

# JUNIOR AND EMERGING MINERS' DESK:

## Mining Charter Workshop

June 2019



**MINERALS COUNCIL**  
SOUTH AFRICA



Orion Minerals

“The new Mining Charter does make specific provisions for junior and emerging miners.”

### JUNIOR AND EMERGING MINERS – THE FUTURE OF MINING IN SOUTH AFRICA

Despite being constrained for a number of years, the junior and emerging mining sector is, arguably, the future of mining in South Africa, contributing significantly to the economy. In 2018 alone, the sector generated R54.4 billion in revenue and spent R55 billion, despite the challenging times faced by the mining industry as a whole. Its potential is far greater.

It is also true that the South African junior and emerging mining sector has not developed at a similar pace to junior sectors in other global jurisdictions such as Canada, Australia and South America.

Says Errol Smart, Chairman of the Minerals Council Junior and Emerging Miners Leadership Forum: “The policy and regulatory environment in South Africa has played a significant role in restricting the growth of our sector. Junior and emerging miners have historically been expected to comply to the same rules and regulations as major mining companies without receiving any incentives or assistance. At the same time, gaining access to venture capital has become increasingly challenging, particularly for new entrants. Around 1,200 junior mining companies are listed on the Canadian Stock Exchange and 700 are listed on the Australian Stock Exchange. Only 10 junior mining companies are listed on the Johannesburg Stock Exchange.”

The inclusion of junior-specific provisions contained in Mining Charter III, following an extensive lobbying process by the Minerals Council to obtain concessions for its smaller members, is a welcome first step in addressing the challenges faced by the junior sector.

### ABOUT THE JUNIOR AND EMERGING MINERS' DESK

The purpose of the Junior and Emerging Miners' Desk is to provide advice and support, and to act as a resource centre for smaller Minerals Council South Africa (Minerals Council) member companies. While the Minerals Council, at policy level, presents a consolidated position on key policy areas, it is sensitive to the needs of its smaller members who often lack the capacity and resources to implement policy and legislation.



## JUNIOR AND EMERGING MINERS' DESK HOSTS BREAKFAST SEMINAR ON MINING CHARTER III

The Minerals Council's Junior and Emerging Miners' Desk, established to provide advice and support, and to act as a resource centre for smaller Minerals Council member companies, hosted a breakfast seminar on the Mining Charter on 10 May 2019. The seminar was open to all junior and emerging mining companies irrespective of whether they were members of the Minerals Council.

Says Grant Mitchell, who heads up the Junior and Emerging Miners' Desk: "This was an excellent opportunity for attendees – ranging from junior mining companies, law firms, NGOs to academics – to interact and ask questions. Our speakers included the senior executives who were closely involved in the Mining Charter discussions with the Department of Mineral Resources (DMR) such as Tebello Chabana, Senior Executive: Public Affairs and Transformation at the Minerals Council. Attendees received detailed information from the proverbial horse's mouth."

Other speakers included Errol Smart, CEO of Orion Minerals and Chairman of the Junior and Emerging Miners Leadership Forum; Godfrey Mocwane, CEO of New Venture Mining; and Fundiswa Ndaba, Senior Policy Analyst: Transformation at the Minerals Council.

## WHAT DOES THE JUNIOR AND EMERGING MINERS' DESK DO?

The Junior and Emerging Miners' Desk hopes to be a voice for the developing mining sector of South Africa. Its key role is in supporting junior and emerging mining through policy lobbying, providing advice, linking junior and emerging miners to networks, providing mentorship and disseminating relevant policy information. The Junior and Emerging Miners' Desk also supports contracting companies and two mining associations representing over 200 smaller companies. To provide strategic leadership, the inaugural Junior and Emerging Miners' Leadership Forum convened in March 2018. Membership is limited to chief executive officers with an allowance for the appointment of alternates. A chairperson and an alternate of the Junior and Emerging Miners' Leadership Forum are also members of the Minerals Council Board.

## WHAT THE JUNIOR AND EMERGING MINERS' DESK OFFERS

- 01  Breakfast seminars
- 02  Mentorship group
- 03  Research
- 04  Committee work
- 05  Lobbying and recruitment
- 06  Media
- 07  Policy lobbying

## Minerals Council application for review of certain aspects of the new Mining Charter

In his opening address, Tebello Chabana outlined the Minerals Council's position in respect of its application to review certain aspects of the Mining Charter. "As an industry, we accept that the Mining Charter is a central tool for continuing transformation in the industry. It is a policy objective we fully support. However, there are a number of provisions contained in the third version of the Mining Charter that we don't agree with. The main issues relate to the new charter's failure to recognise the continuing consequences of previous transactions in respect of renewals and transfers of rights. This is a critical issue because investors, who have long accepted the reasonable 26% (and now accept the 30%) measure of BEE ownership transformation, would be alienated by a requirement to repeatedly facilitate the full share ownership transactions for the same asset, especially since no such requirements existed when the rights were initially granted.

"The other key issue relates to the procurement of local content targets. In our view, these are not based on rigorous research of what is practically possible. The motor vehicle industry is an example of where a 60% local content requirement is currently in the process of being implemented. The Motor Industry Development Programme (MIDP) now the Automotive Production

and Development Programme (APDP) was implemented in 1995 and provides the motor vehicle industry with a realistic time period of 40 years to reach the local content target of 60%. In addition, the APDP is supported by an extensive incentive programme for the duration of this period. The new Mining Charter, however, requires that the mining industry reaches the same local content target within five years, without any special incentives and with more stringent BEE requirements.

