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**Date:** 3 February 2023

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**ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT THE PROPOSED OFFSHORE PRODUCTION  
RIGHT AND ENVIRONMENTAL AUTHORISATION APPLICATIONS FOR BLOCK 11B/12B**

**REF NO: 12/4/13 PR**

***COMMENTS ON THE DRAFT SCOPING REPORT***

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**INTRODUCTION**

These submissions are made by The Green Connection and Natural Justice in response to the Draft Scoping Report published for comment by WSP Group Africa (Pty) Ltd for the proposed offshore production right and environmental authorisation applications for Block 11B/12B on 2 December 2022. Comments are due on 3 February 2023.

The Green Connection is a registered non-governmental organisation, that believes economic growth and development, improvement of socio-economic status and conservation of natural resources can only take place within a commonly understood framework of sustainable development. It aims to provide practical support to both the government and non-governmental/civil society sectors, which are an integral part of sustainable development.

Natural Justice: Lawyers for Communities and the Environment is a non-profit organisation specialising in environmental and human rights law in Africa – with a focus on the pursuit of social and environmental justice for local and indigenous communities. Natural Justice offers direct support to local and indigenous communities impacted by the ever-increasing demand for land and natural resources.

On 20 January 2023, Green Connection and Natural Justice submitted comments to Petroleum Agency SA in response to the section 10 Notice inviting comment on TEEPSA's application for a production right for this block.

The organisations have an interest in this project, in the interests of the protecting the environment, in the interests of protecting the local and indigenous peoples and communities who will be impacted, as well as in the public interest.

### **OBJECTION TO THE EXPLOITATION OF OIL AND GAS RESOURCES**

The extraction, processing, storage, transport and end-use of oil and gas from the proposed production operations will result in unacceptable significant emissions of greenhouse gases (GHGs), increasing atmospheric GHG levels and resulting in increased adverse impacts on human health and well-being and on the environment (species and ecosystems). Impacts on human health and well-being are likely to include (among others) impacts from increased adverse environmental effects, impacts on food availability and affordability, loss of property due to sea-level rise, direct impacts of catastrophic weather events, and deterioration in physical and mental health and well-being. Environmental impacts are likely to include (among others) increased temperatures, worsening and prolonged droughts, longer and more intense heatwaves, increases in extreme weather events, increased ocean acidity, decline in ecosystems and habitat, and increased rates of species extinction.

These impacts are significant and unacceptable.

The exploitation of oil and gas resources, and specifically as proposed in this application, is not needed or desirable. Globally, the proven reserves of oil and gas far exceed what can be used without causing catastrophic climate change. There is already sufficient proven oil to supply over double the emissions consistent with 1.5°C, whilst already proven gas resources are nearly three times more than the 1.5°C budget.

As a party to the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, South Africa has committed to limiting the increase in the global average temperature to well below 2°C and to pursue efforts to limit the temperature increase to 1.5°C. South Africa is not, however, on track to meet these commitments. According to the Climate Action Tracker, *“South Africa’s climate policies and commitments need substantial improvements to be consistent with the Paris Agreement’s 1.5°C temperature limit.”*<sup>1</sup> If all countries followed South Africa’s “insufficient” approach to

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<sup>1</sup> Climate Action Tracker, South Africa, <https://climateactiontracker.org/countries/south-africa/>.

climate mitigation, “warming would reach over 2°C and up to 3°C.”<sup>2</sup> Approving more oil and gas projects, including offshore exploration and production, would push South Africa further away from achieving its international climate commitments.

As the public trustee of the environment generally, of biological diversity, of protected areas, and of coastal public property, the State must take measures to ensure that our oceans are used, managed, protected, conserved and enhanced in the interests of the whole community, for the benefit of present and future generations. The phase out of oil and gas is urgently needed to avert the climate crisis, to protect and promote the State’s obligations to provide basic necessities such as water, food, shelter and an environment that is not harmful to health or well-being.

Given this, the exploitation of oil and gas is not needed, is undesirable, is locally and globally irresponsible, is contrary to South Africa’s international climate change and biodiversity commitments, and contravenes the State’s obligations under section 24 of the Constitution. The Green Connection and Natural Justice object to the authorisation of the proposed production activities.

