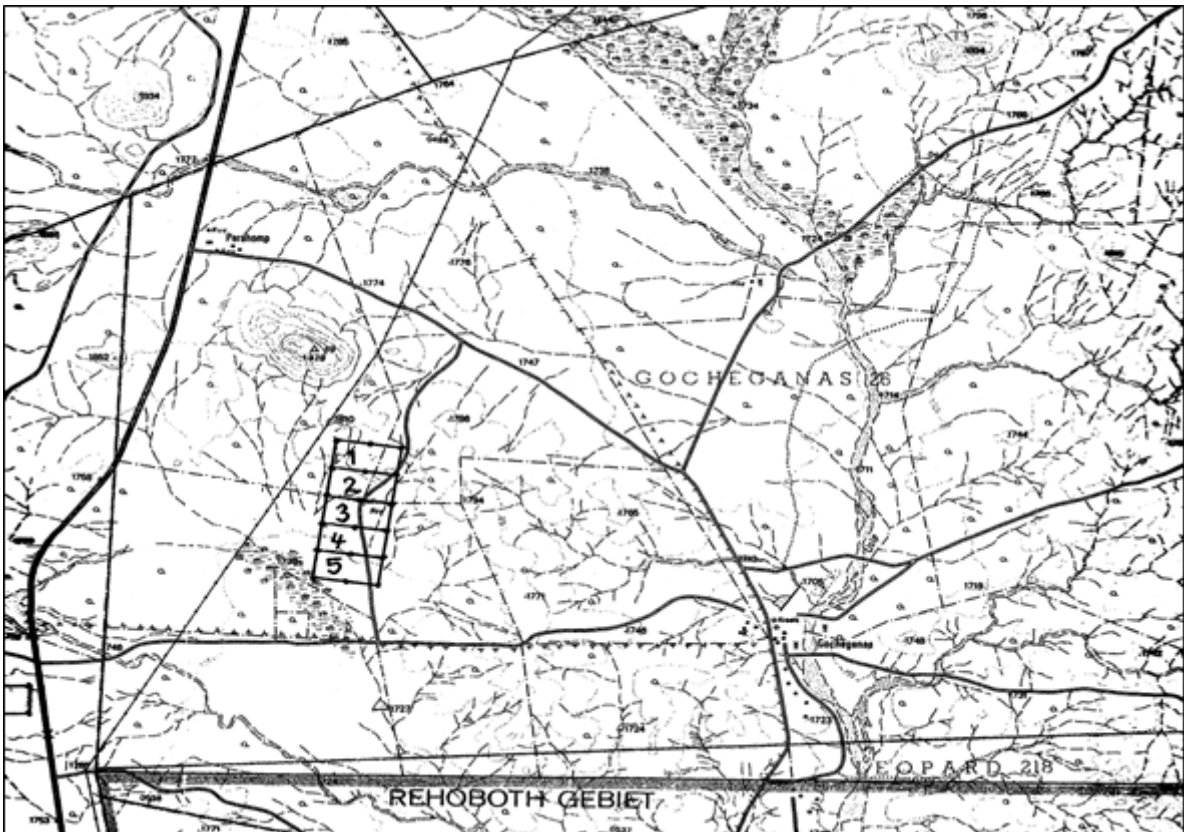


**IMPLEMENTATION OF AND COMPLIANCE WITH THE ENVIRONMENTAL  
MANAGEMENT PLAN FOR QUARRYING AND RELATED ACTIVITIES BY  
PERALIN (PTY) LTD ON CLAIM NUMBERS 68113 TO 68117, REMAINDER OF  
FARM GOCHEGANAS NO. 26, KHOMAS REGION, NAMIBIA**



08 August 2017

Prepared by:



Prepared for:



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## ACRONYMS AND GLOSSARY

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The following is a list of the abbreviations, acronyms, technical terms, and definitions used in this Report:

AIDS	Acquired Immunodeficiency Syndrome
CoM	The Chamber of Mines (of Namibia)
DWA	Department of Water Affairs
EAP	Environmental Assessment Practitioner
EAPAN	Environmental Assessment Professionals of Namibia
ECC	Environmental Clearance Certificate
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
HIV	Human Immunodeficiency Virus
I&APs	Interested and Affected Parties
IEMA	Institute of Environmental Management and Assessment
IFC	International Finance Corporation
MAWF	Ministry of Agriculture, Water and Forestry
MET	Ministry of Environment and Tourism
MME	Ministry of Mines and Energy
MSDS	Material Safety Data Sheet
NBRI	National Botanical Research Institute
PDAC	Prospectors and Developers Association of Canada
PM	Particulate Matter
PPE	Personal Protective Equipment
PPP	Public Participation Process
PS	Permanent Secretary
SA	South Africa
SAIE-ES	Southern African Institute of Ecologists and Environmental Scientists
STIs	Sexually Transmitted Infections
UK	United Kingdom
VOC	Volatile Organic Compound(s)
ha	hectare
km	kilometre
km/h	kilometre per hour
l	litre
m	metre



# 1 Introduction

## 1.1 Background

The Rattay and Pesch Families commenced with the manufacturing of paint from the backyard of the Aris Hotel in 1962. In 1966, the Peralin Paints Factory was moved to Part 4 on Farm Goheganas No. 26 (see Figure 1), Khomas Region, Namibia and by 1980, Peralin Paints was solely owned by the Rattay family. In 1998, the company was split into Peralin Paints (Pty) Ltd and Peralin (Pty) Ltd.

Peralin (Pty) Ltd is conducting small-scale quarrying (industrial minerals), and has been since the 1960s, at a quarry located on the Remainder of Farm Goheganas No. 26, Khomas Region, Namibia (see Figure 1). Peralin Paints (Pty) Ltd relies on the Peralin Quarry for material to produce their water-based product range.

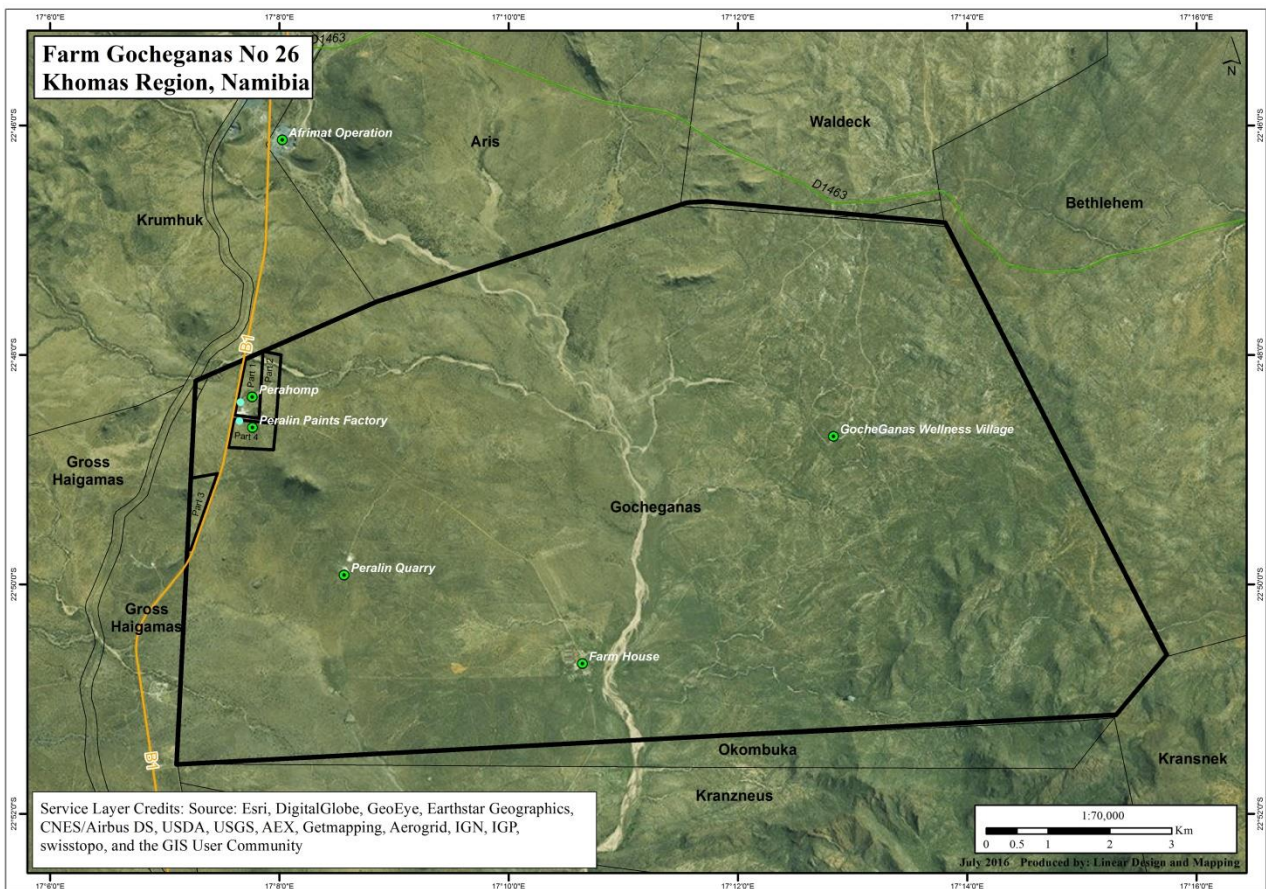


Figure 1: Map showing the location of the Peralin Paints Factory and Peralin Quarry, Farm Goheganas No. 26, Khomas Region, Namibia (Source: Linear Design & Mapping, July 2016).

Peralin (Pty) Ltd is the holder of eight (8) mining claims. Claims one to five 1-5 (ordinal no.'s) or 68113-68117 (registered no.'s) (each 300 × 600 metres (m) in size) is located on the Remainder of Farm Goheganas No. 26 (see Figure 2; claim 6 was not renewed). The small-scale quarrying is taking place at one quarry located on claim numbers 1 (68113) and 2 (68114). Access to the existing quarry can be attained via the P1507 gravel road that turns off the B1 Main Road between Windhoek and Rehoboth.

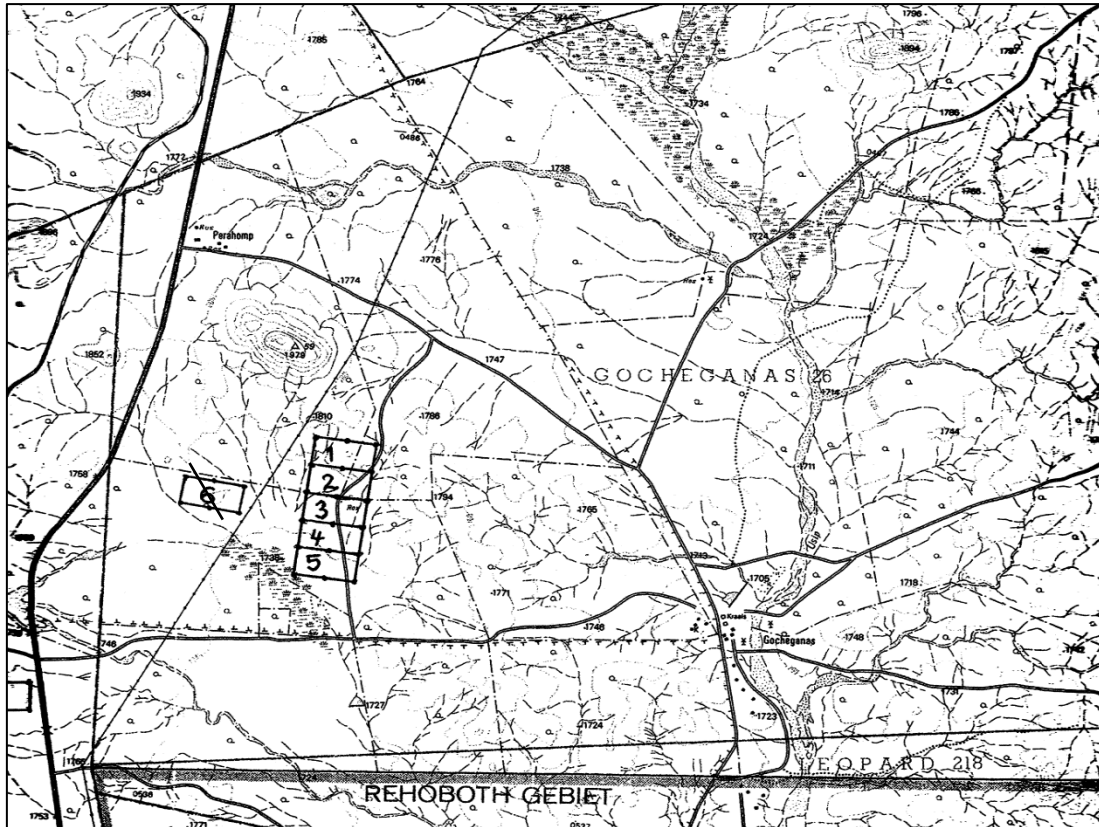


Figure 2: Map showing the location of five of Peralin (Pty) Ltd's eight mining claims (claim 6 was not renewed); the existing quarry is located on claim numbers 1 (68113) and 2 (68114).

On 25 July 1998, Peralin (Pty) Ltd entered into a Pro-Forma Environmental Contract with the Ministries of Environment and Tourism (MET) and Mines and Energy (MME). Environmental Clearance for mining claims 68113 to 68121 was granted by MET to Peralin (Pty) Ltd on 03 October 2008.

The Office of the Environmental Commissioner, in a letter dated 03 July 2013, requested Peralin (Pty) Ltd to prepare and submit an Environmental Scoping and Environmental Management Plan (EMP) Report to the MET. An application for an Environmental Clearance Certificate (ECC) was submitted to the Office of the Environmental Commissioner on 21 August 2013; on 25 October 2013, an *Environmental Scoping and Management Plan for Quarrying and Related Activities by Peralin (Pty) Ltd on Claim Numbers 1 (68113) to 6 (68118), Remainder of Farm Goheganas No. 26, Khomas Region, Namibia*, was submitted to the Office of the Environmental Commissioner. An ECC was issued by the Office of the Environmental Commissioner to Peralin (Pty) Ltd on 01 June 2014 (see Annexure A) (Peralin Paints (Pty) Ltd obtained an ECC from the Office of the Environmental Commissioner on 09 September 2016; the ECC is valid for a period of three years, that is until 08 September 2019).

No period of validity was indicated on the ECC for Peralin (Pty) Ltd. Ms Saima Angula indicated (telephonically to Dr Maartens, LM Environmental Consulting, on 28 July 2017) that an Application for the Renewal of the ECC, together with a report illustrating the implementation of and compliance with the EMP, need to be submitted to the Office of the Environmental Commissioner.

## 1.2 Terms of Reference

In July 2017, LM Environmental Consulting was appointed by Peralin (Pty) Ltd to prepare a report illustrating the implementation of and compliance with the EMP and a site visit was undertaken on 28 July 2017.

### 1.3 Environmental Assessment Practitioner

The author of this report is Dr Lima Maartens who has more than 24 years' experience in natural resource management (she gained her doctorate in Fisheries Science from Rhodes University, South Africa (SA) in 2000 while working for the Namibian Ministry of Fisheries and Marine Resources), lecturing (University of Namibia), environmental science and management (De Beers Marine Namibia and the Canadian Forsys Metals Corp), and consulting. Dr Maartens is registered as a lead practitioner with the Environmental Assessment Professionals of Namibia (EAPAN) (she also serves on the Executive Committee), an associate member of the Namibian Chamber of Mines (CoM), a member of the Southern African Institute of Ecologists and Environmental Scientists (SAIE-ES), and a registered associate environmental auditor with the Institute of Environmental Management and Assessment (IEMA) in the United Kingdom (UK). LM Environmental Consulting was established by Dr Maartens in October 2009.

## 2 Environmental Management Plan: Implementation and Compliance

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### 2.1 Introduction

The following two issues/concerns should be noted: i) the proposed development of the Leopard Valley Smallholdings on the Remainder of Farm Gocheganas No. 26 and the Remainder of Farm Leopard No. 218; and ii) the absence of a new surface rights agreement.

Relevant sections are highlighted in green:

#### 2.1.1 Proposed Leopard Valley Smallholdings Development

Namibia Estate Enterprises (Pty) Ltd (Mr U.M. Stritter), *Trading As* GocheGanas Nature Reserve and Wellness Village, is the owner of: Portion 7 of the Farm Gocheganas No. 26 (on which the GocheGanas Lodge is situated; see Figure 1); Portion 1 of the Farm Leopard No. 218; and the Remainder of Portion 1 of the Farm Waldeck No. 28. Japonica Investments Nineteen (Pty) Ltd (Mr U.M. Stritter) owns the Remainder of Farm Gocheganas No. 26 and the Remainder of Farm Leopard No. 218.

Faul et al. (2016a) noted: *"It is the intention of Japonica Investments Nineteen to subdivide the two farms into 75 plots that are to be sold and developed as smallholdings. Land use of the smallholdings will remain the same and no rezoning will be performed. As part of the proposed project, services in the form of water supply, road access and waste removal will be provided for each smallholding. Japonica Investments Nineteen has requested Geo Pollution Technologies (Pty) Ltd. to undertake an Environmental Impact Assessment (EIA) for these services provision activities."*

Koep & Partners, the Law Firm acting on behalf of Peralin (Pty) Ltd, submitted a letter to the Permanent Secretary (PS), Ministry of Environment and Tourism on 14 November 2016; a response was received from the Office of the Environmental Commissioner on 19 December 2016, and from Engling, Stritter and Partners on 29 December 2016 (see Annexure B).

Engling, Stritter and Partners (29 December 2016) make reference to a Phase 1-Development (subdivision of 9 smallholdings adjacent to the B1 road; approved) and a Phase 2-Development (subdivision of an area approximately 950 ha in size to create 49 smallholdings and situated on the eastern side of the B1 road, north-east of the new Omeya Township) and attach a Lay-Out-Plan (Annexure "A" to the letter).

It is further stated that *"The mining claims referred to in the Koep-Letter are not situated within the Phase 1 & 2-Developments, and are located about 700 to 900 metres from the Phase 2-smallholdings. The mining claims are therefore not affected by the Leopard-Valley-Smallholdings-Development"*.

The Lay-Out-Plan (Annexure "A" to the letter from Engling, Stritter and Partners, 29 December 2016) is similar to that received from Mr H. Stritter in 2013 (see Figure 3 and Maartens, 2013). The exact location of the Phases 1 and 2 Developments is not clear; [please note the location of the Peralin Quarry](#).

