IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED.

DATE:

SIGNATURE

Case No. 2023/128106

In the consolidated matters between:

ENERGI LICENCES (PTY) LTD	Applicant
and	
THE CONTROLLER OF PETROLEUM PRODUCTS	First Respondent
KHAZAMULA PROPERTIES (PTY) LTD	Second Respondent
NKANGALA DISTRICT MUNICIPALITY	Third Respondent
THEMBISILE HANI LOCAL MUNICIPALITY	Fourth Respondent
MEC FOR AGRICULTURE, RURAL DEVELOPMENT LAND AND ENVIRONMENTAL AFFAIRS FOR THE PROVINCE OF MPUMALANGA	Fifth Respondent
NDZUNDZA MABHOKO TRADITIONAL COUNCIL	Sixth Respondent

AND

Case No. 2026/036574

KHAZAMULA PROPERTIES Applicant

and

THE CONTROLLER OF PETROLEUM PRODUCTS First Respondent

THE MINISTER OF MINERAL AND PETROLEUM RESOURCES Second Respondent

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JUDGMENT

The judgment and order are published and distributed electronically.

Summary: Two review applications with same subject matter (decisions by Controller of Petroleum Products to issue/extend/cancel a licence) consolidated. Held that review must be conducted in terms of PAJA and not as a legality review, and that applicant cannot choose pathway to review. Applicant in first application failed to exhaust remedy in terms of section 12A of Petroleum Products Act (PPA) and failed to apply for leave to review in terms of section 7(2)(c) of PAJA. Held that, in absence of application envisaged in section 7(2)(c) of PAJA, court is statutorily prohibited by virtue of section 7(2)(a) of PAJA to conduct a review.

In second application, held that Controller of Petroleum products failed to comply with Regulation 29(2)(a) and (b) of GNR 286 of 27 March 2006 ("Regulation") which renders notice to cancel unlawful and subject to review under section 6(2) of PAJA.

Further held that extension granted by Controller in terms of Regulation 24(2) after date of expiry of 12 months period in Regulation 24(1) is not a nullity as Controller has wide power under provisions of Regulations and must consider objects of PPA. Cancellation of retail licence by controller reviewed and set aside.

<u>**PA VAN NIEKERK, J**</u>

INTRODUCTION:

[1] On 25 February 2026 Millar J granted the following order ("the consent order") by agreement between the parties in three different applications:

"*1. The following matters are allocated to be heard simultaneously **2023/128106**; and **2026/036574** on 23rd and 24th of March 2026;*

2. Papers be exchanged between the parties in the following manner:

2.1 that the 4th Respondent (Khazamula) file its Supplementary Founding Affidavit, if any, in the matter under case number 2026/036574 by the 3rd of March 2026;

2.2 that the Applicant (Energi) and Khazamula file their respective Answering Affidavits under case number 2026/036574 (Energi) and 2023/128106 (Khazamula) by the 6 March 2026;

2.3 that Khazamula and Energi file their respective replying affidavits under 2026/036574 and 2023/128106 by the 13 March 2026;

2.4 that Khazamula and Energi file their respective Heads of Argument on 18 March 2026;

3. Costs in respect of case number 2025/178946 for the 25 February 2026 are reserved for determination by the Court on the date mentioned above".

[2] The application under case no. 2023/128106 was brought by Energi Licences (Pty)Ltd and seeks to review certain decisions of The Controller of Petroleum Products in

relation to a retail licence granted to Khazamula Properties (Pty) Ltd ("the Energi review"). The application under case no. 2026/036574 was brought by Khazamula Properties (Pty)Ltd and seeks to review the cancellation of the same licence granted by the Controller of Petroleum Products to Khazamula Properties ("the Khazamula review"). The parties agreed to the terms of the consent order and for the matters to be allocated and heard simultaneously because the parties in both applications are materially the same parties and the subject matter of the two review applications are materially the same.

[3] Paragraph 3 of the consent order relates to the costs of an urgent application which Energi Licences (Pty) Ltd brought against *inter alia* Sasol Oil (Pty) Ltd and Khazamula Properties (Pty) Ltd, seeking an interdict against the aforesaid entities to prevent the operation of a retail fuel supply business pending finalisation of the two review applications. It is common cause that the merits of that urgent application are irrelevant for purposes of the two review applications and that the reserved costs of that urgent application should follow the results of the review applications referred to *infra*.

[4] As transpires from paragraph 2 of the consent order the parties agreed on a timeline for the filing of further affidavits in both applications, and the matter was set down as a special motion court matter with an estimated duration of 2 days.

[5] In the answering affidavit to be filed by Khazamula Properties (Pty) Ltd envisaged in paragraph 2.2 of the consent order, and after the consent order was made, a counter application instituted by Khazamula was incorporated in terms whereof an order is sought that Energi Licences (Pty) Ltd be ordered to vacate the property on which it

presently conducts business and further that a final interdict be granted against Energi Licences (Pty) Ltd prohibiting it from operating a fuel filling station or any commercial activity on the property which it presently occupies. An order is also sought that Energi Licences (Pty) Ltd be ordered to demolish "…..*unlawful structures erected on the Remaining Extent of Portion 5 of the Farm Vlaklaagte 221 JR, Mpumalanga within a period of 30 days …"*. This counter application is premised on various grounds including an alleged failure of Energi Licences (Pty) Ltd to have procured a legal right to occupy the relevant premises, an alleged failure to procure the necessary land use rights in terms of the Spatial Planning and Land Use Management Act, 16 of 2013 and the relevant municipal bylaw and town planning scheme, and an alleged failure to procure the approval of building plans in terms of the National Building Regulations and Building Standards Act, as result of which it is alleged that the present occupation and conducting of business by any Energi Licences (Pry) Ltd is unlawful.

[6] Energi brought an application to be joined as a respondent in the Khazamula review and an order that the affidavit which it filed in support of its review application under case no. 2023/128106 stand as its answering affidavit in the application under case no. 2026/036574.

THE PARTIES:

[7] Energi Licences (Pty) Ltd (hereinafter referred to as "*Energi"*) is a private company incorporated in terms of the Laws of the Republic of South Africa which conducts business as a licenced retailer of petroleum products (a petrol station*)* at the intersection of the R[…] and R[…] roads in B[…], V[…]e, Mpumalanga ("*the Energi*

premises"). Energi took over this business from Ethimna Service Station CC ("*Ethimna"*) which retained the site licence but transferred the retail licence to Energi in terms of due process applied in terms of the applicable law and regulations referred to *infra*. Energi is the applicant in the review application under case no. 2023/128106 (the Energi review) and seeks to be joined as respondent in the review application under case no. 2026/036575 (the Khazamula review).

