    70.1. Section 20.2 of the EIA Report fails to acknowledge several assumptions made in the Soil reports.

        70.1.1. Each soil report incorrectly assumes that there are no agro-economic activities at any site, without having consulted with the local farmers. Instead, this conclusion was drawn from Google EarthTM, digital images, and communication with officials and contractors directly involved with the mining process. (Emalahleni report, p15) (Ophondweni report, p 15) (Mahujini report, p16).

        70.1.2. Each report assumes, without adequate justification, that the areas lack nearby markets, the total value of agricultural products (excluding cattle) is marginal, and that the population has low agricultural skills. (Emalahleni, p18) (Ophondweni, p18) (Mahujini, p19).

70.1.3. Like the soil report, the EIA fails to mention any no-go options or alternatives. Thus, it assumes the current proposal is the only way forward.

70.1.4. The EIA report fails to mention that large areas of Ophondweni and Mahujini were considered “community no-go zones” and not studied due to “community resistance and/or internal community disputes”. (Ophondweni, p16, 19, 50) (Mahujini, p20). Therefore, parts of the report assume that the land type survey of the ISCW is complete and accurate.

70.1.5. Both the EIA report and the Soil reports fail to acknowledge that they have not covered impacts to soil beyond the mining pit areas. Thus, this leaves impacts to the soil further from mine activities and/or close to the haul roads unaddressed. (Emalahleni, p51) (Ophondweni, p49) (Mahujini, p58)

70.2. Section 20.3 of the EIA report fails to acknowledge the major assumptions made by the incomplete and inadequate Mahujini Heritage Study in the HIA report. The HIA report then assumes that the same impact assessment and mitigation measures included in the HIA for the Ophondweni and Emalahleni areas would also address any impacts on the heritage resources within the Mahujini area.

70.3. Section 20.5 of the EIA report fails to acknowledge several assumptions and limitations of the Air Quality Impact Assessment (AQIA) report.

70.3.1. The EIA does not include assumptions about blasting duration. The AQIA assumes that blasting will occur for 5 hours in the afternoon (12:00 – 16:00) based on information from Tendele (AQIA, p46).

70.3.2. The AQIA assumes that only the operational phase will contribute heavily to dust. “Construction and decommissioning/closure phase impacts were not quantified. Impacts associated with these phases are highly variable and generally less significant than operational phase impacts”. (AQIA, p79).

70.3.3. One of the limitations omitted from the EIA Report was that no site investigation was conducted for the AQIA. It was based on historical data (2020 AQIAr) & additional information provided by M2 Environmental Connections, Tendele Coal, and a desktop study”. (AQIA, p22).

70.3.4. There was no air quality monitoring data from the South African Air Quality Information System (SAAQIS) (that could be determined) to present background

concentrations for PM10 and PM2.5 concentrations at the project site. Therefore, Tendele's dustfall monitoring at existing mine operations was used as a baseline. However, this baseline is likely not accurate because measurements were made between January 2023 – September 2023 (AQIA, p31) when Tendele was not mining.

70.4. Section 20.6 of the EIA report fails to acknowledge several assumptions and limitations of the Noise Impact Assessment (NIA).

70.4.1. It leaves out the first paragraph of the assumptions section from the NIA :

"Ambient sound levels are the cumulative effects of innumerable sounds generated at various instances both far and near. A high measurement may not necessarily mean that the area is always noisy. Similarly, a low sound level measurement will not necessarily mean that the area is always quiet, as sound levels will vary over seasons, time of day, dependant on faunal characteristics (mating season, dawn chorus(22) early hours of the morning, temperature etc.) vegetation in the area and meteorological conditions (especially wind)" (NIA, p77).

70.4.2. The NIA also makes the following assumptions that are not acknowledged in the EIA.

70.4.2.1. The character of current ambient noise (chickens/children playing vs. industrial operations) is insignificant when evaluating noise impacts.

70.4.2.2. The suburban limits from SANS10103 apply to the sites rather than the rural limits based on aerial images and site observations. (NIA, p31).

70.4.2.3. Tendele's noise impacts are outweighed by economic benefits. This assumption is made about an area outside EARES' expertise. (NIA, p7)

70.4.2.4. No micro-siting recommendations are needed because "various layouts were previously investigated". (NIA, p26).

70.4.2.5. Blasting will be an infrequent occurrence with a loud but instantaneous character. (NIA, p78)

70.4.2.6. Topsoil will be used to develop berms around the mining sites up to a height of 10m. (NIA, p78).

70.4.2.7. Mitigation selected is feasible, and that any mitigation measures proposed for the construction phase will be implemented and continued during the

operational phase (if required). (NIA, p101).

70.4.2.8. 50% soft ground modelling was used under the belief that all hard would create an over-precautionary model (NIA, 100).

70.4.2.9. The model presumes very uniform meteorological conditions, which is an over-simplification (NIA, 102).

70.4.2.10. The decommissioning phase will have a lower noise impact therefore it does not need to be studied. (NIA, 84).

70.5. Section 20.8 of the EIA report fails to acknowledge several assumptions and limitations from the Socio-Economic Impact Assessment (SEIA).

70.5.1. An onsite site investigation was not conducted. Instead, provision of "high-quality data" provided by Tendele "assisted in an in-depth understanding of the site". (SEIA, 13).

70.5.2. The SEIA assumed that a small and biased sample was representative of the area's views on the mining project.

70.5.3. A small sample of 69 residents were surveyed in primary impact areas (Emalahleni, Ophondweni, Machibini and Mahujini) (SEIA, 15, 46). The results of that survey showed that the majority of those surveyed are either neutral about the mine or concerned. It also shows that no one was opposed. (SEIA, 48).

70.5.4. However, Urban-Econ admits that they were guided to refrain from approaching areas where residents expressed strong opposition to Tendele. (SEIA, 47). Additionally, those that were neutral cited reasons like not having enough information or resettlement/development taking too long. Therefore, this survey did not accurately represent community perceptions.

70.5.5. Urban Econ assumes that Tendele has led to a general improvement in the housing and lifestyle of the community. Its basis for that claim is that people have built modern houses, can afford a "modern type of lifestyle" and now hold braais on paydays. Under Tendele's own admission, the construction of modern houses cannot be fully attributed only to the presence of the Mine (SEIA, 50-51). The other claims likely cannot be either. Urban Econ also does

not provide quantitative data to support these claims.

70.5.6. Urban Econ assumes that people should not be compensated for informal land rights because the land is Ingonyama Trust owned (SEIA, 50).

70.5.7. Urban Econ assumes that Tendele employment has led to a positive income increase in the community as a whole and that the community is no longer as dependent on grants and other government support as before without any basis to substantiate this claim (SEIA, 51).

70.5.8. Urban Econ assumes that the area's agriculture is primarily for personal consumption without substantiating this claim (SEIA, 68 - Table 29). This undermines the value of the informal agricultural trade economy in the region.

70.5.9. Urban Econ assumes that the project will benefit the communities in the primary area of impact. However, Tendele has not provided information concerning the number of people who will obtain long-term employment throughout the mine's phase nor how many jobs will go to people previously employed by the mine vs. those in the primary area of impact.

70.5.10. Urban Econ assumes that the "considerable working-age population will encounter numerous benefits"" (SEIA, 31). However, Table 7 shows that there is not a considerable working age population (ages 20-64); In no area does it exceed 25%.

70.6. Section 20.9 of the EIA Report fails to acknowledge several assumptions and limitations from the Blasting Impact Assessment (BIA).

70.6.1. While the EIA acknowledges that the status of structures and the associated uses were not assessed during the study, it fails to address why that is significant. The BIA notes that no sensitive adobe/mud structures were identified but since the site is massive and this adobe is often painted it is possible such structures were not identified during the site visit. (BIA, 5, 69-70). Furthermore, they expect Tendele, a non-neutral and non-objective party, to do the work of identifying the structures. Therefore, they are missing the assumption that Tendele will conduct an accurate and effective survey.

70.6.2. The BIA did not identify the construction material of water pipelines near the sites but that blasting. However, the study acknowledges that blasting may

pose a risk to cement pipelines close to the proposed opencast areas (BIA, 5). The EIA doesn't acknowledge this gap.

70.7. Section 20 fails to disclose the gaps and assumptions made in the Health Impact Assessment (HIA) even though the HIA makes numerous assumptions.

70.7.1. It assumes the Emalahleni population statistics are similar to Mahujini, Ophondweni and KwaMyeki (HIA, 10).

70.7.2. It assumes that mitigation efficacy from the 2020 Air Quality Impact Assessment is accurate. (HIA, 18), such as spraying ROM stockpiles would reduce their emissions by up to 50% (HIA, 18). However, the updated 2024 AQIA estimates only 40% efficiency for water spraying of ROM stockpiles. (AQIA 2024, pg. 67).

70.7.3. Since health data specific to LMs or settlements were not available, it extrapolates data from the DM or provincial health numbers (HIA, 25). One can only make this assumption based on the use of a comparator that is identical in all respects except with regard to the exposure of concern. The general South African or KwaZulu-Natal population is in no way comparable to these marginalised vulnerable communities. This is a major flaw in the assumption that threads throughout the report.

70.7.4. The cumulative health impact will be mostly insignificantly different from the current impact on health due to all relevant background factors, as reflected in the baseline health assessment presented in Section 4.2. (HIA, 22).

70.7.5. This conclusion is based on the assumption that the 2020 AQIA is adequate, that risk levels for children are similar to adults, and that measuring PM2.5 over PM10 will yield accurate results even when PM10 concentrations are much higher.

70.7.6. The health report focuses solely on PM 2.5, excluding PM 10 as well as any harmful pollutants that PM 2.5 may contain.

70.7.7. The HIA assumes that lung cancer risk data for those 30+ will be the same as those under 30 years old. (HIA, 24).