The PS, MME, in a letter dated 08 May 2015 indicated *"...believe that the rights of the holders will not be affected by the planned subdivision of the farm"* and *"...we recommend that you obtain assurances from the holders that their rights will not be negatively affected"* (see Annexure B: letter from Engling, Stritter and Partners, 29 December 2016).

Mr Mark U. Rattay, in letter dated 11 September 2011, confirmed *"...that Peralin does not intend to renew mining claim no. 68118 when it becomes due in October 2015; and has no objection to the Leopard Valley Development by Japonica Investment Nineteen (Pty) Ltd on the Remaining Extension of the farm Gocheganas No. 26..."* (see Annexure B: letter from Engling, Stritter and Partners, 29 December 2016) (claim 6 (ordinal no.) is claim 68118 (registered no.); see Figure 2).



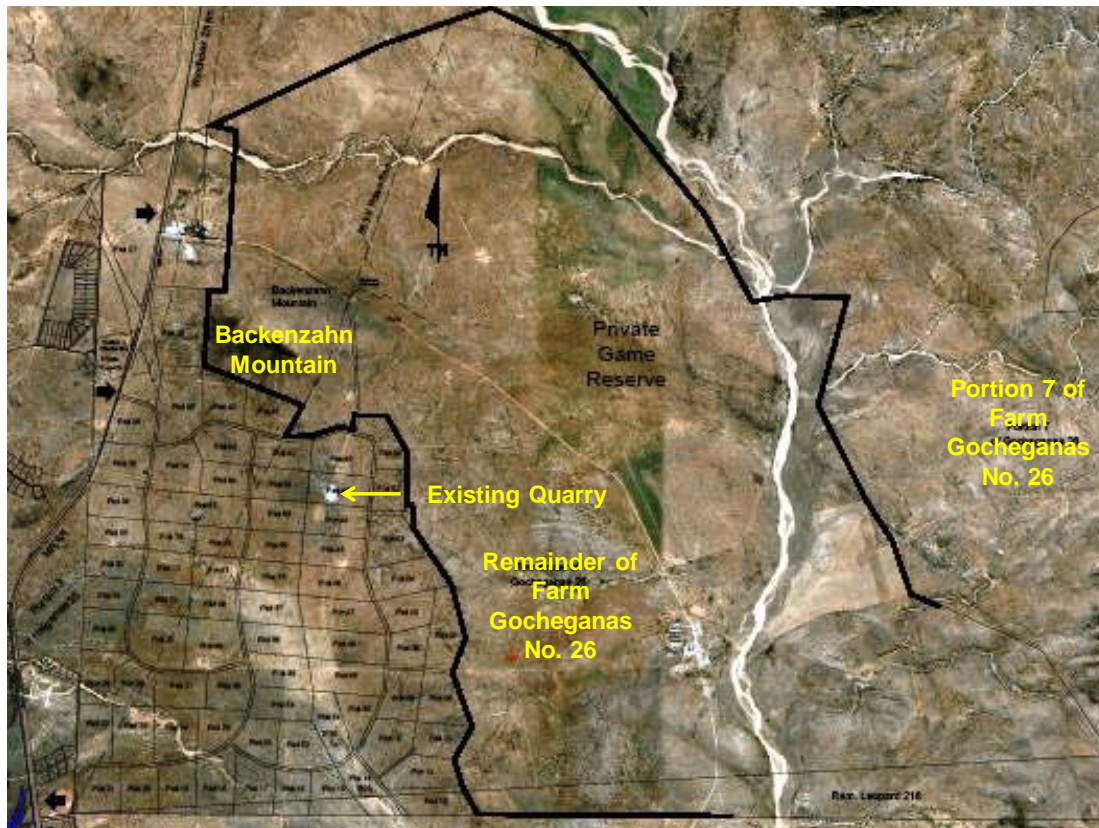


Figure 3: Image showing the layout of the 75 proposed plots (note the location of the Peralin Quarry) (Source: H. Stritter, 2013).

During the Public Participation Process (PPP) (see Maartens, 2013), Mr U.M. Stritter indicated the following:

**“Current Plot Development**

*On the 11<sup>th</sup> of July 2013, Ministerial approval was granted for the subdivision of the Remainder of Farm Gocheganas No. 26 (4967.8964Ha) into 10 Portions ranging in size from 13 to 30 hectare (smallholdings), and the Remainder of Farm Gocheganas No. 26 (of approximately 4792 hectare). ...*

*A number of problems are possible in future with respect to the settlement of the smallholdings. They are as follows:*

- Five of the six claims 68113 to 68117 lie at about 1000 metres from the smallholdings; expansion of operations may prove intrusive to the lifestyles of residents and destructive of the natural vegetation that makes the area attractive for settlement. ....*
- Blasting must be controlled and limited to certain hours acceptable to the Farm owners and the future residents of the smallholdings. Uncontrolled blasting will be noisome and dangerous for residents.*
- Access to the quarrying must be on a route acceptable to the Farm owners and away from the smallholdings. ....*

**Future Plot Development**

*Plans have already been drawn up for a larger subdivision creating 65 more smallholdings similar in size to those already created. The proposals cover all the area to the west of the ridge that splits the Farm from north to south, and south of the Backenzahn Mountain. This includes the are occupied by the mining claims. ....*

*It is inconceivable that expansion of mining of non-strategic materials can be allowed to threaten necessary urban development. Claims such as 68119 and 69118 should be immediately extinguished.*

Other non-exploited claims on the Remainder of the Farm Gocheganas No. 26 should not be extended. Only the two exploited claims presently occupied should at best be granted a further two year non-renewable extension. The two years would run simultaneous with the planning and approval process for creating the additional 65 smallholdings in the area. It should obviously end once the process of settlement proceeds” (Letter from Japonica Investments Nineteen (Pty) Ltd addressed to Dr Maartens, 10 September 2013; see Annexure B).

#### **“5. Alternative Land Development Program**

5.2 It is the intention of Japonica to use the western side of the Farm for the agricultural smallholdings and establishment of a township and included therein are several erven whose boundaries would be situated less than 300 meters from the Mining Claim areas. Japonica is not prepared to give its unconditional consent for the exercise of rights by Peralin under its Mining Claims by reason of Japonica intending to proceed with a property development in respect of the area that is transversed partly by the Mining Claims which development would be prejudiced by the existence of the Mining Claims.

5.5 A layout had been drafted for a further 65 plots which will comprise subsequent phases. The Mining Claims would fall within such area. ...From the side of the Farm owner, an agreement is possible for the continuation of the exploitation of two claims already subject to mining operations, for one additional period of 2 years while approvals are sought and infrastructure is put in place for the subdivision of the development area into agricultural plots with township establishment, and subject to any operations under such claims not prejudicing the obtaining of any approvals of any nature in respect of the property development project referred to herein, and on terms and conditions that are acceptable to Japonica.

#### **7 Land Owners Agreement:**

7.1 ... Section 52(1)(a) provides that the **holder of the mining claim is not allowed to exercise any rights conferred upon such holder under the claim and the Minerals Act on private land until the holder has either entered into an agreement in writing with the owner of such land containing terms and conditions relating to the payment of compensation, or has been granted an ancillary right to exercise such rights by the Minerals Ancillary Rights Commission.**

7.3 It is pointed out that no such agreement as aforesaid has been entered into, and that Peralin has been, and continues to conduct mining operations in excess of 5 (five) years with no such agreement in place. It is so that Peralin had approached us to make a suggestion in respect of an agreement concerning payment of compensation and access.

This is not proper as it is the mining claim holder who would have to make a proposal as to the terms and conditions of such a contract. Japonica can for instance not be expected to guess where exactly Peralin intends exercising any of its rights and in what manner (including activities such a blasting and erecting structures). In light of the grounds of objections set out herein, Japonica is in any event not prepared to enter into such a contract, except for and to the extent of the two claims already subject to mining operations referred to in, and in accordance with paragraph 5.5 above.

7.4 Japonica is not prepared to give its consent for the exercise of rights by Peralin under its Mining Claims by reason of Japonica’s above-mentioned property development in respect of the area that is transversed partly by the Mining Claims which development would be prejudiced by the existence of the Mining Claims” (Letter from Japonica Investments Nineteen (Pty) Ltd addressed to the Mining Commissioner, MME, 10 September 2013; see Annexure B).

Koep & Partners, in a letter to the Mining Commissioner, MME and dated 07 October 2013 indicated “It should be kept in mind that the Mining Claims in question have been in existence since 1969. The Mining Claims were thus in existence prior to the existing boundaries and any existing township plans or proposed developments on the Farm or within the areas of the existing Mining Claims” (see Maartens, 2013).

It should also be noted that Peralin (Pty) Ltd currently employs 26 permanent staff (some staff has worked for Peralin (Pty) Ltd for over 30 years), and that around N\$121,605 is paid in Royalties to the MME on an annual basis (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).

Japonica Investments Nineteen (Pty) Ltd received an ECC (Services Provision to the Leopard Valley Smallholdings) from the Office of the Environmental Commissioner on 06 June 2017. The ECC is valid for a

period of three years; *an annual report of the state of underground water must be submitted to the Ministry and the City of Windhoek.*

To date, Peralin (Pty) Ltd has not been able to obtain a layout plan indicating the location of each of the three Phases of Mr U.M. Stritter's proposed Development; Annexure "A", attached to the letter from Engling, Stritter and Partners to the Ministry of Environment and Tourism (29 December 2016) shows the layout of all the proposed plots) (also see Figure 3; note the location of the Peralin Quarry).

### 2.1.2 Lack of a Final Surface Use Agreement

Maartens (2013) recommended that: "*Finally, it is advised that a final agreement (a draft agreement is in place), beneficial to both parties, be reached between Peralin (Pty) Ltd and Namibia Estate Enterprises (Pty) Ltd / Japonica Investments Nineteen (Pty) Ltd as a matter of urgency.*"

On 07 October 2013 Koep & Partners sent a proposed surface agreement to Mr U.M. Stritter on behalf of Peralin (Pty) Ltd ("*in an effort to conclude an agreement regarding the surface use on Farm Rem Gocheganas 26 ("The Farm") and the mining claims with Registered Numbers 68113 - 68118 ("The Mining Claims"). Peralin is prepared to enter into and finalize an agreement within 10 days of the date hereof*").


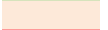

It should be noted that attempts of negotiating a new Surface Use Agreement has been ongoing since 2010.

Mr U.M. Stritter has made it clear (see Section 2.1.1) that: *Japonica is in any event not prepared to enter into such a contract, except for and to the extent of the two claims already subject to mining operations referred to in, and in accordance with paragraph 5.5 above. and 7.4 Japonica is not prepared to give its consent for the exercise of rights by Peralin under its Mining Claims by reason of Japonica's above-mentioned property development in respect of the area that is transversed partly by the Mining Claims which development would be prejudiced by the existence of the Mining Claims*".

Peralin (Pty) Ltd, with the assistance of Koep & Partners, has since applied (11 August 2017) to the Ancillary Rights Commission for assistance in resolving some of the issues that currently exist between Peralin (Pty) Ltd and Mr U.M. Stritter. Dispute in respect of the following points is anticipated: i) Mr U.M. Stritter disputing the validity of the Claims and the right of Peralin to carry out mining activities on the Farm; ii) Mr U.M. Stritter and Peralin (Pty) Ltd disagreeing with respect to the compensation payable; and iii) Mr U.M. Stritter alluding to claims for damage to the environment and inconvenience and/or prejudice suffered as a result of the mining activities carried out at the Farm and the transportation of material from the Farm.

## 2.2 Compliance: Environmental Management Plan

In order to illustrate compliance with the EMP (see Table 1), the following colour codes were applied:

	Compliance/Completed
	In Progress/Ongoing
	Non-compliance

The EMP (see Maartens, 2013; also see International Finance Corporation (IFC), 2007a; b; and Prospectors and Developers Association of Canada (PDAC), 2009) is not a static document and the document should be updated as Peralin (Pty) Ltd activities progresses.

Table 1: Implementation of and compliance with the Environmental Management Plan for the Operational and Rehabilitation Phases of Peralin's Quarry, Mining and Processing Activities, Remainder of Farm Goheganas No. 26, Khomas Region, Namibia.

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
<b>Social and Environmental Performance</b>			
Management and Monitoring	Social and Environmental Performance	Adhere to all Namibian Legislation, including Best Practice Guidelines. Ensure that all aspects related to the Environmental Management Plan (EMP) are implemented during the operational and rehabilitation phases.	Ongoing
Consultation and Disclosure	Social and Environmental Performance	Maintain open and direct lines of communication with Interested and Affected Parties (I&APs) with regards to environmental matters. Consult with I&APs throughout the project process and adequately incorporate I&APs' concerns.	Ongoing; see Section 2.1.2
Grievance Mechanism	Social and Environmental Performance	Implement a grievance mechanism for receiving and resolving any concerns and grievances related to the project's social and environmental performance throughout the project life cycle. Inform all I&APs about the mechanism. Address concerns promptly and transparently and in a culturally appropriate manner.	Ongoing; see Section 2.1.2  All grievances are handled by Koep & Partners, on behalf of Peralin (Pty) Ltd.
		Keep a register of all concerns/issues received from I&APs, as well as the measures taken to address these.	Ongoing and handled by Koep & Partners, on behalf of Peralin (Pty) Ltd.  For example, Mr U.M Stitter, when he recently had "issues", locked the access gate (e.g. on 20 July 2016 and 29 March 2017) and Peralin (Pty) Ltd's employees could not enter the Farm to commence work. Peralin (Pty) Ltd called Koep & Partners that took up the matter with Mr U.M Stitter, after which he then unlocked the access gate.
Training, including awareness and inductions	Social and Environmental Performance	Train employees (and contractors) in matters related to the project's social and environmental performance and Namibia's regulatory requirements. Ensure adequate environmental awareness training for all senior site personnel. Give environmental induction presentations to all site personnel prior to work commencement (note that rehabilitation issues need to be addressed, i.e. the need to avoid damage as far as possible and from the start).	Ongoing  It is advised that a "Do's and Don'ts List" be prepared for distribution to / discussion with all employees.
Labour and Working Conditions	Social and Environmental Performance	Establish, maintain and improve the worker-management relationship. Base the employment relationship on equal opportunity and fair treatment and no discrimination to be allowed. Comply with Namibia's labour and employment laws.	Ongoing  The Managing Director, Peralin Paints, attended an Occupational Health and



Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
		<p>Promote safe and healthy working conditions and the protection and promotion of worker health.</p> <p>Document and communicate the Working Conditions and Terms of Employment.</p> <p>Respect Collective Agreements and the right of workers to organize and bargain collectively.</p> <p>Implement a Grievance Mechanism.</p>	<p>Safety Conference in Namibia from 18 to 19 July 2017 and is in the process of contracting a company to assist Peralin Paints (Pty) Ltd, as well as Peralin (Pty) Ltd, with occupational health (including HIV/AIDS) and safety-related issues. The following is ongoing, or in process: i) environmental awareness training for all personnel; and ii) two people have undergone First Aid Training (Peralin Paints Factory and Quarry) and attend a refresher course on an annual basis.</p>
Employment and procurement opportunities	Social and Environmental Performance	<p>Consider utilising local labour for unskilled work and to then provide training to workers in order to perform semi-skilled work; this should be done under the supervision of managers/specialists to ensure maximum local beneficiation.</p> <p>Source maximally from local resources to ensure maximum economic beneficiation of local businesses in terms of new business sales.</p>	<p>Ongoing</p> <p>Peralin (Pty) Ltd currently employs 26 permanent staff of which all but one (1) are Namibian Citizens.</p>
Occupational Health and Safety	Social and Environmental Performance	<p>Adhere to all Namibia's Health and Safety Regulations (Labour Act, 1992: Regulations Relating to the Health and Safety of Employees at Work).</p> <p>Prepare and submit a <b>Health and Safety Management Plan</b>; it should incorporate the following aspects: i) an Emergency Response Plan and including the provision and maintenance of the necessary emergency response and rescue equipment; ii) a sufficient number of employees should be trained in first aid in order to respond to emergencies; iii) train personnel on work-site health and safety management, including the implementation of a communication program (e.g. hold daily health and safety talks prior to the commencement of work shifts); iv) train personnel to recognise and prevent occupational hazards, e.g. safety with regards to wildlife (e.g. snakes), protection against the elements, disease exposure, etc.</p> <p>Ensure that <b>signage</b> in e.g. hazardous and risky areas, materials, and safety measures is in accordance with Namibian (or International) standards.</p> <p>Provide and ensure the active use of <b>Personal Protective Equipment (PPE)</b> (e.g. protective glasses and dust masks in dusty working conditions, overalls, gloves, safety shoes, hard hats, and personal hearing protection) by workers and visitors.</p> <p>Regularly conduct <b>occupational health assessments</b>; retain medical records for a minimum period of 20 years.</p>	<p>Ongoing / in progress</p> <p>To be prepared by the contracting company to assist Peralin Paints (Pty) Ltd, as well as Peralin (Pty) Ltd, with their occupational health (including HIV/AIDS) and safety-related issues.</p> <p>PPE is provided to and used by Peralin (Pty) Ltd's employees.</p> <p>Previously carried out by the Company's General Practitioner; the occupational</p>



Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
			health assessments will from now onwards be carried out by a registered occupational health professional (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).
Community Health and Safety	Social and Environmental Performance	<p>Notice or information boards relating public health and safety hazards and emergency contact details should be put up at the entrance, quarry and processing plant site(s).</p> <p>Transport safety: all vehicles/trucks moving on the gravel road should not exceed 60 km/h.</p> <p>Prevent communicable disease (e.g. Sexually Transmitted Infections (STIs) such as HIV transmission and Respiratory Transmitted Infections): provide surveillance and active screening and treatment of employees; prevent illness among employees (through health awareness and education initiatives); ensure ready access to medical treatment, confidentiality and appropriate care, particularly with respect to migrant workers; and promote immunization.</p>	<p>It is advised that notice or information boards relating public health and safety hazards and emergency contact details be put up at the entrance, quarry and processing plant site(s).</p> <p>Once a Surface Use Agreement is in place, the quarry-area will be fenced off (making it easier to put up notice or information boards) and with one entrance only (vs the four current possible entrances to the quarry-area) (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).</p> <p>Note that Koep &amp; Partners, on behalf of Peralin (Pty) Ltd, submitted an application to the Ancillary Rights Commission (for assistance in resolving some of the issues that currently exist between Peralin (Pty) Ltd and Mr U.M. Stritter) on 11 August 2017.</p> <p>Ongoing; to be provided by the contracting company to assist Peralin Paints (Pty) Ltd, as well as Peralin (Pty) Ltd, with their occupational</p>