[8] Khazamula Properties(Pty)Ltd (hereinafter referred to "*Khazamula"*) is a private company registered in terms of the Laws of the Republic of South Africa which constructed a petrol filling station (under a Sasol brand franchise) on Erf 2[…] Buhlebesizwe Extension 2 in terms of a site licence issued to it, and a retail licence to sell petroleum products was issued to Khazamula, which licence certificate is dated 20 April 2021. The Energi site is situated on the opposite side of the R573 where it intersects the R544 as result of which Energi and Khazamula are direct competitors in the retail of petroleum products in that area. Khazamula is the applicant in the review under case number 2026/036574)the Khazamula review).

[9] The Controller of Petroleum Products ("*the Controller*") is an official appointed in terms of section 3(a) and bestowed with delegated power in terms of section 2B of the Petroleum Products Act No. 120 of 1977 ("*PPA"*), and who is tasked to issue licences in accordance with the provisions of PPA. The Controller was joined as the First Respondent in the Energi review and was also joined as the First Respondent in the Khazamula review as the responsible official who issued the impugned retail licence in terms of PPA and who made the impugned decisions which are the subject of both review applications.

[10] The Minister of Mineral and Petroleum Resources ("*the Minister*") was joined as Second Respondent in the Khazamula review in his official capacity by virtue of the fact that an appeal in terms of section 12A of PPA forms the subject of a review in the Khazamula review was dismissed by the Minister.

[11] Other respondents were joined by Energi in the Energi review whose particulars appears from the heading of this judgment. Neither the Controller, nor the Minister or any of those respondents opposed this application and the Controller and Minister filed notices to abide by the decision of this court.

PROCEDURAL MATTERS

[12] From the contents of the consent order, the introduction, and the description of the parties as set out *supra* it follows that the matters before this court are:

[12.1] The Energi review application which only Khazamula oppose and wherein Khazamula brought a counter application for eviction and interdictory relief;

[12.2] The Khazamula review application in which Energi seeks to be joined as a respondent, being the only party opposing such review;

[12.3] The costs of the urgent application referred to in paragraph 3 of the consent order.

[13] Energi applies for the consolidation of the Energi- and Khazamula reviews on the basis that it will be convenient to the parties and to the court, because the subject matter of both applications (the issue of a retail licence to Khazamula as well as the grant of an

extension of that licence to Khazamula) are the same in both applications and the parties who are actively pursuing the litigation in both parties, being Energi and Khazamula, are the same. Counsel for Khazamula informed the court during argument that the application for consolidation is not opposed on the premise that the merits for the urgent application referred to in paragraph 3 of the consent order does not form part of the issues before this court.

[14] After some debate it was clear that it is common cause that the costs of that urgent application should follow the event of this application. The only objection raised by Khazamula to the application for consolidation therefore fell away and in my view it is convenient for this court as well as the parties to consolidate the two review applications. As a result I ordered a consolidation of the matters and this order will be reflected in the order that follows on this judgment. The joinder of Energi in the Khazamula review was not opposed, but in my view it is not necessary to make any order in that respect by virtue of the order for consilidation of the two review applications.

[15] Insofar as the counter application for the eviction of Energi and further interdictory relief are concerned, counsel acting on behalf of Energi submitted in heads of argument that the introduction of that application at this stage, in the context of the consent order which did not provide for such a new application, is an abuse of the process and that the application should be dismissed. After hearing counsel for Khazamula I made an order that the counter application be postponed *sine die*, *inter alia* for the following reasons:

[15.1] This matter was enrolled as a special motion before this court in terms of the consent order against the background of the parties being involved in a dispute regarding the validity of a retail licence issued to Khazamula and which requires an expeditious resolution. The consent order clearly does not provide for the introduction of a further dispute on a completely different cause of action which only serves to obfuscate the issues that requires expeditious resolution;

[15.2] Counsel acting on behalf of Khazamula argued that the facts underlying the cause of action in the counter application are also relevant insofar as a point *in limine* was taken by Khazamula against the *locus standi* of Energi to bring a review application against the Controller in relation to a retail licence issued to Khazamula. In essence, this point of *locus standi* is based on the averment that Energi is occupying and conducting business from its premises unlawfully, and therefore has no *locus standi* to bring the review application. In my view it is common cause that Energi is a licenced retailer of petroleum products, in competition with Khazamula, and therefore has a direct and substantial interest in the application; whether Energi occupies the site unlawfully thus do not require determination for purposes of the review applications. In any event, the finding which I make hereunder renders this issue moot.

[15.3] The procedure followed by Khazamula of introducing a substantial counter application based on an entirely different cause of action which entails an investigation into numerous transactions relating to the sub-division of land, transfer of land, grant of land rights and change of title is a factually complicated issue. The determination of that issue is further complicated by the state of the pleadings where the court is required to have to proverbially troll through various different sets of affidavits in different applications in order to make sense of the underlying factual allegations and supporting documentation;

[15.4] There is no reason why that counter application (which was only introduced on 6 March 2026) cannot be entertained in the normal course as a separate issue without the substantial inconvenience caused by such counter application to this court and Energi.

BACKGROUND TO THE APPLICATION:

[16] On 3 August 2010 Ethimna was issued a retail licence by the Controller in terms of PPA which was subsequently transferred to Energi as Licence No. R/2021/0115 on 20 April 2021. Since 2010 Ethimna and thereafter Energi conducted business as a petrol station for the retail of petroleum products from the Energi site.

[17] On 20 February 2021 the Controller approved an application for a retail licence by Khazamula whereafter the required licence fees were paid on 8 March 2021 and on 20 April 2021 the licence certificate was issued by the Controller under licence no. S/2021/0017 to Khazamula in terms whereof Khazamula was licenced to sell petroleum products including LPG used for the propulsion of vehicles, petrol and diesel from the Khazamula site. This licence relates to Erf […], cnr R[…] M[…]o Road and R[…] V[…] Road, B[…], V[…], Mpumalanga.

[18] In terms of the contents of an affidavit deposed to by an official of the Controller, the Khazamula licence was collected on the 26th of August 2022. It was confirmed that the Controller, at that time, interpreted PPA and the regulations to the effect that the date of collection of the retail licence was deemed to be the date of issue of the licence.