70.7.8. The HIA omits any discussion of dustfall impacts on dams, JoJo tanks, or

rainwater barrels used for drinking water. It says that “sufficient water quality data are not yet available to conduct an assessment of the water quality impact on health. (HIA, Executive Summary).

70.7.9. The HIA assumes that asthma exacerbation can be assessed through hospital admissions and emergency room visits for asthma (HIA, 40). However, services access is likely to be limited in the impacted communities.

70.7.10. HIA focuses on just specific mortality associated with cardiovascular or respiratory disorders. Apart from the fact that illnesses themselves are not considered, this ignores the broader lists of conditions associated with these exposures, as well as neurocognitive, birth and reproductive health outcomes (Section 4.2 generally)

70.7.11. The HIA assumes that PM2.5 is only a factor in communicable diseases in those with TB or HIV (HIA, p11). However, the evidence for PM2.5 is causally related to communicable diseases, such as upper and lower respiratory tract infections, such as pneumonia and TB are strong, and these are independent of pre-existing conditions.

70.7.12. Additionally, the use of mortality data as a proxy measure for hospitalisation makes several assumptions, particularly in vulnerable communities. These include health services access, which is again very likely to be limited for these communities. Furthermore, to extrapolate mortality to morbidity (illness that has an effect on the ability of a child to go to school, or an adult to go to work) is also difficult. A substantially greater number of people are likely to be made ill as a result of these exposures that will be captured in mortality statistics. This morbidity will have substantial impacts economically and academically on adults and children respectively and mortality only will not accurately present this (HIA, p10, Section 4.2).

H. <u>Specialist studies.</u>

71. Most of the specialist studies are highly technical and difficult to understand. Neither our clients nor All Rise have funding to appoint their own experts to assist in reviewing the EIA specialist reports.

72. For these reasons, and in order to be able to meaningfully participate in the EIA process, we

requested assistance from the EIA specialists to understand their findings by answering our questions, and, where necessary, to talk us through their methodologies, figures and maps.

73. We requested this assistance shortly after the draft EIA reports were made available for comment. This request was denied by the EAP, and we were told to submit questions. This we did on 5 July 2024 in preparation for the MCEJO EIA meeting on 11 July 2024, and then more detailed and technically-related questions on 10, 11 and 12 July 2024. We are yet to receive a response to both sets of questions.

74. We therefore reserve our rights to supplement our submissions once we receive clarity on the specialist studies as requested.

75. Below are the specific questions that we submitted to the EAP.

76. **Appendix 3. Agricultural, Soils and Land Use Impact Assessment**

General – relevant to all 3 reports for Emalahleni, Ophondweni & Mahujini

76.1. Please include the 500m blasting zone on the maps provided in the report and the boundaries of the mining pits (outer boundary only, not all the contours so that the features underneath are not hidden), fenceline, roads and dumps/ stockpiles (again, outer boundaries only).

76.2. The land use maps do not show the land used for grazing.

76.3. Please explain the relationship between the soil forms and Land Capability Classes.

76.4. How much grazing land (ha) will be lost to mining in total, and how much in each of the three mining areas of Emalahleni, Ophondweni and Mahujini? Please show this on a map.

76.5. How much arable land (ha) will be lost to mining in total, and how much in each of the three mining areas of Emalahleni, Ophondweni and Mahujini?

76.6. How much grazing and arable land has been / will be lost as a result of the clearance of land for the new homesteads and service infrastructure for the 200+relocated families? And which areas have been / are being / will be affected?

76.7. How much grazing land and arable land will become inaccessible to local residents

who use it for agricultural purposes in the biodiversity offset areas? Where are these biodiversity offset areas located? Please show their locality on a map and their present use (including agricultural use) and land capability.

76.8. How many families in each area, and in total, will be affected by loss of arable land and grazing?

76.9. How many cattle and goats will be affected and where will their owners find new grazing land for them?

76.10. Please explain why the specialist has stated for all three areas, that there are “no active agronomic activities” and that a large portion of the area has “little agronomic value”. How did you draw the conclusion that there are no active agroeconomic activities (especially without consulting with farmers)?

76.11. How can Mahujini have no agroeconomic activity if the report says that some commercial farming activities have been identified?

76.12. What is the net loss of grazing land from mining (as a result of each of the three mining areas as well as the cumulative loss as result of all Tendele’s mining areas – existing and future, including the additional 6 future pits that comprise the original 2016 mining right).

76.13. Did the experts speak to farmers in the three areas to find out information on what they farm, how big their fields are, how many people they employ, what their production yields are, how many livestock they keep, how many they sell etc? If not, why was there no attempt to communicate with local farmers or any other community stakeholders not directly involved with the mine when gathering baseline information?

76.14. What about the fields and grazing land of the host families now that over 200 families will be relocated, most of them onto land already in use by others, and where sufficient grazing is already a problem?

76.15. Why is soil acidification from acid-mine drainage discussed in the Ophondweni and Mahujini reports but omitted from the Emalahleni report? If this is accurate, what makes Emalahleni different? Can anything be done to also reduce the risk at the other sites?

76.16. Why were fewer soil samples taken in 2024 than in 2014? Why aren't the 2014 samples also used in the 2024 report? Why do the soil types differ in the 2014 and 2024 samples?

76.17. Why do the "Soil forms" maps differ from the "soil distribution" maps in the hydropedology impact report (Appendix 7)?

76.18. Why are the Ophondweni and Mahujini 2024 reports internally inconsistent when naming the number of samples taken? Is Mahujini a copy/paste mistake taken from Emalahleni?

76.19. Why are land classes 8-10 classed in each report as being moderate land capability with little yield potential when the agricultural protocol considered Classes 8-10 to be high sensitivity? Are sensitivity classes different from land capability classes? If so, how are they different? (Emalahleni report 2024, p26) (Ophondweni report 2024, p26) (Mahujini report 2024, p33)

76.20. Does "all agricultural activities" under Section 2.4.3 of the agricultural report protocol include subsistence and small-scale commercial farming?

76.21. Please explain the relationship between soil forms and arability in easy to understand terms. What new information does it give on top of depth and clay/silt contents?

76.22. Why is a sensitivity analysis missing from the Ophondweni report but included in the Emalahleni and Mahujini reports?

76.23. What counts as an "arable crop" if vegetables are not included? Does land **need** to be able to grow trees to count as arable?

76.24. Why is the Montgomery land classification mentioned in each report if the lawfully relevant classification system is the system prescribed in the NEMA protocol?

76.25. Has the soil specialist liaised with the Department of Agriculture since May 2020 to find out the current status of "specific guidelines or guidelines" referred on page 26?

76.26. Please explain the land types referenced in the ISCW surveys (EX: Land type Ea127).

76.27. What is meant by “lack of skills” of the population and how was this determined (page 18 or 19 in each report)?

76.28. How does the specialist know that there is a lack of markets in the area and can this claim be substantiated (page 18 or 19 in each report)?

76.29. The reports say that the total value of the agricultural product in each area is marginal. What exactly is this total value for each area and how was it determined?

76.30. What is the baseline clay content and rainfall amount needed to be considered arable?

76.31. Why is soil form not considered a major factor for agricultural potential?

76.32. Why are the conclusions of all three reports worded exactly the same, especially when that wording conflicts with the internal details of each report?

76.33. Why is the no-go option not considered in these reports?

76.34. What care exactly is required to preserve topsoil stockpiles for later rehabilitation?

76.35. How will the Mine limit erosion and have an overall positive impact on erosion compared to the baseline level of erosion?

76.36. How soon must stockpiled soil be re-vegetated to remain biologically active? How can the mine prevent anaerobic conditions on this soil?

76.37. How is the eradication of invader species a positive impact when it also means the eradication of all other species at the mining right area?

76.38. What exactly should the limit be for traffic on unpaved roads? How many trucks per hour?

76.39. How soon must side slopes and surface areas be vegetated to keep the soils biologically active?

76.40. What early management is needed to prevent water runoff? If this is contained in a different report, where can it be found?

76.41. If too much irrigation causes leaching of nutrients from the soil, what impact will dust suppression techniques have on the soil in the mining right area and the soils near

the haul roads (which are not considered in this report)?

76.42. If freshly disturbed soils should be immediately put on the discard dump does this increase the amount of contaminated soil complicating rehabilitation? Why not remove the waste?

76.43. How can the soil be returned to an arable crop potential that can help protect against future food security problems when the reports say that soils cannot be returned to their original state and that they will have lower yields?

76.44. What are the “relevant adjustments" that Tendele could make to ensure some degree of arable crop potential after the mine closes? On what timeline could they restore arability?

76.45. Why do the tables for each site showing NEMA classification use pixels as a measure of the percentage of land rather than hectares?

76.46. Why is grazing land and vegetable production completely dismissed as agricultural potential? Are beans considered vegetables for this report?

Specific to Emalahleni report

76.47. Why does Table 9 conflict with the statements made above it? Also, why does it draw on percentages from the Ophondweni site?

76.48. Where does the Table 9 data come from if not from soil samples?

76.49. How are the soil forms connected to the NEMA classes?

76.50. If there are no specific guidelines around the new NEMA protocol classes, how is this information being used to make judgements about the land capability?

76.51. Why does both the ISCW and NEMA land capability differ from the conclusion that most of the land was arable in 2014?

76.52. Why did the soil forms found at Emalahleni change so drastically within 10 years (compared to the 2013 samples)?

76.53. What land potential do Inhoek and Sepan soils have?

76.54. If Arcadia can lead to high yields under careful husbandry, where does it fall under the classification system?

76.55. Can we please have a breakdown of the soil percentage of each soil form at the site?

76.56. Why do the classifications between the NEMA protocols and ISCW potential vary so widely?

76.57. What does “very patchy land classes” mean?

76.58. How fast can soil erosion occur? What soil depth change is possible over 10 years?

76.59. Why does the study only consider the immediate mining right area and not the haul roads surrounding it nor the areas within 1000m of mining?