## COMMENTS ON THE DRAFT SCOPING REPORT

Notwithstanding the above, we provide further comments on the Draft Scoping Report and ESIA in general. In our view, upon full and proper assessment, the impacts associated with production will be found to be highly significant and unacceptable, and the environmental authorisation should be refused.

### 1. The ESIA must comprehensively assess the marine impacts of the project

1.1. The ESIA must use appropriate methods for modeling the impacts of a well blowout and other operational & unexpected spills or leaks of methane and gas condensate into the environment.

1.1.1. Accurate modeling of the fate of methane from blowout or leak must consider the depth of the emission, its force and maximum quantities emitted given realistic timeframes for gaining control of the well, and the depth of the well. Studies show that methane can cause depletions in oxygen levels and acidification when dissolved in the marine environment, and contribute directly to climate change when methane bubbles reach the surface.<sup>3</sup>

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<sup>2</sup> Climate Action Tracker, South Africa, <https://climateactiontracker.org/countries/south-africa/policies-action/>.

<sup>3</sup> Sarah C. Weber *et al.*, *Hercules 265 rapid response: Immediate ecosystem impacts of a natural gas blowout incident*, 129, *Deep Sea Research Part II: Topical Studies in Oceanography*, 66–76 (2016), <https://www.sciencedirect.com/science/article/pii/S0967064515003501>.

Isabel C. Romero *et al.*, *Tracking the Hercules 265 marine gas well blowout in the Gulf of Mexico*, 121, *Journal of Geophysical Research: Oceans*, 706–724 (2016), <https://onlinelibrary.wiley.com/doi/abs/10.1002/2015JC011037>.

D. F. McGinnis *et al.*, *Fate of rising methane bubbles in stratified waters: How much methane reaches the atmosphere?*, 111, *Journal of Geophysical Research: Oceans* (2006), <https://onlinelibrary.wiley.com/doi/abs/10.1029/2005JC003183>.

- 1.1.2. Accurate modeling of the fate of gas condensate from a spill or blowout requires prerequisite studies of the composition of particular condensate from the field being drilled, and lab studies of its fate in the environment. This is standard practice for gas condensate associated with Norwegian offshore oil and gas production.<sup>4</sup>
- 1.2. The ESIA must assess the immediate and chronic impacts of sonar and seismic surveys. Table 5-4: Summary of Sonar Survey states that the following will be equipment/source specifications of those surveys: Multi-beams Echo Sounder, Side Scan Sonar, Sub-bottom Profiler, and Ultra-High Resolution Seismic.<sup>5</sup> It is unclear whether the last, Ultra-High Resolution Seismic, refers to Vertical Seismic Profiling, or to ultra-high resolution 3D seismic surveys. In either case, the ESIA must explain the process to which this reference refers, and must carefully examine the full footprint of acoustics and impacts of any seismic and sonar studies.
- 1.3. The ESIA must consider acoustic impacts on all species. Many marine species, beyond marine mammals, depend on sound and acoustic cues for vital biological functions. These surveys are to be used to investigate the bathymetry, including where the pipeline is to be laid, and will be conducted in a marine Critical Biodiversity Area; currently the Draft Scoping Report only considers impacts to marine mammals (the baseline information for which, as noted below, is inadequate) and not to any of the other acoustically-dependent marine species and their important biological functions.
- 1.4. The ESIA needs to detail how impacts during Humpback whale and Southern Right Whale migration periods will be mitigated.

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J. E. Olsen *et al.*, *Observations of Rising Methane Bubbles in Trondheimsfjord and Its Implications to Gas Dissolution*, 124, *Journal of Geophysical Research: Oceans*, 1399–1409 (2019), <https://onlinelibrary.wiley.com/doi/abs/10.1029/2018JC013978>.

Lin Zhao *et al.*, *Evolution of bubble size distribution from gas blowout in shallow water*, 121, *Journal of Geophysical Research: Oceans*, 1573–1599 (2016), <https://onlinelibrary.wiley.com/doi/abs/10.1002/2015JC011403>.