[19] On 5 May 2023 Khazamula requested an extension of the licence in terms of regulation 24(2) of the regulations regarding petroleum products, site and retail licences published in Government Notice 286 of 27 March 2006 ("*the regulations"*) and this request for an extension was approved by the Controller on 7 August 2023 in terms of a recommendation which reads:

"*It is therefore recommended that the Controller of petroleum products approves the extension applied for a period of 6 months after the date on which the Controller has raised signs (sic) the attached approval letter to be sent to* ***Khazamula Properties (Pty) Ltd, licence no. S2021/0017*** *and* ***R/2021/0048*** *(annexure 'C')."*

[20] It is common cause that this approval would have lapsed on 28 February 2024, which means that in terms of regulation 24(1) the licence would lapse if Khazamula failed to have commenced with retail activities on that date.

[21] On 2 October 2023 (less than 2 months after the 6 month extension was granted and some 4 months before the date of lapse being 28 February 2024) Khazamula was provided with a notice to surrender the retail licences(" the surrender notice") and notification that the site licence is consequently invalid. The surrender notice is clearly a notice in terms of Regulation 30(2) and prior to this notice, on the common cause facts,

the Controller did not employ the provisions of Regulation 29(1) and/or Regulation 29(2). The surrender notice reads as follows:

*"**NOTICE TO SURRENDER RETAIL LICENCE: R/2021/0048 IN TERMS OF REGUALTION 30(2) OF THE REGULATIONS REGARDING PETROLEUM PRODUCTS SITE AND RETAIL LICENCES PUBLISHED BY GOVERNMENT NOTICE NO. R286 OF 27 MARCH 2006 (hereinafter referred to as 'the Regulations')***

1. It has come to the attention of The Controller of Petroleum Products ('The Controller') that the licensed entity, KHAZAMULA PROPERTIES (PTY) LTD has since the issuance of the retail licence: R/2021/0048 on August 2022, not commenced with retailing activities at the corresponding licensed site within a period of 12 months or such extended period as contemplated in regulation 24 of the Regulations.

2. Regulation 24 of the Regulations provides as follows:

*'**24 Commencement and continuation of business under retail licence-***

(1) A licensed retailed must commence with retailing activities at the corresponding licensed site within a period of 12 months after the date on which a retail licence is issued to the licensee, <u>failing which the licence shall</u> lapse.

(2) The Controller may, upon application in writing, extend the period contemplated in subregulation 1 for a consecutive period of six months for a total period not exceeding 18 months.

(3) The Controller may request the information necessary from the Applicant, concerning an application contemplated in subregulation 2'.

3. The licensee is therefore in contravention of the abovementioned Regulation, and according to our records and to the best knowledge of the Controller, no application for extension with a consecutive period of six months was ever lodged with the Controller and had the licensee lodged such extension it could have been expired in February 2024. Therefore, the retail licence has lapsed ex lege (by operation of law) and this also has a corollary effect on the site licence.

4. Regulation 30 of the Regulations provides thus:

*'**30 Termination of a licence-***

(1) A licence ceases to be valid if-

(a) the licence is surrendered to the Controller;

(b) the licence is cancelled by the Controller in accordance with regulation 29(2); or

(c) the licensed activity is no longer a going concern.

(2) If a licence has ceased to be valid, the licensee must surrender the licence to <u>the Controller within a period of 14 days from the date of receipt of the notification in which the licensee is informed that the licence is no longer valid</u>'.

5. Section 28(3)(c) of the Act provides:

> *'(3) any licence issued by the Controller of Petroleum Products remains valid for as long as-*
>
> *(c) in the case of a site, there is a corresponding valid retail licence.'*
>
> *6. In terms of section 28(3)(c) of the Act, the site licence remains valid for as long as there is a corresponding valid retail licence. The site licence, issued to KHAZAMULA PROPERTIES (PTY) LTD nder licencue number: S/2021/0017 is, due to the lapsing and invalidity of the retail licence, also concomitantly invalid.*
>
> *7. In light of the above, and in accordance with Regulation 30(2) of the Regulations, you are hereby notified that the retail licence has lapsed and is therefore no longer valid and this has a corollary effect on the site licence. You are hereby called upon to surrender the retail licence within a period of 14 days of receipt of this Notice.*
>
> *Yours sincerely".*

[22] On 27 October 2023 an inspector who signed the surrender notice addressed a further email to Khazamula stating as follows:

> "*I am hereby inclined to rescind my notice I served you regarding the lapse of the licence"*.

[23] This rescission followed after an official in the section "*Petroleum Legal Compliance and Enforcements"*, a certain Mr Mosikidi, addressed an internal email to the inspector who signed the surrender notice which reads:

"Your complaint dated 4 September 2023 has reference, KHAZAMULA PROPERTIES (PTY) LTD, Licence No. R/2021/0048's commencement date has been extended for a further 6 months ending 28 February 2024, therefore the retail licence has not lapsed and is still valid".

[24] On 4 December 2023 the Energi review application was issued and the attorney acting on behalf of Energi engaged in correspondence with the Department of Mineral Resources and Energy, *inter alia* regarding the issue of the validity of the extension of the Khazamula retail licence. It was contended on behalf of Energi that the extension approved in terms of regulation 24(2) on 7 August 2023 was *ultra vires* because the retail licence was issued on 20 February 2021 and has thus lapsed *ex lege* during February 2022, long before the extension was applied for or approved.

[25] On 21 October 2025 the Controller addressed a notice of cancellation of a retail licence ("the cancellation notice") to Khazamula, which is materially similar to the surrender notice dated 2 October 2023, except for the fact that the date of issue of the retail licence in paragraph 1 of the notice to surrender recorded the date to be " *February 2021"* (without specifying a date), whereas the date of issue recorded in the cancellation notice dated 2 October 2023 refers to that date as "17 *August 2022"*. It is clear that the Controller had a change of opinion on the interpretation of PPA and Regulations which caused the inspector to "backdate" the date of issue of the impugned retail licence from 17 August 2022 to February 2021. This "backdating" by the controller caused serious complications for Khazamula, because it had the effect (on the case advanced by Energi and the subsequent actions of the Controller) to render the extension granted to Khazamula on 7 August 2023 to be unlawful as it was granted long after the retail licence lapsed by virtue of the provisions of Regulation 24(1). From

paragraph 6 of the notice to surrender it appears that Khazamula addressed correspondence to the inspector on 4 April 2024, disputing the allegation that Khazamula did not commence with retail activities on 28 February 2024, and further provided supporting facts to indicate that Khazamula was engaged in retail activities.