76.60. In Figure 11, what is the land use for areas not coded as not severely eroded, built up, or part of relict (abandoned) sugarcane fields?

76.61. Photo 10 claims that there is overgrazing and that the cattle are in poor condition. On what basis is this claim made?

Specific to Ophondweni report

76.62. Why were significant portions of the site deemed community no-go zones? At what percentage of land considered a no-go zone is the study no longer representative of the area?

76.63. Why are the ISCW land percentages exactly the same as Emalahleni despite being different areas with differing topography? Is there somewhere to cross check this information?

76.64. Do ISCW findings apply to the entire ⅔ or ⅓ of the site area or just the limited part surveyed due to community no-go zones?

76.65. Why are Classes 6 and 7 both labelled Low-Moderate in Table 9? Is 7 supposed to be Moderate-Low?

76.66. Does Figure 12 show land capability classes based on NEMA? If not, what system is it utilizing?

76.67. Why is the Mispah soil form referenced in Figure 10 when it is not mentioned in the section on soil forms, in Figures 12, nor even in Figure 10’s own key?

76.68. Why were significant amounts of Hutton soil (an arable type) found in 2013/2014 but not in 2024?

76.69. Why is acid-mine drainage a concern at Ophondweni but not Emalahleni?

76.70. Why does more slope variation at Ophondweni, compared to the other two sites, not factor into the mitigation measures (which are the same for all three sites)?

76.71. Why was the study area deemed sufficient when the haul roads and operational areas extend beyond it at Ophondweni?

Specific to Mahujini report

76.72. If only one Natrolite sample was found on site, does that complicate the conclusion that the soil may have problems? Is only one sample enough to draw conclusions from?

76.73. Where does Natrolite come from?

76.74. Why do the conclusions above Table 11 conflict with the table information? And why does it both reference Ophondweni and have the same language?

76.75. What percentage of the area has Bonheim soils?

76.76. Why does Mahujini note potential for acid mine drainage effects but not Emalahleni?

76.77. Why does the report say that the 3-5% slopes at Mahujini may cause a run off problem when Figure 9 shows no 3-5% slopes anywhere in the site area?

76.78. Why does the study area not extend to the haul roads surrounding mine operations?

76.79. Why does Figure 4 conflict with the numbers in Tables 9 & 10 in the methodology section?

76.80. How can the study be representative of the site when a significant portion of the site was no-go for study?

76.81. Why does the parent material of sandstone (rather than mudstone at Ophondweni and Emalahleni) not have much of a differing impact on dominant soil forms, depth, or mitigation?

76.82. What community is Photo 13 referring to? There are only a couple houses in the picture and it is grainy so they are hard to make out in the distance.

77. **Appendix 4. Landscape and Visual Impact Assessment**

77.1. Please provide the 500m blasting zones on all maps as well as other distance markers every one-kilometre (up to 10 km) so that it is possible to see how far the visual impacts extend, especially the high and medium-high and medium impacts.

77.2. Please also provide enlarged images for each of the 3 mining areas to show how the local residents will be affected visually and their distance from the mining operations.

77.3. Please justify the statements made that the proposed mining pits are expected to produce high visual impacts for approximately 500m surrounding the proposed pits when it is evident from the figures in the report that high, medium-high and medium impacts will also occur outside the 500m zone for some distance where people will not be relocated.

77.4. Why does the specialist state that residents are not affected by the visual impacts of the existing mining areas – there were, and are still, significant negative visual impacts experienced by residents from mining activities Areas 1, 2, KwaQubuka, Luhlanga and the processing plants in Area 2, and these impacts have affected people's well-being. Thus, the new mining areas will cumulatively increase the visual impacts for residents already in the viewshed of the existing mining activities, not decrease or neutralise the impacts.

77.5. What is the visual impact on local residents from the mining operations and the change in visual landscape during the day? How far do significant visual impacts extend?

77.6. What is the visual impact on local residents at night i.e. what will be the light pollution and how far will these lights shine into the community?

77.7. Why were the visual impacts of night-time lighting not modelled as part of the current VIA - why did this not form one of the visual triggers that need to be assessed?

77.8. What measures have been recommended to mitigate the daytime and nighttime visual impacts on local residents and how effective are these mitigation measures at avoiding or minimising the impacts (bearing in mind that currently only residents within the 500m blasting zone are required to relocate)?

77.9. In the "action plan" column of Table 11-3, please provide the actual mitigation

measures that correspond to the impacts listed, and not refer in general to the “Visual Impact Assessment Mitigation” section.

77.10. Please provide copies of first Appendix B (“Proof of Peer Review”) and first Appendix C (“GCS Responses to Peer Review”).

77.11. Please explain the relevance of the second Appendix B containing outdated versions of EIA Regulations and the Listing Notices - which take up half of the report in total (289 pages of 612)?

77.12. Appendix D contains the CV of Prevlan Chetty, Digby Wells. Was he the peer reviewer, and if so, of which report?

77.13. The methodology for assessing visual impacts contained in Section 11 of the 2024 VIA report is notably different from the methodology presented in Appendix G (“Detailed Impacts Assessment/Matrix). Please explain why this is so and which is the correct version?

77.14. Please provide the source of the impact assessment methodology presented in Section 11. Please also explain why the ordinal numbers (i.e. those used to represent classes such as probability, scale, duration etc) have been used in formulae as if they are cardinal numbers.

77.15. Please provide the source of the impact assessment methodology presented in Appendix G. Please also explain why the ordinal numbers (i.e. those used to represent a class such as severity, scale, duration, frequency, legal issues, detection etc) have been used in formulae as if they are cardinal numbers.

77.16. Table 11-3 (“Impact Rating Summary” contains a very different set of findings to the more detailed version of the impact matrix version presented in Appendix H. Please explain the difference.

77.17. The text in the table presented in Appendix H (“Detailed Impact Table”) is far too small to read. Please provide a copy with larger font. Also this table only presents the significance rating of impacts before mitigation. Please provide the table that shows the significance ratings after mitigation.

77.18. Please explain how the methodology and findings of the 2024 VIA report differ from those in the 2020 VIA report.

78. **Appendix 5. Archaeological and Cultural Heritage Impact Assessment**

78.1. Please explain why the HIA report does not include the Mahujini mining area.

79. **Appendix 7. Hydropedology Impact Assessment**

79.1. Please can we have the main findings of the water-related specialist reports explained to us by a specialist focusing on the key impacts on local residents for each of the 3 mining areas in respect of:

79.1.1. reduced water availability for local residents and their livestock and crops

79.1.2. explanation of technical terms, including hydropedology, vadose zone etc

79.1.3. the risks the mine will have on “hydropedology flow” and what this means for local residents

79.1.4. will these risks be permanent?

79.1.5. the mitigation measures to avoid or minimise risk and impacts

79.2. Why do the “soil distribution” maps (Figures 2-26. 2-27 and 2-28) differ from the “Soil forms” maps in the Agricultural, Land Use and Soils specialist report (Appendix 3)?

79.3. Please correct the labelling of Figures 2-26 and 2-27 as figure descriptions are incorrect.

79.4. Please explain what amendments are being applied for in respect of Tendele’s Water Use Licence (WUL) and what is the current status of this application.

80. **Appendix 8. Wetland and surface water Impact Assessment**

80.1. As for Appendix 7, please can we have the main findings of the water-related specialist reports explained to us by a specialist focusing on the key impacts on local residents for each of the 3 mining areas in respect of:

80.1.1. reduced water availability for local residents and their livestock and crops – during mining and permanently

80.1.2. loss of natural resources that are harvested by local residents from these aquatic ecosystems – during mining and permanently

80.1.3. loss of access to water resources as a result of the two proposed biodiversity offsets in Somkhele and Fuleni

80.1.4. will these risks and impacts be permanent?

80.1.5. the mitigation measures to avoid or minimise risk and impacts

80.2. Please provide enlarged maps for each of the 3 mining areas that show the affected water resources in the mining area, 500m blasting boundary / fence line and the pit, dumps, PCD etc. (On these maps, please only show the outer boundary of the mining pits otherwise it blocks out what is underneath).

80.3. In addition, please show which watercourses (including wetlands, drainage channels, streams, rivers and dams) will be permanently destroyed by mining, labelling the local names of these watercourses so that local residents will know what is being referred to.

80.4. Please also show on these same maps, the 500m blasting boundary / fence line to show people which watercourses they will lose access to during mining.

80.5. Please also show on these maps, the watercourses will be affected outside of the fence line because flow is cut off by mining activities.

80.6. Please also show which watercourses will be affected by dewatering of the mine pits and explain how much they will be affected.

80.7. Will people also lose access to water resources where they fall within a biodiversity offset area? Please show this on a map.

80.8. Please explain water pollution – is there a risk of acid mine drainage or leaching of pollutants into water resources? What are the impacts of this on water resources and water users?

80.9. Please explain how the loss of water resources as a result of the mine will decrease the communities' resilience during more frequent and longer droughts as a result of climate change? For example, during times of drought there are small springs that keep providing water – how will these be affected?

80.10. What ecosystem services do these water resources provide?

80.11. What is the economic and social cost of these impacts on water resources?

80.12. Please explain what mitigation measures have been proposed for:

80.12.1. the destruction or loss of access to wetlands and streams

80.12.2. the destruction of dams or loss of access to dams

80.12.3. the loss of natural resources harvested from wetlands

80.12.4. the pollution of water resources

80.12.5. the inability to drink harvested rainwater due to dust caused by the mine (mining areas and haul roads)

80.13. After mining, will all watercourses be restored to their original state? Please explain which will and which will not.