A. Biastoch *et al.*, *Rising Arctic Ocean temperatures cause gas hydrate destabilization and ocean acidification*, 38, *Geophysical Research Letters* (2011), <https://onlinelibrary.wiley.com/doi/abs/10.1029/2011GL047222>;

Fenix Garcia-Tigeros *et al.*, *Estimating the Impact of Seep Methane Oxidation on Ocean pH and Dissolved Inorganic Radiocarbon Along the U.S. Mid-Atlantic Bight*, 126, *Journal of Geophysical Research: Biogeosciences*, e2019JG005621 (2021), <https://onlinelibrary.wiley.com/doi/abs/10.1029/2019JG005621>.

<sup>4</sup> Jane H.C. Øksenvåg *et al.*, *Sigyn condensate – properties and behaviour at sea*, (2017), [https://sintef.brage.unit.no/sintef-xmlui/bitstream/handle/11250/2450947/Sigyn\\_Final%2breport.pdf?sequence=2&isAllowed=y](https://sintef.brage.unit.no/sintef-xmlui/bitstream/handle/11250/2450947/Sigyn_Final%2breport.pdf?sequence=2&isAllowed=y).

Lei Chen, Jiayan Yang & Lixin Wu, *Modeling the Dispersion of Dissolved Natural Gas Condensates From the Sanchi Incident*, 124, *Journal of Geophysical Research: Oceans*, 8439–8454 (2019), <https://onlinelibrary.wiley.com/doi/abs/10.1029/2019JC015637>.

Andrew P. Negri *et al.*, *Derivation of toxicity thresholds for gas condensate oils protective of tropical species using experimental and modelling approaches*, 172, *Marine Pollution Bulletin*, 112899 (2021), <https://www.sciencedirect.com/science/article/pii/S0025326X21009334>.

E. Kababu *et al.*, *Effects of crude oil and gas condensate spill on coastal benthic microbial populations*, 10, *Frontiers in Environmental Science* (2022), <https://www.frontiersin.org/articles/10.3389/fenvs.2022.1051460>.

<sup>5</sup> [https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA\\_567\\_ESIA\\_Drill\\_FEIR\\_221115\\_FINAL\\_Optimized.pdf](https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA_567_ESIA_Drill_FEIR_221115_FINAL_Optimized.pdf) p. 27.

- 1.5. The ESIA needs to detail how operational spills and leaks will be mitigated during spawning periods.
- 1.6. The ESIA acoustic analysis must look carefully at behavioural responses driven by acoustic harms, and not just temporary and permanent threshold shifts. This analysis must also give consideration to ambient and project noise in decidecade frequency bands to ensure that impacts on marine organisms with different hearing ranges can be accurately quantified.
- 1.7. Fig 7-5, of the Draft Scoping Report states the following- *“Therefore, it is expected that existing underwater noise levels in the vicinity of the Project are significantly impacted by existing vessel traffic”*. The ESIA should incorporate the ambient soundscape, as well as other operational noise contributors, such as helicopters, drilling, dynamic positioning system etc.<sup>6</sup>
- 1.8. The Draft Scoping Report, at Table 5.3, cites the use of explosives. The ESIA needs to outline various permits required for this activity.<sup>7</sup>
- 1.9. With regards to the section on turtles as outlined within the current draft scoping report, the section requires revision in order to reflect that South Africa hosts 5 species.<sup>8</sup>
- 1.10. The ESIA must consult the most recent literature and consider the strandings of ‘smaller cetaceans’ along the coastline, with specific reference to the extremely high numbers of Kogia species.<sup>9</sup>
- 1.11. In the Draft Scoping Report the IUCN status and endemism of the African Penguin is downplayed. The ESIA should include an in depth review of this population given the dramatic decline over the last 2 decades.<sup>10</sup>
- 1.12. The Draft Scoping Report mentions the Convention of Migratory Species (CMS) and that CITES regulations are appropriate, but listed species in CMS and in CITES are not mentioned (except the white shark). The obligations for which South Africa is a signatory to CMS and CITES is poorly written. Furthermore, species in marine TOPS regulations are not mentioned. The ESIA needs to unpack all these legislative tools as well as the species which will be affected in the proposed area.
- 1.13. The Draft Scoping Report mentions under the section *“Potential impacts of the Project on EBSAs in the area surrounding Block 11B/12B”*: that light will be considered. Light pollution and impacts on biological processes should be fully explored, and not just on the impacts on EBSA’s.<sup>11</sup>

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<sup>6</sup> Draft Scoping Report at Page 41.