[26] The cancellation notice dated 21 October 2025 reads as follows:

"*Dear Sir*

CANCELLATION OF RETAIL LICENCE NUMBER R/2021/0048 UNDER THE NAME KHAZAMULA PROPERTIES (PTY) LTD IN TERMS OF REGUALTION 24, 29(1)(2) AND 30(1)(b) OF REGULATIONS REGARDING PETROLEUM PRODUCTS SITE AND RETAIL LICENCES PUBLISHED BY GOVERNMENT NOTICE NO. R286 OF 27 MARCH 2006 (hereinafter referred to as 'the Regulations').

1. The Controller of Petroleum Products ('The Controller') office was made aware of Khazamula Properties (Pty) Ltd's ('Khazamula') failure to commence retailing within 12 months from the date retail licence no. R/2021/0048 issued on 17 August 2022, extended for a further period ending 28 February 2024.

2. On 5 May 2023 Khazamula requested the Controller to extend the period to commence with retailing activities which was granted.

3. Khazamula was granted a further six months to commence with retailing activities from 28 August 2023 to 28 February 2024.

4. *On 28 February 2023 DMPR Inspector conducted a site inspection where Khazamula was supposed to have been retailing and found that there were no retailing activities taking place at the relevant site.*

5. *A notice to surrender retail licence no. R2021/0048 was served on Khazamula on 01 March 2024 and the latter was instructed to surrender the retail licence within 14 days from the date of issue but railed to do so.*

6. *On 04 March 2024 Khazamula responded to the notice to surrender wherein the following was stated:*

   'The non-compliance to Regulation 24 of the Regulations was disputed, as Khazamula duly complied with the licence obligations and submitted the annual information required and on the same date receipt of the information was acknowledged by the Office of the Controller.

   23 000 litres of diesel have been sold and 10 000 litres on site continue to sell as a result of the installation of a diesel tanker at great costs and the construction at site is ongoing.'

7. *Khazamula has contravened Regulation 24 of the Regulations which states the following:*

   (1) A licensed retailer must commence with retailing activities at the corresponding licensed site within a period of 12 months after the date on which a retail licence is issued to the licensee, failing which the licence shall lapse.'

8. *After careful consideration of the findings made by the DMPR Inspector and all the available documents before me regarding this matter, I herein cancel retail licence number R/2021/0048 in terms of Regulation 29(1)(s) and 30(1)(b) of the Regulations regarding Petroleum Products Site and Retail Licences for not commencing with retailing activities as per the licence conditions.*

9. *Accordingly, retail licence number R/2021/0048 is now invalidated by this Notice and must be returned to the Department of Mineral Resources and Energy ('DMRE') with immediate effect at the address provided above.*

10. *Regulation 30 of the Regulations states thus: (1) A licence ceases to be valid if –*

    (a) the licence is surrendered to the Controller;

    (b) the licence is cancelled by the Controller in accordance with Regulation 29(2); (Emphasis); or

    (c) the licensed activity is no longer a going concern (Emphasis).

11. *Regulation 38(a) of the Regulations states thus: Any licence issued in terms of these Regulations-*

    (a) Remains the property of the Department of Mineral Resources and Energy, (Emphasis).

12. *You have a right to lodge internal appeal to Minister Resources and Energy in terms of section 12A(1) of the PPA as amended. Your appeal should be lodged within 60 days from date of service of this notice.*

Yours sincerely,

…………………

MR. TSELISO MAQUBELA

CONTROLLER OF PETROLEUM PRODUCTS

DATE: 21/10/2025".

[27] On 29 October 2025 Khazamula launched an internal appeal to the Minister in terms of section 12A of PPA. That appeal was aimed against the decision of the Controller to cancel the retail licence issued to Khazamula as well as the consequential decision by the Controller to declare the site license to be invalid. In that appeal Khazamula referred to the pending Energi review application and evidence submitted therein to support the allegation that Khazamula did not contravene Regulation 24(1) (failure to commence business before 28 February 2024). The Minister was provided with evidence in the form of documents, photographs and an affidavit intended to illustrate that Khazamula did in fact conduct retail business before 28 February 2024. The appeal was turned down by the Minister.

THE ENERGI REVIEW:

[28] In the notice of motion under case no. 2023/128106 Energi seeks an order in the following terms:

"*1. That the Site and Retail licence rights granted by the 1st Respondent to the 2nd Respondent in respect of the property located at V[…], K[…], Mpumalanga Province, also known as Erf […], Corner M[…] Road and R[..] V[…] Road, B[…], V[…], or as portion 1 or 4 or 5 as the case may be of the Farm Vlaklaagte 221 JR, be reviewed in terms of Rule 53*(sic) *and set aside;*

2. That the extension of such Site and Retail licence rights granted by the 1st Respondent to the 2nd Respondent be reviewed in terms of Rule 53(sic) *and declared to be null and void and be set aside.*

3. Consequently, to the above, the Site and Retail Licence certificates issued by the 1st Respondent to the 2nd Respondent are declared to be null and void and are to be returned to the 1st Respondent and cancelled".

[29] Further relief in the form a declarator and an interdict were not proceeded with by Energi. From a perusal of paragraph 1 of the notice of motion it is clear that Energi seeks to review the issue of the site- and retail licences by the Controller to Khazamula and in terms of prayer 2 of the notice of motion it is clear that Energi seeks to review the extension of the site and retail licence granted by the Controller to Khazamula. Prayer 3 of the notice of motion is clearly consequential to Energi being successful with the relief as claimed in paragraphs 1 and 2 of the notice of motion.

[30] In support of the review, Energi sets out in its founding affidavit averments intended to illustrate that Khazamula did not prove and establish that it qualified for licences and that the Controller therefore had no right to have issued such licences to Khazamula. In this regard the following submission was made in heads of argument filed on behalf of Energi namely:

"*2.2 **<u>KHAZAMULA</u>** <u>did not prove</u> and establish that it qualified for licences and the Controller therefore had no right to have granted them i.e. the grant was <u>legally invalid</u> alternatively that it is reviewable under PAJA;"*.

[31] In paragraph 7.1 of the founding affidavit of Energi the following averment is made:

"7.1 The Controller ought to have rejected the licence applications on the grounds that the applications, on merit, did not qualify for approval in accordance with the criteria required by 'law' in case being the Petroleum Products Act of 1977 as amended ('the Act')".

