

NOTICE 81 OF 2004
COMPETITION COMMISSION

**NOTIFICATION OF REASONS FOR DECISION TO CONDITIONALLY
APPROVE THE TRANSACTION INVOLVING:**

JVK SRL

and

KELGRAN INVESTMENTS (PTY) LTD

CASE NUMBER: 2003 OCT 676

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the "Rules for the Conduct of Proceedings in the Competition Commission", that it has approved the transaction involving the above-mentioned firms subject to the conditions set out below.

1. The merged entity shall supply all purchasers, *inter alia*, independent purchasers, with all types of granite blocks that Kelgran Investments (Pty) Ltd, or its successors in title, or any of its group companies and their successors in title supplied to the South African market prior to this merger. This includes all types of granite blocks that are currently being quarried and/or that will be quarried in the future in terms of the mineral rights listed in Annexure A, as provided by the merging parties to the Commission and attached to this conditional approval as Annexure A. There shall be no discrimination against new or potential purchasers, *inter alia*, independent purchasers of granite blocks, in the South African market.
2. If at anytime it is revealed that Kelgran Investments (Pty) Ltd, or its successors in title, or any of its group companies and their successors in title, hold any other mineral rights to quarry granite blocks at the date of this conditional approval these additional mineral rights shall immediately be subject to this conditional approval.
3. The merged entity must not discriminate on the basis of price, type, size and quality in the supply of granite blocks between the merged entity's downstream firms, the international market and other independent purchasers of granite blocks. This includes independent purchasers that will locally benefit granite blocks and thereafter

export the beneficiated granite blocks or locally beneficiate the granite blocks for the South African market.

4. With respect to pricing, the merged entity shall not charge local downstream purchasers, *inter alia*, independent purchasers of granite blocks a higher price than the merged entity will be able to attain in the export market. The price charged for all types of granite blocks in South Africa shall be the free on board (f.o.b) price.
5. If there are production stoppages and/or shortages, such that the merged entity is unable to meet the full contractual requirements of all its purchasers including, *inter alia*, independent purchasers of granite blocks in South Africa, it shall immediately reschedule its production on a non-discriminatory *pro rata* basis based on annual average purchases.
6. If any independent purchaser of granite blocks, for whose benefit the conditions have been imposed, wishes to verify compliance with these conditions the merged entity shall procure such verification from its auditors in the form of an audit certificate at the purchaser's cost.
7. The merged entity must inform all purchasers, including *inter alia* independent purchasers of granite blocks, of the above conditions.
8. In the event that the merged entity wishes to acquire any other mineral rights that pertain to granite, notice must be given to the Competition Commission, in terms of the Competition Act 89 of 1998, prior to implementation, notwithstanding the fact that the merger or acquisition might not be notifiable.

Duration

9. The above-mentioned conditions shall be effective from the date of this conditional approval and shall remain in force for a period of five years.

Reporting

10. The merged entity must provide proof to the Commission that it has informed all purchasers, including *inter alia* independent purchasers of granite blocks of the above conditions within one(1) month from the date of this conditional approval.
11. The merged entity shall provide the Commission with a detailed report proving compliance with the above-mentioned conditions. This detailed report shall *inter-alia* contain an audit certificate from the merged

entity's auditors verifying the merged entity's compliance with the above mentioned conditions at the merged entity's cost.

12. The merged entity shall provide the Commission with an affidavit, deposited to by a senior official of the merged entity, confirming the accuracy of all information provided to the Commission in relation to compliance by the merged entity of the above-mentioned conditions.
13. The first report is due within 3 months from the date of this conditional approval. Subsequent reports shall be provided on an annual basis on the corresponding date on which the first report is submitted.
14. The reporting obligations are applicable for the duration of the period of these conditions.

The transaction does not raise public interest issues of sufficient substance to lead to a different conclusion on the outcome of the proposed merger.

