

Media Statement

DMRE WELCOMES DECLARATORY ORDER AFFORDING INTERESTED AND AFFECTED PERSONS AUTOMATIC ACCESS TO MINING RIGHT APPLICATIONS

Date: 15 September 2020

The Department of Mineral Resources and Energy welcomes the order handed down in the High Court of South Africa, Gauteng Division, Pretoria. The court declared that interested and affected parties as contemplated by the Mineral and Petroleum Resources Development Act 28 of 2002 (“the MPRDA”) are entitled by sections 10(1) and 22(4) of the MPRDA, to be furnished with a copy of an application for a mining right. The court held that access is subject to the right of the applicant and/or the Department to redact financially sensitive aspects of the application.

In 2016, the Department had filed a notice to abide by the decision of the court, as it was in the process of considering amendments to its Access to Information Manual, published in terms of the Promotion of Access to Information Act 2 of 2000 (“PAIA”), to include a list of automatically available information relating to mining rights.


The manual dictates that the records in respect of applications for rights pending or finalized in terms of the MPRDA will be made available voluntarily via the Regional Managers. The records include, among others, the completed application form for rights, Social Labour Plan, Proof of consultation with interested and affected parties, prospecting and mining works programme, and the environmental management programmes.

However, the 5th Respondent, Transworld Energy and Mineral Resources (SA) (Pty) Ltd, who by then furnished the applicant with the requested information, opposed the court application on the basis that the MPRDA does not afford interested and affected parties any right to access to information, but that this was rather a function of (“PAIA”). It further argued that the matter had become academic because the information was already provided.

The declaratory order confirms the long held view of the Department that interested and affected parties may approach the relevant Regional Manager directly to obtain copies of records as listed in the Access to Information Manual, without having to make an application in terms of PAIA. The Department welcomes this ruling which further strengthens and extends the scope and application of the MPRDA to facilitate transparency and a more streamlined and expeditious consultation process.

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Issued by the Department of Mineral Resources and Energy


Enquiries: media@dmr.gov.za / mediadesk@energy.gov.za

Mr Natie Shabangu – natie.shabangu@dmre.gov.za / 073 852 1922

Ms Thandiwe Maimane - thandiwe.mamane@dmre.gov.za / 0836457837

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