[32] The deponent to Energi's founding affidavit proceeds to aver that there was a duty on the Controller to determine whether the issue of a licence to Khazamula would negatively impact the business of Energi and this issue is expanded as follows in paragraph 16 of that founding affidavit:

"16. It cannot be disputed that the grant of a licence in any area has an immediate, direct and obvious impact on existing petrol stations since any trading market is at any specific time a fixed entity. The closer the new station is to an existing station, the more immediate the negative impact will be. Hence the criteria of the Act are not whether there will simply be a negative impact on existing stations but whether notwithstanding this, there is room for another station; i.e., putting the matter colloquially, whether the 'cake' is big enough for all. The crux of applicant's case is that under no circumstances can it ever be rationally held or found that the market place at the locality in question was or could ever be regarded as capable of sustaining a new entrant".

[33] In respect to the relief sought in prayer 2 of the notice of motion, the founding affidavit deposed to on behalf of Energi makes submission relating to the interpretation PPA and Regulations insofar as the deemed date of the issue of the licence is concerned. The affidavit deals extensively with different approaches in relation to the deemed date of issue of the licence, including submissions to counter an argument advanced by Khazamula that the date of "*issue*" is deemed to be the date on which the licence is collected, and then concludes that the licence has already lapsed in terms of the provisions of Regulation 24(1) at the time when Khazamula applied for an extension of the licence and such extension was initially granted by the Controller. Put concisely, it is the contention of Energy that the grant of the extension by the Controller was unlawful as the licence has lapsed *ex lege*, that such extension is therefore null and void, and for that reason the decision to grant the extension should be declared to be unlawful.

[34] On behalf of Khazamula, three points *in limine* were raised against the Energi review. Firstly, a point was raised that Energi lacks *locus standi* to have instituted the review proceedings based on the contentions as set out in paragraph [5] *supra*. Secondly, the point was raised that Energi has failed to institute the review application without unreasonable delay as required in terms of section 7(1) of PAJA[1] . Thirdly, the point was raised that Energi failed to exhaust the available internal remedies provided for in section 12A of PPA as result of which this court is enjoined not to review such administrative action because section 7(2) of PAJA prohibits a review in the absence of an application and finding exceptional circumstances as required under section 7(2)(c) of PAJA.

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1 Promotion of Administrative Justice Act, 3 of 2000.

[35] In the founding affidavit of the Energi review the deponent avers that Energi was advised by its legal representatives that the review of the decision of the Controller to issue a licence to Khazamula is a legality review, but may also be a review in terms of PAJA, and that the review of the decision to grant an extension of the retail licence in terms of Regulation 29(2) is a legality review. In heads of argument as well as during the argument of the matter in court, counsel acting on behalf of Energi persisted therein that it is not a review under PAJA but a legality review, based on the (startling) submission that the issue of the licence by the Controller as well as the extension of the licence constitutes "*executive action*" which results in a legality review. It was submitted that those actions by the Controller do not constitute a "*decision*" as defined in PAJA and/or that such decisions (if they are decisions) do not have a direct and external legal effect, affecting the rights of Energi.

[36] It is therefore necessary to determine the applicable pathway to review in relation to the Energi review, and if found to be the PAJA, whether the points *in limine* should be upheld. Should the points of *limine* be upheld, it is not necessary to deal with the merits of such review and/or any remedial order.

THE KHAZAMULA REVIEW:

[37] In the notice of motion under case no. 2026/036574 Khazamula seeks the following relief:

"1. That the finding or decision by the first respondent dated 21 October 2025, in terms of which the applicant's retail licence issued by the Department Mineral Resources and Energy (number R2021/0048) was cancelled, be reviewed and set aside.

2. *That the decision by the second respondent dated 15 January 2026, in terms of which the finding or decision was taken by the second respondent that the applicant's retail licence issued by the Department Mineral Resources and Energy (number R2021/0048) has lapsed ex lege, be reviewed and set aside;*

3. *That the decision by the second respondent dated 15 January 2026, in terms of which the finding or decision was taken by the second respondent that the applicant's site licence issued by the Department Mineral Resources and Energy (number S/2021/0017) is invalid, be reviewed and set aside;*

4. *That is be declared that the applicant's retail licence issued by the Department Mineral Resources and Energy (number R2021/0048) and site licence issued by the Department Mineral Resources and Energy (number S/2021/0017) have not lapsed and remains valid and of full force and effect".*

[38] In the founding affidavit in support of the Khazamula review as well as in heads of argument filed on behalf of Khazamula, and during argument of the matter it was argued on behalf of Khazamula that the impugned decisions referred to in prayers 1, 2 and 3 of the notice of motion are reviewable under PAJA as such decisions constitute administrative action.

[39] In support of the relief claimed in the notice of motion, the grounds upon which Khazamula rely can concisely be stated as follows:

[39.1] As a matter of fact, Khazamula commenced retail activities on 28 February 2024 resulting therein that the Controller's cancellation of the retail licence was unlawful; and/or

[39.2] There was non-compliance with Regulation 29(2) as result of which the cancellation of the licence in terms of Regulation 30 is unlawful.

[40] In response to the relief sought by Khazamula, Energi relies om the averments made in its founding affidavit in the Energi review and persists (based on the date of issue argument) that the grant of the extension of the licence was unlawful as a result of which the licence in any event lapsed *ex lege*, and persists in its stance that the licence should in any event never have been issued.

APPLICABLE LEGAL MATRIX:

[41] In section 1 of PAJA "*administrative action*" is defined as follows:

*"**Administrative action** means any decision taken, or any failure to take a decision, by-*

(a) an organ of state when-

(i) …

(ii) exercising a public power or performing a public function in terms of any legislation; or

(b) ………………………………………………..…

which adversely affects the rights of any person and which has a direct, external legal effect, but does not include-………………..."

[42] "*Decision"* is defined in section 1 of the PAJA to mean:

*“**Decision”** means any decision of an administrative nature made, proposed to be made, or required to be made, as the case may be, under an empowering provision, including a decision relating to-*

(a) …………………………………

(b) ………………………………………

(c) issuing, suspending, revoking or refusing to issue a licence, authority or other instrument;

(d) ……………..

(e) ……………..

(f) ………………..

(g) ……………………….”