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
<b>Current and Future Expansion of Quarrying and Related Activities</b>			health (including HIV/AIDS) and safety-related issues.
Site preparation / clearing of land	Disturbance of fauna and flora and habitat alteration	<p>Identify and clearly mark (red and white tape) the protected flora species, i.e. Camelthorn <i>Acacia erioloba</i>, Shepherd's Tree <i>Boscia albitrunca</i>, and Karee <i>Rhus lancea</i> (so that bulldozer operators can easily see and avoid these specimens). Avoid the removal of any protected flora species as far as feasible. A permit is required prior to the removal of any protected tree species. A permit is required prior to the picking, cutting/chopping/picking off, taking, gathering, uprooting, damaging or destroying, or transporting any protected tree and/or plant.</p> <p>Avoid clear felling, i.e. the removal of all the indigenous trees/shrubs and grasses, in the area.</p> <p>Avoid clear cutting the overburden storage site(s), i.e. rather store overburden between trees and/or clumps of trees (this would facilitate the rehabilitation of the overburden storage site(s) once the quarry/opencast areas have been filled).</p> <p>Where possible, leave small "islands" of vegetation within the proposed development areas (these "islands" would ensure the rapid rehabilitation of the area).</p> <p>Adapt a minimalistic damage (i.e. retain the local flora) and indigenous planting approach (replant two (2) indigenous tree species (preferably the same species) for every protected species that had to be removed; indigenous species can be acquired at the Forestry nursery in Okahandja, or the National Botanical Research Institute (NBRI) and local nurseries in Windhoek.</p>	<p>Since 2013, no expansion of the quarry-area has taken place. However, an expansion (in a southerly direction) is currently planned.</p> <p>It is advised that a permit is obtained from the City of Windhoek for the removal of any protected tree species (e.g. Camelthorn <i>Acacia erioloba</i>) and that two (2) indigenous tree species (preferably the same species) for every protected species that had to be removed, be replanted.</p> <p>Peralin (Pty) Ltd to also take cognizance of the Forest Regulations: Forest Act, 2001 that came into force in 2015 (see Annexure 2 – Protected Plant Species).</p>
<p>The existing quarry is kidney-shaped and approximately 100 metres (m) long and 15 m deep (note that it would not be economically feasible to mine deeper than 50 m).</p> <p>An expansion of the quarry (in a southerly direction) is currently planned; the size of the proposed area will be 25 by 50 m. Blasting will need to be done to remove the top three (3) m (the material will be screened) and then the next 15 m (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).</p>			

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
	 	 	

Figure 4: Pictures showing Peralin (Pty) Ltd's existing quarry located on mining claims 1 (68113) and 2 (68114): a) and b) on 30 July 2013; and c) and d) on 28 July 2017 (Source: L. Maartens).

Site preparation / clearing of land	Disturbance of fauna and flora and habitat alteration	<p>Implement a policy of “no kill” with regards to fauna (e.g. poaching for meat (snares); the collection of veld foods (e.g. tortoises); the capture/killing of birds; the killing of snakes, etc.).</p> <p>Prevent and discourage the collection of firewood (dead wood has an important ecological role and the collection of firewood, especially for economic reasons, often leads to abuses, i.e. the chopping down of live and/or protected tree species such as <i>Acacia erioloba</i> which is a good quality wood).</p> <p>Implement and maintain (internal) track discipline with maximum speed limits (e.g. 30km/h) (this would result in fewer faunal road mortalities and associated dust pollution problems).</p>	<p>Ongoing</p> <p>It is advised that a “Do’s and Don’ts List” be prepared for distribution to / discussion with all employees (and specifically referring to these management actions).</p>
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Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
		<p>Teach drivers to use three point turns (vs full circle turns), or restrict turning to designated areas.</p> <p>Avoid off-road and unnecessary nocturnal driving in the area (as it could result in the destruction of slow moving fauna, i.e. various reptiles and other nocturnal species).</p>	
		<p>Restrict all activities to previously demarcated areas; all other areas will be regarded as "no go" zones in order to minimize the impact on the surrounding land.</p>	
		<p>No trespassing on adjoining properties is allowed and no game/vegetation is to be interfered with.</p>	Ongoing. It is advised that a "Do's and Don'ts List" be prepared for distribution to / discussion with all employees (and specifically referring to this management action).
Site preparation / clearing of land	Disturbance of fauna and flora and habitat alteration	Ensure that pipelines laid from the borehole to the Mining and/or Plant Area do not unduly disturb vegetation and/or soil (should water be abstracted for dust suppression).	Not applicable (N/A)
Site preparation / clearing of land	Loss of or damage to archaeological material	<p>All staff (i.e. personnel, contractors, subcontractors, etc.) to be made aware of the provisions of the National Heritage Act 27 of 2004 with regard to the protection of all archaeological sites and the need to report any new finds.</p> <p>Careful examination of the area before any site preparation/excavation is undertaken.</p> <p>Should a possible or suspected site be discovered, immediately stop work, cordon the area off and photograph the area/site.</p> <p>Immediately contact the National Heritage Council of Namibia in Windhoek.</p> <p>Under no circumstances are archaeological and/or cultural heritage sites to be disturbed or any relics to be removed from such a site.</p>	It is advised that a "Do's and Don'ts List" be prepared for distribution to / discussion with all employees (and specifically referring to these management actions).
Current Quarry, Mining and Processing Activities & Future site preparation / clearing of land	Pollution of biophysical environment (air, soil and water)	No fires to be allowed, unless specific areas have been identified and set aside for the cooking of food.	
Current Quarry, Mining and Processing Activities & Future site preparation / clearing of land	Pollution of biophysical environment (air, soil and water)	Fuel tanks (portable), gas cylinders and chemicals are to be properly stored and transported.	Fuel (diesel) is obtained from a consumer fuel installation that is located at the Peralin Factory (Consumer Fuel Installation Certificate No. CI/1461/2001, Ministry of Mines and Energy (MME)); the fuel is transported to the quarry by means of a bowser trailer (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).
Current Quarry, Mining and Processing		Provide a chemical toilet (1 toilet per 30 employees; preferred 1:15) at the Project Site. Sanitary wastewater to be released into a French drain system.	A chemical toilet was made available for use by the staff;

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
Activities & Future site preparation / clearing of land	Pollution of biophysical environment (air, soil and water)	Use bio-degradable detergents on site.	the contents are disposed of (in the existing sewer system) at the Peralin Factory.
		Enforce proper waste (hazardous and non-hazardous) management practices – waste and litter to be disposed of in scavenger and weatherproof bins and the refuse to be collected and disposed of at least once a week.	Non-hazardous and hazardous waste is collected and stored separately. Hazardous waste, e.g. petroleum (fuels and lubricants) waste products are recycled and the remainder of the (hazardous) waste is transported to the Kupferberg Waste Disposal Site in Windhoek.  All household waste is collected and transported to the Peralin Factory from where it is removed by Rent-a-Drum on an <i>ad hoc</i> basis (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).
Current Quarry, Mining and Processing Activities & Future site preparation / clearing of land	Pollution of biophysical environment (air, soil and water)	Vehicle maintenance/servicing/washing not to be allowed anywhere on site.	Vehicle/equipment servicing sometimes has to take place on site (as the equipment cannot be removed).
		All diesel generators on site to be placed on concrete slabs.	Ongoing (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).
		Oil and grease traps or sumps to be installed and maintained at e.g. refuelling facilities, workshops, fuel storage depots, and containment areas.	Old oil and grease are put into drums and taken to a Company at Aris for re-processing (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).
		Immediately report and clean up any accidental hydrocarbon spill: Sunisorb, Drizit, Peatsorb can be used to clean up small spills; in case of larger spills, the spill together with the polluted soil should be removed and disposed of at e.g. a biological remediation site; ensure the availability of absorbent pads and/or spill kits and ensure that personnel are trained in their use.	Peralin (Pty) Ltd to ensure the availability of absorbent pads and/or spill kits, that personnel are trained in their use, and that any spills are



Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
			immediately reported and cleaned up.
Current Quarry, Mining and Processing Activities & Future site preparation / clearing of land	Air quality (dust or Particulate Matter (PM) pollution) and the impact on the fauna and flora	Consider the plantation of wind-break plants to reduce the translocation of dust outside the Project Site/Area, and/or consider the use of sprinkling devices (that would again in turn require the use of natural resources (water)).	To be considered once a Surface Use Agreement is in place. Note that Koep & Partners, on behalf of Peralin (Pty) Ltd, submitted an application to the Ancillary Rights Commission (for assistance in resolving some of the issues that currently exist between Peralin (Pty) Ltd and Mr U.M. Stritter) on 11 August 2017.
Current Quarry, Mining and Processing Activities & Future site preparation / clearing of land	Occupational Health and Safety	No fires to be allowed, unless a specific areas have been identified and set aside for the cooking of food.	
		Ensure that employees are trained in the use of appropriate fire fighting equipment and ensure that such equipment is on hand at all times.	Peralin (Pty) Ltd to ensure that employees are trained in the use of appropriate fire fighting equipment and ensure that such equipment is on hand at all times.  The possibility of having a fire-fighting trailer on site to be investigated once a Surface Use Agreement is in place.
		Comply with all safety regulations re. electricity supply.	Compliant and ongoing.
		Supply potable water for human consumption and other domestic uses (a water supply borehole (if relevant) should not be within 30 m of a French drain, not within 30 m of fuel or waste oil storage areas, and not within 100 m of a waste dumpsite); drinking-water quality to be in accordance with the Ministry of Agriculture, Water and Rural Development's <i>Guidelines for the evaluation of drinking-water quality for human consumption with regard to chemical, physical and bacteriological quality</i> .	Compliant and ongoing; drinking water, i.e. ~50 litres (l) is brought in daily in plastic containers from the Peralin Factory.
		Make suitable arrangements, as far as practicable, for the maintenance of health, the prevention and overcoming of outbreaks of disease and of adequate first aid services.	Four people have undergone First Aid Training (Peralin Paints Factory and Quarry) and attend a refresher course on an annual basis.
		Ensure that security arrangements are in place.	Ongoing
Current Quarry, Mining and Processing Activities & Future site	Soil erosion	<u>Sediment mobilization and transport</u> : reduce or prevent soil erosion (schedule activities to avoid heavy rainfall periods; contour and minimize length and steepness of slopes; mulching to stabilize exposed areas; re-vegetate areas promptly; and design channels	N/A



Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
preparation / clearing of land		and ditches for post-construction flow). Note that the area(s) towards and adjacent to the drainage line(s) are easily eroded and further development may exacerbate this problem. <u>Road design</u> : limit access road gradients to reduce run-off induced erosion; provide adequate road drainage based on road width, surface material, compaction and maintenance. <u>Structural (slope) stability</u> : provide effective short-term measures for slope stabilization, sediment and subsidence control until long-term measures (during operations) can be implemented; provide adequate drainage systems to minimize and control infiltration.	
Future site preparation / clearing of land	Possible loss of the seed bank in the topsoil	Any decaying vegetation, overlying the soil layer, should be removed first and stockpiled. The upper layer of soil (10 - 20 cm), where alluvial, to be stripped and stockpiled separately (1 – 2 m high piles to allow for proper aeration). Install drainage to protect the topsoil pile from (water) erosion and cover it to protect it from (wind) erosion. Any excavated subsoil and rock also to be stockpiled for backfilling.	Since 2013, no expansion of the quarry-area has taken place. However, an expansion (in a southerly direction) is currently planned and it is advised that the management actions be observed and implemented.
Future site preparation / clearing of land	Habitat alteration	Implement soil conservation measures (e.g. segregation, the proper placement and stockpiling of clean soils and overburden material) and consider the following factors: placement, location, design, duration, coverage, reuse, and single handling. Remove any decaying vegetation overlying the soil layer first and stockpile for later use (i.e. capping during rehabilitation). Avoid clear cutting the overburden storage site(s), i.e. rather store overburden between trees and/or clumps of trees (this would facilitate the rehabilitation of the overburden storage site(s) once the pits/opencast areas have been filled). Leave small "islands" of vegetation within the proposed development areas (these "islands" would ensure the rapid rehabilitation of the area) (if feasible).	
Current Quarry, Mining and Processing Activities & Future site preparation / clearing of land	Air quality (dust or Particulate Matter (PM) pollution) from dry and exposed surfaces	Implement dust control/suppression techniques for roads and work areas (e.g. wetting down) (if feasible).	Due to the recent (and ongoing) water scarcity and restrictions in the Central Area of Namibia, no dust suppression (using water) is carried out.
		Optimize traffic patterns and minimize the area in which the movement of vehicles will take place to reduce the effects of dust pollution.	Ongoing
		Maintain the road surface to preserve surface characteristics (e.g. texture and roughness).	Ongoing; the access road to the quarry is maintained by Mr U.M. Stritter.
		Reduce travel speeds: minimize dust generation from vehicles on the roads; all vehicles, trucks moving in the area should preferably travel at < 60 km/h.	
		Revegetate and cover exposed soils and other erodible materials as soon as possible.	Ongoing
Avoid the excavation, handling and transport of erodible materials under high wind conditions or when a visible dust plume is present.	Ongoing (where feasible) (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).		

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
		Ensure a minimum height of fall (and shielded against the wind) when loading, transferring, and discharging materials; consider using dust suppression spray systems.	Ongoing (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).
		Cover conveyor systems for dusty materials; equip the conveyor systems with measures for cleaning return belts.	To be investigated.
Increased traffic, presence and movement of machinery (gaseous emissions)	Air quality & Occupational and Community Health and Safety	Implement manufacturer recommended engine maintenance programmes (to control vehicle emissions: Carbon Monoxide (CO), Nitrogen Oxide (NO <sub>x</sub> ), Sulphur Dioxide (SO <sub>2</sub> ), Particulate Matter (PM) and Volatile Organic Compounds (VOCs)).	Ongoing
Increased traffic, movement of machinery	Occupational and Community Safety	Adopt best transport safety practices by implementing the following measures: emphasize safety aspects among drivers; improve driving skills and require licensing of drivers; adopt limits for trip duration; avoid dangerous routes and times of day; and use speed control devices. Regularly maintain vehicles and use manufacturer approved parts. Use locally sourced materials (where possible) to minimize transport distances. Employ safe traffic control measures, including the use of traffic and safety warning signs and flag persons to warn of dangerous conditions.	Ongoing
Use of Explosives for Blasting	Occupational Health and Safety	Ensure that the use, handling, and transporting of explosives is in accordance with the Regulations of the Explosives Act 26 of 1956. Assign certified blasters / explosives experts to conduct the blasts. Actively manage blasting activities in terms of loading, priming, and firing explosives, drilling near explosives, misfired shots and disposal. Implement specific warning devices (e.g. horn signals, flashing lights) and procedures before each blasting activity (to alert all workers / the surrounding farm owners / future residents). Conduct specific personnel training on explosives handling and safety management. Implement blasting-permit procedures for all personnel involved in explosives (i.e. the handling, transport, storage, charging, blasting, and destruction of unused or surplus explosives). Disconnect the firing line from the blasting machine immediately after the blast has been fired; if power switches are used, lock them in the open/off positions. Following a blast, wait for the smoke and fumes to clear before returning to the blast area. Check (by qualified personnel) blasting sites post-blast, and prior to the resumption of work, for malfunctions and unexploded blasting agents. If a misfire is found, restrict access to the blast area and only allow those personnel required to remove the hazard: i) do not extract explosives from a charged/misfired hole, but insert a new primer and reblast the hole; if referring presents a hazard, remove the explosives by washing them out with water (if the misfire is under water, blow them out with air); ii) if there are misfires while using cap and fuse, keep all personnel clear of the blast area for at least one hour; do not permit drilling/digging until all misfired holes have been detonated.	Ongoing; blasting is carried out by Limeco from Otjiwarongo, Namibia. In 2013, blasting took place approximately once every six months. Currently, blasting takes place once a year (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
		Implement specific audited procedures, in accordance to the Regulations of the Explosives Act 26 of 1956, for all activities related to explosives (handling, transport, storage, charging, blasting, and destruction of unused or surplus explosives). Make use of qualified security personnel for the control, transport, storage, and use of explosives on site.	
Current and Future Quarry, Mining and Processing Activities	Noise pollution	Consider the installation of sound barriers and/or noise containments, with enclosures and curtains at/near the source equipment (i.e. crushers, grinders, and screens). Consider the installation of natural barriers (e.g vegetation curtains) at the boundary of the Project Site.	To be considered once a Surface Use Agreement is in place. Note that Koep & Partners, on behalf of Peralin (Pty) Ltd, submitted an application to the Ancillary Rights Commission (for assistance in resolving some of the issues that currently exist between Peralin (Pty) Ltd and Mr U.M. Stritter) on 11 August 2017.
<b>Change in Land Use</b>			
Quarry, Mobile Screening Plant, Processing Plant, Waste Rock Dumps, Access Route	Change in land use (agricultural to industrial/ mining)	Restrict quarrying, mining and processing activities to demarcated areas; all other areas will be regarded as "no go" zones in order to minimize the impact on the surrounding land.	
<b>Resource Use</b>			
Water Management	Resource use / depletion of natural resources	Ensure prudent use of water in all activities.  Water abstraction for dust suppression (if relevant): i) water storage tanks/reservoirs to be insect and animal-proof and to be covered to reduce evaporation; ii) regularly inspect water pipelines (from the borehole to the Mining and/or Plant Area) for possible leakages; iii) maintain open and direct lines of communication with Interested and Affected Parties (I&APs) with regards to water-related matters.	Ongoing  N/A
<b>Hazardous Materials Management</b>			
Hazardous materials management	Social and Environmental Performance	Establish hazardous materials management priorities (based on hazard analysis of risky operations). Avoid, or minimize the use of hazardous materials. Prevent uncontrolled releases of hazardous materials to the environment or uncontrolled reactions that may result in fire or explosion. Make us of engineering controls (containment, automatic alarms and shut-off systems); implement management controls (procedures, inspections and training, communication and drills) to address residual risks not prevented or controlled through engineering controls.	Ongoing
	Pollution of biophysical environment (soil and water)	Implement prevention and control measures for the use, handling and storage of hazardous materials:	Ongoing