80.14. Does the rehabilitation and closure plan include rehabilitation of watercourses (wetlands, drainage channels, streams, rivers and dams)?

80.15. Please explain if and how the loss of watercourses, including wetlands are contained in the Biodiversity Offset Plan.

80.16. Please explain why, if Tendele causes the loss of water resources that the community depends on, or pollutes the water that the community depends on, it is not responsible to provide the community with water.

80.17. Please explain what assistance Tendele provides and will provide to the residents affected in each of the mining areas and to those who are relocated.

80.18. Please explain what amendments are being applied for in respect of Tendele's Water Use Licence (WUL) and what is the current status of this application?

81. **Appendix 9. Hydrology Assessment**

81.1. As for Appendices 7 and 8, please can we have the main findings of the water-related specialist reports explained to us in simple terms by a specialist focusing on the key impacts on local residents for each of the 3 mining areas in respect of:

81.1.1. how the mine has the potential to contaminate surface water at each of the three mining areas and what this means for people and their livestock.

81.1.2. what are the substances that will cause the water contamination associated with the new mining operations.

81.1.3. how the mine will contaminate groundwater at each of the three mining areas and what this means for people and their livestock.

81.1.4. how will the mine prevent contamination from happening?

81.1.5. how will the mine provide clean groundwater if contamination does happen and how long will this take. Is there provision for this (technical and financial?)

81.2. Please explain what amendments are being applied for in respect of Tendele's Water Use Licence (WUL) and what is the current status of this application?

82. **Appendix 10. Noise Impact Assessment**

82.1. Please can the noise specialist take us through his report to explain (in a way that non-experts can understand) how the noise study was done in terms of methodology, the different noise standards that have been applied and reasons for this, and what the key findings are in terms of impacts and mitigation measures, and their effectiveness.

82.2. What is the reason that the noise study by WKC (2020) study was redone by EARES?

82.3. Please explain why the recommendation in the WKC 2020 study to realign the Ophondweni access road because of the noise impacts on the Machwetshana Primary School has been disregarded in the current report.

82.4. Why has noise specialist used noise limits from the IFC guidelines (55 dBA daytime and 45 nighttime) and not the SANS 10103 noise limits (45 dBA daytime and 35 nighttime) which are more fitting for rural areas devoid of industry and mining?

82.5. Please describe the berms that need to be constructed to reduce noise levels (what do they look like, how big, what material is used) and how effective will they be.

82.6. Please present a map for each mining area showing where these berms will be built.

82.7. The noise from blasting (sirens and actual blast) are not covered in the noise study as

indicated. The noise study focuses on vibrations and airblast.

82.8. What meteorological conditions create noise impacts up to 4km and how often does it occur?

82.9. Please can we have the coordinates of the locations where the noise measurement equipment was deployed in December 2023?

82.10. Ambient noise levels in some cases were found to be high as a result of chickens, insects etc. Surely this is a result of the placement of the noise monitoring equipment? Also, please describe the difference between natural noises the residents are accustomed to (which are sporadic and seasonal) compared to the industrial, mechanical and other unnatural sounds from mining operations? How are these differences factored in?

82.11. How did the specialist factor in people's lifestyles, daily schedules, school times (including study and exam times) and cultural and religious practices into the mitigation measures for noise?

82.12. What is a "large mining operation" as referenced in the report on page 11?

82.13. Why does the developmental character of the area point towards a sub-urban zone classification?

82.14. Does WIN mean wind? If not, what does it refer to?

82.15. Why does the NIA assume that the IFC guidelines concerning increase in ambient noise apply only to cases where the existing ambient noise level is already at, or in excess of the recommended limits?

82.16. Do active mining activities include hauling product/equipment on haul roads?

82.17. What is the criteria for determining if a complaint is reasonable and valid?

82.18. Where were micro-siting layouts previously investigated?

82.19. May we please receive baseline data for operational impacts to NSRs in a scenario with no berm as part of the data provided in Annexure C?

82.20. May we please have the exact dates of your site visit for the blasting report and the noise report in December 2023? Or is there somewhere we can find this information?

82.21. Please also show the 500m blasting boundary on the maps as well as 1000m, and 1500m (only the 2000m boundary appears to already be shown on the maps) so I&APs, especially local residents know how far the noise is expected to travel from the source.

82.22. Please explain the effectiveness of the noise berms at different heights and on a map, show how the receptors that will still be significantly affected even with berms of different heights in place.

82.23. For the current Emalahleni construction that commenced in May 2024, please explain:

82.23.1. what the noise levels have been recorded for the current Emalahleni construction activities

82.23.2. what are the working hours and days for this construction?

82.23.3. why is construction allowed to occur 24 hours a day, 7 days a week so close to people's homes?

82.23.4. what mitigation measures are in place to mitigate these impacts?

82.23.5. how do residents submit complaints about the noise at Emalahleni?

83. **Appendix 11. Traffic Impact Assessment**

83.1. Please explain how traffic will be "controlled" on the P235 (R618) during blasting at Mahujini? Will the road be closed, and if so, how many times a week, what time of the day and for how many hours each time?

83.2. Part of the P495 falls within the Emalahleni 500m blasting zone – will it also have to be closed while blasting at Emalahleni takes place? If so, how many times a week will this happen, what time of the day and for how many hours each time.

83.3. Part of the community road (off the P495 eastwards to Gxaba High School south of the Ophondweni pit falls) within the 500m blasting zone - will it also have to be closed while blasting at Ophondweni takes place? If so, how many times a week will this happen, what time of the day and for how many hours each time.

83.4. There was no safety audit done for the haul roads, especially the P495 which is used by learners, other pedestrians, livestock and local vehicle traffic. Why is the impact on

these road users said to be low?

83.5. What measures are recommended to mitigate the impacts on local residents that reside adjacent to the road and use it as pedestrians and in vehicles in respect of safety, noise and dust?

83.6. Why has Tendele sought approval from the KZN DOT when the EIA has not been completed yet and Route 1 (the preferred route) was not assessed in the 2013/2014 EIA/EMPR or approved by the DMRE in 2016?

83.7. Did the other specialist studies also look at the haul road alternatives or only the traffic specialist?

83.8. Please explain what upgrades are being done to the roads (including intersections) being used by Tendele for hauling, as well as during construction to access the sites - it is extremely difficult for non-experts to understand the engineering design plans. Please explain:

83.8.1. which parts of the roadway are being widened and by how much

83.8.2. what geometric adjustments are being made,

83.8.3. what surface works are being done,

83.8.4. what drainage is being installed,

83.8.5. what works are being done to causeways or watercourse crossings

83.9. what safety measures will be put in place – pedestrian sidewalks, speed humps, pedestrian and school crossings, formalised taxi and bus stops, lighting etc

83.10. Please explain what the types of mining-related trucks will use the roads, their weight and their impact on the different road (T618 and P495) surfaces.

84. **<u>Appendix 12. Geohydrology</u>**

84.1. As for Appendices 7, 8 and 9, please can we have the main findings of the water-related specialist reports explained to us in simple terms by a specialist focusing on the key impacts on local residents for each of the 3 mining areas in respect of:

84.1.1. how the mine has the potential to contaminate ground water at each of the three mining areas

84.1.2. in a way that non-experts can understand, please explain the terminology used: what is a decant point, decanting, dewatering, groundwater, pollution, vadose zone, seepage, abstraction, dewatering, EC, TDS, cone of depression, and AMD?

84.1.3. how the mine has polluted groundwater as a result of the existing mining areas (Areas 1, 2, KwaQubuka and Luhlanga) and how far from the pits this has spread? This is necessary to be able to understand the potential risks in the new mining areas as well as cumulative risk and impacts.

84.1.4. what is meant by the impact “disturbing vadose zone”.

84.1.5. what is meant by the impact “poor quality seepage”.

84.1.6. please explain in simple terms what is meant by the impact “over groundwater abstraction”?

84.1.7. Where the decant points are close to rivers and streams, does this mean there is a risk for pollution to spread downstream? If so, please explain what this means for people living in the area.

84.1.8. what are the mitigation measures for each of these impacts and their effectiveness?

84.2. What are the flaws in the geohydrological study that required it to be updated?

84.3. What was the difference in findings between the 2024 report and the previous version? Does this require an amendment to the water use licence?

84.4. Please explain what amendments are being applied for in respect of Tendele’s Water Use Licence (WUL) and what is the current status of this application?

85. **Appendix 13. Climate Change Impact Assessment**

85.1. Please explain the different types of coal that will be mined – in terms of production, the previous mining areas yielded 25 % energy coal. Why will the new mining areas be any different? And why has energy coal been excluded in the study on the new mining areas?

85.2. Why is the information not available for a Scope 3 emission assessment?

85.3. Why is there no assessment of how the mine will affect the communities' resilience and adaptation to climate change? How will the mining operations affect the vulnerability of residents to climate change?

85.4. Why does the climate change study not make recommendations for a just transition?

86. **Appendix 14. Health Impact Assessment**

86.1. Why was more effort not made to include the assessment of PM10 in the health study given the findings of the AQIA?

86.2. Why was the 2024 health study based on the 2020 AQIA and not the 2024 AQIA?

86.3. Why has the psychological health impact not been assessed, particularly for the families who have to relocate or those who will be forced to live right next to open cast coal mining?

86.4. What is the psychological impact on school children as a result of blasting?

86.5. Why is the 2020 RAHIA not included in the report as an annexure or an appendix in the EIA if it is needed to understand the full range of health impacts? Please provide a copy of the 2020 report.

86.6. Why not do a comprehensive HIA since many of the named factors apply to Tendele?

86.7. Is this report a RAHIA or is it something else? The wording makes it unclear.

86.8. If there are still 4/10 leading causes of death related to environmental pollution levels, why were infants not studied? 6/10 may be irrelevant but 4/10 is still significant.