<sup>7</sup> Draft Scoping Report at page 24.

<sup>8</sup> Draft Scoping Report at page 49.

<sup>9</sup> Draft Scoping Report at page 55.

<sup>10</sup> Section 7.2.8 of the Draft Scoping Report at page 61.

<sup>11</sup> Draft Scoping Report at page 103.

1.14. The ESIA should deal with invasives and alien species in detail and the risks for South Africa, given that ships, drilling equipment and rigs are used and relocated around the world for these types of projects.

1.15. The National Environmental Management: Integrated Coastal Management Act requires, in terms of section 63, that additional relevant factors are taken into account in an application for environmental authorisation for coastal activities. The Scoping Report fails to identify these factors, or indicate how they will be assessed in the ESIA.

## **2. The ESIA must comprehensively assess the full lifecycle climate impacts of the project**

2.1. Globally, the proven reserves of oil and gas far exceed what can be used without causing catastrophic climate change.

2.2. According to recent reports by leading energy experts, development of new gas fields at this time is incompatible with a 1.5°C pathway. See, for example, the following:

2.2.1. *“ . . . capital and operational expenditures for the exploration and extraction of oil and gas in new fields—which are incompatible with selected IPCC and IEA 1.5°C pathways—are expected to reach USD 570 billion annually by 2030 (Rystad Energy, 2022). By themselves, these investments would suffice to bridge the entire investment gap for wind and solar in 2030. . . . Preventing investments in any oil and gas fields beyond those already under development is essential to limiting temperature rise to 1.5°C, and could additionally free up a significant sum of capital required to fill the wind and solar investment gap.”*<sup>12</sup>

2.2.2. *Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required. The unwavering policy focus on climate change in the net zero pathway results in a sharp decline in fossil fuel demand, meaning that the focus for oil and gas producers switches entirely to output – and emissions reductions – from the operation of existing assets.*<sup>13</sup>

2.3. The ESIA must take this reality into account when assessing the significance of climate impacts, especially with regard to its proposal to engage in more exploratory well drilling.

2.4. The climate change impact assessment must include a comprehensive life-cycle assessment, including upstream and downstream emissions and impacts associated with the proposed production and ancillary activities.

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<sup>12</sup> IISD, [Navigating Energy Transitions](#) (Oct. 2022) at 27.

<sup>13</sup> International Energy Agency, [Net Zero by 2050](#) (2021) at 21.

2.5. Climate change is likely to result in more frequent and more extreme weather events, which is particularly significant as the exploration activities will already be occurring in a dynamic ocean environment, in an area of already high volatility due to the Agulhas current. This existing volatility is recognised in the Scoping Report,<sup>14</sup> and increased volatility of the ocean must be taken into account in this assessment.

### **3. The ESIA must accurately describe baseline environmental conditions**

3.1. Baseline environmental conditions must be described and impacts assessed with reference to the most recent available literature.

3.2. According to the Draft Scoping Report, knowledge of the baseline of cetaceans in and around Block 11B/12B is very limited and outdated. Given how quickly cetacean distribution and feeding and breeding patterns are changing as a result of changing ocean temperatures and resource availability, this gap in knowledge must be remedied by new surveys that cover all seasons over at minimum two years.

3.2.1. “While current data is available on species distribution and abundance of cetaceans in Block 11B/12B for two baleen whale species, the humpback whale *Megaptera novaeangliae* and southern right whale *Eubalaena australis*, almost all data is limited to the nearshore continental shelf (Pisces 2019). Indeed, the majority of information available on the seasonality and distribution of large whales offshore (>200 m deep) is based on commercial whaling data from the 1960s (Pisces 2014). Even historical data from commercial whaling activities, or government run cruises between 1975 and 1986, mostly occurred inshore of Block 11B/12B (Findlay et al. 1992, Pisces 2019). Information on abundance, distribution or seasonality of smaller cetaceans (including the beaked whales and dolphins) known to occur in oceanic waters off the shelf south of the Agulhas Bank is particularly poor (Pisces 2019).”<sup>15</sup>

3.3. Given this lack of baseline information, a precautionary approach should be taken, such that where the impacts of production cannot be accurately predicted, the activity should not be authorised.