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
		<p><u>Materials transfer</u>: regularly inspect, maintain and repair fittings/pipes/hoses; make use of drip trays/other drip containment measures at connection/possible overflow points;</p> <p><u>Overfill protection</u>: use trained filling operators; install gauges on tanks to measure the volume inside; make use of dripless hose connections (vehicle tanks) and fixed connections (storage tanks); use a catch basin/drip tray around the fill pipe to collect spills;</p> <p><u>Reaction, fire, and explosion prevention</u>: hazardous materials to be stored in marked containers and separate (from non-hazardous materials); incompatible hazardous materials (acids, bases, flammables, oxidizers, reactive chemicals) to be stored in separate areas and with containment facilities separating material storage; smoking or working with open flames not to be permitted in the presence of these substances; limit access to hazardous waste storage areas and clearly label and demarcate the area; conduct regular inspections of the areas and document the findings; prepare and implement spill response and emergency plans; train employees in the use of appropriate fire fighting equipment and ensure that such equipment is on hand at all times.</p> <p><u>Secondary containment</u>: use bunding (made of impervious, chemically resistant material) that can contain the larger of 110% of the largest tank or 25% of the combined tank volumes for above-ground tanks with a total storage volume equal or greater than 1,000 litres.</p> <p>Train workers on the correct transfer and handling of fuels and chemicals and the response to spills.</p> <p>Immediately report and clean up any accidental hydrocarbon spill: Sunisorb, Drizit, Peatsorb can be used to clean up small spills; in case of larger spills, the spill together with the polluted soil should be removed and disposed of at e.g. a biological remediation site.</p>	
	Occupational Health and Safety	Implement hazard communication and training programmes (including information on Material Safety Data Sheets (MSDS)) to make employees aware of workplace chemical hazards and how to respond to these.	Peralin (Pty) Ltd is in the process of preparing MSDSs for their products (Mr Mark U. Rattay, Managing Director, Peralin (Pty) Ltd, pers. comm.).
		Provide and ensure the active use of PPE.	
<b>Waste Management</b>			
Waste management: non-hazardous and hazardous	Pollution of biophysical environment	<p>The generation of waste should be avoided or minimized as far as practicable; where it cannot be avoided, but has been minimized, waste should be recovered and reused; where waste cannot be recovered/reused, it should be treated, destroyed and disposed of in an environmentally sound manner.</p> <p>Institute and maintain good housekeeping and operating practices; littering is not allowed.</p> <p>Non-hazardous and hazardous waste to be collected and stored separately.</p> <p>Non-hazardous waste: refuse (that will not be recycled) to be stored in covered refuse bins, collected on a regular basis by Rent-a-Drum, and disposed of at the Windhoek waste disposal facility.</p>	Ongoing



Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
		Non-hazardous, recyclable waste: refuse to be stored in covered bins/bags, collected on a regular basis by Rent-a-Drum for recycling. Hazardous waste: recycle petroleum (fuels and lubricants) waste products and collect and recycle batteries and print cartridges (if relevant). The remainder to be transported to a recognized hazardous waste disposal site (e.g. Kupferberg in Windhoek).	
Waste management: sanitary	Pollution of biophysical environment	Provide a chemical toilet (1 toilet per 30 employees; preferred 1:15) at the Project Site. Sanitary wastewater to be released into a French drain system. Ensure that the discharge of sanitary wastewater to land conform to the regulatory requirements.	A chemical toilet was made available for use by the staff; the contents are disposed of (in the existing sewer system) at the Peralin Factory.
Waste management: waste rock dumps	Erosion and Occupational Safety	Plan all dumps with appropriate terrace and lift height specifications (based on the nature of the material and local geotechnical considerations to minimize erosion and safety risks).	Ongoing
<p>At present, Peralin (Pty) Ltd processes approximately 12,000 tonnes of industrial minerals (marble) per year, of which around 9,000 tonnes is sold annually. The latter figure increased (from 2013), due to the ongoing re-working of the waste dumps to recover the white stone. The material/marble that is off-white is stockpiled in previously cleared areas and will be used to backfill the quarry during rehabilitation.</p> <div style="display: flex; justify-content: space-around; align-items: center;">   </div> <p>Figure 5: Images showing a Shepherd's Tree <i>Boscia albitrunca</i>: a) midst stockpiled material (Source: L. Maartens, 30 July 2013); and b) after the removal of the stockpiled material (for re-working to recover the white stone) (Source: L. Maartens, 28 July 2017).</p>			
Wastewater management - wastewater treatment	Pollution of biophysical environment	Ensure that the discharge of process wastewater and/or sanitary wastewater and/or wastewater from utility operations and/or stormwater to land conform to the regulatory requirements. Runoff from areas where surface water might have become contaminated should be captured and treated to sewerage effluent standards; uncontaminated runoff should be diverted around areas where such water might become contaminated.	There are three to four septic tank systems (non-industrial) on Parts 1 and 4 (Peralin Paints Factory), Farm Gocheganas No. 26. It is advised that a letter with all the details (i.e. location and

Aspect	Potential Impact	Management Actions / Objectives	Compliance & Comments
			number of people that make use of the septic tank systems) be submitted to the Department of Water Affairs (DWA), Ministry of Agriculture, Water and Forestry (MAWF). Staff from the DWA will then visit the area and may provide exemption (in terms of waste water discharge permits) (Mr Franciskus Witbooi, Deputy Director: Law Administration, Ministry of Agriculture, Water and Forestry, pers. comm.).
Wastewater management - stormwater management	Soil erosion	Regular inspection and maintenance of permanent erosion and runoff control features.	Ongoing
<b>Rehabilitation &amp; Decommissioning</b>			
Rehabilitation	Social and Environmental Performance	<p>Remove all beacons, accessory works erected or constructed, equipment, waste, temporary structures, fences, etc. from the Project Site.</p> <p>Rehabilitation to take place on a continuous basis.</p> <p>Disturbed areas to be backfilled with rocks and subsoil, and then the topsoil/vegetation layers. If topsoil is stored for more than three months, fertilizing may be needed and if it is stored for more than six months, seeding may be beneficial.</p> <p>Collect local grass seed for re-seeding purposes; this should be done after the rainy season, before the grass seeds have dispersed, and immediately prior to the closure of the quarry/opencast areas.</p> <p>Once the areas have been rehabilitated, lure wildlife (e.g. provide salt lick) into the areas (the movement of wildlife over/throughout the area would assist with seed dispersal, soil compaction, and fertilisation).</p> <p>Manually rip (using picks or rakes) disturbed areas where compaction has taken place; avoid creating parallel furrows (this will promote erosion).</p> <p>Reshape all disturbed areas (including temporary detours and turnouts) to their original contours.</p> <p>Manually remove all weedy / alien invasive species that are present at the site.</p> <p>Inform the Ministry of Environment and Tourism to assess the rehabilitation effort for approval and signoff.</p>	<p>N/A</p> <p>Rehabilitation is taking place on a continuous basis.</p>

### 2.3 Compliance: Monitoring and Reporting

In order to illustrate Peralin (Pty) Ltd's compliance with the proposed "monitoring and reporting" (see Maartens, 2013), the following colour codes were applied:

	Compliance/Completed
	In Progress/Ongoing
	Non-compliance

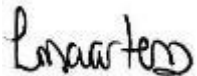
Type	Parameter	Frequency	Compliance
Consumer fuel installation (located at the Peralin Factory)	Throughput of fuel	Monthly records and annual reporting (before 28 February each year) to the Ministry of Mines and Energy (MME)	Monthly records are kept; Ongoing
			It is advised that the records be submitted to the Minister, MME (as required under the Petroleum Products Regulations (2000))
Hazardous materials management	Hydrocarbon spills of more than 200 litres	<i>Ad hoc</i> ; inform the Minister, MME by completing form PP/11 (Petroleum Products Regulations 2000)	Ongoing
Stormwater and soil erosion	Soil erosion rates	<i>Ad hoc</i> (rainy season)	Ongoing
Environmental Management Plan	Environmental performance / corrective measures to be taken as or when required	External audits (bi-annual)	LM Environmental Consulting has been appointed by Peralin (Pty) Ltd to from now onwards prepare and submit Bi-Annual Environmental Reports to the Ministry of Environment and Tourism (MET)

### 3 Conclusions and Recommendations

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Koep & Partners, on behalf of Peralin (Pty) Ltd, submitted an application to the Ancillary Rights Commission (for assistance in resolving some of the issues that currently exist between Peralin (Pty) Ltd and Mr U.M. Stritter) on 11 August 2017. It is anticipated that a Surface Use Agreement will then finally be concluded between Peralin (Pty) Ltd and Mr U.M. Stritter.

It is advised that Peralin (Pty) Ltd and their employees and contractors should implement and observe the Environmental Management Plan on an ongoing basis. Environmental performance should be regularly monitored (so that the lessons learnt can be incorporated into the improvement of the Environmental Management Plan over time) and corrective measures taken as or when required.



Dr Lima Maartens  
LM Environmental Consulting

## 4 References

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- International Finance Corporation (IFC). World Bank Group. 2007a. *Environmental, Health, and Safety General Guidelines*. 99 pp.
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- Prospectors and Developers Association of Canada (PDAC). 2009. *Excellence in Environmental Stewardship e-toolkit (EES) Version-01*. 309 pp.



## **Annexure A**

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## REPUBLIC OF NAMIBIA

# MINISTRY OF ENVIRONMENT AND TOURISM

Tel: +264 61 2842701  
Fax: +264 61 240339  
Enquiry: Ms. Saima Angula

Capital Centre, 6<sup>th</sup> Floor  
Private Bag 13306  
Windhoek  
21 May 2014

### OFFICE OF THE ENVIRONMENTAL COMMISSIONER

The Managing Director  
Peralin (Pty) Ltd Quarries, Crush Plant & Hire  
P.O. Box 2535  
Klein Windhoek  
Windhoek

Dear Sir or Madam

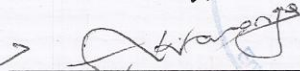
**SUBJECT: ENVIRONMENTAL CLEARANCE FOR THE ENVIRONMENTAL SCOPING ASSESSMENT AND ENVIRONMENTAL MANAGEMENT PLAN FOR THE MINING CLAIMS NO. 68113 TO 68118 FOR THE QUARRYING AND RELATED ACTIVITIES SITUATED ON REMAINDER OF FARM GOCHEGANAS NO. 26, KHOMAS REGION**

The Environmental Scoping Assessment and Environmental Management Plan submitted are sufficient as it made an adequate provision of the environmental management during your proposed project's activities. From this perspective regular environmental monitoring and evaluations on environmental performance should be conducted. Targets for improvements should be established and monitored throughout this process.

In view of the fact that your project is located in an environmentally sensitive area, this Ministry reserves the right to attach further legislative and regulatory conditions during the operational phase of the project.

On the basis of the above, this letter serves as an environmental clearance for the project to proceed. However, this clearance letter does not in anyway hold the Ministry of Environment and Tourism accountable of any wrong doing, for insufficient information, nor any adverse effects that may arise from this project's activities. Instead, full accountability rests with the proponent and his/ her consultants.

Yours sincerely,

  
Teofilus Nghitila

ENVIRONMENTAL COMMISSIONER

*All official correspondence must be addressed to the Permanent Secretary*

## **Annexure B**

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# KOEP PARTNERS

ATTORNEYS | NOTARIES | CONVEYANCERS

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Telephone: (+264 61) 382800  
Fax: (+264 61) 382888  
Email address: [pfk@koep.com.na](mailto:pfk@koep.com.na)  
Website: [www.koep.com.na](http://www.koep.com.na)  
Writer's email: [jamie@koep.com.na](mailto:jamie@koep.com.na)

Office No. 6, Antonius Garten  
c/o Hendrik Witbooi Str &  
Theo-Ben Gurirab Ave,  
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Telephone: (+264 64) 406320  
Fax: (+264 64) 406323  
Email address: [swakop@koep.com.na](mailto:swakop@koep.com.na)

*Partners:*

Josias Andries Agenbach, BComm LLB  
Willem Carel Kotzé, BA LLB  
Irvin David Titus, BA LLB  
Beate Karen Loch, BA LLB  
Stephen Vlieghe, BComm LLB LLM  
Hugo Meyer van den Berg, BAHons LLB LLM PHD

*Associates at Windhoek Office:*

Stefania Cagnetta, BA LLB  
Chastin Bassingthwaighte, BComm LLB  
Reya Karuiahe, LLB  
Cobus Visser, LLB LLM

*Associate at Swakopmund Office:*

Wilmili de Bruin, LLB  
Alfred Ellis, LLB

Our Ref: CB 56855

14 November 2016

**MINISTRY OF ENVIRONMENT & TOURISM**

61 BISMARCK STREET  
WINDHOEK

Att: Permanent Secretary  
By Hand

Dear Sir / Madam,

**RE: PERALIN (PROPRIETARY) LIMITED // JAPONICA INVESTMENTS  
NINETEEN (PTY) LTD – REZONING OF FARM REM.  
GOCHEGANAS NO. 26, IN THE MAGISTERIAL DISTRICT OF  
WINDHOEK, KHOMAS REGION**

We refer to the above matter, in which we act for an on the instructions of Peralin (Pty) Ltd (hereafter “our Client” or “Peralin”).

Mr UM Stritter is the representative of Japonica Investments Nineteen (Pty) Ltd (“Owner”) and owner of the Farm Rem. Gocheganas No. 26, in the Magisterial District of Windhoek, Khomas Region (“Farm”). Peralin is the holder of certain mining claims and a Non-Exclusive Prospecting License (“EPL”) which falls partly on the Farm. We wish to bring the following matters to the urgent attention of the various addressees of this letter.

- (a) It is our instruction that Mr Stritter is desirous of establishing a township and/or residential estate on the Farm and the surrounding area (“the Area”);
- (b) It is our further instruction Mr Stritter has approached various authorities in this regard, including Namibia Planning Advisory Board (“NAMPAB”), for purposes of rezoning the Area from agricultural to residential, and for purposes of establishing what we believe to be “Leopard Valley Smallholdings”;
- (c) Our Client is aware of an Environmental Impact Assessment (“EIA”) which has been carried out at the area, though same has only been done with respect to water and waste, with no consideration of other services and their consequences, such as power and sewerage. It is also noted that the EIA makes no mention of the mining operations currently carried out on the Farm, which have been carried out and operational since the 1960’s.
- (d) Despite the requests and best efforts of our Client, no layout plan for the township and/or residential estate plots has been provided or made available;
- (e) Our instructions are that, aside from the obvious prejudice they would suffer should the proposed rezongings and other changes be implemented, both on their property and on their mining and business operations, there is a significant risk of pollution from 75 proposed plots, each of which apparently being responsible for its own sewage and other services;
- (f) Our Client further anticipates increased traffic on the already dangerous road, which could pose additional risks if not given due consideration by the relevant authorities.

It is our instruction to inform you that our Client, with our assistance, is in the process of applying to the Ancillary Rights Commission for assistance in resolving some of the issues which currently exist between our Client and Mr Stritter, as a result of which we anticipate dispute in respect of on-going negotiations, relating to the mining claims and EPL. It is recorded that a draft surface use agreement (“Draft Agreement”), has already been provided to Mr Stritter for his consideration and feedback. Dispute is anticipated in respect of the following points:



- (a) The Owner disputing the validity of the Claims and the right of Peralin to carry out mining activities on the Farm;
- (b) The parties disagreeing with respect to the compensation payable;
- (c) The Owner alluding to claims for damage to the environment and inconvenience and/or prejudice suffered as a result of the mining activities carried out at the Farm and the transportation of material from the Farm.

We kindly request that the above factors be considered in the making of any decision to have the Farm rezoned for residential purposes, and furthermore request that our Client be kept informed of any decisions to be taken which is likely to affect the use of the land in question.

Yours faithfully,

**CHASTIN BASSINGWAIGHTE**

*ASSOCIATE*

KOEP & PARTNERS

WINDHOEK

CC:

1. Environmental Commissioner  
Ministry of Environment & Tourism  
By Hand
2. Chief Executive Officer  
City of Windhoek  
By Hand

3. Permanent Secretary  
Ministry of Mines and Energy  
By Hand
  
4. The Mining Commissioner  
Ministry of Mines & Energy  
By Hand
  
5. Permanent Secretary  
Ministry of Urban and Rural Development  
By Hand
  
6. Namibia Planning Advisory Board  
Ministry of Urban and Rural Development  
By Hand
  
7. Permanent Secretary  
Ministry of Agriculture, Water and Forestry  
By Hand



REPUBLIC OF NAMIBIA

## MINISTRY OF ENVIRONMENT AND TOURISM

Tel: (00 26461) 284 2111  
Fax: (00 26461) 229 936

Cnr Robert Mugabe &  
Dr Kenneth Kaunda Street  
Private Bag 13306  
Windhoek  
Namibia

Enquiries: Damian Nchindo

19 December 2016

### OFFICE OF THE ENVIRONMENTAL COMMISSIONER

Keop & Partners  
P. O Box 3516  
Windhoek  
Namibia

Attention: Ms Chastin Bassingwaighte

**SUBJECT: REZONING OF FARM REM. GOCHEGANAS NO. 26, WINDHOEK, KHOMAS REGION**

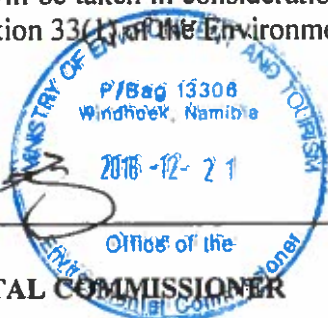
The above subject matter has reference

This Ministry take note of your concerns raised regarding the proposed project. Kindly be informed that your views will be taken in considerations upon receiving of the environmental scoping report as in terms of section 33(1) of the Environmental Management Act, 2007.

Yours sincerely,

  
Teofilus Nghitila

ENVIRONMENTAL COMMISSIONER



**“Stop the poaching of our rhinos”**

All official correspondence must be addressed to the Permanent Secretary

## TELEFAX TRANSMISSION COVER PAGE

TO: THE MINISTRY OF ENVIRONMENT & TOURSIM  
ATT: DR. MALAN LINDEQUE - THE PERMANENT SECRETARY  
MINISTRY OF ENVIRONMENT AND TOURISM  
FAX.NO: 061 - 22 6380  
DATE: 29 December 2016

OUR REF. : AS/md RJ35 Number of Pages: 16  
Please quote our reference number!