86.9. If PM10 exceedances and impact extent are so much greater than PM2.5 does that not decrease the reliability of health impact data based on PM 2.5?

86.10. Are the assessed health impacts in Tables 11.2.2 - 11.2.4 (acute/chronic bronchitis, lung cancer) only for the age groups identified in Table 17? (HIA, pp 29-30).

86.11. Also, why does the applicable area in all three charts say Mahujini, but the title for each of the three charts mentions a different site? Is this just a typo?

86.12. Even if it is for a developed country rather than developing South Africa, is there not a coefficient for calculating the risk in younger children? If not, why not say the information related to younger children is not available?

86.13. Why is Table 7-1 missing significant age groups?

87. **Appendix 15. Socio-Economic Assessment**

87.1. Who was Urban-Econ guided by to refrain from engaging with people with strong anti-mining sentiments?

87.2. How were people with strong anti-mining sentiments identified?

87.3. Surely people who do not support the mine are an important sector of the community to include in the study to understand what their concerns are?

87.4. Why were only 69 people surveyed? How were these people chosen? In which village do they reside?

87.5. Is the statistic that about 17% of land is currently used for agriculture just accounting for commercial agriculture or does it also include subsistence agriculture/agriculture as part of the informal economy?

87.6. The SEIA says that the lack of schooling will pose challenges for the Mine. The report later says that many of the jobs will be for low or unskilled workers and that training programs will be available (SEIA, 69) so what are the challenges?

87.7. For Figure 11, what does economically inactive mean? It is shown as different from unemployed. Does it mean not participating in the formal economy? (SEIA, 33).

87.8. For Figure 17, how were respondents characterized as neutral, concerned, opposed etc?

87.9. How was the conclusion that most people are happy about the mine drawn when only 47.5% of survey respondents were supportive of the mine? (SEIA, 33 Table 17).

87.10. Where does the statement that people have started to realize the importance of the Mine? Is it anecdotal evidence from one interviewee or an amalgamation of opinions collected from the survey? If so, how many people represented this opinion?

87.11. What evidence supports the conclusion that the Mine has led to a lifestyle improvement?

87.12. How many people can now have braais on paydays? Where does this information come from?

87.13. How is a modern type of lifestyle defined?

87.14. Where does the claim that the community is no longer as dependent on government grants come from? What data supports this conclusion?

87.15. Please give a breakdown of the 1 600 job opportunities and procurement opportunities:

87.15.1. at construction / operation, processing plant / mining pit / trucking etc,

87.15.2. description/type/category, number per category, skills level,

87.15.3. duration (temporary / permanent),

87.15.4. sourced from original community residents or people who settle in the area once they have a job etc.

87.16. Why is the information from Table 7 inconsistent with the claim that most people in the area are working age?

87.17. What determines if mining rehabilitation is practically possible? Is it scientifically or economically driven?

87.18. What evidence is used to substantiate this claim of improvement in community living standards, especially when healthcare costs will go up and jobs may only be temporary? (SEIA, pp 55, 65)

87.19. Since the mine has a finite life span, how will Tendele contribute to long-term economic growth and increased living standards? What are the recommendations for a just transition?

87.20. Why is displacement not considered a highly significant socio-economic issue, especially if relocation costs may exceed compensation? (SEIA, p59). How much more needs to be given for compensation to equal or exceed the financial burden of moving?

87.21. Who are these landowners that may receive compensation for mineral rights if the land is said to all be held by the Ingonyama Trust?

87.22. What benefits, including payments do the Mpukunyoni Traditional Council receive:

87.22.1. as a body and how are these benefits passed onto community residents

87.22.2. as individuals (monetary and other)

87.23. How does employing low and unskilled workers promote sustainable land use management in the agricultural sector?

87.24. Why was a resettlement specialist not included in the study?

87.25. Please can explain how “directly affected community” members are defined.

87.26. Please provide information for each mining area –

87.26.1. How many families within the 500m blasting boundary need to be relocated for each mining area – Emalahleni, Ophondweni and Mahujini?

87.26.2. What other infrastructure besides houses fall within the 500m blasting zone and fence line for each mining area (e.g. schools, dipping tanks, dams, community halls, churches, places of workshop etc)

87.27. Based on other specialist study findings and recommendations, should there be relocation of more families outside the 500m blasting zone because of specific impacts extending beyond 500m? What are these impacts and associated recommendations? How many more families are affected in this way?

87.28. What about the families who reside just outside the 500m exclusion zone? What about those that are very close to the discard dumps but not within the 500m boundary?

87.29. What about families who are outside the 500m but will have their access cut off as a result of the mining operations and/or left isolated as their neighbours have to relocate?

87.30. How many families do not reside within the 500m exclusion zone but have land use rights displaced by the mining operations as a result of the fence / 500m exclusion?

87.31. How many families in Emalahleni and Ophondweni signed relocation agreements after March 2022 or have not yet signed agreements?

87.32. Why is no livelihood restoration plan done for all Emalahleni and Ophondweni families who are displaced?

87.33. Why is there no assessment of the suitability areas to which people are relocating to?

87.34. Why is there no assessment of the impact on host communities of resettlement?

87.35. When should post-relocation audits be done?

87.36. Why has Tendele never done a post relocation audit for the 225+ families relocated in the existing mining areas going back to 2006.

87.37. Why is there no assessment of the impact on host communities of biodiversity offset areas?

87.38. Have the baseline conditions, including for livelihoods and cost of living, been assessed prior to people relocating for the purpose of the post-relocation audits?

87.39. How are “DAC” families compensated for lost agricultural potential? There is no “empty” replacement land that is not already utilised for grazing or cultivation. Grazing is already a shortage for people in the area.

87.40. Where is the “alternative land for families not being relocated” that the Induna will allocate? The arable land is already owned by other residents and the grazing land is already oversubscribed.

87.41. What about the psychological impacts on residents who have to relocate from ancestral land, lose their community structure and relationships, exhume and relocate graves, who are being victimised because they have not yet signed relocation agreements and those who will have to remain and live right next to an open cast coal mine for many years.

87.42. What about the loss of services, ecosystem services and natural resources as a result of the mine? What is the economic loss as a result?

87.43. What about loss of access – roads and footpaths as a result of the mining activities and the associated increased costs?

87.44. What about the safety impacts of the haul roads and mining activities on the local residents and their livestock?

87.45. What about the net cumulative loss of land for housing, grazing and cultivation as a result of mining, resettlement and biodiversity offsets?

87.46. What about the additional costs where residents have to buy water for themselves and their livestock, or can no longer keep livestock as a result due to the loss or pollution of water resources?

87.47. What about the impact on school children as a result of blasting, dust, noise and traffic?

87.48. Why have not all I&AP issues been addressed? Please provide this record as required by Appendix 6 of the EIA Regulations (specialist reporting requirements).

87.49. Why has the socio-economic study not included all the socio-economic impacts identified in the other specialist studies in order to fully report on the socio-economic impacts on the local residents?

87.50. Is Somkhele an economically viable coal mine for the existing areas given its huge debt, rehabilitation costs (existing mining areas and new mining areas), costs to implement the SLP and costs to implement mitigation measures? What is the economic forecast if the Mahujini mining area is delayed or rejected by the community?

88. **Appendix 16. Ambient Air Quality Impact Assessment**

88.1. Please explain why it was necessary to replace the 2020 AQIA report with the 2024 AQIA report?

88.2. Please explain why dust fall data for only the January 2023 – September 2023 monitoring period was used when:

88.3. Tendele has been in care and maintenance since July 2021 and has not been actively mining since then (apart from reclaiming and processing the discard in the discard dump in Area 2).

88.4. Tendele has dust fall data for its active mining periods that go back for more than 10 years.

88.5. Moreover, there are many more exceedances if past records are included as they should be.

88.6. What is the “project area” as referred to in the AQIA report? Please provide a map showing the “project area” and how large is it?

88.7. Please define what is meant by “offsite”.

88.8. What are the “operational boundaries”? Please provide a map or a description.

88.9. Please can we be provided with larger figures, especially for Figures 5.1 – 5.5 as they are impossible to read due to their small size in the report.

88.10. The dust levels at Emalahleni where construction activities are in progress are very high.

88.11. Have the dustfall, PM2.5 and PM10 been measured for the processing plant at Area 2 as well to show cumulative impacts. Also, Tendele has not completed rehabilitation yet so it is likely that dust will occur.

88.12. Please can we have a map that shows the location of each of the receptors in Table E1 in relation to the 500m boundary.

88.13. Appendix 6 of the EIA Regulations requires that the specialist reports provide “a summary and copies of any comments received during any consultation process and where applicable all responses thereto.” It is insufficient to simply refer the reader to the public participation record, especially as there are not even page number references of where these air quality-related issues are raised and responded to. Please provide the I&AP comments on air quality and the respective responses.

88.14. How is dust from blasting going to be controlled?

88.15. Please also show the cumulative dust from the processing plant which will overlap with the dust from the new mining areas, especially Mahujini.

88.16. How do these “zones” change across the seasons? For example in the dry, windy season (around August to October), is the dust worse?

88.17. “Majority wind speeds for the three-year period ranged from 3.6 – 5.7 m/s which are considered gentle to moderate breezes. Calm conditions, defined as wind speeds less than 1 m/s, were observed for 3.38% of the time (Figure 4-1).” (AQIA, 2024 pg. 25). If blasting is only to occur under calm conditions, it would only be allowed 3.38% of the time. 10 hours per week of blasting is 5.95% of the total time in a week (10 / 168),

so this schedule would only work if wind speeds were abnormally low for an abnormal amount of time. Therefore, less than 1 m/s cannot be the standard for scheduling blasting. If not, what is it? Will there be a windsock on site to measure the wind speed before blasting?