### **4. The ESIA must undertake comprehensive public participation to achieve meaningful consultation**

4.1. Recent judicial precedents must be applied in ensuring that effective and meaningful consultation is achieved, through genuine, *bona fide* substantive two-way processes aimed at achieving, as far as possible, consensus, especially in relation to what the process entails, and

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<sup>14</sup> “The strong Agulhas Ocean current, coupled with the high wind and waves, make the harsh metocean conditions a challenge for especially the installation / construction phase of the project.” pg 35

<sup>15</sup> [https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA\\_567\\_ESIA\\_Drill\\_FEIR\\_221115\\_FINAL\\_Optimized.pdf](https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA_567_ESIA_Drill_FEIR_221115_FINAL_Optimized.pdf), p. 54-55.

the import thereof.<sup>16</sup> Insofar as they do not, and have not, these processes run contrary to NEMA and the Constitution.

- 4.2. It is clear that TEEPSEA has not meaningfully consulted with all potentially impacted groups during the exploration well drilling application phase. For example, representatives of the Gourikwa Khoisan Stamhuis and Khoisan Traditional Council were invited via email to a Focus Group Meeting, and there was only one follow-up discussion with Chief Barry Jacobs. In the end, no meeting materialized.<sup>17</sup> The Draft Scoping Report again proposes to distribute the notification letter, registration and comment sheet via email and online through WSP's website, noting only that other mechanisms for reaching I&APs, such as radio announcements and flyers, "will also be considered."<sup>18</sup> The production right consultation process should actually reach all potentially affected community members, and meeting invitations should not only be sent through electronic means, since it has proven ineffective at reaching remote communities who may be harmed by the project.
- 4.3. The traditional authorities and leadership structures of impacted groups must be specifically engaged. However, consultation must extend beyond these authorities and structures to ensure that communities participate. Monarchs and leadership cannot make representations on behalf of all community members.<sup>19</sup>
- 4.4. The scope of the assessment of impacts ought to be extended to include impacts to communities beyond the parameters of the Mossel Bay Municipality. It should include, *inter alia*, communities living in other areas along the east coastline beyond the immediate vicinity of the production area.
- 4.5. The list of communities and groups who will be consulted as part of the heritage impact assessment process should have been made available to interested and affected parties during the scoping phase in order for I&APs to identify gaps in the proposed consultation and assessment process. The EIA Regulations require that the person conducting the public participation process ensure that "(a) information containing all relevant facts in respect of the application or proposed application is made available to potential interested and affected parties".<sup>20</sup> These relevant details include a list of which communities will be consulted, the methodology used to identify the communities to be consulted, the proposed methodology for the consultation itself, and whether the proposed project has been subject to any prior consultation thus far. The Draft Scoping Report fails to include this crucial information and has

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<sup>16</sup> *Sustaining the Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others* (3491/2021) [2022] ZAECMKHC 55 [95].

<sup>17</sup> [https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA\\_567\\_ESIA\\_Drill\\_FEIR\\_221115\\_FINAL\\_Optimized.pdf](https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA_567_ESIA_Drill_FEIR_221115_FINAL_Optimized.pdf).

<sup>18</sup> Draft Scoping Report at 92.

<sup>19</sup> *Sustaining The Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others* (3491/2021) [2021] ZAECGHC 118 [26].

<sup>20</sup> EIA Regulations, section 41(6)(a).

therefore deprived interested and affected parties of their right to review and comment on the development of the methodology to be adopted and to identify which cultural groups or communities will be consulted.