**MATTER:**

**PERALIN (PTY) LTD / JAPONICA INVESTMENTS NINETEEN (PTY) LTD  
REMAINDER OF GOCHEGANAS NO. 26 DISTRICT OF WINDHOEK**

**CONFIDENTIALITY NOTE:** The documents accompanying this facsimile transmission contains confidential information, which may be legally privileged. The information is intended only for the use of the recipient named. If you have received this facsimile in error, please immediately notify us by telephone to arrange for return of the original documents to us, and any disclosure, copying distribution or the taking of any action in reliance on the contents of this faxed information is strictly prohibited.

Dear Sir,

- The letter dated 1 December 2016 from Messrs. Koep & Partners addressed to you (the "Koep-Letter"), on behalf of Peralin (Pty) Ltd, concerning the above-mentioned matter, refers.
- We are acting for Japonica Investments Nineteen (Pty) Ltd ("Japonica"), the owner of the Remainder of Gocheganas No. 26 (the "Farm") and Mr U M Stritter a director and shareholder in Japonica, who instructed us to comment on the above-mentioned letter.  
We acknowledge that Koep & Partners represent Peralin (Pty) Ltd ("Peralin") herein, who is the purported holder of certain mining claims located on the Farm.
- In its letter, Koep & Partners write that they wish to bring to the various addressees' attention, the matters referred to in paragraph (a) to (f) of their letter.

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Email: [axel.stritter@englinglaw.com.na](mailto:axel.stritter@englinglaw.com.na)  
Web: [www.englinglaw.com.na](http://www.englinglaw.com.na)

**Partners:**  
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Elize Yssel *BA LLB (PUF/CHE)*  
Clifford Bezuidenhout *BA LLB (UWC)*  
Axel Manfred Stritter *BA LLB (Stell)*  
Heiko Wilfried Stritter *BA LLB (Stell)*  
Zureuka Ziononczka Majiedt *LLB (NMMU)*  
Alet Louw *B. Comm LLB LLM (NWU)*

**Professional Assistants:**  
Daneale Corine Baukes *LLB (UWC)*  
James William Smith *LLB LLM (UNISA, UCT)*  
Nawala Vatlange Twcufulwa Kamati-Unger *LLB (UNISA)*  
Laura-Lee Beets *LLB (UWC)*  
**Consultants:**  
Hans-Bruno Gerdes *ACIS B.Proc (UCT)*  
Carl-Heinz Scriba *AZAC B.Proc (UNISA)*

The Koep-Letter seems to be 'misplaced' and it is not clear why this letter is addressed to the Ministry of Environment and Tourism.

It apparently relates to an application for the rezoning of the Farm from agriculture to residential for purposes of establishing the property development "Leopard Valley Smallholdings" and an establishment of a township and/or residential estate on the Farm and the surrounding area (the "Area").

Our client is however not establishing a township or residential estate - it is only applying for a subdivision of agricultural land into smallholdings (the "*Leopard-Valley-Smallholdings-Development*").

There is no rezoning involved since the land use will remain "agriculture" and the subdivision of the land, without rezoning, does not trigger any of the listed activities of the Environmental Management Act, which would require an Environment Clearance Certificate.

Japonica is currently seeking approval from the Ministry of Urban and Rural Development for the subdivision of an approximate area of 950 hectares on the Farm (5 289 hectares in extent) which creates 49 x smallholdings (of 10 hectares and larger), which is situated on the eastern side of the B1-road, north-east of the new Omeya Township (the "*Phase 2-Development*").

The subdivision of 9 x smallholdings (of 15 hectares and larger) situated adjacent to the B1 road have already been approved (the "*Phase 1-Development*").

In this regard please refer to the attached Lay-Out-Plan (marked, Annexure "A"), showing the 9 + 49 smallholdings (comprising Phase 1 and Phase 2 of the development).

The mining claims referred to in the Koep-Letter are not situated within the Phase 1 & 2-Developments, and are located about 700 to 900 metres from the Phase 2-smallholdings.

The mining claims are therefore not affected by the Leopard-Valley-Smallholdings-Development, currently being conducted by Japonica and the subdivision also does not require an Environmental Clearance Certificate.

During the subdivision-application-process commenced with during 2010 various stakeholders, including Peralin, the Ministry of Environment and Tourism, the Ministry of Mines and Energy and the Ministry of Urban and Rural Development have already been consulted and concerns of Peralin have been addressed.

On 20 October 2016 Japonica applied for an Environmental Clearance Certificate, with regard to the provision of services which relate to water provision, waste removal and roads in respect of the Leopard-Valley-Smallholdings-Phase 2-Development.

During the Environmental Impact Assessment in September 2016, Peralin was registered as an Interested and Affected Party and furnished with a draft EIA and EMP and their comments and concerns were addressed in the final EIA and EMP submitted with the Ministry of Environment and Tourism on 20 October 2016.



The Koep-Letter therefore seems to be 'misplaced' and purposeless, in that there is no application for rezoning, there is no application for the establishment of a township. Peralin has been consulted with regard to the development, and already had raised its concerns and made representations during public consultation processes which have been conducted with regard thereto, and which concerns have been addressed in the EIA which is currently before the Environmental Commissioner for its consideration.

We further point out that the Permanent Secretary of the Ministry of Mines and Energy had confirmed in a letter that is addressed to our client's Town Planner dated 8 May 2015 (attached hereto, marked Annexure "B"), that the rights of the holders of mineral rights will not be affected by the planned sub-divisions of the farm, and that the Ministry of Mines and Energy has no objection to the planned development.

The Ministry of Mines and Energy did recommend that our client obtains assurances from the holder of the mining claims that their rights will not be negatively affected, which was done and Peralin, in a letter dated 11 September 2015 confirmed that it "... has no objection to the Leopard Valley Development ...".

We will however, nevertheless reply to the specific matters raised in the Koep-Letter, in order to clarify the raised matters and also furnish you with the background/a brief explanation of the Leopard-Valley-Smallholdings-Development, for better understanding.

4. **Background of the land development project on the Farm (the "Project"/"Development"):**

Japonica started with the "Leopard-Valley-Smallholdings-Development" during 2010 and devoted approximately 1500 hectares of the Farm (less than a 1/3<sup>rd</sup> of the total area), for purposes of creating 75 smallholdings of approximately 15 hectare sizes in a peaceful rural environment.

The farm comprises of the Remainder of Gocheganas No. 26 (4967,8964 hectares) and the Remainder of Leopard No. 218 (321,3094 hectares), which 2 x farms are tied to each other and have a combined size of 5289,2058.

The land is zoned "agriculture" and the zoning is not intended to be changed – the "agricultural" zoning allows for residential settlement at a density of one dwelling unit per 10 hectare. This density allows for the creation of plots/smallholdings in a rural setting.

The Farm lies adjacent to Trunk Road B1 (east of the B1) about 26 kilometers south of Windhoek on the way to Rehoboth, which is situated east-east-north of the new Omeya Township (which is west of the B1) and within the local authority area of the Windhoek Municipality. The proposed subdivisions cover a wide valley that parallels the national road (Trunk Road B1).

The Subdivision-Application for the original Development (comprising 75 smallholdings) was commenced with during 2010. A Biophysical Assessment was done by Independent Environmental Consultants and stakeholders were consulted with regard to the intended subdivision-application.

Interested and affected parties were given background information packages accompanied by a layout map and meetings and telephonic discussions were conducted, giving interested and affected persons ample opportunity to raise any concerns on the proposed development. The identified issues were discussed and addressed in the final subdivision-application.

Peralin was asked to comment on the subdivision and their comments were included in the submitted Environmental Assessment and comments from neighbours.

The original Leopard Valley Development was later divided into 3 (three) phases (in this regard please refer to the attached **Lay-Out-Plan** (attached hereto, marked **Annexure "A"**), which shows Phase 1 and Phase 2):

**(1) Phase 1-Subdivision (Portion 12 – 21):**

9 x smallholdings (plus a road-portion), which have an average size of 15 hectares.

These smallholdings have already been approved and surveyed during 2013/14.

**(2) Phase 2-Subdivision (Portion 22 – 70):**

49 x smallholdings, which have an average size of 15 hectares.

These smallholdings have already been approved by the Windhoek Municipality in 2014 and the subdivision-application was subsequently lodged with Nampab on 29 September 2014.

Nampab asked for clarifications and further information which have been provided - what remains outstanding in order to complete the regulatory approvals for the Project is that an Environmental Clearance Certificate be issued in respect of the activities that require such a certificate in terms of the Environmental Management Act, 2007.

Japonica accordingly instructed Environmental Practitioners, GEO Pollution Technologies, to apply for an Environmental Clearance Certificate with regard to the services to be supplied to the proposed smallholdings, which relate to water provision, waste removal and roads.

GEO Pollution Technologies conducted an Environmental Impact Assessment and compiled an Environmental Impact Assessment Scoping Report (EIA) and an Environmental Management Plan (EMP), which were submitted with the Ministry of Environment and Tourism, on 20 October 2016.

Interested and affected persons (which include Peralin) were notified and informed and the comments of the interested and affected persons have been addressed and incorporated in the final EIA and EMP.

**(3) Phase 3-Subdivision:**

17 x smallholdings in respect of which no layout has been drawn as yet.

Peralin has been engaged and is aware of the Project since the year 2010 and its comments have been addressed in the subdivision-applications and the environmental assessments.

As part of the scoping process to determine potential environmental impacts, Interested and Affected Parties (I&APs) were consulted about their views, comments and opinions and these are included in the EIA, which was submitted with the Ministry of Environment and Tourism, on 20 October 2016. Comments were received from neighbouring land owners, including from Peralin and all comments and responses are presented in Appendix D of the EIA.

Peralin already raised its concerns and made representations during the public consultation process which was followed and which have been included in the EIA which is currently before the Environmental Commissioner for its consideration, and our client's questions the reason for now having a further letter addressed to the Ministry of Environment and Tourism.

It is now for the Environmental Commissioner to review the application from Japonica for an environmental clearance certificate and proceed to make a decision.

For this reason and the further reasons stated below, our client questions Peralin's sincerity of its intention addressing the letter under reply to the Ministry of Environment and Tourism.

#### 5. Our Client's Responses to Paragraphs (a) to (f):

##### 5.1. Ad Paragraph (a):

##### 5.1.1. It is stated in the Koep-Letter that:

*"... Mr Stritter is desirous of establishing a township and/or residential estate on the Farm and the surrounding area ("the Area");"*

[our emphasis added]

5.1.2. The Project does not entail the establishment of a township or a residential estate, but rather a subdivision of agricultural land into agricultural smallholdings. The establishment of a Township is not required due to the nature of the development and no re-zoning is required since the land use will remain "agriculture".

5.1.3. The present application (Leopard Valley-Smallholdings-Phase 2-Development) serving before the Namibia Planning and Advisory Board ("Nampab"), is an application for the sub-division of part of the Farm into 49 smallholdings (averaging 15 hectares each), creating smallholdings for residential settlement at a density of one dwelling unit per 10 hectares.

5.1.4. As part of our client's application to Nampab, GEO Pollution Technologies (Pty) Ltd ("Geo Pollution") was instructed, as environmental consultant, to conduct an Environment Impact Assessment ("EIA"), an Environmental Management Plan ("EMP"), as well as a Hydrogeological Specialist Study ("Hydro Study"), which EIA, EMP and Hydrogeological Study have been made available to stakeholders, including Peralin during September 2016. Interested and Affected Parties were invited to register with Geo Pollution and to raise any comments or concerns with regard to the EIA, EMP and Hydro Study.

5.1.5. Peralin asked for an extension which was granted and Peralin lodged its comments on 27 September 2016, which Geo Pollution considered, and which were incorporated into the EIA which was submitted to the Environmental Commissioner on 20 October 2016.

5.2. Ad Paragraph (b):

5.2.1. In the said Koep-Letter it is alleged that our client approached authorities for purposes of rezoning the Area from agriculture to residential.

5.2.2. There is no rezoning involved since the land use will remain zoned as "agriculture". The "agricultural" zoning allows for residential settlement at a density of one dwelling unit per 10 hectares. This density allows for the creation of smallholdings. As none of the planned smallholdings in the Project is less than 10 hectares, no rezoning is required. All that is required is an approval of subdivision from the Minister of Urban and Rural Development. The current Leopard-Valley-Phase 2-Subdivision has already been approved by the Windhoek Municipality and was lodged with Nampab in 2014.

5.2.3. The said application to the Ministry of Urban and Rural Development concerns an application for the approval of a *subdivision* of part of the Farm (only).

Whilst a *rezoning* constitutes one of the listed activities of the *Environmental Management Act, 2007*, requiring an *Environmental Clearance Certificate* to be issued, a *subdivision* does not. The subdivision itself does not constitute a listed activity that would require an *Environmental Clearance Certificate* to be issued.

5.3. Ad Paragraph (c):

5.3.1. Peralin acknowledges that an EIA has been carried out and states that the services of power supply and sewage have not been addressed in the EIA.

Only certain services which are intended to be supplied to the proposed smallholdings by Japonica require an *Environmental Clearance Certificate*.

These services relate to water provision, waste removal and roads in respect of which Japonica instructed the Environmental Practitioners, Geo Pollution Technologies, who conducted a hydrogeological assessment, pump tests on the boreholes (as requested by the Ministry of Agriculture, Water and Forestry) and an Environmental Impact Assessment.

An Environmental Impact Assessment Scoping Report (EIA)(including a Hydrogeological Specialist Study) and an Environmental Management Plan (EMP) was compiled, Interested and Affected Parties (including Peralin) were notified and informed, and their comments were incorporated and addressed in the final EIA and EMP, which were submitted with the application for an *Environmental Clearance Certificate* to the Ministry of Environment and Tourism on 20 October 2016.

Water provision, waste removal and roads are accordingly covered in the EIA as services to be supplied to the proposed smallholdings by Japonica, while power and sewerage were not covered by the EIA, because these services do not form part of the terms of reference of the EIA, as these are services to be provided by each individual owner of a smallholding - e.g. solar power and septic tanks.

This was addressed in a response to the comments that had been made by Peralin to the completed EIA and EMP documents, at page 63 of the EIA:

*"1. Each future property owner will be responsible for handling their own sewage and providing their own electricity. Should it be a requirement from the Municipality or other bodies involved that a sewer system must be in place as condition of the sub-division, an environmental assessment for that component will have to be completed as a separate EIA, or the current EIA updated. Otherwise it will be each property owner's individual responsibility to adhere to any regulations, restrictions or requirements. It will be a requirement from the home owners association that all owners will be obliged to protect groundwater (and any other) resources."*

- 5.3.2. In paragraph (c) of the said Koep-Letter it is stated that the EIA makes no mention of the mining operations currently carried out on the Farm.

The listed activities for which the EIA has been prepared (i.e. provision of water, handling of waste and construction of roads) do not impact on the mining operations of Peralin and accordingly do not have to be mentioned.

Peralin was however notified of the EIA process and comments received from Peralin were addressed in Appendix D (page 58) of the EIA.

The mining operations have been mentioned in the original subdivision-application (and have been addressed in the related environmental impact assessment and public participation-processes) done in 2010 and in the subdivision-application for the Leopard-Valley-Phase 2-Development conducted in 2014.

We again point out that the mining operations fall outside the Phase 2-Development in respect of which the current application for subdivision is pending – the mining operations are located about 700 to 900 meters away from the Phase 2-smallholdings.

5.4. Ad Paragraph (d):

- 5.4.1. It is alleged that despite requests and best efforts of Peralin, no layout plan had been provided to Peralin.

- 5.4.2. During the September 2016-Environment Impact Assessment-Process, Peralin asked Geo Pollution Technologies for a layout plan whereupon Geo Pollution Technologies referred Peralin to Mr Udo Stritter of Japonica, as per page 59 of the EIA, stating that:

*"As for land use, it falls outside of the scope of the EIA conducted as it is not a listed activity requiring an environmental clearance. As such I do not have that specific information (I assume you are referring to the land use of the subdivided smallholdings?). To obtain that information please contact Mr Stritter of Japonica Investments directly."*

- 5.4.3. Our client is not aware of any requests and "best efforts" of Peralin other than the one request to Geo Pollution referred to above. Our client is also not aware, despite the above suggestion for Peralin to contact Mr. Stritter with regard to a layout plan, of Peralin having contacted Mr Stritter with regard thereto. Our client has no concern to provide Peralin with such a layout plan and refers to the layout plan that is attached hereto (Annexure "A").

5.4.4 With regard to the layout plan we wish to note that Peralin was furnished with the plan for the original layout which comprised Phase 1, Phase 2 and Phase 3 – i.e.: all 75 smallholdings together, during stakeholder consultations which were conducted during August 2010 and November 2010 as part of an environmental assessment (biophysical) which was done in respect of the original subdivision application by Independent Environmental Consultants, who then already addressed Peralin's concerns.

During the compilation of an Environmental Scoping and Management Plan for Peralin, in 2013, Peralin and the Ministry of Environment and Tourism and the Ministry of Mines and Energy were fully informed of the Leopard Valley-Smallholdings-Development and Peralin was again furnished with a layout plan (which forms part of Peralin's EIA).

5.4.5 We are not certain whether the new layout plan (as per Annexure "A"), which shows Phase 1 (already approved) and Phase 2 (awaiting final approval) of the Development, was given to Peralin.

The said layout plan, which includes Phase 1 and Phase 2 (as per Annexure "A") will however have been shown and discussed with the managing director of Peralin (Mr Mark U. Rattay), when an inspection of the mining claim areas was conducted by the Chief Mineral Rights Officer (Mr Brian Beukes) on 20 August 2015, with Mr Udo M. Stritter, Heiko W. Stritter and the undersigned being present.

Peralin is however now kindly referred to the attached layout plan (Annexure "A"), which shows the Phase 1 and Phase 2 - Leopard Valley-Smallholdings-Development.

There is no layout plan for Phase 3 yet.

#### 5.5. Ad Paragraph (e):

5.5.1. In paragraph (e) it is averred that there is an obvious prejudice that Peralin would suffer as a result of a proposed rezoning and other changes both on Peralin's property and on the mining claims and business operations.