88.18. Since the discrete receptors measured in the AQIA represent groups of people/individual receptors, what is the total number of receptors affected by exceedances? What is the total number of people affected?

88.19. What basis does the specialist have for assuming that particulate pollution from the construction phase is generally less significant and thus does not need to be assessed for the report? For example, the residents are finding the dust levels from the Emalahleni construction activities currently to be unacceptably high.

88.20. What is “significant amounts of dust” in Table 5-5 that may be produced from stockpiles in wind speeds greater than 5.4 m/s? (AQIA, 2024 pg. 41).

88.21. Why does Table 5-5 not account for seasonal variation if wind has such a great effect? (AQIA, 2024 pg. 41)

88.22. Does “particulate matter” on AQIA 2024 pg. 23 refer to PM 10 or just PM 2.5?

88.23. What chemical dust suppressants might be used and what environmental/health impacts might those have?

88.24. Is the dust mentioned in the AQIA 2024 one of the compounds that may dissolve into acid in water? (pg. 29)

88.25. Please may we have a copy of Tendele’s dust management plan. This plan should be annexed to the AQIA.

88.26. Who will ensure that this dust management plan will be strictly complied with and how will compliance be ensured?

88.27. Why are mitigation measures for the 2024 AQIA based on the measures proposed in the 2020 AQIA when that report was deemed inadequate?

88.28. How can speed limits be enforced if Tendele thinks they are economically infeasible?

88.29. Since there is empirical evidence that reducing speed limits even by just 10 can significantly reduce PM10 and a speed drop from 40km/hr to 23 km/hr can reduce it

by almost half, why is the speed limit only lowered to 40km/hr if PM10 still has a medium significance post-mitigation? The AQIA 2024 recommends going as low as 20 km/hr.

88.30. Why would water spraying topsoil stockpiles contaminate them? What contaminants are being released onto the roadways and surrounding areas from dust suppression?

88.31. What receptors will be included when the dustfall monitoring network is expanded per the AQIA 2024 recommendation? How will they be chosen? Are areas classified as residential/non-residential solely based on the location of the bucket or the area surrounding the bucket? Is the placement of monitoring points not to be determined by the specialist in the AQIA?

88.32. What is a “binder”? (EMPr pg. 27)

88.33. Why is the 2024 AQIA recommendation to control the number/weight of vehicles on the road not included anywhere in the 2024 draft EMPr?

88.34. Why is the recommendation from the 2024 AQIA to cover transport materials where possible omitted from the 2024 draft EMPr?

88.35. What is the “strict implementation” of dust mitigation measures that is required for the project to go forward according to Rayten in the 2024 AQIA? How will implementation success be measured?

88.36. When is clearing/scraping unnecessary? How will this be determined? (draft EMPr, pg. 27). Will Tendele not just say it is necessary to keep on schedule?

88.37. What should the drop heights for truck loading and tipping points be minimised to? Without a height requirement, this recommendation is vague. (draft EMPr, pg. 27)

88.38. Why is PM2,5 compliance defined as (75 µg/m3) in the draft EMPr (pg. 27) when it is defined as 40 in the 2024 AQIA (and 25 by 2030). (pg. 17).

88.39. On pages 37, 40, and 60, the EMPr says activities (construction, drilling, blasting) must be carried out “judiciously” to prevent dust emissions. What does this mean exactly? This is a vague standard.

88.40. Why is no specific speed limit mentioned on pages 51-52 of the EMPr for hauling of coal to the washing plant when a proposed speed limit is introduced later in the report for haul trucks?

88.41. On pg. 63, the EMPr says there is a need to set speed limits and to have them be enforced. What will the speed limits be and who will enforce them, and how will they be enforced.

88.42. On pg. 66, the EMPr says that Tendele should limit demolition activities to non-windy days. What wind speed is considered “non-windy”? 1 m/s or less? <5 m/s?

88.43. What are the differences between the dust control management plan, dust management plan, and dust management program? Where can these plans be found? Please can you provide copies.

88.44. If stockpiling should not exceed 5m to help with dust control, does this not conflict with the recommendations to build 10m berms in the Noise Impact Assessment?

88.45. Surfacing of haul roads is recommended on draft EMPR pg. 120. However, the 2024 AQIA indicates that Tendele finds this “economically unattractive” (p70). Please confirm whether the haul roads will be surfaced or not, and if not, why not and how does this effect the assessment ratings?

88.46. On pg. 126, the EMPr recommends the scheduling of blasting to occur during calm wind conditions. How are “calm wind conditions” defined? Is it 1 m/s as defined in the 2024 AQIA? (pg. 25). How will the wind conditions be measured prior to blasting?

88.47. What are the “good housekeeping practices” referred to on pages 130 and 132 of the draft EMPr?

88.48. What determines whether it is possible to introduce water sprays for material handling operations? (draft EMPr, pgs 130, 132).

89. **Appendix 17. Blasting and vibration**

89.1. How long do blasting events last?

89.2. Why was there no proper effort made to identify “sensitive structures (typically adobe or buildings constructed from mud)” as it is very evident from the area that there are many such structures (the heritage impact and socio-economic studies confirm this)? How does this knowledge affect the findings and recommendations of the study?

89.3. Why was there no attempt to get this information about the material of pipelines near the blasting zone?

89.4. Which specific EHS Guidelines are rereferred to and which specific sections?

89.5. Why don't smaller wooden power lines near the blasting zone present any concern?

89.6. If vibrations are more harmful the longer they last, why does the report not address vibration length in its assessment of impacts? Will all blasts have the same vibration length?

89.7. Why does the report not make an opinion about blast design when it is referenced later as a mitigation measure?

89.8. Why is a different blasting scenario (number of boreholes and kg of explosives) used to evaluate the vibration levels vs. the airblast levels?

89.9. What kind of grievance procedure will be in place for complaints about blasting? How will a complaint be evaluated as valid?

89.10. The EMPR refers to Tendele's "Blasting Plan" and "Blasting and Vibration Monitoring Plan". Please can we have the specialist's review findings on these plans and if they do not exist yet, what should they contain to mitigate the impacts from blasting?

89.11. Please can we have copies of the Tendele's "Blasting Plan" and "Blasting and Vibration Monitoring Plan" referred to in the EMPr.

89.12. How is dust that enters the air from blasting suppressed?

90. **Appendix 18. Vegetation Impact Assessment**

90.1. Has the loss of vegetation as a result of the relocated homesteads been assessed? If not, why not?

90.2. Has the increased grazing pressure from resettlement and its impact on indigenous vegetation been assessed. If not, why not?

90.3. What is the mitigation for the residents' loss of natural resources including medicinal plants and animals, building materials (wood, thatch) and firewood?

91. **Appendix 19. Biodiversity (Terrestrial) Assessment**

91.1. Are the two areas said to be identified for offset implementation mentioned in the report the same areas as for the indigenous vegetation offsets?

91.2. Why is “local consultation” only being done at implementation? What are the appropriate times for local consultation?

91.3. What about the impacts on faunal biodiversity as a result of the 200+ homesteads that need to be relocated? Have these been assessed?

92. **Appendix 20. Geotechnical Study**

92.1. Please explain how the findings of this study have been used to inform the draft EIA Report, EMPr and relevant specialist studies.

92.2. The EIA Report (p277) states that “Recommendations considered in the design of the MWP”. Please explain how the design of the MWP will influence the identification and assessment of impacts in the draft EIA and environmental management measures in the EMPr.

92.3. For Mahujini, the report states that “No conclusions should be drawn for the Mahujini Block as the two holes differ so widely” and recommends that “This block needs more holes to be geotechnically logged” (section 8,7). Please explain what the significance of this gap in geotechnical information has for the impacts identified and assessed in the EIA Report and relevant specialist reports.

92.4. For Ophondweni, the report states that “The steep dip suggests that strike mining will be preferable to that of the down dip mining performed to date” (section 8.8). Please provide an explanation of these two mining methodologies and whether these have been described and assessed in the draft EIA Report.

92.5. Also for Ophondweni, the report states that “No conclusions should be drawn for Ophondweni Block as the two holes measured differ so widely”. Please explain what the significance of this gap in geotechnical information has for the impacts identified and assessed in the EIA Report and relevant specialist reports.

93. **Appendix 21. Rehabilitation and Closure Plan**

93.1. On page 13 of the final rehabilitation report, it states:

"The Rehabilitation plan as outlined in the following reports hold reference:
- *Environmental Management Plan Report, Report No 2001.02.041 April 2002; and*
- *Somkhele EMPR Addendum report September 2006*
- *Somkhele EMPR, 19 March 2014."*

What is the significance of these reports in terms of the current final rehabilitation plan and how do they "hold reference"?

93.2. What stakeholder engagement has been done in drafting the rehabilitation plan?

93.3. Why have no alternative closure options been considered?

93.4. Please provide the timelines for the closure cost assessment for each of the three mining areas - Emalahleni, Mahujini and Ophondweni.

93.5. Over how many years has Tendele budgeted for rehabilitation as well as care and maintenance of each of the three areas?

93.6. Why is there no mention of a plant nursery in the report?

93.7. What is the plan for the RWD?

93.8. What guarantees are in place for the rehabilitation costs for the existing mining / previously mined areas (Areas 1, 2 (not part of the processing plant area still in use), KwaQubuka and Luhlanga)?

93.9. What guarantees are in place for the new mining areas, including Emalahleni where mining-related construction has already commenced?

94. **Appendix 23. Civil Engineering Design**

94.1. Please explain why the Civil Engineering Design has not been updated like the other specialist reports?

94.2. Please explain the relationship of this specialist report to the draft EIA Report, EMPr and other specialist studies? How has the information in this report been used to inform the EIA?

