



mineral resources & energy

Department:
Mineral Resources and Energy
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

To: All media

Date: 20 October 2023

DMRE WELCOMES CONSTITUTIONAL COURT RULING ON LILY MINE CASE

The Department of Mineral Resources and Energy (DMRE) welcomes the decision of the Constitutional Court handed down on 17 October 2023, dismissing an application by Vantage Goldfields for leave to appeal a Supreme Court ruling concerning the acquisition of the Lily and Barbrook Mines.

This is a major victory for the families of Lily Mine workers and marks the end of protracted litigation which delayed the reopening of the mine.

The litigation concerned a dispute between Arqomanzi and Vantage Goldfields on the acquisition of the Lily and Barbrook Mines in business rescue proceedings. The business rescue practitioners were opposed to the Arqomanzi offer to acquire the mine whilst favouring the acquisition of Vantage Goldfields Limited (Australia) by Macquarie in 2020.

Vantage and the BRPs stated that this transaction did not require consent from the Minister of Mineral Resources and Energy as required under section 11 of the Mineral and Petroleum Resources Development Act (“MPRDA”).

The Minister of Mineral Resources and Energy participated in the litigation and made comprehensive submissions on the contentious acquisition and the requirement of obtaining Ministerial consent to render the mining rights of Makonjwaan Imperial Mining Company (Pty) Ltd and Barbrook Mines (Pty) Ltd operable. Both the Mpumalanga High Court and the Supreme Court of Appeal found the Minister’s submissions and interpretation of objects of the MPRDA plausible and therefore permanently prohibited Vantage Goldfields (Pty) Ltd and the business rescue practitioners from stating that Ministerial consent was not required.

The conclusion of the protracted litigation has now finally brought legal certainty on the application and interpretation of section 11 of the MPRDA. More importantly, it now allows

for the resumption of operations at Lily Mine, which will facilitate the recovery of the loved ones of the families of the miners.

The Department also notes the judgment handed down in the Mbombela Magistrates Court on Thursday 19 October 2023 in an inquest into the Lily Mine disaster. The Department is currently studying the judgment and will respond once it has considered the findings.

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Issued by the Department of Mineral Resources and Energy