5.5.2. As stated hereinbefore, there is no rezoning but a subdivision with the land *remaining* zoned "agriculture".

5.5.3. Our client disagrees with the aforementioned averment that Peralin and their 3 (three) affiliated properties (situated north of the Leopard-Valley-Development) would be prejudiced and notes that none are stated in the letter other than an alleged risk of pollution which Peralin seems to suggest may result from sewage and other services and increased traffic (referred to in its paragraph (f)). The said 'Peralin-Properties' do not form part of the area that is being subdivided. The Project would also utilize access points different to the ones that Peralin uses to access its plots and the mining claims.



The impact of services on the environment have been considered and addressed in the Biophysical Assessment conducted during July 2010 (with the original subdivision-application) and interested and affected persons (including Peralin and their 3 (three) affiliated property-owners) were consulted and their comments addressed in the said assessment, which said assessment also forms part of the subdivision application for the Phase 2-Leopard-Valley-Smallholdings-Development, submitted with Nampab on 29 September 2014.

Water supply, solid waste, road infrastructure and the impacts on groundwater, the ecosystem and traffic were also addressed in the Environmental Impact Assessment Scoping Report, which was submitted with the Ministry of Environment and Tourism on 20 October 2016, which includes the comments received from Peralin during September 2016.

With regard to sewage, we point out that the following was stated in Japonica's application for subdivision:

*c. Sewage.*

*Each purchaser would install a separate septic tank to standards approved by the Municipal Council and preferably using a trickling filter system. This latter is the system being adopted for the nearby Omeya Township. As water is a limited and precious natural resource, it is the duty of plot owners to preserve this resource. By implementing an appropriate water treatment facility, which makes provision to use the waste water after treatment for irrigation and to protect the ground water, a fair quantity of water can be saved. As in the long term septic tanks have a negative effect on ground water, a more effective waste water treatment system is proposed, providing beneficial recovery of treated water. The alternative French drain system is recommended where the water from the red-bead is fed into a French drain, allowing the water to infiltrate into the earth."*

Sewerage was not part of the terms of reference of the EIA as these are services to be provided by each individual owner of a smallholding - e.g. septic tanks.

This was addressed in a response to the comments that had been made by Peralin to the completed EIA and EMP documents, at page 63 of the EIA:

*"1. Each future property owner will be responsible for handling their own sewage and providing their own electricity. Should it be a requirement from the Municipality or other bodies involved that a sewer system must be in place as condition of the sub-division, an environmental assessment for that component will have to be completed as a separate EIA, or the current EIA updated. Otherwise it will be each property owner's individual responsibility to adhere to any regulations, restrictions or requirements. It will be a requirement from the home owners association that all owners will be obliged to protect groundwater (and any other) resources."*

Each Plot-Owner will in any event be responsible to adhere to any regulations, restrictions or requirements relating to pollution and it will be a requirement from the home owners association that all owners will be obliged to protect groundwater (and any other) resources.

Where there are services to be provided by the individual plot-owners themselves, and those services require a separate EIA, because of Municipality or Ministry of Environment and Tourism requirements, then the individual plot-owner will have to meet those requirements, in which case the affected and interested persons will again be consulted.

We further wish to note that, in response to our client's application for the Phase 2-Subdivision, Nampab requested the Mining Commissioner's (new) comments with regard to the said application.

The Permanent Secretary of the Ministry of Mines and Energy responded and addressed a letter to our client's Town Planner dated 8 May 2015 (attached hereto, marked Annexure "B"), stating that:

"We confirm that there are mineral rights within farm Gocheganas but believe that the rights of the holders will not be affected by the planned sub-divisions of the farm. While we have no objection to your planned action, we recommend that you obtain assurances from the holders that their rights will not be negatively affected."

[our emphasis added]

While Peralin's 5 x mining claims (number: 68113 to 68117) (which are shown in stipple lines on the attached layout plan (Annexure "A")) are located outside of the Phase 2-Leopard Valley-Smallholdings-Development, at a distance of 700 to 900 metres away from the nearest Phase 2-Smallholdings, there used to be a 6<sup>th</sup> mining claim held by Peralin (number: 68118), which was located within the Phase 2-Leopard Valley-Smallholdings-Development (on Portion 30).

During Japonica's aforementioned request for a 'fresh' clearance from the Ministry of Mines and Energy for the Phase 2-Leopard Valley-Smallholdings-Development, Japonica also requested that Peralin's 6<sup>th</sup> claim be abandoned, which was never worked on/exploited.

In that process an inspection was suggested to be conducted on the Farm and an inspection was arranged with the managing director of Peralin (Mr Mark U. Rattay), the Chief Mineral Rights Officer of the Ministry of Mines and Energy (Mr Brian Beukes, Japonica's managing director (Mr Udo M. Stritter), Mr Heiko W. Stritter and the undersigned.

The inspection was conducted on 20 August 2015, during which the 6 (six) mining claim areas were inspected.

During the said inspection Mr Mark U. Rattay confirmed that Peralin does not have any objection to the Leopard-Valley-Development on the Farm and that Peralin would abandon the said 6<sup>th</sup> claim.

Mr Mark U. Rattay subsequently wrote a letter on 11 September 2015 confirming same (which is attached hereto, marked Annexure "C"), in which it is stated that:

"... Peralin (Pty) Ltd ... do hereby confirm that Peralin has no objection to the Leopard Valley Development by Japonica Investment Nineteen (Pty) Ltd on Remaining Extension of the farm Gocheganas No. 26 situated in the local authority area at the City of Windhoek."

[our emphasis added]

**5.6. Ad Paragraph (f):**

5.6.1. It is stated that Peralin anticipates increased traffic, which could pose additional risk, if not given due consideration by the relevant authorities.

We assume that the road that is being referred to is the B1 Main Road, from which the mining claims and the Farm are being accessed.

In this regard we point out that the Roads Authority has been approached and that the Roads Authority has already considered roads and access and has given its approval.

This matter was addressed in the subdivision-application with Nampab and also in the EIA currently with the Ministry of Environment and Tourism.

5.6.2 We also wish to point out that there are 2 (two) other access points which are intended to be used for the Phase 1 and Phase 2-Leopard Valley-Development and that the access point used by Peralin is not intended to be used for the Phase 1 and Phase 2-Leopard Valley-Development.

5.6.2. We further point out that the Roads Authority is planning the construction of a freeway between Windhoek and Rehoboth.

Increased traffic can therefore in any event not be an issue in the near future.

Engineers and Environmental Practitioners have been instructed with regard to the construction of the new freeway and an Environmental Impact Assessment is being conducted with interested and affected persons (including Peralin) having been consulted with regard thereto.

5.6.3. The purported risks that Peralin seems to refer to, have been, and are continued to be, considered by the relevant authorities.

**6. Ad 2<sup>nd</sup> last Paragraph, relating to the Surface Use Agreement and Ancillary Rights Commission**

6.1. We confirm that our client has been furnished with a draft surface use agreement, for its consideration and feedback and that there have been on-going negotiations between Peralin and Japonica.

6.2. We find it peculiar that Peralin is apparently now in the process of applying to the Ancillary Rights Commission, when Japonica has not yet responded to the said surface use agreement that has been proposed by Peralin.

6.3. The Minerals (Prospecting and Mining) Act, 1992 clearly stipulates that the holder of a mining claim is prohibited from exercising any rights conferred upon such holder under such claims until such time as such holder has entered into an agreement with the owner of land which would contain terms and conditions relating to the payment of compensation to the owner. There is no such agreement in place (as is also acknowledged in the Koep-Letter) and Peralin is therefore conducting mining operations on the Farm contrary to a statutory prohibition to do so, and is now asking the Permanent Secretary of the Ministry of Environment and Tourism to consider matters referred to in its letter, that may concern the Ministry of Mines and Energy, but not the Ministry of Environment and Tourism.

- 6.4. It is correct that our client has objected to, and raised concerns, with regard to mining claims having been issued to Peralin on the Farm, the renewals thereof and an environmental impact assessment that was done in respect of such claims.
- We however point out that the statutory obligation for Peralin to enter into a compensation agreement, and our client raising concerns in respect of the validity of such mining claims, falls under the ambit of the *Minerals (Prospecting and Mining) Act, 1992* and are matters to be considered by the Minister of Mines and Energy, the Mining Commissioner and the Ancillary Rights Commission and not by the Minister of Environment and Tourism.
- 6.5. Our client does intend to approach Peralin with regard to the mining claims and its intention to operate on some of them and to revert with its feedback on the proposed draft Surface Use Agreement, in an effort to resolve the respective parties' differences in opinion with regard thereto.
- 6.6. We again wish to note that the Ministry of Mines and Energy was informed of the original 75 smallholdings-Leopard Valley-Development-Subdivision-Application and gave its clearance for the subdivision during 2013, that the Ministry of Mines and Energy was again approached during 2015 with regard to the Phase 2-Leopard Valley-Development and again confirmed that it had no objection to the subdivision and development, and that Peralin themselves confirmed in their letter dated 11 September 2015, that they do not have any objection to the Leopard Valley Development.
- 6.7. For clarification-purposes, we also again wish to note that the Leopard Valley Development is divided into 3 (three) phases and that the Phase 1-smallholdings (Portion 12 – Portion 20)(which have already been approved) are not affected by the Peralin-Mining Claim-Areas and the Phase 2-smallholdings (Portion 22 – Portion 70)(in respect of which the subdivision is currently being applied for) were set at a distance of 700 to 900 metres from the 5 (five) mining claims, in order to minimize the disturbance and to preserve the tranquility of the Phase 2-smallholdings.
7. The purpose of the letter from Koep & Partners is not clear, and it is also not clear what the Permanent Secretary of the Ministry of Environment and Tourism is expected to do following this letter. The Minister of Environment and Tourism is responsible with regard to the issuing of Environmental Clearance Certificates for the activities listed in the *Government Gazette*, and the process leading to the issuing thereof. This process has been initiated, Peralin has been provided with a draft EIA and EMP, Peralin has raised concerns which have been addressed in the final EIA and EMP which have been lodged with the Environmental Commissioner and the further process of considering our clients application for an Environmental Clearance Certificate is being dealt with in terms of and in accordance with the provisions of the *Environmental Management Act, 2007*.

8. As can be seen from the correspondence from the Permanent Secretary of the Ministry of Mines and Energy referred to above, the Ministry of Mines and Energy is already aware of the Project and responded thereto, and so did Peralin.
9. The Ministry of Urban and Rural Development is also already involved and part of this process, and it is not understood why Peralin has copied its letter to the Ministries other than the Ministry of Environment of Tourism in a matter that concerns the Ministry of Environment and Tourism.
10. Our client questions Peralin's sincerity, because they have instructed their attorneys to request the Permanent Secretary of the Ministry of Environment and Tourism (and other authorities) to consider factors which have already been raised before and which have been considered and addressed (in so far as they are relevant and applicable) in the EIA (which is currently under consideration of the Environmental Commissioner) and because they have previously confirmed that they have no objection to the Leopard Valley Development.
11. We trust that the Ministry of Environment and Tourism will continue in its assessment of the EIA and EMP, and process our client's application to be issued with an Environmental Clearance Certificate.

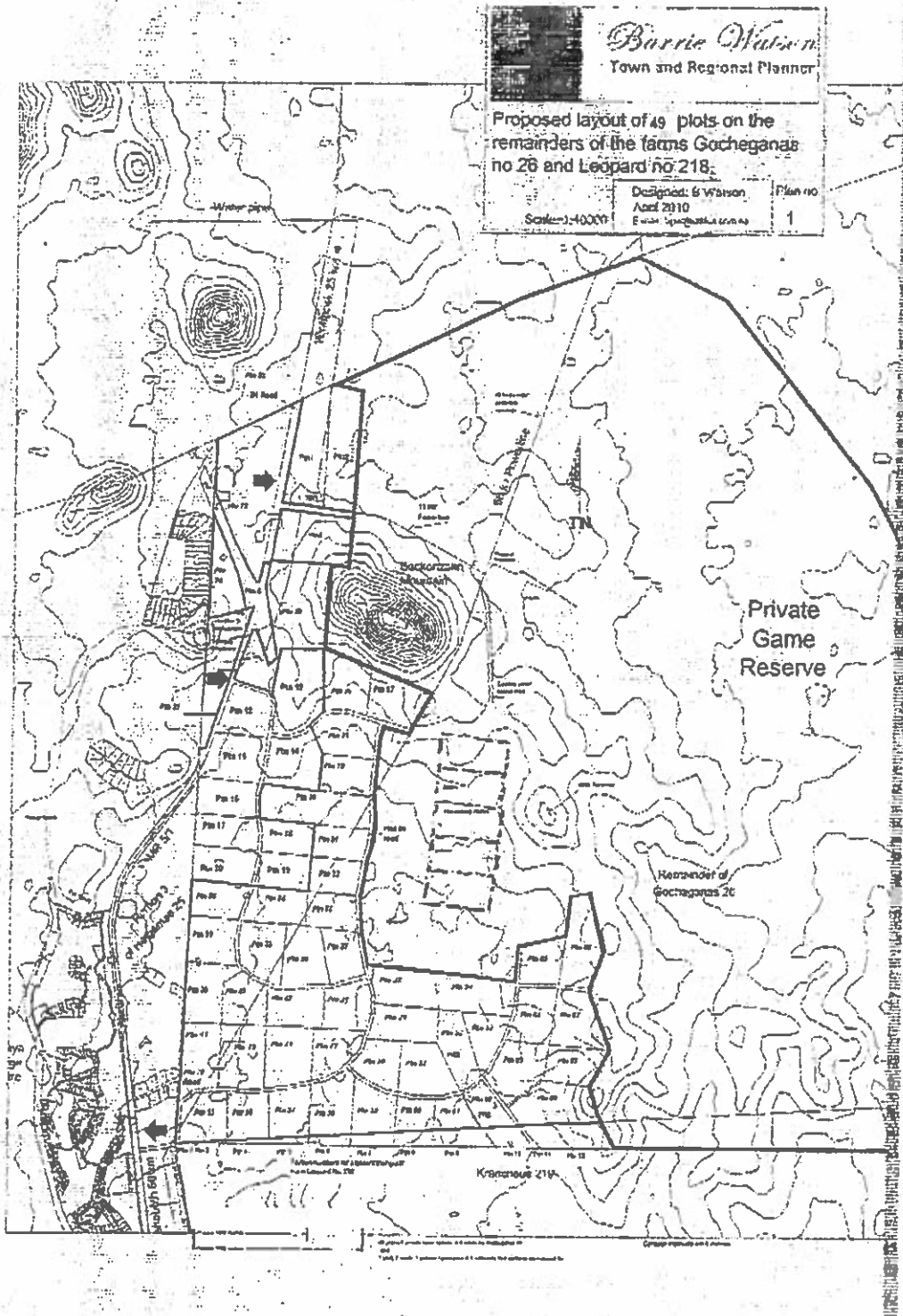
Yours faithfully

**AXEL STRITTER**  
**ENGLING, STRITTER & PARTNERS**

**CC:**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <b>The Environmental Commissioner</b><br/>           Ministry of Environment &amp; Tourism<br/>           Per Fax. 229 936</li> <li>2. <b>Chief Executive Officer</b><br/>           Town Council of the City of Windhoek<br/>           Per Fax. 290 2060</li> <li>3. <b>Permanent Secretary</b><br/>           Ministry of Mines and Energy<br/>           Per Fax. 238 643/22 0386</li> <li>4. <b>The Mining Commissioner</b><br/>           Ministry of Mines and Energy<br/>           Per Fax. 284 8366</li> </ol> | <ol style="list-style-type: none"> <li>5. <b>Permanent Secretary</b><br/>           Ministry of Urban and Rural Development<br/>           Per Fax. 25 8131</li> <li>6. <b>Namibia Planning Advisory Board</b><br/>           Ministry of Urban and Rural Development<br/>           Per Fax. 226 049</li> <li>7. <b>Permanent Secretary</b><br/>           Ministry of Agriculture, Water and Forestry<br/>           Per Fax. 208 7697</li> <li>8. <b>Koep &amp; Partners</b><br/>           P O Box 3516, Windhoek<br/>           By Fax: 382 888 &amp; By Hand<br/> <b>Att: Chastin Bassingthwaighte</b><br/> <b>Ref. CB 56855</b></li> </ol> |
|--|---|

### Annexure "A" – Layout of Phase 1 & 2 Smallholdings





## Annexure "B"



REPUBLIC OF NAMIBIA

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**MINISTRY OF MINES AND ENERGY**


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Tel: +264 (0)61 284-8111  
 Fax: +264 (0)61 238643  
 E-mail: info@mme.gov.na  
 Website: www.mme.gov.na

1 Avetian Road  
 Private Bag 13297  
 WINDHOEK

Enquiries: J. Aebeb

08 May 2015

Mr. Barrie P. Watson  
 Town and Regional planner  
 PO Box 21255  
 Windhoek

Dear Sir,

**RE: APPLICATION FOR SUBDIVISION OF REMAINDER OF FARM GOCHEGANAS  
 NO. 26 INTO 49 SMALLHOLDINGS (SECOND PHASE).**

I refer to your letter dated 27<sup>th</sup> April 2015, regarding the above-mentioned subject.

We confirm that there are mineral rights within farm Gocheganas but believe that the rights of the holders will not be affected by the planned sub-divisions of the farm.

While we have no objection to your planned action, we recommend that you obtain assurances from the holders that their rights will not be negatively affected.

With regards to your request that we should not renew Mining Claim no. 67116, we consider this rather a strange request as no reasons have been advanced to us to motivate the request.

Furthermore, the Ministry may only take such an action in accordance with the provisions of the Minerals (Prospecting and Mining) Act, Act no. 33 of 1992.

Please let us know if you need further assistance from us.

Yours sincerely

  
 KAHJORO KAHURE  
 PERMANENT SECRETARY

All official correspondence must be addressed to the Permanent Secretary.

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**Annexure "C"**



**(PTY) LTD.**  
Reg. No. 06102297/07

**Peralin Quarries (Pty) Ltd**

P O Box 2535  
Windhoek  
NAMIBIA

Portion 1; Farm Goheganas, Aris

Tel: +264 61 307 425 | Fax: +264 61 307 427  
E-mail: [peralin@wavy.na](mailto:peralin@wavy.na)

11 September 2015

To whom it may concern,

I, the undersigned, Mark U. Rattay, Managing Director of Peralin (Pty) Ltd - Co. No 1966/2297 ("Peralin"), do hereby confirm that Peralin does not intend to renew mining claim no. 68118 when it becomes due in October 2015; and has no objection to the Leopard Valley Development by Japonica Investment Nineteen (Pty) Ltd. on the Remaining Extension of the farm Goheganas No. 26 situated in the local authority area at the City of Windhoek.