Enquiries in this regard may be addressed to Ms K Ramathula at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 482 9095, or Facsimile: (012) 482 9121. (Reference: 2003 Oct 676).

MINING AUTHORIZATIONS/PROSPECTING PERMITS										
QUARRY	PROPERTY (IES)	ML/PP#	SKEICH PLAN NUMBER		EMP	UNDERLYING MINERAL RIGHT		ACTIVITIES	MINERAL RIGHTS HOLDER	SURFACE OWNER
1. Leeuwkop (Wondokop)	Wondokop 400 JO, Pearl 401 JO, Leeuwkop 402 JO	MP No. 182/2001 Until 28/08/2003	RDNW (KL) 5/3/2/1989 Approved on 08/09/2001	Approved on 13/12/1986		NML between Ba-Mogopa Granite & Bakwena Ba-Mogopa Tribe valid from 01/02/1983 to 31/01/03		Inoperative	Bakwena Ba-Mogopa Tribe	Bakwena Ba-Mogopa Tribe
2. Makolokwe	Wolwekraal 406 JO, Leeuwkop 402 JO	MP No. 191/2001 Until 28/09/2003	RDNW (KL) 5/3/2/1988 Approved on 18/07/2001	Approved on 13/12/1986		NML between Ba-Mogopa Granite & Bakwena Ba-Mogopa Tribe valid from 01/02/1983 to 31/01/03		Inoperative	Bakwena Ba-Mogopa Tribe	Bakwena Ba-Mogopa Tribe
3. Rustenburg (Batokeng Section)	RIE, Pm 5 Tweedepoort 283 JO, Pm 6 Boschpoort 284 JO & Klippat 281 JO	ML No. 07/2002 Until 10/07/2010	RDNW (KL) 5/3/2/570(s) Approved on 11/07/2002	Approved on 29/03/2001		NML between Royal Batokeng Nation, Keeley Granite & Kalgran Africa (Pty) Ltd valid from 01/01/1998 to 31/12/2012		Operative	Royal Batokeng Nation	RBN
4. Rustenburg Section	Portion 5 Beestkraal 290 JO	ML No. 12/2000 Until Reserves Depletion	RDNW (KL) 5/3/2/587 Approved on 08/09/2000	Approved on 29/03/2001		Notarial Deed of Cession of Mineral Rights No. K75/1978RM		Operative	Kalgran Africa (Pty) Ltd	State/RBN
5. Rustenburg Section	Portion 4 & 7 Beestkraal 290 JO	ML No. 14/2000 Until 31/12/2003	RDNW (KL) 5/3/2/590 Approved on 08/09/2000	Approved on 29/03/2001		NML between Penultimate Holdings & Marikana Granite Quarries (Pty) Ltd valid from 01/01/1984 to 31/12/2003		Inoperative	Penultimate Holdings	State/RBN
6. Rustenburg Section	RE Beestkraal 290 JO	ML No. 16/2000 Until 31/03/2009	RDNW (KL) 5/3/2/588 Approved on 14/09/2000	Approved on 29/03/2001		NML between Rustenburg Platinum Mines Ltd & Kalgran Africa (Pty) Ltd valid from 01/04/1999 to 01/04/2009		Inoperative	Rustenburg Platinum Mines	State/RBN
7. Rustenburg Section	Portion 6 Beestkraal 290 JO	ML No. 13/2000 Until 31/12/2013	RDNW (KL) 5/3/2/589 Approved on 08/09/2000	Approved on 29/03/2001		NML between Impala Platinum Ltd & Kalgran Africa (Pty) Ltd valid from 01/01/1994 to 31/12/2013		Inoperative	Impala Platinum Mines	State/RBN
8. Rustenburg Section	Portion 13 Schaapkraal 292 JO	ML No. 11/2000 Until Reserves Depletion	RDNW (KL) 5/3/2/584 Approved on 08/09/2000	Approved on 29/03/2001		Notarial Deed of Cession of Mineral Rights No. K26/1989RM		Inoperative	Kalgran Africa (Pty) Ltd	State/RBN
9. Rustenburg Section	Portion 1 Schaapkraal 292 JO	ML No. 2/1985 Until 07/02/2005	SDWT ML 2/1985 Approved on 23/01/1985	Approved on 29/03/2001		Notarial Deed of Cession of Mineral Rights No. K295/71/989RM		Inoperative	Kalgran Africa (Pty) Ltd	Kalgran Africa (Pty) Ltd

