

MINING AND MINERALS ALERT

IN THIS ISSUE

PROPOSED MORATORIUM WITHDRAWN AND MINISTER FILES ANSWERING AFFIDAVIT IN THE CHAMBER OF MINES' CHALLENGE TO MINING CHARTER III

The Chamber of Mines (Chamber) and the Department of Mineral Resources (DMR) reached an agreement on 4 August 2017 in terms of which the Minister of Mineral Resources (Minister) undertook not to pursue the controversial proposed moratorium gazetted by the Minister on 19 July 2017 (Proposed Moratorium). The Proposed Moratorium was gazetted in terms of s49 of the Mineral and Petroleum Resources Development Act, No 28 of 2002, and sought to restrict the granting of any new applications for prospecting and mining rights, the processing of applications for the renewal of prospecting and mining rights and the granting of any s11 applications to transfer prospecting rights or mining rights or interests therein.

PROPOSED MORATORIUM WITHDRAWN AND MINISTER FILES ANSWERING AFFIDAVIT IN THE CHAMBER OF MINES' CHALLENGE TO MINING CHARTER III

The agreement between the Chamber and the DMR was made an order of court following a media statement issued by the Minister the evening before the Chamber's urgent application to set aside the Minister's Proposed Moratorium, and to interdict him from taking any steps relating thereto, was due to be heard.

The Minister also disregarded an agreement to lodge an answering affidavit to the Chamber's application to suspend the operation of Mining Charter III by 31 July 2017, and only filed it on 7 August 2017.



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The agreement between the Chamber and the DMR was made an order of court following a media statement issued by the Minister the evening before the Chamber's urgent application to set aside the Minister's Proposed Moratorium, and to interdict him from taking any steps relating thereto, was due to be heard. The Chamber's application was postponed indefinitely with the Chamber indicating that it will revive the application if the Minister fails to comply with the agreement.

Whilst the court order is welcomed, the pertinent question is, "what comes next?". Following the Minister's decision to not pursue the Proposed Moratorium, the DMR issued a statement reiterating that it would explore other legal avenues to achieve its objectives. The Minister also disregarded an

agreement to lodge an answering affidavit to the Chamber's application to suspend the operation of Mining Charter III by 31 July 2017, and only filed it on 7 August 2017. The lengthy answering affidavit opposes the relief sought by the Chamber, provides details of various interactions between the DMR and the Chamber in regard to Mining Charter III and seeks to dispel the Chamber's argument of a lack of consultation.

It therefore seems likely that more drama will unfold before the mining industry obtains the much needed certainty on the way forward.

Neo Tshikalange, Ben Cripps, Giada Masina and Allan Reid



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