M. U. Rattay  
Director

**JAPONICA INVESTMENTS NINETEEN  
(PTY) LTD** Reg. No. 77/1330/07

**11 Schuster Street  
P.O. Box 43, WINDHOEK  
E-mail: [umstritt@mweb.com.na](mailto:umstritt@mweb.com.na)  
Tel: 061 305527  
Fax: 061 305523**

**10<sup>th</sup> September, 2013**

**Dr. M. Maartens  
Environmental Consulting  
PO Box 1284  
Windhoek**

Dear Dr. Maartens,

**Comments on the environmental impact possible from continued and expanded mining operations conducted by Peralin(Pty) Ltd on the Remainder of the Farm Gocheganas No. 26, Windhoek district, Khomas Region.**

**Introduction**

We refer to your invitation dated 2013-08-20 to provide comments and state our position relative to the quarrying and mining operations of Peralin (Pty) Ltd on our farm, the Remainder of Farm Gocheganas No. 26.

We understand that the present investigation is carried out in terms both of the Minerals Act of 1992 and the Environmental Management Act of 2007. In terms of the latter, quarrying and mining fall under the list of activities that may not be undertaken without an environmental clearance certificate as promulgated under Government Notice 29 of 2012.

Directors: Udo Manfred Stritter (Executive Chairman); Henco Karel Henning

As owners of the land on which these activities are being conducted we would like to bring the following issues to your attention and the attention also of the Mining Commissioner and the Environmental Commissioner.

### **Current Plot Development**

On the 11<sup>th</sup> July 2013, Ministerial approval was granted for the subdivision of the Remainder of the Farm Gocheganas No. 26 (4967.8964Ha) into 10 Portions ranging in size from 13 to 30 hectare (smallholdings), and the Remainder of the Farm Gocheganas No. 26 (of approximately 4792 hectare). These smallholdings will be developed with appropriate infrastructure to cater for families who wish to enjoy a rural lifestyle while still living within an easy commuting distance of Windhoek. The smallholdings will be used for small scale agriculture as well as for the construction of quality homes.

The Remainder of the Farm is used for game grazing, browsing, game breeding and as a tourist attraction.

We wish to state that we do understand that mining out of necessity causes environmental damage. This very fact demands that mining operations must be stringently controlled as to minimize same.

Furthermore, mining is an unsustainable activity which destroys our habitat and should not be allowed unless the benefits to state and civil society outweigh the short and long term and permanent damage to the environment.

A number of problems are possible in the future with respect to the settlement of the smallholdings. They are as follows:

- Five of the six claims 68113 to 68117 lie at about 1000 metres from the smallholdings; expansion of operations may prove intrusive to the lifestyles of residents and destructive of the natural vegetation that makes the area attractive for settlement.
- One claim 68118 lies immediately next to the new smallholdings created by the subdivision; its exploitation will definitely impinge of the tranquility of the residential area; this claim has not been worked in any way and should be abandoned.
- There are beautiful marble and rocky outcrops that make up the landscape; these are jeopardized by the quarrying and exploitation since they are prime targets for marble extraction.
- The rocky outcrop on claim 68118 is intended to be a feature of the new residential settlement and must be preserved.
- Blasting must be controlled and limited to certain hours acceptable to the Farm owners and the future residents on the smallholdings. Uncontrolled blasting will be noisome and dangerous for residents.
- Access to the quarrying must be on a route acceptable to the Farm owners and away from the smallholdings.

Game feels threatened by activities around the quarry and do not roam freely in its vicinity. They may in fact be threatened by poaching since the quarrying and its employees are not restricted by fencing. The presence of a very visible mining and quarrying operation as seen from the eastern ridge makes the area unattractive for visiting game viewers, photographers and tourists.

## **Water Abstraction**

A Water Abstraction Permit Number 10875 dated 23<sup>rd</sup> November, 2011, has been issued in terms of the Regulations 5 and 9 of Government Notice R1278 of 23<sup>rd</sup> July 1971 as promulgated under Section 30(2) of the Water Act, 1956 (Act 54 of 1956) as amended, to the owner of the Farm Remainder of Goheganas Number 26, Windhoek District for water abstraction per year not exceeding 43 000 m<sup>3</sup> for a duration of 5-years to be used for game and plots. No provision in this abstraction permit has been made for quarrying and mining purposes.

It has been said that Peralin extracts water from one of our boreholes in the vicinity of the quarry without permission to do so. Peralin has stated that they use 20 cubic meters of water per month but no meters have been installed in order to give credence to this statement of usage. This extraction reduces the water available for other uses e.g. game waterholes, landscaping and domestic. The expansion of the mining activities so as to consume additional underground water must not be permitted, and definitely not without the necessary approval of the Department of Water Affairs, Ministry of Agriculture, Water and Forestry.

## **Future Plot Development**

Plans have already been drawn up for a larger subdivision creating 65 more smallholdings similar in size to those already created. The proposals cover all the area to the west of the ridge that splits the Farm from north to south, and south of the Backenzahn Mountain. This includes the area occupied by the mining claims.

There has been an increase in residential settlement outside of the Windhoek Municipal boundaries along the three main routes into the City; from Okahandja, from Rehoboth and from the International Airport. Groot Aub, south of Goheganas for instance, at about 60 km from the City, has been expanding and is due for proclamation as a township soon.



The City has indicated that its own ability to provide new developable land within the Windhoek Basin will reach a limit by about 2015. Densification and the development of satellite areas outside of the Basin is the unavoidable response. Thus the trend to establish new settlements outside of the Municipal Area, and along established communication lines that follow the major roads, must be seen in this context. Settlements will proliferate and expand. The established service corridors facilitate development by:

- having the cheapest development costs from the presence of service lines, i.e. roads, railway, and powerlines, and
- geographically follow the flattest topography most conducive for settlement.

The creation of smallholdings on the Farm Goheganas must be seen within this wider framework that encompasses other existing and likely future settlements within commuting distance of the Windhoek Urban Area. These new settlements are in response to:

- a perceived and actual limit on developable land within the mountainous basin in which the City is located,
- a strong desire by many to have a small farm or plot with space for a few animals, &
- rising costs of settlement within the proclaimed urban townships.

The Goheganas plots lie a third of the way between Windhoek and Rehoboth and are 20 minutes drive from Windhoek City Centre; the development is not isolated. The village, Groot Aub is experiencing much renewed life and growth. The nearby Omeya Township is currently being settled. One of the nine mining claims registered to Peralin (Pty) Ltd Limited, number 68119 lies within the settled area of Omeya Township.

Increasingly new plans are being promoted for increasing residential densities at Omeya and at other farms along and near the national road.

It is inconceivable that expansion of mining of non-strategic materials can be allowed to threaten necessary urban settlement. Claims such as 68119 and 69118 should be immediately extinguished. Other non-exploited claims on the Remainder of the Farm Gocheganas No. 26 should not be extended. Only the two exploited claims presently occupied should at best be granted a further two year non-renewable extension. The two years would run simultaneous with the planning and approval process for creating the additional 65 smallholdings in the area. It should obviously end once the process of settlement is proceeds.

### **Exploitable Mineral Potential**

A report on the mining potential of the Farm Remainder of Gocheganas was commissioned in June 2009 in order to evaluate an option to purchase made by the owners of Peralin Paints. The Report was compiled by Mr. Andreas G Palfi, of Palfi, Holman & Associates cc Geological, Exploration, Mining & Environmental Management Consultant. The Report covers the whole Farm with implications for other farms in the vicinity. In concluding his report, the author was fairly certain that the mineral potential of the farm is indeed limited. It was also observed that if the management of Peralin intends to produce for the export markets and thus dramatically increase production rate the available reserves are limited.

There are numerous other localities, mainly in the Karibib/Wilhelmstal area, where similar quality marbles are available for the same purpose but with considerably larger reserves. The quarrying and mining operations are not sustainable or even long-term opportunities and represent a poor usage of the land in comparison with its potential for settlement and small-scale agriculture.

The following is an extract from this Report for your purposes.

### PERALIN OPERATION

*The entire operation appears to be small but using fairly recent mining equipments; excavator, dumper truck, compressor, and about six labourers. A well constructed crushing and screening plant with a generator is close to the quarry. The quarry is obviously using explosives to break the marbles but the explosives magazine was not seen and to be honest was not searched for.*

*The present value of the equipment, including the crushing plant is estimated to be about N\$2 million and the monthly working costs should be around N\$80 thousand. The writer cannot assess the production rate, however due to the unused state of the crusher/screening plant, the quarry production seems to be aimed to provide just enough raw materials for the paint manufacturing only and not for sale to other consumers. The marble dust is used as filler for the paint manufacturing. The quarry and plant as a stand-alone operation does not seem to be a viable but as a part of the nearby paint manufacturing operation must be economical.*

*The quality of the marble appears to be good and at the present low production mining rate could carry out for many years to come. However, if the management of Peralin intends to produce for the export markets (exporting takes place since at least two years ago) and thus dramatically increase production rate the available reserves are limited. Please note that there numerous other localities, mainly in the Karibib area, where similar quality marbles are available for the same purpose but with considerably larger reserves. Nevertheless the close location of the marble quarry to the paint manufacturing plant is obviously advantageous for Peralin.*

### GEOLOGY OF THE FARM GOCHEGANAS 26

*The most dominant rock type is the quartz-feldspar gneiss containing feldspars, quartz and various micas. ... . The second most common and more visible rock type is the amphibolite layers with thickness between a few metres to tens of metres. ... . Marble units are less common in the area*

and the most important of these is presently mined by Peralin. The unit is about 600m south of the Gocheganas Hill and can be traced for a few hundreds of metres in the north-north-westerly direction. The unit is generally grey to brown on surface, due to weathering, but white and clean on the fresh surface. Within this unit minor amount of manganese staining was noted with scarce pinkish, probably rhodocrosite (manganese carbonate) mineralisation. Wollastonite, (calcium silicate) fibres were also noted. The second, brown to grey distinctly banded marble unit is located on the northern slopes of Gocheganas Hill and is about 13m wide and 300 m long. ... . An iron-rich chert/jasper (silicate mineral) outcrop is prominent between the Gocheganas Hill and the tarred road and it may represent a metamorphosed banded iron formation probably formed by volcanic activities.

The youngest rocks (anywhere between 32 and 39 million years) in the area composed by phonolites like at the Aris Quarry, north of Gocheganas (indicated by dark purple colour on the northern side of the geological map) or trachytic composition volcanic plugs, like at the Gocheganas Hill, just east of the tarred road (not shown). ... On the western side of the Peralin crushing plant a small koppie is covered by what appears to be a porphyritic basalt or trachyte lava, which is in all likelihood associated with the trachytic Gocheganas volcanic vent.

## CONCLUSIONS

The geological inspection was short, as was originally planned, and the author is fairly certain that the mineral potential of the farm is indeed limited. However on return from the field trip additional information was obtained on some mineral occurrences, ... such as;

## **Peralin Marble Quarrying Operations: Physical Aspects**

The following review of the physical quarrying operations indicates its adverse impact on game viewing and for future settlement that is planned for higher lying ground.

The site of the quarry and associated crushing, screening and loading equipment is approximately 150 metres wide and 600 metres long lying with a north-south orientation. Marble is quarried, crushed and transferred to a nearby plot, Portion 1 of Farm Gocheganas No. 26, owned by the owners of Peralin (Pty) Ltd. It is adjacent to the national road and approximately 1 kilometer due North of the recent subdivision. This Portion 1 of the Farm Gocheganas is zoned for industrial activities in the Aris Town Planning Scheme. Storage of mined marble material takes place on this Plot and the white heaps when accumulated are very visible from the main road.

White material covers the ground in the immediate vicinity of the quarry, crushing and loading areas as may be seen on the photographs. This is mainly a result of the loading and truck movements. Vehicle transport between the quarry and storage area is a source of dust. Dust will further result from blasting, loading, hauling and handling of ore and waste rock. It can also be blown from any waste rock dumps, stockpiles and crusher stockpiles. Elevated fallout and long-term dust has the potential to deteriorate local air quality (giving rise to occupational and public health issues), impact on plants by blocking their stomata (causing smothering or structural damage) and is likely to impact directly on biodiversity.

The following three photographs illustrate the impact on the environment.



**Figure 1:** View of the quarry from the higher lying eastern ridge.



**Figure 2:** Closer view of quarry at ground level from about 100 metres distance.



**Figure 3:** Peralin crusher and screen plant

### **Peralin Marble Quarrying Operations: Legal Aspects**

There are 6 mining claims that have been located on the Farm. Claims were held by Peralin (Pty) Ltd. The 6 mining claims pegged on the Farm are for exploitation of industrial minerals. They are 600 metre by 300 metre in extent. Claim numbers 68113, 68114, 68115, 68116, 68117, and 67118 are held in the name of Peralin (Pty) Ltd.

There are some questions regarding the legality of the present “mining operations”. The following is pertinent information.

1. The present claims, each 600 by 300 metres, on Farm Remainder of Goheganas were approved on the 15<sup>th</sup> October 2011 and lapse on the 14<sup>th</sup> October 2013.
2. Peralin has not complied with the Environmental Clearance to reinstate topsoil as exploitation proceeds as included in the approval and conditions granted by of the Ministry of Environment and Tourism.
3. Claims are for exploitation of industrial minerals.
4. Peralin does not have an agreement with the Farm Owner (required in order to comply with Sections 52(1)(a) and (d) of the Minerals Act)
5. Only one of the claims sites is being worked fairly continuously as required in terms of the Act; claims not being worked lapse.



6. Since the incorporation of the area under the Windhoek Municipal Council and its Aris Town Planning Scheme, none of the mining and quarrying activities have been authorised by the City but may be seen as existing rights that will lapse in October 2013. Thereafter they will be illegal activities under the Scheme and will presumably require City approval to continue.

### **Natural Environment**

There are a number of protected tree species in the surroundings of the mining claims such as *Boscia albitrunca*, *Albizia anthelmentica* and *Acacia erioloba*. Most of these species are fortunately very abundant in the area. *Acacia erioloba* (Camel thorn), should especially be protected. There are many bird nests that have been observed situated on *Acacia erioloba*. They need to be protected from the mining activities.

Machineries used at the Peralin quarry can also be a long-term source of noise, especially to animals, birds and the nearby residential areas. Noise and vibrations will have an impact on animals such as birds and reptiles. Birds are known to abandon their nests if subjected to continuous noise.

### **Conclusions**

With due consideration to the history of the quarrying and mining operations and taking into account the present adverse impact and the future conflicts and unsustainable nature of the mining activities it is recommended as follows.

- Claims such as 68119 and 69118 should be immediately extinguished.
- Other non-exploited claims on the Remainder of the Farm Goheganas No. 26 should not be extended.

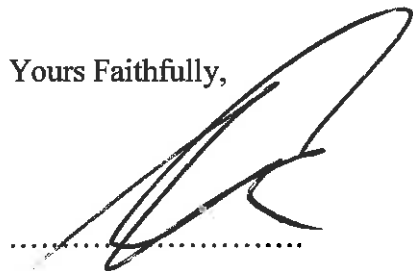
- Only the two exploited claims presently occupied should at best be granted a further two year non-renewable extension. The two years would run simultaneous with the planning and approval process for creating the additional 65 smallholdings in the area. It should obviously end once the process of settlement proceeds.
- The rocky outcrop on claim 68118 is intended to be a feature of the new residential settlement and must be preserved.
- Blasting must be controlled and limited to certain hours acceptable to the Farm owners and the future residents on the smallholdings. Uncontrolled blasting will be noisome and dangerous for residents.
- Access to the quarrying must be on a route acceptable to the Farm owners and away from the smallholdings.
- The quarry, mining operations, access road and associated activities must be fenced so that workers may not enter the game grazing areas.
- The consumption of water by Peralin must be metered by an independent party and subject to inspection by the Farm owners.
- The quantity should not exceed 20 cubic meters of water per month
- No expansion of the mining activities so as to consume additional water must be permitted, and definitely not without the necessary approval of the Department of Water Affairs, Ministry of Agriculture, Water and Forestry.

The proposals do not compensate for the losses caused to the Farm owners by the presence of a very visible mining and quarrying operation as seen from the eastern ridge which make the area unattractive for visiting game viewers, photographers and tourists. The Farm owners should be compensated for this loss through payment of an economic rental to the owners.

I trust this submission will enable you to make a fair and justifiable assessment of the environmental impacts imposed upon the natural surroundings and on the Farm owners by the continued activities of Peralin (Pty) Ltd on the Remainder of the Farm Gocheganas No. 26.

I look forward to receiving copy of your report for consideration and further comment as may prove necessary as provided for in Section 23 of the Environmental Impact Assessment Regulations of the Environmental Management Act, 2007 within a reasonable time prior to any further steps being taken in the process of such application in order for Japonica Investments Nineteen (Pty) Ltd to amplify/supplement its comments and concerns, and to fully prepare in respect of any consultative process. I also reserve the right to ask for more information and documentation pertaining to the matter. Japonica reserves its right to raise and submit further comments and concerns in respect of the Project and to amplify and supplement any comments and concerns once all relevant information and/or documentation has been received.

Yours Faithfully,

A handwritten signature in black ink, appearing to be 'U. M. Stritter', written over a horizontal dotted line.

**U. M. Stritter**  
**Executive Chairman**

# **JAPONICA INVESTMENTS NINETEEN (PTY) LTD**

Reg. No. 77/1330/07

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10<sup>th</sup> September 2013

The Mining Commissioner  
Private Bag 13297  
Windhoek

Dear Sir,

**OBJECTION TO THE FURTHER RENEWAL OF 6 MINING CLAIMS (REGISTERED NUMBERS 68113 - 68118) SITUATED ON OUR FARM REM. GOCHEGANAS 26, KHOMAS REGION, AND REGISTERED IN THE NAME OF PERALIN (PTY) LTD**

1. I am writing this letter in reaction to it having come to our notice that the company Peralin (Pty) Ltd ("Peralin") apparently intends applying for another renewal of the above-mentioned mining claims ("Mining Claims"), situated on the farm "Remainder of Gocheganas No. 26" (the "Farm") which was acquired in March 2009 by Japonica Investments Nineteen (Pty) Ltd ("Japonica"). The present claims on Farm Remainder of Gocheganas were approved on the 15<sup>th</sup> October 2011 and lapse on the 14<sup>th</sup> October 2013.
2. Japonica has ambitious development proposals for the Farm as set out below and which are jeopardized by the continued mining operations.
3. In spite of the failure of Peralin to successfully negotiate an agreement with myself as Farm owner, you granted a previous renewal of these mining claims expiring on 14<sup>th</sup> October 2013.