"The decision to take the Mining Charter on review was made only after extensive engagements during the 180-day period provided for in terms of the Promotion of Administrative Justice Act (PAJA). Despite being constrained by the 180-day period, which meant we had to file our papers on 26 March, we remain hopeful that the concerns we have raised can be resolved through engagement."



Senior Executive: Public Affairs and Transformation, Tebello Chabana, outlines the Minerals Council's position in respect of Mining Charter III

## Junior-specific provisions contained in Mining Charter III

The new Mining Charter does make specific provisions for junior and emerging miners. These include exemptions relating to ownership and employment equity. Junior mining companies are allowed to structure the 30% ownership components themselves and are therefore not required to adhere to the structure of 20% effective ownership, and 5% each for employees and communities.

In terms of employment equity, junior and emerging mining companies often have a staff complement of fewer than 10 people. The exemptions allow junior companies to design their employment equity targets based on their company structures.

Additionally, exploration companies are exempt from ownership requirements until these companies have started to develop a proven resource.

Tebello Chabana welcomed the inclusion of the junior-specific provisions contained in Mining Charter III and noted that: “The current leadership of the DMR understands that the junior and emerging mining sector has special needs. This recognition is found in the new Mining Charter, although these provisions that reduce obligations do fall short of what we would have preferred.”

However, a key sticking point relates to the definition of who and what junior and emerging miners are. The DMR defines junior and emerging mining companies as companies with a R150 million yearly turnover while the Minerals Council incorporates a spectrum of emerging miners including family-run artisanal miners to sophisticated operations with an annual turnover of R500 million. The DMR’s definition only benefits the smallest companies, binding the vast majority of junior mining companies to stipulations that they may not be able to meet.

### Other topics of discussion

Godfrey Mocwane, CEO of New Venture Mining, a fully South African funded company and member of the Minerals Council, noted that: “Since it first came into effect in 2004, the Mining Charter has contributed significantly towards opening up the market to a much bigger constituency. As a member of a constituency that was previously excluded from actively participating in the South African economy and indeed, the mining sector, I stand here today as the CEO of a 100% black-owned and managed company. The junior-specific provisions contained in Mining Charter III is a big step in the right direction. However, some of the requirements – particularly those related to the 60% local procurement targets – are near impossible for junior and emerging mining companies to meet.”

Errol Smart, CEO of Orion Minerals, a JSE-listed company, echoed these sentiments: “As is the case for the rest of the mining industry, transformation is a business imperative for the junior and emerging mining sector. However, unrealistic targets will not encourage new junior players to enter the space and it will not create more jobs in the mining sector or among its suppliers. Meaningful transformation requires realistic and achievable targets. The junior and emerging mining sector must be supported and nourished to unlock its full potential.”



“The junior and emerging mining sector must be supported and nourished to unlock its full potential.”



■ Errol Smart, CEO of Orion Minerals and Chairman of the Junior and Emerging Miners Leadership Forum with panellists Godfrey Mocwane, Fundiswa Ndaba, Alex Khumalo and Grant Mitchell

## Other key topics of discussion

In her presentation, Fundiswa Ndaba, Senior Policy Analyst: Transformation at the Minerals Council, outlined the key elements of the new Mining Charter and those applicable to junior and emerging miners with a detailed overview of the ownership and procurement elements as they apply to junior and emerging miners. She also provided a summary of those provisions contained in the Mining Charter that advance or hamper competitiveness, growth and transformation.

## PROVISIONS IN THE MINING CHARTER 2018 THAT ARE ADVANCING COMPETITIVENESS, GROWTH AND TRANSFORMATION



*30% BEE ownership on new rights.*

*Partial recognition of continuing consequences of historical transactions – on existing rights.*

*Carried interest on new rights.*

*Removal of the 1% of EBITDA trickle dividend.*



*Less onerous new provisions for junior miners.*

*Removal of Charter requirements on new prospecting rights.*



*Continuing advancement of employment equity targets.*

*Withdrawal of diversion to R&D of 30% of training spend.*



*Promotion of local and BEE manufacturing.*

*Removal of 0.5% levy on foreign suppliers.*



## FEEDBACK FROM ATTENDEES

### How useful was the workshop?

“Panel were experts and have experience in the implementation of the Charter.”

“Unpacked the Charter elements – removed ambiguities particularly for the junior sector.”

### How would you rate the presentations?

“Very informative.”

“The CEOs were great with their practical examples and a nice balance of companies.”

### Were the themes relevant?

“Thank you. More interactions in the future will promote understanding and progress to a workable solution.”

“I now have a much clearer understanding of the salient issues. Thank you.”



Ledjadja Coal

## CONTACT DETAILS

### MINERALS COUNCIL SOUTH AFRICA

T +27 11 498 7100  
E [info@mineralscouncil.org.za](mailto:info@mineralscouncil.org.za)

### MEDIA

T +27 11 880 3924  
E [mineralscouncil@rasc.co.za](mailto:mineralscouncil@rasc.co.za)

[@Mine\\_RSA](https://twitter.com/Mine_RSA)

[www.facebook.com/Mine](https://www.facebook.com/Mine)

5 Hollard Street, Johannesburg 2001  
PO Box 61809, Marshalltown 2107

[www.mineralscouncil.org.za](http://www.mineralscouncil.org.za)