



## PARLIAMENT PUBLIC HEARINGS ON THE CLIMATE CHANGE BILL

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# **OUTLINE OF THE PRESENTATION**

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- 2. CONTRIBUTION OF MINING TO THE ECONOMY**
- 3. MINERALS COUNCIL POSITION ON CLIMATE CHANGE**
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## ABOUT THE MINERALS COUNCIL

- The Minerals Council is a voluntary membership, private sector mining employer organisation founded in 1889 as an association of mining finance companies and mines for various commodities.
- The Minerals Council exists as the principal advocate of major policy positions endorsed by the mining industry employers and represents these policy positions to various organs of South African national and provincial governments and to other relevant policy making and opinion-forming entities, both within South Africa and abroad.
- The Minerals Council also works closely with the various employee organisations such as BUSA in formulating the policy positions where appropriate. It represents mining companies producing about 90% of South Africa's mineral production and employing about 90% of the employees employed in the mining sector.

## 2. CONTRIBUTION OF MINING TO THE ECONOMY

### FINANCIAL AND ECONOMIC “SAVING LIVES AND LIVELIHOODS”

In 2021, the SA mining industry bailed out the economy and Fiscus:

produced minerals  
to the value of:  
R1.19 trillion/  
US\$80 billion  
(R910 billion, 2020)  
↑ historic high

employed  
458,954 people  
↑6,100 (paid R154  
billion in wages).  
Indirect jobs =  
900,000

contributed  
R133 billion in taxes  
(corporate tax R78  
bn, royalties R28  
bn, PAYE R27 bn)



  
Mining bailed out the  
economy and fiscus, due  
to partnership between  
MCSA-DMRE to  
implement SOPs to  
manage COVID-19.

  
directly contributed  
R481 billion to  
GDP ↑12%  
(2020: R353 billion)



  
contributed  
8.7% to the  
economy ↑1.6%  
(2020: 7.1%)

exported  
R842 billion  
in minerals (driven  
by commodity  
prices) ↑R265 billion  
(2020: R577 billion)

Contributed R114  
billion to capital  
investment in the  
economy.

**OPPORTUNITY:** mining could increase investment 84% if in top 25% of investment destinations by Fraser Institute

# MINERALS COUNCIL POSITION ON CLIMATE CHANGE

- Climate change is a serious global challenge that has long term implications for life and infrastructure on earth.
- Minerals Council supports long terms goals and actions set through Paris Agreement and Glasgow Climate Pact under the UN Framework Convention on Climate Change to significantly reduce the risks and impacts of climate change
- The mining industry has contributed to South Africa's response through implementation of various policies, instruments and measures such as the goal to net zero in the Nationally Determined Contributions, Climate Change Bill, Carbon Tax, Just Energy Transition Framework etc.
- SA's mining sector acknowledges that to remain competitive globally and a key socio-economic contributor, we value the need to decarbonise, respond to shifting value pools, and adapt to local climate change impacts – while ensuring a Just Transition.
- Minerals Council SA has been part and parcel of the business constituency through BUSA negotiating on this Bill through NEDLAC process.

## MINING INDUSTRY RESPONSE TO CLIMATE CHANGE

- Significant progress/efforts has been attained to decarbonize the mining industry through the implementation of GHG mitigation measures, energy efficiency programmes, self generation renewable energy projects, fuel switching etc.
- The current of the renewable energy projects installed capacity ( including wind, solar PV and CSP) amounts to a total of 5.7 GW installed capacity and provides for 6.6% of the total energy mix.
- To assist members of the Mineral Council SA to build on resilience and ensure continuous improvement in meeting climate change related commitments, a climate change position statement was adopted which outlines members commitment to:
  - Develop a climate change response that reduces GHG emissions to achieve net-zero emissions by 2050 or earlier;
  - Implementing mitigation and adaptation mechanisms into operations;
  - Collaborating with partners to reduce Scope 3 emissions;
  - Improve the transparency of public reporting and disclosure of emissions; and
  - Contribute to the Just Energy Transition.

# MINERALS COUNCIL COMMENTS ON THE CLIMATE CHANGE BILL, Cont...

## 1. Multiple unaligned mitigation system ( Carbon Budget and Carbon Tax)

### Issues:

- Concern around the unaligned Carbon Budget (CB) implemented by the national DFFE, and a Carbon Tax (CT) system implemented by the National Treasury; both having the objective of driving the reduction of the emission of GHGs to the atmosphere.
- With the CB and CT which are intricately linked, the CT being imposed on GHG emissions falls within the CB, which imposes a higher rate of tax on emissions that are in excess of the CB. The higher tax rate is not known yet as we are waiting for the CC Bill to be adopted.
- Furthermore, sanction of the same offences in both the Bill and the Carbon Tax Act will give rise to a double penalty and a resultant double jeopardy risk.