[43] “*Empowering* provision” in terms of section 1 of the PAJA is defined as follows:

*“**Empowering** provision means a law, a rule of common law, customary law, or an agreement, instrument or other document in terms of which an administrative action was purportedly taken;*

[44] In terms of section 6 of PAJA, proceedings in a court for the judicial review of an administrative action is available if a mandatory and material procedure or condition prescribed by an empowering provision was not complied with[2] and/or because

[2] PAJA section 6(2)(b).

irrelevant considerations were taken into account or relevant considerations were not considered[3] and/or if the decision taken was taken arbitrarily or capriciously[4]

[45] In terms of section 7(1) of PAJA any proceedings for judicial review under section 6(1) of PAJA (judicial review of an administrative action) must be instituted without unreasonable delay and not later than 180 days after the date on which any proceedings instituted in terms of internal remedies have been concluded or, where no such internal remedies exist, on which the person concerned was informed of the administrative action, became aware of the action and the reasons for it, or might or reasonably have been expected to have become aware of the action and the reasons.[5]

[46] There is a statutory prohibition on a court to review administrative action in terms of PAJA unless any internal remedy provided for in any other law was exhausted unless, in exceptional circumstances and on application by the person concerned, the court exempts such person from the obligation to exhaust internal remedies.[6]

[47] The Minister and the Controller *in casu* derive their powers and functions from the Petroleum Products Act No. 120 of 1977 (*"PPA"*) and the regulations promulgated in terms of that act which includes Government Notice 286 of 27 March 2006 "*regulations regarding petroleum products site and retail licences" ("the Regulations").* In terms of

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[3] PAJA section 6(2)(e)(iii).

[4] PAJA section 6(2)(e)(vi).

[5] PAJA section 7(1).

[6] PAJA section 7(2).

PPA the Controller issue licences in accordance with the provisions of the act[7] and must give effect to the provisions of section 2C of the act and the stated objectives of the act which includes creation of employment opportunities and the development of small businesses in the petroleum sector. In terms of section 2C of PPA the Controller is enjoined to promote the advancement of historically disadvantaged South Africans and give effect to the Charter.

[48] Section 12A of PPA provides for an appeal to the Minister against a decision of the Controller which directly affects any person and provides for a time period of 60 days after which such decision has been made known to the effective person, and the prescribed form of such an appeal.

[49] Regulation 24(1) enjoins a licensed retailer to commence with retailing activities at the corresponding licence site within a period of 12 months after the date on which the retail licence is issued to the licensee, failing which the licence shall lapse. In terms of Regulation 24(2) the Controller may, upon application in writing, extend the period of time contemplated in sub-regulation 24(1) or a consecutive period of 6 months for a total period not exceeding 18 months and sub-regulation (3) empowers the Controller to request information necessary from the Applicant concerning an application to extend the time period contemplated in Regulation 24(1).

[50] Regulation 29 reads as follows:

"29. ***Suspension or cancellation of licence-***

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7 PPA section 2B(1).

(1) If a licensee fails to comply with any provision of the Act or these regulations, the Controller may, notwithstanding any other penalty that may be imposed under the Act or by other law, and subject to sub-regulation (2), cancel or suspend the licence.

(2) The Controller may not cancel or suspend a licence unless-

(a) The licensee has been informed in writing of the intention to cancel or suspend such licence by-

(i) setting out the particulars of the alleged such failure or contravention; and

(ii) calling upon the licensee to make the representations to the controller that may be necessary within 30 days after the date of that notice;

(b) The Controller has considered-

(i) steps taken by the licensee to remedy the alleged failure or contravention concerned or to prevent any such failure or contravention from being repeated; and

(ii) any other relevant matters submitted by way of representations contemplated in paragraph (a)(ii)".

[51] In terms of Regulation 30, a licence cease to be valid if the licence is cancelled by the Controller in accordance with Regulation 29(2), and Regulation 30(2) requires a

licensee to surrender the licence to the Controller within a period of 14 days from date of receipt of the notification in terms of which the licensee is informed that the licence is no longer valid.

THE NATURE OF THE ENERGI REVIEW:

[52] In my view it is so patently clear that the Controller's issue of the impugned licences and the grant of the impugned extension by the Controller, which forms the subject matter of the Energi review, can only be reviewed in terms of PAJA, that it requires no further elaboration, except to point out the following obvious considerations:

[52.1] The isssue of the licence by the Controller and/or cancellation of the licence by the Controller and/or the extension of the time period of the licence by the Controller are all actions which squarely fall under the definition of "**decision"** in terms of section 1 of PAJA. That definition specifically provides for a decision relating to the issuing, suspension, revoking and refusing to issue a licence, authority or other instrument;

[52.2] The Controller is a functionary of an organ of state that exercise public power or performs a public function in terms of PPA which therefore squarely falls within the ambit of sub-paragraph (a)(ii) of the definition of "*administrative action"* in section 1 of PAJA;

[52.3] Energi makes averments in paragraph 16 of its founding affidavit as quoted in paragraph [33] *supra* which squarely places Energi in the position of a party who is adversely affected because the decisions to issue the licence and extension thereof by the Controller to Khazamula has a direct, external and legal effect on Energi. A commercial interest in the subject matter of the impugned transaction establishes own interest and legal standing to challenge it by way of review.[8]

[53] It is established law that a litigant may not attempt to circumvent the provisions of PAJA and proceed on a different pathway of choice to review, such as a common law review and/or a legality review and/or directly relying on section 33 of the Constitution. In this regard the Constitutional Court[9] held as follows:

"[95] PAJA is the national legislation that was passed to give effect to the rights contained in section 33. It was clearly intended to be, and in substance is, a codification of these rights. It was required to cover the field and purports to do so."

[96] A litigant cannot avoid the provisions of PAJA by going behind it, and seeking to rely on section 33(1) of the Constitution or the common law. That would defeat the purpose of the Constitution in requiring the rights contained in section 33 to be given effect by means of national legislation.

[97] Prof. Hoexter sums up the relationship between PAJA, the Constitution and the common law, as follows:

'The principle of legality clearly provides a much-needed safety net when the PAJA does not apply. However, the Act cannot simply be circumvented by resorting

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8 *Gensinger and Neave CC & Others v Minister of Mineral Resources and Energy 2025 (4) SA 84 (SCA), paras [23]-[25].*

9 *Minister of Health v New Clicks SA (Pty) Ltd and others, 2006 (4) SA 311 CC.*

> *directly to the constitutional rights in s 33. This follows logically from the fact that the PAJA gives effect to the constitutional rights. (The PAJA itself can of course be measured against the constitutional rights, but that is not the same thing.) Nor is it possible to sidestep the Act by resorting to the common law. This, too, is logical, since statutes inevitably displace the common law. The common law may be used to inform the meaning of the constitutional rights and of the Act, but it cannot be regarded as an alternative to the Act.'*
>
> *I agree".*

[54] This principle, meaning that litigants and the court should not circumvent PAJA when it applies, has been stated repeatedly.[10]

[55] From the authorities *supra* it follows that Energi's attempt to follow the pathway of a legality review while the impugned decisions of The Controller and the Minister clearly constitute administrative action is legally untenable. It therefore follows that the Energi review is a review in terms of the provisions of PAJA and Energi cannot escape the provisions of PAJA insofar as it applies to the Energi review.

