

MEDIA STATEMENT

MINERALS COUNCIL NOTES DMR CHARTER 2018

Charter in its current form will not promote investment and growth

Johannesburg, 17 June 2018: The Minerals Council South Africa notes the publication by the Department of Mineral Resources (DMR) of the draft Mining Charter 2018, on Friday, 15 June 2018. Parties have 30 days to respond to the draft.

The Minerals Council recognises that the Mining Charter 2018 is a material improvement on the 2017 Mining Charter. The Minerals Council believes that much more work needs to be done to create a Mining Charter that promotes competitiveness, investment, growth and transformation for the growth and prosperity of South Africa.

The Minerals Council supports a 30% black ownership target on new mining rights, with shares allocated for communities, organised labour and black entrepreneurs.

The Minerals Council does not support some of the elements of the new draft Mining Charter:

- Most importantly, some of the elements of the Mining Charter do not promote competitiveness. Without competitiveness, investment in new exploration and mining will be limited and the current mining sector will continue to decline, to the detriment of all citizens. This is directly contrary to President Ramaphosa's stated intention to attract US\$100 billion in foreign investment into South Africa in the next five years.
- Further, the Mining Charter contains elements that are unconstitutional and contrary to South African Company Law.

The Minerals Council does not support the free carried interest of 5% allocated to each of labour and communities. Given South Africa's mature mining sector, a 10% total free carried interest on new mining rights will materially undermine investment, by pushing up investment hurdle rates and ensuring that many potentially new projects become unviable. Imposition of a free carried interest is a public policy choice, which must be weighed against the critical need to attract investment for growth and employment creation. The Minerals

Council believes that there are other measures to ensure benefits to communities and employees that would not undermine the viability of mining in the future and will continue to engage with the DMR on potential measures. The Minerals Council is pleased to see that the Minister recognises that 'free carry' is indeed not free and has costs associated with it; the Minister has also in his discussion at the media briefing held today acknowledged that 'in kind' participation could be considered.

The **Minerals Council does not support the 1% EBITDA target to communities and labour proposed by DMR**. This was not agreed as a recommendation in the Charter Task Team so is a surprise addition.

The issue of topping up existing right holders BEE ownership to 30% within five years was never agreed as a recommendation in the Charter Task Team, and so this is another surprise inclusion by the DMR. The **Minerals Council does not support this top up**, as it prejudices existing right holders that secured their rights on the basis of the 2004 and 2010 Charters. Despite a High Court declaratory order judgment and an agreement with the DMR, the issue of recognising the continuing consequences of previous BEE deals on existing rights, including for renewals, has not been properly captured in the Mining Charter.

It is the Minerals Council's view that the Mining Charter should involve all stakeholders in growing the competitiveness, investment and transformation in the sector. For mining companies in new rights applications to carry a 10% free-carried interest and an EBITDA based income stream for communities and labour, comes in addition to the industry's Social and Labour Plan requirements, skills development requirements (R7 billion per annum), the existing royalties (R6 billion per annum) and corporate taxes.

The lack of recognition of the need to phase-in or graduate the Charter's requirements for junior and emerging mining companies is disappointing. While the Minerals Council supports transformation of all elements of the exploration and mining value chain, the application of a 30% black ownership target to new Greenfields prospecting rights will result in a continuation of limited exploration, the lifeblood of new projects for the industry.

The Minerals Council will continue to engage the DMR and other stakeholders. It will make a comprehensive submission to the DMR (including at the Mining Summit) on the key issues that need to be changed or resolved in order to achieve competitiveness, growth and transformation.

The Minerals Council urges the DMR and other stakeholders to take on board the significant need to improve the competitiveness of the industry to ensure investment, growth and the transformation of the mining sector. Ultimately, we are all seeking a Mining Charter that all stakeholders can support and defend.

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