

13 December 2024

## **An opportunity to invest for mining growth through sensible legislation**

**Mzila Mthenjane**

**CEO**

**Minerals Council South Africa**

**BusinessDay**

Please click on this link to read this the thought-leadership article on Business Day:  
**[HTTPS://WWW.BUSINESSLIVE.CO.ZA/BD/OPINION/2024-12-13-MZILA-MTHENJANE-AN-OPPORTUNITY-TO-INVEST-FOR-MINING-GROWTH-THROUGH-SENSIBLE-LEGISLATION/](https://www.businesslive.co.za/bd/opinion/2024-12-13-mzila-mthenjane-an-opportunity-to-invest-for-mining-growth-through-sensible-legislation/)**

The review of mining regulations in South Africa by the Department of Mineral Resources and Energy presents a rare opportunity to create a well-considered and shared vision of a thriving mining industry that will benefit South Africa for generations to come.

The Department's review process, which started more than a year ago, provides the chance to press the reset button and unlock the true potential of our mineral wealth for the good of all South Africans. This can be achieved by encouraging investments in exploration, mine development and operating mines with a view to achieving the goal of the government of national unity for inclusive economic growth and job creation.

South Africa is undoubtedly one of the world's richest sources of minerals and metals such as platinum group metals, manganese, chrome, vanadium and gold. Many of these are increasingly needed for the transition to a low-carbon future and new technologies. But the environment to discover and extract them is not conducive for investors to lay out the large sums of capital needed for exploration, which is a high-risk, high-reward element at the start of the mining value chain.

According to Statistics South Africa, measured in real, or inflation-adjusted, terms, expenditure on mineral exploration in South Africa declined by 8.1% per annum between 2015 and 2023. Over the same period, overall real fixed investment by the mining sector increased by a mere

0.7% per annum. Much of the investment that has taken place was to sustain current operations as opposed to building new mines to increase capacity.

The department's review of the Mineral and Petroleum Resources Development Act is the moment to implement a pragmatic revision of the regulations and underlying policies that have stifled prospecting and new mine development because of uncertainty in the regulatory environment and concern about security of tenure.

Ian Cockerill, the former CEO of Gold Fields and a respected veteran of the mining industry, was quoted by Miningmx in November as advising West African governments not to follow South Africa in implementing laws that discourage investment. Cockerill was speaking as the CEO of Endeavour Mining, a London-listed gold miner, which has operations in West Africa.

"We've seen in South Africa for instance, they brought in their new mining code in 2004. Twenty years later, we see what has happened. Effectively there has been an investment strike," Cockerill is reported as saying.

There is a concern in the local mining industry that the department may use the opportunity of splitting out petroleum resources from the Act to revisit mining regulations, introduce damaging clauses that have negative unintended consequences, and, possibly, to address setbacks it suffered in earlier court judgments. This includes the judgement that ruled the Mining Charter is a policy document, with various clauses set aside, and that there are enduring consequences from historic empowerment deals. This means past transactions do not have to be replaced or topped up.

The industry believes it has dealt with the issue of once-empowered, always-empowered through the courts and that it must be clear in any new iteration of the Act.

The industry is operating under the third charter, with each iteration since it was first introduced in 2004 shifting the goal posts and creating uncertainty in the industry about the operating environment.

It is more important than ever that ideological considerations and any intentions to settle old scores are set aside for the greater good of creating a conducive, flourishing, and attractive mining sector for local and international investors. The focus should be to promote inclusive growth, job creation and increased tax generation and foreign exchange earnings for the country.

A thriving mining industry that is growing has upstream and downstream benefits for other industrial sectors, including manufacturing and construction. A growing mining sector will lead to greater demand for machines, equipment and products, and boost the production of more metals and minerals that could supply local manufacturers to add value to our spectacular mineral wealth. Hence, any attempt by the government to force the mining sector to sell mineral and metals exclusively into the domestic market through the imposition of developmental pricing and export taxes or export quotas will not render mining attractive to investors.

As S&P recently noted, mining exploration expenditure around the world declined by 3% to \$12.5 billion in 2024, significantly below \$20 billion in 2012. There is intense competition for exploration budgets from Latin America, Morocco, Angola, the US and Saudi Arabia. Unfavourable mining jurisdictions will struggle to attract spending despite attractive geological potential.

South Africa remains unable to attract the local and foreign investments needed to revitalise large-scale, modern prospecting. The country has been languishing below one percent of global exploration spending for the past four years and it shows little sign of any meaningful growth towards the 5% of two decades ago. Without a pipeline of new mineral deposits, our mining industry has a finite future and one of diminishing importance to the economy and employment. That said, the significant requests for funding unleashed by the R400 million joint IDC/DMRE exploration fund highlights the robust appetite for exploration activity in South Africa. A favourable policy environment could go some way to ensure this demand translates into more exploration activity.

The promised introduction by the department of a modern, transparent mining cadastre in June 2025 to efficiently manage prospecting and mining rights and applications will be an important milestone. Overlapping rights and applications to mine minerals on existing mining tenements is of deep concern to companies, who have to resort to expensive, time-consuming legal channels to protect their operations and their security of tenure.

The pressure on limited staffing capacity within the department to manage dozens of applications a week will be relieved by a cadastre that uses GPS coordinates to efficiently manage current and future mining and prospecting rights and applications, giving the industry security of tenure, a fundamental requirement for investments.

The creation of a “one-stop shop” for prospecting and mining rights, with the alignment of government departments such as Water and Sanitation, Forestry, Fisheries and Environment and Cooperative Governance and Traditional Affairs on how to facilitate the timely, consistent and efficient processing of rights application is equally essential to encourage investment. Where departments do not work together, it takes anywhere from 18 months to two years to secure approvals for a prospecting right and, in some instances, longer to have a mining right approved.

Once a mining right is approved, it must be known that it has been approved by every area of government relevant to making that mine develop, including local government. This is how we will achieve a thriving mining industry that ensures our country and all its citizens benefit from our minerals.

Ends//