[56] It is common cause that Energi failed to exercise any remedies in terms of section 12A of PPA. During argument counsel acting on behalf of Energi attempted to argue that section 12A is not available to Energi because the decision was not communicated to Energi by way of notice or otherwise, and there is no obligation on the Controller or

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[10] See *Minister of Defence v Xulu, 2018 (6) SA 460 (SCA), para [47] to [48].*

See also: Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism and others, 2004 (4) SA 490 (CC), para [25].

anyone else to communicate such to Energi. This submission cannot be sustained. Section 12A of PPA provides an appeal remedy to "*any person directly affected by a decision of the Controller …*".

[57] In *Pine Glow Investments (Pty) Ltd v Minister of Energy and others*[11] the failure of an aggrieved party to exercise the appeal remedy under section 12A of PPA in relation to a decision of the Controller made on application of a third party, was held as an absolute bar to review proceedings by the SCA in the absence of an application to condone that failure as envisaged in section 7(2)(c) of PAJA.

[58] There is no application before this court on behalf of Energi to establish exceptional circumstances and neither does Energi apply to this court to exercise its discretion under section 7(2)(c) of PAJA because it is the (incorrect) contention of Energi that the Energi review is a legality review and thus that section 7(2) of PAJA does not apply. On that basis, this court faces a statutory prohibition to entertain the Energi review.

[59] The Energi review therefore stands to be dismissed.

THE MERITS OF THE KHAZAMULA REVIEW:

[60] It follows from the analysis of the nature of the Energi review *supra* that the Khazamula review is similarly a review in terms of PAJA as correctly argued on behalf of counsel for Khazamula. It was not submitted on behalf of Energi, either in heads of argument or

[11] *Pine Glow Investments (Pty) Ltd v Minister of Energy and others 2025 (6) SA 474 (SCA).*

during the argument of the matter, and neither was it proposed in the pleadings on behalf of Energi that the Khazamula review is a legality review and not a review in terms of PAJA. The only inference to be drawn from this discrepancy is namely that those representing Energi labours under the incorrect impression that the right to review provides a remedy of choice.

[61] In my view the issue whether the extension of the retail licence approved by the Controller on 7 August 2023 was in fact approved after the initial licence issued on 20 April 2021 lapsed *ex lege* is, for purposes of this application irrelevant. The fact is that the request for an extension addressed to the Controller on 5 May 2023 was approved by the Controller on 7 August 2023 which resulted therein that the approval, which constitutes administrative action, remains valid and binding unless reviewed and set aside by a court.[12] In my view the validity of the extension *in casu* is not a necessary pre-condition for the validity of consequential acts[13] when due regard is had to the regulations referred to *supra*. In any event, the full court of this division has held in the judgment of *Streaks Ahead Investments (Pty)Ltd and Others v Lepelle Industrial and Mining Supplies (A243/17) [2019] ZAGPPHC 514 (27 March 2019)* that the Controller has the power to compound criminal conduct and is bestowed a powerful administrative tool to issue directives, and may even allow a licensee to continue an activity in contravention of PPA pending remedial measures to achieve compliance if, by doing so, a material interruption in the supply of petroleum products may be avoided. That finding by the full court of this division is based on the consideration that the objects of

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[12] *Oudekraal Estates v City of Cape Town and others 2004 (6) SA 222 (SCA).*

[13] *Oudekraal supra, para [31] – [32].*

the PPA must be achieved. In my view, that judgment (which is binding on this court) puts to bed the argument of Energi that the decision to extend the impugned licence was unlawful because it was granted after the licence lapsed, and which renders all decisions that the Controller took thereafter as null and void. That very point was rejected by the majority of the full court of the Mphumalanga Division in a judgment of *Pine Glow Investments (Pty) Ltd and Others v Controller of Petroleum Products and Others*[14] with which I respectfully agree.

[62] Regulation 29(2) clearly provides the Controller with a discretionary remedy which includes the power not to cancel or suspend a licence in circumstances where the Controller has considered steps taken by the licensee to remedy the alleged failure or contravention concerned, or have considered steps taken to prevent any such failure or contravention from being repeated.

[63] Considering the aforesaid judgments and the provisions of Regulations 24, 29 and 30 read conjunctively with the objects of PPA, I therefore hold that the argument of Energi to the effect that the failure to apply for an extension and the subsequent lapse of the licence is an absolute bar to a licensee to have the licence reinstated, is incorrect. In my view, the validity of a lawful extension under Regulation 24(1) is not a requirement for the validity of consequential acts of the Controller exercising powers in terms of PPA or the Regulations.

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[14] *Pine Glow Investments (Pty) Ltd t/a Caltex Mpumalanga North Marketer v Controller of Petroleum Products and Others (A15/25) Case No. 5551/2022 (29 December 2025) Mpumalanga Division, Mbombela Main Seat at para [20]-[21].*

[64] The issues raised by Energi in opposing the Khazamula review relating to the relevance for the date of issue of the retail licence to Khazamula and the legality of the extension approved under Regulation 24(2) by the controller on 7 August 2023 therefore becomes irrelevant and it follows that the only remaining issue for review in the Khazamula review is namely the decision of the Controller dated 21 October 2025 as quoted in paragraph [26] *supra* to cancel the retail licence of Khazamula. In this regard it was argued on behalf of Khazamula that substantial evidence in the form of documentary reports, photographs and an affidavit were provided which confirms that, on 28 February 2024, Khazamula conducted retail activities. From a perusal of that notice to cancel the retail licence, it transpires from the contents of paragraph 6 of that notice that on 4 March 2024 Khazamula disputed the factual grounds for the impugned cancellation, some 19 months before the date of the impugned notice of cancellation. No reasons are provided by the Controller why that inordinate delay occurred, no particulars of the investigation conducted by the Controller is provided, and no reasons are provided why the factual grounds which Khazamula provided on 4 March 2024 were not upheld. However, for the reasons that follow hereunder, it is not necessary to make a factual determination on the issue whether Khamazula commenced retail activities on 28 February 2024.

[65] From a perusal of the impugned notice of cancellation, and a perusal of the Regulations, the notice of cancellation is clearly a notice in terms of the provisions of Regulation 29(1). From the provisions of Regulation 29(2) it is clear that the decision to suspend a licence is a discretionary power awarded to the Controller which may only be exercised under specific circumstances as referred to in Regulation 29(2), if the licensee failed to comply with any provision of PPA or Regulations. The controller is

afforded a discretionary power (and not enjoined) as is clear from the use of the word "may" in Regulation 29(2), to cancel or suspend the licence. The wording of Regulation 29(2) makes it clear that the Controller is prohibited from the cancellation or suspension of a licence in the absence of due process prescribed in terms of Regulations 29(2)(a) and (b). That process is a *quasi judicial* process which requires adherence to the *audi alterem partem* principle, a proper consideration of all relevant matters, and a rational decision.