Directors: Udo Manfred Stritter (Executive Chairman); Henco Karel Henning

4. We herewith object to a further renewal of these mining claims. The grounds of our objection are set out below. We also refer to instances where we do not have knowledge whether or not Peralin has complied with particular requirements of the Minerals (Prospecting and Mining) Act 33 of 1992 ("**Minerals Act**"), in which regard we would like the Mining Commissioner to confirm such compliance. Should Peralin not be in compliance with such requirements, these instances should be regarded as further grounds of our objection to the renewal of the Mining Claims.

**5. Alternative Land Development Program**

5.1 Section 52(1)(d), which applies to mining claims in terms of section 31(2), provides that the holder of a mining claim may not exercise its rights on private land within 100 meters of any spring, well, borehole, reservoir, dam, Waterworks, building or any structure of whatever nature; or within 300 meters from any point on the nearest boundary of any erf, as defined in the Townships and Division of Land Ordinance, 1963, if such erf has been surveyed for the purpose of inclusion in a township, as defined in section 1 of the said Ordinance, without the prior written permission of the owner.

5.2 It is the intention of Japonica to use the western side of the Farm for the agricultural smallholdings and establishment of a township and included therein are several erven whose boundaries would be situated less than 300 meters from the Mining Claim areas. Japonica is not prepared to give its unconditional consent for the exercise of rights by Peralin under its Mining Claims by reason of Japonica intending to proceed with a property development in respect of the area that is traversed partly by the Mining Claims which development would be prejudiced by the existence of the Mining Claims.

5.3 Motivation for the development and subdivision takes into account the expansion of settlement arising from the growth and economic development of the City of Windhoek. A full residential township, Omeya, has already recently been created on the western side of the B1 National Road in fair proximity to the Gocheganas development on the eastern side of this Road. Further urban settlement is imminent.

5.4 During the year 2010, Japonica successfully applied for and undertook phase 1 of its development, namely the subdivision of the Farm into 10 new portions (“Leopard Valley Smallholdings”) and remainder. The Minister of Regional and Local Government, Housing and Rural Development on 11 July 2013 authorised the subdivision of the Farm in respect of the first phase of the property development project which phase does not include all 75 erven. The Mining Claims currently being exploited do not fall within 300 meters of phase one.

5.5 A layout had been drafted for a further 65 plots which will comprise subsequent phases. The Mining Claims would fall within such area.

- Six of the Mining Claims (Claim numbers 68113, 68114, 68115, 68116, 68117, and 67118) are situated within the area of the property development project.
- These six, 600 metre by 300 metre claims have been incorporated as plots into the layout.
- One claim, Claim Number 68118 lies immediately next to the new smallholdings created by the approved subdivision. Its exploitation would definitely impinge of the tranquility of the residential area; this claim has not been worked in any way and should be abandoned immediately.
- From the side of the Farm owner, an agreement is possible for the continuation of the exploitation of two claims already subject to mining operations, for one additional period of 2 years while approvals are sought and infrastructure is put in place for the subdivision of the development area into agricultural plots with township establishment, and subject to any operations under such claims not prejudicing the obtaining of any approvals of any nature in respect of the property development project referred to herein, and on terms and conditions that are acceptable to Japonica.

5.6 In respect of approved land-usage, the Farm fell within the Aris Settlement Area and the Aris Town Planning Scheme, and now falls within the local authority area of Windhoek. It is zoned "agriculture" in the Aris Town Planning Scheme. This zoning allows for agricultural plots with residential settlements to be erected. Important to note is that "mining" is not an activity that is allowed to take place on land that is zoned "agriculture". For this reason alone, the Mining Claims should not be allowed to be renewed.

## 6. Duration & Legality of Mining Operations

6.1 Section 35 of the Minerals (Prospecting and Mining) Act 33 of 1992 ("**Minerals Act**") stipulates the following concerning an application for the registration of a mining claim, which provisions also apply *mutatis mutandis* in relation to an application for the renewal of the registration of a mining claim:

"The Commissioner shall not grant an application for the registration [renewal] by any person of a claim-

(a) unless such person is a person referred to in section 32;

(b) unless such person has complied with the provisions of Part VI;

(c) if, at the time of the application, such person is contravening any provision of this Act or any term and condition, direction or order determined, given or made under any provision of this Act or is failing to comply with any such provision, term and condition, direction or order;

(d) unless such claim is situated in an area of land in which, and relates to any mineral or group of minerals in respect of which, such person was entitled, at the time of the pegging of such claim, to carry on prospecting operations;

(e) ...".



6.2 Section 32 referred to in above-mentioned section 35(a) stipulates that only a person (including a Company) who has pegged a claim in accordance with the provisions of the Minerals Act may apply for the registration of a mining claim. Section 25(1)(b) provides that Peralin would have to be a company whose articles of association contain a provision providing-

- (i) that only Namibian citizens may own shares in such company;
- (ii) that only another company whose articles of association contain such a provision may own shares in such first-mentioned company; or
- (iii) that only Namibian citizens and a company referred to in subparagraph (ii) may own shares in such first-mentioned company,

Kindly advise whether or not Peralin is in compliance with the abovementioned provisions.

6.3 In terms of section 35(b) Peralin would need to be in compliance with the provisions of Part VI. Part VI includes section 27(1)(b) in terms of which Peralin would have needed to have held a **licence which entitled it to prospect** at the time of pegging of the Claims prior to the application for Mining Claims (i.e. a non-exclusive prospecting licence or an exclusive prospecting licence), and which related to the minerals or group of minerals in respect of which Peralin was entitled, at the time of pegging of the claims, to carry on prospecting operations.

Kindly advise whether or not Peralin is in compliance with the abovementioned provisions. Failure of holding a licence to carry on prospecting operations at the time of the pegging of the Mining Claims would also constitute a contravention of the provisions of 35(d).

- 6.4 It is pointed out that Peralin had conducted mining operations prior to having been granted the Mining Claims and appeared to have already been operating when ownership of the Farm was passed to its present owner in February 2009, and as such would have been in contravention of some or all of the provisions and requirements referred to above on a continues basis, for which reason it is respectfully submitted that the applications for renewal of the Mining Claims be refused.
- 6.5 As to compliance with section 35(c), we refer to the instances set out in the following paragraphs.

**7 Land Owners Agreement:**

- 7.1 Section 31(2) stipulates that section 52(1)(a) to (e) and (f) of the Minerals Act would apply in respect of mining claims. Section 52(1)(a) provides that the **holder of the mining claim is not allowed to exercise any** rights conferred upon such holder under the claim and the Minerals Act on private land **until the holder has either entered into an agreement in writing with the owner of such land** containing terms and conditions relating to the payment of compensation, or has been granted an ancillary right to exercise such rights by the Minerals Ancillary Rights Commission.
- 7.2 Section 31(3)(b) of the Minerals Act further stipulates that the Commissioner shall not grant the permission to erect **accessory works** in respect of a mining claim situated on private land, unless the holder of the mining claim has entered into an agreement with the owner of land relating to the payment of compensation.
- 7.3 It is pointed out that no such agreement as aforesaid has been entered into, and that Peralin has been, and continues to conduct mining operations in excess of 5 (five) years with no such agreement being in place. It is so that Peralin had approached us to make a suggestion in respect of an agreement concerning payment of compensation and access.

This is not proper as it is the mining claim holder who would have to make a proposal as to the terms and conditions of such a contract. Japonica can for instance not be expected to guess where exactly Peralin intends exercising any of its rights and in what manner (including activities such as blasting and erecting structures). In light of the grounds of objections set out herein, Japonica is in any event not prepared to enter into such a contract, except for and to the extent of the two claims already subject to mining operations referred to in, and in accordance with, paragraph 5.5 above.

- 7.4 Japonica is not prepared to give its consent for the exercise of rights by Peralin under its Mining Claims by reason of Japonica's above-mentioned property development in respect of the area that is traversed partly by the Mining Claims which development would be prejudiced by the existence of the Mining Claims.
- 7.5 It is furthermore so that section 41 provides that it shall be a term and condition of the registration of a mining claim that the holder of such mining shall exercise any right granted to him or her in terms of the provisions of this Act reasonably and in such manner that the rights and interests of the owner of any land to which such mining claim relates are not adversely affected, except to the extent to which such owner is compensated.

## 8. Sustainability

- 8.1 **Article 95 (l) of the Namibian Constitution** states that *'the State shall actively promote and maintain the welfare of the people by adopting, inter alia, policies aimed at ... utilization of natural resources on a sustainable basis for the benefit of all Namibians both present and future;'*
- 8.2 It is Japonica's submission that the mining operations of Peralin cannot be regarded sustainable. The quarry that exist and the ones that would come into existence would permanently destroy the surface area which could be used by the landowner for its property development project which would serve to provide much needed land for residential purposes on a permanent and sustainable manner.

- 8.3 The overriding document for development in Namibia is Vision 2030 which envisages mining development that should be able to contribute to a number of the broad strategies that were identified in Vision 2030, including maintaining an economy that is sustainable. At the end of the life span of the Mining Claims, the Government of Namibia would have earned an amount of royalties in respect of dimension stone which is not that substantial considering the nature of the minerals mined, and does not justify the destruction of land and prevent a property development project.
- 8.4 One of the principles of concerning mine closure, integrated mine use, social responsibility of mining Companies, environmental rehabilitation and waste management, and of special significance to the present circumstances, are that the Government must ensure that short to medium-term projects such as mining do not jeopardize the potential for long-term sustainable development.
- 8.5 A geological investigation commissioned in 2009 showed that the mineral potential on the relevant farm is limited. There is unlikely to be any long term future for exploitation of marble on the farm which is an unsustainable activity, whereas the benefits to the Government and civil society derived from the said property development constitute a sustainable activity that outweighs the short and long term and permanent damage to the environment and prejudices the property development project. Japonica has been informed that the Karibib area holds far greater reserves of the minerals that Peralin is mining.

## **9. Environmental Contract**

- 9.1 The Mining Claims have been granted subject to supplementary terms and conditions including condition (f) stipulating that an Environmental Contract be entered into with the Ministry of Environment and the Ministry of Mines.
- 9.2 It is assumed that Environmental Contract's have been entered into in respect of all Mining Claims. In respect of rehabilitation, it is stipulated that the licence holder is obliged to ensure that sufficient funds are available to affect appropriate rehabilitation of environmental damage.

9.3 The Environmental Contracts would also require Peralin to submit an environmental report every six months to the Ministry of Environment and Tourism as well as the Ministry of Mines and Energy.

9.4 The Mining Commissioner is kindly asked to confirm that Peralin did and continues to comply with this condition of the Environmental Contract.

**10. Environmental Clearance Certificate:**

10.1 The Environmental Management Act, 2007 (Act No. 7 of 2007) provides that a person may not undertake a listed activity unless having obtained an environmental clearance certificate.

10.2 The Minister of Mines and Energy has, in terms of the Environmental Management Act of 2007 (Act 7 of 2007) issued a notice listing activities which may not be undertaken without an environmental clearance certificate which includes, *inter alia*, mining and quarrying activities, waste management, water resource developments, hazardous substances treatment, storage and handling, and the construction of infrastructure.

10.3 Japonica has on, 20 August 2013 received a letter from Dr L Maartens of Environmental Consulting which was addressed to a director of Japonica giving notice to all potentially Interested and/or Affected Parties (I&As) that an application for Environmental Clearance will be made to the Environmental Commissioner in terms of the Environmental Management Act, 2007, which Act came into operation on the 6<sup>th</sup> February, 2013.

10.4 The Environmental Management Act, 2007 expressly provides that a person who had obtained authorisation from the authorities prior to the coming into effect of the said act, may continue to undertake its activities subject thereto that such person had lodged an application in terms of the act for an environmental clearance certificate prior to one year having expired after the coming into effect of the act. This one year period expired on 5 February 2013. The said letter from Environmental Consulting states that an application will be made and not has been made. As such Peralin should be precluded from continuing to conduct its activities.

## 11 Abandonment of Claims

- 11.1 It is pointed out that Peralin has been conducting mining operations in respect of Mining Claim numbers 68113, 68114, 68115, 68116, and 68117 but not 68118 and 68119, which latter claims seem to have been abandoned in that there have been no mining operations conducted thereon and that the claims are subject to cancellation in terms of Section 43(1).

## 12. Work Program

- 12.1 The Mining Commissioner is kindly asked to confirm whether Peralin was required to carry on, within a particular period and in accordance with a work program, certain mining operations, prospecting operations or other operations referred to in paragraph (e) of subsection (1) of section 31, or to expend certain expenditure, and if so, whether Peralin has furnished the Commissioner with particulars of such mining operations, prospecting operations, other operations or expenditure, as would be required in terms of section 42(1) of the Minerals Act.

## 13. Obligation to submit returns

- 13.1 The Mining Commissioner is kindly asked to confirm whether Peralin had adhered to its obligations in terms of section 45(1) of the Minerals Act to:
- (a) keep a proper record re *inter alia* the nature and results of mining and prospecting operations, mass or volume of any mineral won and mined, sold etc.;
  - (b) prepare plans and maps;
  - (c) prepare a statement of income and expenditure;
  - (d) submit **monthly returns** containing the information as per (a);

- (e) submit **annual returns** containing the information as per (a), an **estimate of the remaining mineral reserves**, particulars of any proposed mining operations during the succeeding year, together with a forecast of the source of such operations in terms of delineated mineral reserves, and the statement of income and expenditure;
- (f) where Peralin applied for a renewal, it would have had to submit a report all information as per (a), the plans as per (b), an **estimate of the remaining mineral reserves**, and the statement of income and expenditure;

**14. Mining Commissioner may not grant an Application for, and a renewal of, Mining Claims if, at the time of such an application, the applicant is in contravention of Minerals Act, or any of the terms & conditions of the claims:**

14.1 The Mining Commissioner is kindly asked to confirm that Peralin may not grant a Mining Claim if, at the time of the application, the applicant was in contravention of any provision of the Minerals Act, 1992, or any term and condition, direction or order determined, given or made under any provision of the Minerals Act, 1993 ("Act"), or failed to comply with any such provision, term and condition, direction or order. (section 35(c)).

14.2 It is pointed out that Peralin had conducted mining operations prior to having been granted the Mining Claims and as such would have been in contravention of some or all of the provisions and requirements referred to above on a continues basis, for which reason it is respectfully submitted that the applications for renewal of the Mining Claims be refused.

**15. Royalties**

15.1 Peralin would be liable in terms of section 114(1) of the Minerals Act to pay a royalty levied at a rate as may be determined by the Minister from time to time.



The royalties in respect of Dimension Stone amount to 10% and re Industrial Minerals 2% of the market value of the minerals that were mined.

- 15.2 The Mining Commissioner is kindly asked to advise how royalties were paid in respect of the period prior to 23 July 2008, on which date Peralin first lodged its applications for registration of the Mining Claims.

**16. Original- and Renewal Applications for the registration of the Mining Claims**

16.1 We would like to require that the Mining Commissioner furnish us with a confirmation whether the original applications for the registration of the Mining Claims, and any subsequent renewals were proper in which regard we would like to be informed of the hereinafter mentioned matters. If Peralin's applications had not been proper, the Mining Commissioner would, in terms of section 35(c), be precluded from granting a renewal application of the Mining Licenses.

- a. Did the application for registration and subsequent renewals contain particulars of-
- (i) any licences issued in terms of the Minerals Act or any law repealed by the Minerals Act held by Peralin alone or jointly with any other person; and
  - (ii) any prospecting operations and mining operations carried on by Peralin alone or jointly with any other person outside Namibia,

on the date of such applications and during a period of 10 years immediately preceding such date, as required in terms of section 33(2)(b) of the Minerals Act ?

In this regard it is noted that Peralin first lodged its applications for registration of the Mining Claims on 23 July 2008. Peralin had however conducted mining operations for several years prior to 23 July 2008.

- b. Did the applications for the renewal of the registration of the mining claims contain particulars of-
- (i) mining operations carried on the mining claims in question and the amounts expended in respect of such mining claims during the

period as from the date on which they were registered or, if such registrations were previously renewed, the date on which they were so renewed, to a date not later than 14 days prior to such application; and

- (ii) any mineral or a group of minerals mined on such mining claim and sold or otherwise disposed of during such period as the Commissioner may require;

as required in terms of section 33(2)(d) of the Minerals Act ?

In this regard it is pointed out that Peralin has been conducting mining operations in respect of limestone and marble falling within the Industrial Minerals Group but has been issued with Mining Claims registered in respect of Dimension Stone Group.

It does not seem that Peralin is mining "*Rock material occurring naturally in, on or under the earth which is capable of being cut, shaped or used in blocks, slabs, sheets and tiles for the construction or cladding of buildings, pavings, monuments and memorials*", which is the definition of the Dimension Stone Group as the marble that they are mining is too brittle and that the appropriate mineral group under which the Mining Claims should be registered is the Industrial Minerals Group.

c Did Peralin furnish particulars of:

- (i) the ***condition*** of, and any ***existing damage to***, the environment in the area to which the applications related; and
- (ii) an ***estimate of the effect*** which the proposed ***prospecting operations and mining operations*** may have had on the ***environment and the proposed steps to be taken in order to minimize or prevent such effect***,

as is required in terms of Section 33(2)(c) ?

- d Did Peralin provide **sketch plans** showing the position of the Claims relative to, *inter alia*, the boundaries of, and any buildings on, the property on which such claims are pegged, any building, water supply, road, river-bed, fence which is marked with beacons within such claim or within 500 metres of any boundary of such claim, as is required in terms of Section 33(2)(e) ?
  
- e Did Peralin indicate appropriate measures that were and will be taken to minimize or prevent any pollution of the environment, as is required in terms of section 35(e)(iii) ?

**17. Contact**

Kindly contact the undersigned hereof should you require any further information from Japonica. I look forward to receiving your response.

Yours faithfully,



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**U.M. Stritter**  
**CEO & Exec. Chairman**  
**Japonica Investments (Pty) Ltd.**