



Centre for Environmental Rights

Advancing Environmental Rights in South Africa



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Your ref: Ngqura - 14/12/16/3/3/2/2005
Richard's Bay - 14/12/16/3/3/2/2007
Our ref: CER/Karpowership/NL/MMK
Date: 17 June 2021

URGENT

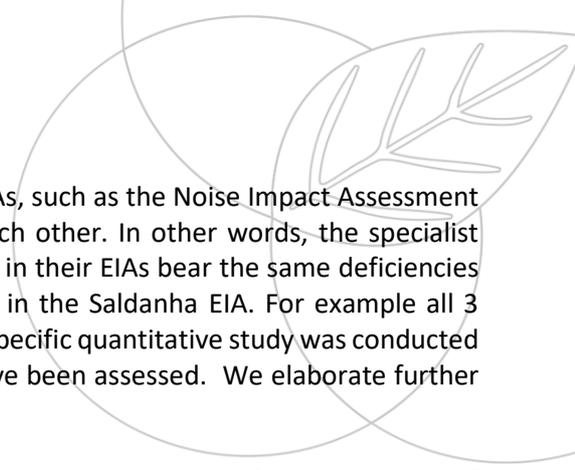
Dear Minister

REQUEST FOR SUSPENSION OF THE EIA PROCESS IRO KARPOWSHIP PROJECTS AT NGQURA AND RICHARD'S BAY, IN TERMS OF S14(3) OF THE EIA REGULATIONS, 2014.

1. We act on behalf of groundWork¹ in respect of the Karpowership Environmental Impact Assessment (EIA), in Richard's Bay, and Nqura. groundWork is a registered Interested and Affected Party (I&AP), and have submitted objection to all three Karpowership EIA processes.
2. We refer to the Green Connection's Complaint letter dated 30 May 2021 (attached), and your subsequent response ("the notification"), on behalf of the Department of Forestry, Fisheries and the Environment ("the Department") dated 8 June 2021 (attached), which suspends the EIA process, in relation to proposed Karpowership project for the Port of Saldhana. The notification highlighted, amongst others: that the Marine Ecological Assessment Report for the Saldhana project did not properly assess the impact of noise on the marine life, and in turn the impact on the small scale fishers; that the Marine Ecological Assessment itself concluded that a quantitative underwater noise assessment should be conducted; that the reliance on the impact of noise study in Ghana is insufficient; and that these and other deficiencies do not allow for the Department to make an informed decision on the Environmental Impact Assessment.

¹ **groundWork** is a non-profit environmental justice service and developmental organization working primarily in Southern Africa in the areas of Climate & Energy Justice, Coal, Environmental Health, Global Green and Healthy Hospitals, and Waste.

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3. We advise that most of the expert reports for all three Karpowership EIAs, such as the Noise Impact Assessment and the Marine Ecological Impact Assessment are near identical to each other. In other words, the specialist reports that are submitted in respect of Richard's Bay as well as Ngqura in their EIAs bear the same deficiencies and omissions as those highlighted and confirmed by the Department in the Saldanha EIA. For example all 3 specialist reports in the Marine Ecological Assessment state that no site specific quantitative study was conducted to assess the impact of noise on the marine life and that this should have been assessed. We elaborate further on this below.
 4. In light of the above, we advise that the same objections outlined in the Green Connection's letter in respect of the Saldanha EIA apply to the Karpowership EIA reports for the projects at Port of Richard's Bay as well as Ngqura, and a suspension should be extended to the other two EIA processes as well. For the sake of consistency in the application of the law and in the interests of interested and affected parties, as well as affected communities, it is necessary that the Department take the same steps in relation to the other 2 projects and conduct the necessary investigations.