[66] The notice of cancellation of the Controller dated 21 October 2025 which is referred to in paragraph [26] *supra*, which served to cancel the issued licences outright, is in my view a nullity as it failed to adhere to the prescripts of Regulation 29(2). *Ex facie* the notice of cancellation, the controller did not comply with Regulation 29(2)(a)(ii) or with Regulation 29(2)(b), as the Controller gave immediate notice of cancellation which clearly implies that regulations 29(2)((b)(i) and (ii) were not complied with. The fact that the notice of cancellation refers in paragraph 6 of that notice to a notice to surrender dated 4 March 2024 is of no consequence because that notice to surrender was also served without any compliance with Regulation 29(2). Regulation 29(2) clearly prohibits the Controller to cancel a licence unless Regulation 29(2)(a) and Regulation 29(2)(b) had been complied with.

[67] The cancellation of the retail licence held by Khazamula has a serious and continued detrimental effect, not only on Khazamula, but also on its employees, financial partners (a financial institution and a commercial undertaking, Sasol) and the cancellation of the retail licence by the Controller has a potential adverse effect on the objects of PPA. It is therefore imperative that the Controller do not adopt a high handed attitude followed by

a completely distorted procedure characterised by an initial extension of the licence period, a cancellation of the extension, a reinstatement of the extension, a purported cancellation of the licence, and subsequent notice of cancellation some 19 moths later, which purports to be in terms of Regulation 29 but which does not comply Regulation 29(2) and which thus renders the notice to be a nullity. This administrative quagmire was caused by the proverbial flip-flop of the controller on its longstanding practice to have regarded the date of the collection of the licence as the date of issue, which was changed by the controller unilaterally, without due regard to the detrimental consequences to Khazamula, to the date of approval after the attorney acting for Energi engaged the Controller on this issue. I find this remarkable.

[68] Furthermore, it is clear from a reading of Regulation 29 that the cancellation of a retail licence is not an unavoidable *sequitur* in circumstances where there is non-compliance with any provision of PPA or the Regulations. Regulation 29(2)(b) enjoins the Controller to consider steps taken to remedy the failure or contravention and to consider other relevant matters submitted by way of representations contemplated in paragraph 29(2)(a)(ii). The Controller is enjoined to consider the relevant matters and exercise its discretion with due consideration of the objects of PAA and the bill of rights. *In casu* these considerations, in my view, include the fact that more than R40 million have been invested into the retail site, a franchise agreement was entered into with Sasol which is a national company which fulfills an important function in the economy of South Africa, and the fact that a financial institution extended substantial credit facilities to Khazamula. Khazamula has employed a substantial workforce and has progressed to a fully operational retail outlet. In my view, if these considerations were rationally considered by the Controller, exercising its discretion in a *quasi judicial* manner and

with due regard to the objects of PPA, it would have been irrational to cancel the licence. The fact is, these considerations were not even considered by the Controller, notwithstanding the fact that the Controller is enjoined to do so by virtue of Regulation 29(2)(b)(ii) to do so.

[69] The facts as set out above in relation to the failure of the Controller to comply with Regulation 29(2) , my view, clearly renders the impugned decision of the Controller to cancel the licence reviewable in terms of sections 6(2)(b), 6(2)(e)(iii), 6(2)(e)(vi), and 6(2)(f)(ii)(bb) of PAJA.

[70] It therefore follows that the decision of the Controller to cancel the retail licence of Khazamula stands to be reviewed and set aside as unlawful. It also then follows that the declaration of Controller to the effect that the site licence became invalid, is also unlawful and suffers the same fate.

CONCLUSION AND COSTS:

[71] Considering the aforesaid, it follows that the Energi review stands to be dismissed and the relief as sought by Khazamula should be granted.

[72] The parties are *ad idem* that costs should follow the event. The parties are also *ad idem* that the costs of the urgent application referred to in paragraph 3 of the consent order should follow the event.

IN THE PREMISES, I MAKE THE FOLLOWING ORDER:

1. The review application under case number 2023/128106 (“the Energi review”) is consolidated with the review application under case number 2026/036574 (“the Khazamula review”) to be heard under case number **2026/036574**.

2. The counter application brought by Khazamula Properties (Pty)Ltd under case number 2023/128106 is postponed *sine die*.

3. The Energi review is dismissed.

4. In the Khazamula review the following order is granted:

   4.1. That the finding or decision by the Controller of Petroleum Products dated 21 October 2025, in terms of which the retail licence issued to Khamazula Properties (Pty)Ltd by the Department Mineral Resources and Energy (number R2021/0048) was cancelled, is reviewed and set aside and the finding that the site license is invalid, is reviewed and set aside.

   4.2. The decision by the Minister; Mineral Resources and Energy, dated 15 January 2026, in terms of which the appeal of Khazamula Properties (Pty)Ltd under section 12A of the Petroleum Products Act number 120 of 1977 against the decision of the Controller of Petroleum Products referred to in paragraph 4.1 *supra* was dismissed, is reviewed and set aside;

   4.3. The decision by the Minister; Mineral Resources and Energy dated 15 January 2026, in terms of which decision it was found that the site licence issued by the

Department Mineral Resources and Energy (number S/2021/0017) to Khazamula Properties (Pty)Ltd is invalid, is reviewed and set aside;

4.4. It is declared that the retail licence issued by the Department Mineral Resources and Energy (number R2021/0048) and site licence issued by the Department Mineral Resources and Energy (number S/2021/0017) to Khazamula Properties (Pty)Ltd remains valid and of full force and effect.

5. Energi Licences (Pty)Ltd is ordered to pay the costs of the consolidated applications and the costs of the application under case number 2025/178946 which was reserved on 25 February 2025, to be taxed on scale C.

P A VAN NIEKERK
JUDGE OF THE GAUTENG DIVISION, PRETORIA

APPEARANCES

FOR ENERGI LICENCES (PTY) LTD **BG SAVVAS**

INSTRUCTED BY**:** **MURRAY KOTZE & ASSOCIATES**

FOR KHAZAMULA PROPERTIES (PTY) LTD: **JA VENTER**

INSTRUCTED BY: **WEAVIND & WEAVIND INC.**