95. **Appendix 24. Social and Labour Plan**

95.1. Why is the Social and Labour Plan considered to be “sensitive and confidential”?

96. **Appendix 25. Relocation Action Plan**

96.1. Why was an independent resettlement expert not appointed?

96.2. Why is the Relocation Action Plan considered to be “sensitive and confidential” and not provided to I&APs for comment as part of the EIA process?

96.3. Why is the Relocation Action Plan only applicable to the Mahujini mining area when:

96.3.1. There are many families who have not signed in Emalahleni and Ophondweni. (The statement made in the draft EIA report, including appendices, that 139 families have signed out of 143 families who need to relocate, is incorrect. There are far more families who have not signed and far more families who are required to relocate).

96.3.2. There are many more families Emalahleni and Ophondweni who have not signed agreements with Tendele whose rights are affected even though they do not reside within the 500m blasting zone.

97. **Appendix 26. Biodiversity Offset**

97.1. What public participation has been conducted for the Biodiversity Offset Plan, including the two biodiversity offset areas prior to the agreement signed with EKZNW?

97.2. What is the rationale behind initially withholding the Biodiversity Offset Plan, and then redacting the maps showing the locality of the biodiversity offset areas?

97.3. Why has the loss of biodiversity and indigenous vegetation that has been cleared / will be cleared for the resettlement families (which are impact directly associated with the three mining areas) not been included in the calculations for the Biodiversity Offset Plan?

97.4. Why have the loss and the destruction of wetlands and other water courses and aquatic ecosystems not been included in the Biodiversity Offset Plan?

97.5. How much grazing land and arable land will become inaccessible to local residents who use it for agricultural purposes and natural resource harvesting in the biodiversity offset areas? Where are these biodiversity offset areas located? Please describe where and show their locality on a map.

97.6. Will people also lose access to water resources where they fall within a biodiversity offset area? Please describe where and show this on a map.

I. Flawed EMPr.

98. Tendele has failed to prepare an EMPr that is clear, consistent and enforceable, and that ensures that negative impacts will be avoided, alternatively minimised and remedied. The reasons for this statement are set out below.

99. Several standards of compliance in the EMPr differ from the specialist reports, for example:

99.1. The standard for PM 2.5 (75 µg/m3) is higher than the standard required by law and discussed in the Air Quality Impact Assessment (AQIA) report (40 µg/m3). (EMPr, p27; AQIA p17).

99.2. The standard of compliance for dustfall is listed as 1,200 mg/m2/day (EMPr, p27). However, this is only the industrial standard and fails to incorporate the residential standard required by law and discussed in the AQIA (AQIA, p18).

100. The EMPr contains incompatible recommendations for topsoil stockpile/berm heights.

100.1. The Noise Impact Assessment (NIA) and the EIA assume that topsoil will be used to develop berms around the mining sites up to a height of 10m in assessing the impacts of noise (EIA report, p144; NIA, p78).

100.2. However, the EMPr has various conflicting stockpile guidelines.

100.2.1. In Table 5-1 (EMPr, p26), the report states that “topsoil stockpiles are to be kept to a maximum height of 10 m” to protect soils.

100.2.2. In Table 5-1 (EMPr, 34), the report states that Tendele must “limit the height of the topsoil stockpile to 20 m” to reduce visual impacts.

100.2.3. In Table 7-2 (EMPr, 111), topsoil “stockpiling should not exceed a maximum height of 5 meters or designed parameter height”.

100.2.4. In Table 7-2 (EMPr, 119 & 129), the report states that “stockpiles not to exceed a height as per design parameters” without giving design parameters.

100.2.5. In Table 7-2 (EMPr, 112), it states that “Tendele should “construct berms at strategic areas to act as noise barriers” without detailing how high these should be.

101. The EMPr also contains inconsistent working hour recommendations.

101.1. Table 5-1 (EMPr, 45, 66) restricts “construction activities, mining activities, and decommissioning activities to daylight hours (06:00 – 18:00) and not during weekends and public holidays”.

101.2. However, Table 7-1 (EMPr, 93) states that “vehicle activity” is to be conducted between 6:00 – 22:00.

101.2.1. If vehicle activity is considered mining activity, this contradicts the Table 5-1 statement.

101.2.2. If it is meant to be considered otherwise, which the EMPr has not made clear, this distinction does not make sense. Bulldozers and excavators are considered construction vehicles. Additionally, vehicle transportation of mining materials even outside the mining area should still be considered mining activity. Without transportation to suppliers, mining would be worthless.

101.3. Table 7-2 also contradicts Table 5-1 by suggesting construction activities may occur at night.

101.3.1. The EMPr (p112) states that Tendele must “limit construction to the minimum during the nighttime” but not that construction at that time is not allowed.

101.3.2. EMPr (p127) also states that “unless there is a berm between NSR and active construction areas, the applicant should plan night-time activities to minimize significant noise-generating activities (such as drilling closer than 500m from NSR).

101.4. Table 7-2’s recommendations for haulage trucks further contradict the hours set out in Table 5-1.

101.4.1. Tendele should limit the use of haulage trucks on public roads between 05:00 am to 22:00 pm. (EMPr, p127)

101.4.2. The mine should minimize night-time trucks travelling though the community, especially trucks travelling empty on corrugated roads. (EMPr, 128)

101.4.3. The mine must investigate no hauling of Anthracite during the night-time on public roads (22:00 pm – 06:00 am) (EMPr, 128-29)

102. The different tables in the EMPr use inconsistent language for relocation plans.

102.1. Table 5-1 (EMPr, 60) states that ""all Directed Affected Communities within the 500 m radius of (the) active mining zone to be relocated".

102.2. Table 5-1 (EMPr, 61) also states that Tendele must "relocate POI's of concern at least 650m". The term POI is not used anywhere else in the EIA or EMPr. It is unclear what it refers to, how it is different from DACs, or why the scope of relocation is greater than the 500m referenced at other places in the EMPr.

102.3. Table 7-2 (EMPr, 124) states that "all BSR must be moved further than 500 m from the blasting zone before the blast is detonated".

102.4. Table 7-2 (EMPr, 133) requires "relocation of all households within the 500m blasting impact zone as per legal requirement".

102.5. This is inconsistent with Table 7-2's later statement (EMPr, 112) that Tendele must "relocate all affected communities within the 500m boundary zone of the blasting area".

102.6. Table 7-2 (EMPr, p127-28) also states that Tendele "should relocate NSR living within the area that will be developed for mining (opencast pit, stockpiles, deposits, new haul roads, etc.), before active mining activities are closer than 500m from these NSR".

102.7. Therefore, it is unclear whether Tendele must relocate all households or all communities (which would include schools, churches etc) within 500m of the blasting zone or the zone of active mining activities (including haul roads and stockpiles).

103. Tendele also has conflicting standards for land rehabilitation.

103.1. Table 7-2 (EMPr, 129) states that Tendele should "ensure that rehabilitated areas have sufficient soil capabilities to support subsistence farming".

103.2. Table 5-1 (EMPr, 42) states that Tendele should "where possible, ensure that land

preparation and rehabilitation activities implemented during various stages of the mine's lifecycle allow for restoration of land to above-grazing capacity, i.e. suitable for crop production.

103.3. Under one standard, they must use practices that ensure the land is restored for agricultural use. Under the other, they need only do it "where possible" without explaining how possibility will be determined.

104. The following are examples of standards from the EMPr that are so vague they cannot be enforced.

104.1. Table 5-1 (p66) demolition activities should be limited to non-windy days. Non-windy days are not defined here or anywhere else in the EMPr.

104.2. Table 5-1 (p.60) states that "blasting to be restricted to time limits which will have least impact on residents" with no indication of how those times have or will be determined.

104.3. Table 5-1 (p. 61) states that Tendele must "use correct product" for blasting.

104.4. Table 7-2 recommends the scheduling of blasting to occur during calm wind conditions. However, it is not clear how calm wind conditions are defined. It is also unclear how wind speeds will be measured prior to blasting and what the protocols are for cancelling a scheduled blast due to wind conditions.

104.5. Table 7-2 (EMPr, 124) states that "blasting should be conducted in line with a well-designed blasting program". While the same page suggests reducing borehole diameter, reducing bench height and reducing the mass of explosives per borehole, these recommendations all fall flat because it is not clear how much each aspect must be reduced to effectively mitigate flyrock or structural damage from vibrations.

104.6. Table 7-2 (EMPr, 129) states that "stockpiled topsoil to be used in rehabilitation for end land use needs to be ameliorated" but does not elaborate on how it can or will be improved.

104.7. Table 7-2 (EMPr, 126) recommends that Tendele implement a grievance procedure when dustfall exceeds allowable limits, but no specifics are given about how this procedure would operate. It also fails to address how communities could determine or prove whether there has been an exceedance without air monitoring expertise. Similarly, Table 7-2 (EMPr, 133) states that Tendele must implement a "grievance

procedure for blasting but gives no insight into how that mechanism should function.

104.8. Table 7-2 (EMPr, 128) states that “the mine must investigate any reasonable and valid noise complaint if registered by a receptor staying within 2000m from the active mining area”. However, it is unclear what “reasonable and valid” means or what will be done after the investigation as a remedy for the complaint.

104.9. Table 5-1 (EMPr, 63) states that there is a need to have speed limits enforced but is unclear who exactly will enforce them and how.

104.10. Table 7-2 (EMPr, 111) states that Tendele should “restrict (the) number of roads on site to prevent compaction by heavy construction equipment” but doesn’t state a maximum number of roads allowed or even a numerical range for which Tendele should aim.

104.11. Table 5-1 (EMPr, 35) states that “where possible labour-intensive construction methods should be promoted” and that Tendele should (EMPr, 59) “explore opportunities to employ as many people from the local communities as possible”.