### Recommended action:

In order to align CB with CT, Minerals Council recommends the development of the carbon pricing mechanism which take into consideration the following principles:

- National circumstance, the national mitigation trajectory under the mitigation component of the NDC and mitigation potential, companies as well as state of current technology
- Taking into consideration the mitigation potential and companies' circumstance. No tax for emission below the budget and a reasonable fraction of a company's carbon emissions exceeding the CB should be taxed at a reasonable rate as a penalty for exceeding the budget.
- Mitigation actions resulting in meeting the CB should be eligible for a claim of tax-free allowance of up to 100% of the tax liability through flexibility mechanisms and offsets. The budget and tax design should allow companies to generate and sell offsets if they can find mitigation options below the fixed threshold set
- Carbon budget should inform and review performance of the national trajectory
- This provides for an incentive for companies to continue innovating in alternative mitigation options.

# MINERALS COUNCIL COMMENTS ON THE CLIMATE CHANGE BILL, Cont...

## 2. Incomplete detail on how the Carbon Budgets are to be Determined

Main references: section 24 of the Bill

### *Issues*

- While section 24(1) of the Bill indicates that a carbon budget will be allocated to a person that conducts an activity listed in terms of section 23(2), which suggest that this may be only scope 1 emissions, this is not clear enough, therefore the Bill is silent as to whether carbon budgets will be calculated on a scope 1, 2 or 3 basis.

### *Recommended actions*

- Propose amendments to section 24 of the Bill to explicitly state whether the carbon budgets will be limited to scope 1 emissions or not.

# MINERALS COUNCIL COMMENTS ON THE CLIMATE CHANGE BILL, Cont...

## 3. Potential Constraints of Carbon Budget over Existing Authorization

Main references: section 24 and 34 of the Bill

### *Issues*

- The implementation of carbon budget system does not take into consideration the operational capacity authorised through existing rights environmental and mineral rights.
- Unintended consequence, the compliance with the emissions threshold in terms of the carbon budget as contemplated in the Bill has the potential to override or curtail authorisations and operational capacity granted in terms of other legislation for an example the Mining Rights issued in terms of the Minerals and Petroleum Resources Development Act (MPRDA), a project development allowance stipulated in the Mining Work Programme approved in the terms of the MPRDA and the environmental authorisation granted in terms of NEMA by the Department of Mineral Resources and Energy.
- The same principle of the unintended curtailment could apply to authorisations issued in terms of SEMAs that do not relate to climate change specifically. For example, the emission thresholds specified in a carbon budget (which are determined by the Minister responsible for Environmental Affairs) could potentially curtail in (i) an air emission licence (“AEL”) granted in terms of NEMAQA (ii) (iii) the water users authorised in terms of a water use license granted in terms of the NWA by the Department of Water and Sanitation (jointly the “Existing Authorisations”).

### *Recommended actions*

Careful consideration is required to ensure that existing rights in terms of the Existing Authorisations are not curtailed in a manner that may not have been intended by the Act or may otherwise be considered unlawful

Any curtailment of existing rights in terms of Existing Authorisations would need to be expressly specified in section 34 of the Bill, as there is a general presumption against the retrospective application of legislation.

# MINERALS COUNCIL COMMENTS ON THE CLIMATE CHANGE BILL, Cont...

## 4. The Inadequate Reference to the Just Transition in the Development of Sector Emission Targets and Carbon Budgets

Main references: 22 and 24 of the Bill

### *Issues*

- The pace at which Sector Emission Targets and Carbon Budgets can be expected to be complied with, will be informed by among other things, the available just transition mechanisms. However, the just transition is not referred to in the Bill as an item to be taken into account when developing Sector Emission Targets and Carbon Budgets.

### *Recommended actions*

- Given the submissions above, the Minerals Council believes that it is critical that the just transition principles is considered when setting the sectoral emissions targets as well as in determination of the carbon budgets.
- Proposed amendments to section 22 and 24 of the Bill to require the Minister to consider progress on the implementation of the just transition when determining sector emission targets and allocating carbon budgets.

# MINERALS COUNCIL COMMENTS ON THE CLIMATE CHANGE BILL, Cont...

## 5. Penalties for Exceeding the Carbon Budgets

Main references: section 27 of the Bill, which empowers the Minister to make regulations on penalties

### *Issues*

- Penalties included in the Bill to enforce carbon budgets coupled with proposed penalties envisaged through the Carbon Tax Act may give rise to severe economic consequences.

### *Recommended actions*

- We recommend that the regulations promulgated in terms of section 27(2) and 27(3) of the Bill are drafted with specific consideration as to the economic consequences that enforcement penalties may yield. In this regard, any penalties introduced in the Bill or its regulations should encourage deterrence and emission reductions, rather than inflict punishment.

# MINERALS COUNCIL COMMENTS ON THE CLIMATE CHANGE BILL, Cont...

## 6. Commencement date

Main references: section 35 of the Bill

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### *Recommended actions*

- It is proposed that the effective date for clauses which requires the making of regulations be staggered until such time that draft regulations have been written and proper alignment of the overall mitigation system is attained.

## CONCLUSIONS

- Minerals Council wishes to thank the portfolio committee for the opportunity to participate in the Parliamentary Draft Climate Change Bill consultation process.
- Reaffirm our commitment to continue to support the development of the Climate Change Bill as a framework of climate change legislation in SA as well as the development and implementation of other suite of policies, measures, programmes to sustainably decarbonise and encourage stimulation and development of new growth sectors for the economy in a just a manner.



# Thank you

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**MINERALS COUNCIL**  
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