Port of Richard's Bay

5. Richard's Bay is home to number of ecologically sensitive surrounds including estuaries, critically endangered mangroves (which support various birds, fish and other marine ecology, including those that are critically endangered). These include the Kwambonambi Dune Forest; Kwambonambi Hygrophilous Grassland; KZN Coastal Forest; Protected Mangrove Forest; Swamp Forest; Richards Bay Nature Reserve, a protected area in terms of National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), uMhlathuze Estuary; Important Bird Area (IBA); Greater Mhlathuze Wetland System; Critical Biodiversity Area).
6. Mangroves and estuaries are spawning grounds for juvenile fish and prawns. However in this regard, the Marine Ecological Impact Study for Richard's Bay indicates that ***"It is concluded that there is not enough information about underwater noise and vibration levels from floating power plant ships in the context of the Port of Richards Bay to conduct an assessment. Therefore, general sound levels from commercial vessels and from a powership moored in another location are presented, as are the biological thresholds of sensitive receptors. A quantitative underwater noise assessment is recommended to comprehensively assess the impact on the marine ecology... A noise modelling study should be undertaken to gain a more quantitative understanding of the noise produced from powership operations in the Port of Richards Bay and the cumulative impacts on the surrounding marine ecology."***² This is precisely the same recommendation that was contained in the Saldanha specialist report, which the Department has listed as a basis for suspected noncompliance with the EIA Regulations.

Port of Ngqura

7. Port of Ngqura, is within the Critical Biodiversity Area; near the Addo Elephant National Park Marine Protected Area and the Algoa to Amathole Ecologically or Biologically Significant Marine Area (EBSA). The Algoa Bay has also received a status as one of the world's four Whale Heritage Sites.³ This area is not only important from large number of endemic bird species in the area but, according to the Marine Ecological Assessment for Ngqura, *"the Algoa Bay area provides a large number of ecosystem services to society. Most of these fall under socio-economic topics and are only briefly mentioned here, but some are directly dependent on ecosystem health and functionality. Provisioning services provided include: fisheries; commercial/recreational/subsistence), and aquaculture/mariculture (bivalves and finfish). In 2020, authorisation was granted to establish a sea-based Aquaculture Development Zone (ADZ) in Algoa Bay. The ADZ comprises three precincts, one of which, Algoa 7, is located approximately 3 km offshore, 2.5 km from the entrance to the Port of Ngqura. Algoa 7 is approved for the*

² Marine Ecological Impact Assessment, Richard's Bay, pg 43, 45

³ <https://www.sapeople.com/2021/06/16/algoa-bay-in-south-africa-becomes-prestigious-whale-heritage-site/>

farming of indigenous finfish only (Anchor 2019; TNPA 2020)."⁴ In addition, the report also highlights the area is also of cultural importance, and the area is important also for nursing habitat for marine biota.⁵

8. As with Saldhana and Richard's bay however, the Marine Ecological Assessment also indicates that the noise impact has not been adequately assessed, and recommends such quantitative assessment should be undertaken. It states that "**No site-specific modelling studies have been undertaken for underwater noise from the proposed FPP operations.** Therefore, this section is presented as a highlevel, non-quantitative assessment based on estimations of underwater noise from commercial ships and powerships moored in other locations. **It is recommended that a baseline study of the underwater noise climate in the Port of Ngqura is done so that a noise modelling study can be undertaken. This will allow for a more quantitative understanding of the underwater noise produced from FPP operations in the Port of Ngqura so that a quantitative assessment of the impact of noise on the surrounding marine ecology can be done.**"
9. As the impact of noise on the fish and marine ecology has not been adequately addressed, it follows then that the small scale fisheries, and subsistence fishermen would not have been adequately informed of the impact of the Karpowerships in in Richard's Bay and also in Ngqura. The public participation of the other two ports therefore is also then deficient.
10. In light of the aforementioned, and given that some of the same deficiencies that were identified by the Chief Director for Saldanha also apply to the EIAs for the other Karpowership EIA processes, we have good reason to submit that these should be investigated further by the Department and the other EIA processes suspended as well. The Department would not be able to make an informed decision on the Environmental Impact Assessments for the Ngqura and Richard Bay Karpowership EIAs, for the same reasons that apply to the Saldanha EIA. As such, and in the interests of following a fair and lawful process, we request the suspension of the EIA processes for Karpowership's proposed projects for Ngqura and Richard's Bay.
11. Kindly advise if you have any questions or if you would like to discuss any of the above.
12. We look forward to receiving your decision in respect of the Karpowership EIAs at Richards Bay as well as at Ngqura.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS

per:



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⁴ Marine Ecological Assessment, Ngqura, pg 6-7

⁵ Ibid.