104.12. Table 5-1 (EMPr, 57) states that Tendele should give “preferred employment status to those experiencing the bulk of the negative project impacts (communities located within and surrounding the Project footprint e.g. Emalahleni Community, Ophondweni, Mahujini, etc.)”. However, it is unclear what preferred employment status means, especially considering Tendele’s union agreement to hire retrenched workers first.

105. Some mitigation measures appear inadequate to ensure that negative impacts will be avoided, alternatively minimised and remedied.

105.1. Table 5-1 (EMPr, 61) recommends that Tendele “conduct (a) crack survey before any blasting commences”. Firstly, it is unclear from merely the name that the crack survey will measure building types and sensitivities as was recommended in the Blasting Report (BIA 2024, 71-72) in addition to existing cracks in houses.

105.1.1. Even if it does, this survey is unlikely to be accurate. Tendele is not a neutral and objective party and thus they have little incentive to conduct an accurate and thorough report. The blasting specialist should have done this survey as part of their report. (BIA, 69-70).

105.1.2. While Table 7-2 (EMPr, 133) recommends conducting “independent structural surveys on a regular basis”, this is not mentioned until the operational stage.

This timeline would be inadequate to protect sensitive mud structures before blasting begins.

105.2. In Table 7-2 (EMPr 135-36) mitigation to ensure soil fertility is limited to annual monitoring. Thus, it is unclear what Tendele should do if their monitoring shows that the soils are losing fertility.

105.3. Table 5-1 (EMPr, 41) states that Tendele should "engage with directly affected farmers and landowners on alternative farming locations". However, it is not clear that there are any alternative farming locations to consider because agricultural land in the area was scarce even before Tendele arrived.

105.4. BSRs should be notified that, while they can feel the vibration level, their houses and other structures are in no danger (very low risk of potential damage). (EMPr, 124). This is not necessarily true if the Mine is operating under the assumption that there are no sensitive structures in the area, which is unlikely according to information from the BIA. (5, 69-70).

106. The timeframe for some recommended actions is too vague to ensure that negative impacts will be avoided, alternatively minimised and remedied.

106.1. The report (EMPr, 111) recommends that 30cm of fertile soil layer be preserved for revegetation during rehabilitation. However, it does not give information about how best it can be preserved or how long it can sit before preservation isn't viable.

106.2. The EMPr (p111) also recommends that Tendele vegetate the side slopes and surface areas where possible to prevent erosion and keep the soils biologically active. However, it is not clear how quickly this must occur for soils to remain biologically active. If the soils become biologically inert, re-vegetation and rehabilitation will be unsuccessful.

107. It is unclear where many plans referenced in the EMPr can be found or what they contain. Some also sound so similar that it is not clear why they have different titles or how they relate to each other.

107.1. These plans include

i. Stormwater management plan (EMPr, 71)
ii. Relocation Action Plan (EMPr, 73)
iii. Mine Plan (EMPr, 72)

iv. Noise Management Plan (EMPr, 75)
v. Noise Mitigation Plan (EMPr, 97)
vi. Noise Control Plan (EMPr, 103)
vii. Blasting and Vibration Monitoring Plan (EMPr, 80)
viii. Blasting Plan (EMPr, 75)
ix. Air quality control procedure (EMPr, 80)
x. Vehicle maintenance plan (EMPr, 93)
xi. Dust Management Program (EMPr, 108)
xii. Dust Management Plan (EMPr, 72)
xiii. Dust Control Management Plan (EMPr, 84)
xiv. Closure Plan (EMPr, 105)
xv. Rehabilitation Plan (EMPr, 106)
xvi. Rehabilitation and Closure Plan (EMPr, 107)
xvii. SLP (Social Labor Plan) (EMPr, 76)
xviii. Procurement Policy (EMPr, 76)
xix. Employment Strategy (EMPr, 76)
xx. Recruitment Policy (EMPr, 76)
xxi. Influx Management Plan (EMPr, 77)

108. The EMPr does not acknowledge that Tendele has indicated that several of its recommendations are financially prohibitive.

108.1. Table 7-2 (EMPr, 120, 126) recommends the surfacing of haulage roads and a 40 km/hr speed limit to reduce dust impacts. However, the AQIA (69) states that "reducing the vehicle speeds is not always feasible as it decreases the overall mine productivity while paving is not economically attractive as many of the haul roads are not permanent".

108.2. The EIA (279) states that "Not all mitigation measures as proposed are seen as feasible:

108.2.1. Mining of 16-hour shifts between 06:00 – 22:00 still to be resolved;

108.2.2. Berms of the height of 10m not practical"

109. It is unclear which table's recommendations Tendele is mandated to follow, which may pose a problem for effective mitigation.

109.1. For example, Table 7-2 (EMPr, 126) recommends a 40 km/hr speed limit for haul road vehicles to reduce dust.

109.2. Table 5-1 (EMPr, 51-52) also recommends introducing a speed limit but doesn't give a specific limit.

109.3. Therefore, whether or not Tendele is required to follow this 40 km/hr limit depends on which table has the final say, which the EMPr as a whole does not make clear.

110. The EMPr references impacts not discussed in the specialist studies.

110.1. Table 6-1 (EMPr, 80) lists one of the desired project outcomes as preventing “noxious fumes from impacting on homesteads and sensitive receptors” using “air quality control procedure”. However, noxious fumes are not mentioned anywhere in the EIA nor in the AQIA. If noxious fumes are not a possible outcome of the project, then this information is extraneous and confusing in the EMPr. If they are, then this represents a serious gap in the report’s study and mitigation information.

110.2. Table 5-1 (EMPr, 34) states that approximately 1600 jobs will be created. However, it is not clear where this information comes from because this number is not mentioned anywhere in the socio-economic study.

111. The EMPr has substantial gaps.

111.1. It is not clear how many of the promised 1600 jobs will be maintained from construction through operation. Table 5-1 (EMPr, 34) references the 1600 jobs with both construction and operation phases put together in this row of the table, unlike how the rest of the impacts in the report are separated by phase. It is also not clear how many of these 1600 jobs will go to people living in the primary area of impact.

111.2. There are no socio-economic mitigation measures for the decommissioning phase of the mine, suggesting that there is not an adequate Just Transition plan. The only measure seems to be training programs, but it is unclear how many people this will help.

111.3. The SEIA recommends that the Mine “regularly track and report the percentage of local residents hired for jobs at the mine compared to non-local hires” (57), but this is not included in the EMPr.

111.4. The SEIA recommends that the Mine “conduct follow-up assessments to evaluate the long-term impact of support services on the well-being and integration of relocated communities” (SEIA, 60). This is not included in the EMPr.

111.5. The SEIA recommends that the Mine “develop and implement community health programs that provide access to healthcare services, health education, and preventive

measures. This includes vaccination campaigns, disease screening, and promotion of healthy lifestyle practices" (SEIA, 66).

111.5.1. However, the EMPr only recommends that the Mine "provide health and vaccination information campaigns to raise baseline health levels" (EMPr, 103).

111.5.2. Information campaigns are not the same as getting access to healthcare services or screening.

111.5.3. Also the community "would like to have a mobile clinic that will examine them quarterly to check if the impact of dust and other diseases" (SEIA, 50). But this is not addressed in the EMPr.

111.6. The SEIA recommends that the Mine "establish a community development fund financed by the mining company, which can be used for infrastructure development, education, healthcare, and other essential services" (SEIA, 71). This is not included anywhere in the EMPr.

111.7. The BIA (79) recommends the provision of water to those affected by dam demolition, the EMPr does not.

111.8. The EMPr does not mention the USMB standards for vibration levels (2.54 mm/s for human receptors, 25 mm/s brick structures etc) that are discussed in the BIA (30).

111.9. The EMPr does not specify times when blasting cannot occur due to meteorological conditions (in the morning, overcast, foggy etc) that can reduce vibration levels. The report assumes blasting will occur in the afternoon, but that EMPr doesn't make that a requirement. (BIA, 73-74).

111.10. The EMPr doesn't contain a distance from BSRs at which mass/charge delay must be controlled as the BIA does on pages 73-74.

112. Table 5-1 (EMPr, 59) states that "the mine is required by law to adhere to the provisions detailed in the Social and Labour Plan" yet that plan has been deemed confidential by Tendele. Therefore, enforcement will be impossible.

CONCLUSION

113. The entire EIA process from the time of Bam J's judgment to date, has been typical of Tendele's dismissive and disrespectful approach to the community. The Scoping and EIA have been done in a way to present a voluminous paper trail of compliance but without any meaningful attempt to right the wrongs of the past or any attempt to meaningfully engage with the people whose lives will change irrevocably now and forever.

114. We and our clients have done everything possible to guide Tendele and the EAPs onto the road that follows legal compliance and ethical public participation. They have fought us every step of the way.

115. Based on our preliminary submissions herein, we recommend that the draft EIA Report, inclusive of specialist reports and EMPr, is revised and subjected to a further round of consultation to address the shortcomings in the report and EIA process, not least of which is the failure to adequately consult.

116. We remind you that we are still waiting for the specialists' responses to our questions and that we will be supplementing our submissions once we receive these.

117. If our recommendation to revise the EIA reports and further consult I&APs is rejected, we hereby request:

    117.1. a copy of the final EIA Report and annexures (electronic copy and hardcopy), including a comprehensive comments and response report within five working days of it being submitted to the Minister; and

    117.2. that the final EIA Report must clearly indicate the changes that have been made to the draft EIA Report (for example, through the use of different coloured text, italics/and or underlining or a schedule that lists the changes and respective sections).

Kindly acknowledge receipt.

Yours faithfully,

Janice Tooley
(Sent by email and therefore not signed)