10. African Lac	Portions 4 & 5 Moederlief 209 JU	ML No. 11/1998 Until 31/12/2017	Plan No. 2	Approved on 20/04/1998	NML between Marikana Granite Quarries (Pty) Ltd & Republic of South Africa valid from 01/01/1998 to 31/12/2017	Inoperative	State	Kelgran Africa (Pty) Ltd
11. Bellast	Black Granite 968 JS, Portion 25 (Phn) of Phn 24 De Suikerboskop 361 JS	ML No. 12/1994 Until Reserves Depletion	Plan No. 1	Approved on 25/08/1997	Title Deed No. T5713/1988 in favour of BGG	Inoperative	BGG	BGG
12. African Red	Phn 1 Haakdoornstraat 758 LR, Re Klippelaadrit 787 LR, Schoonoord 786 LR	ML No. 1/1998 Until Reserves Depletion	5/3/162 Approved on 24/02/1998	Approved on 11/03/1998	NML between Kelgran Equipment (Pty) Ltd and Republic of South Africa valid until depletion of reserves	Operative	State	State
13. Crystal Brown	Portion 2 Hugomond 118 LS	ML No. 8/1997 Until Reserves Depletion	5/3/255 Approved on 07/07/1997	Approved on 11/08/1997	Notarial Deed of Cession of Mineral Rights No. K2108/1998RM	Inoperative	Kelgran Africa (Pty) Ltd	Kelgran Africa (Pty) Ltd
14. Tropical/ Edelweiss	The Grange 471 LS	MP No. 17/2002 Until 22/09/2003	5/3/2194 Approved on 06/11/2002	Approved on 12/03/1991	NML between Marikana Granite Quarries (Pty) Ltd & Batlokwa Tribe valid from 01/10/1993 to 30/09/2003	Inoperative	Batlokwa Tribe	Batlokwa Tribe
15. Desert Rose	Re Upper Zwart Modder 78	ML No. 5/1999 Until 30/09/2006	ML 5/1999 Approved on 30/07/1999	Approved on 28/05/1997	NML between Kelgran Africa (Pty) Ltd & JHP and SF va der Westhuizen valid from 01/10/1996 to 30/09/2006	Inoperative	JHP & SF van der Westhuizen	JHP & SF van der Westhuizen
16. Northern Province	Grootvryenboom 284 KT, Zwemkloof 283 KT, De Kom 252 KT, Genokakop 285 KT, Thornhill 544 KS,	PP No. 13/2003 Until 09/03/2004	Locality Plan	Approved on 27/03/2003	Notarial Deeds of Cession of Mineral Rights No.s K2200/2001RM & K1892/2001RM	Operative	Kelgran Africa (Pty) Ltd	State
17. Ocean Blue / Desert Flame	Oup 80	ML 12/2003 Until 31/12/2003	NC-S 5/92/785	Approved	NML Kelgran Africa (Pty) Ltd and Orange River Tungsten Areas (Pty) Ltd	Inoperative	Orange River Tungsten	Henque 1001 CC
18. Montana Green	Re Karehoukloof 221	ML 11/2003 Until 31/12/2003	NC-S 5/22/891	Approved	NML Kelgran & Eendoom Boerdery CC	Inoperative	Eendoom Boerdery CC	Eendoom Boerdery CC
19. Bertanie	Portion 338 anebeeppoot "B" 410 JO	Under application			Proposed mineral lease with state	Inoperative	State	Kelgran Africa (Pty) Ltd