- 4.6. By relying solely on the EAP's own information to identify potential I&APs, important groups may be excluded. In *Sustaining the Wild Coast and Others v Minister of Mineral Resources and Energy and Others*, the Eastern Cape High Court found that public participation was inadequate where a database was compiled through "analysis of potential stakeholders and based on stakeholders engaged in previous similar studies in the area" and where the company declined to give further details about how the database was created.<sup>21</sup>
- 4.7. Though it appears from the Scoping Report that TEEPSA is relying heavily on an existing database of potential I&APs, the Scoping Report does not provide sufficient information, as required by the EIA Regulations, to facilitate comment on the adequacy and accuracy of the I&AP database and community outreach efforts.
- 4.8. Stats SA should be identified as a relevant government agency that must be consulted, particularly as it is key enabler of natural capital accounting (NCA), with a mandate to promote the use of official statistics within policy development, policy monitoring and evaluation as well as decision-making efforts, particularly in aspects relating to environmental management such as the Sustainable Development Goals (SDGs) and the Post-2020 Global Biodiversity Framework.

## **5. The ESIA must consider a full cost benefit analysis, factoring in the social costs of carbon**

- 5.1. It does not seem that the TEEPSA have included within their scope of assessment, an assessment of the estimated cost of damages that will result from every additional ton of carbon ) emitted into the atmosphere due to this particular project. The externalized costs of climate change aggravating activities on the marine environment and the local communities must be assessed. These damages include, but are not limited to, sea level rise, severe weather, melting permafrost, ocean acidification, and ecosystems shifts.<sup>22</sup> Assigning no value at all to future harms from climate change is inappropriate and misleading.
- 5.2. The assessment scope should include identifying the projected gross tonnes emissions associated with direct emissions and indirect emissions. For direct emissions these calculations should include the emissions resulting from the construction, operational, decommissioning and reclamation phases of the processing facility, the marine terminal and likely nearby related infrastructure. Scoping determinations would have to be made with respect to upstream and downstream emissions such as emissions associated with construction, operation,

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<sup>21</sup> *Sustaining the Wild Coast NPC and Others v Minister of Mineral Resources and Energy and Others* (2022) 1 All SA 796 (ECG) para 21.

<sup>22</sup> Simon Evans et al., "The Social Cost of Carbon" (February 2017) The Carbon Brief, online:

decommissioning and abandonment of gas pipelines as well as extraction, gathering, and refining. Gross and net downstream emissions must be factored in.

6. As part of the need to consider a full cost benefit analysis, scope for the consideration of natural capital accounting should be extended. Natural Capital Accounting (NCA) provides a common framework for measuring and tracking over time the contribution of ecosystems and natural resources to social and economic goals, such as water security, food security and job creation, and provides a wealth of information that can improve planning and decision-making related to the management of natural resources. The underlying premise for NCA is that since the environment is important to society and the economy, it should be recognized as an asset that must be maintained and managed, and its contributions better integrated into decision making. Ecosystem accounting incorporates a wider range of benefits to people than those captured in standard economic accounts, and provides a structured approach to assessing the dependence and impacts of economic and human activity on the environment.
  
- 7. The ESIA must consider feasible technological alternatives to the project as required by section 24O(1)(b)(iv) NEMA, including as part of its assessment of need and desirability.**
  - 7.1. As the report notes, NEMA requires applicants to consider *“different means of meeting the general purpose and requirements of the activity, which may include alternatives to (a) the property on which or location where it is proposed to undertake the activity; (b) the type of activity to be undertaken; (c) the design or layout of the activity; (d) the technology to be used in the activity; and (e) the operational aspects of the activity.”*<sup>23</sup>
  - 7.2. The Draft Scoping Report only identifies alternatives related to oil and gas production. It does not explore any “activity alternatives” because “[t]he location of the proposed project is constrained to the location of the gas, condensate and oil rim resource and confirmed reserves.”<sup>24</sup>. Yet, the “general purpose” of the activity can be achieved through renewable energy, such as offshore wind.
  - 7.3. The Draft Scoping Report justifies the need for natural gas production “as one element in the mix of technologies that will secure energy generation capacity going forward” - “a bridge on the path from reliance on fossil fuel to carbon-neutrality” and complementary to renewable energy sources.<sup>25</sup> The report also touts the project’s socio-economic benefits in the form of jobs related to operating the FA Platform and associated infrastructure and the PetroSA GTL refinery, which would use the gas and condensates from the project.

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<sup>23</sup> Draft Scoping Report at 33.

<sup>24</sup> Draft Scoping Report at 33.

<sup>25</sup> Draft Scoping Report at 13.

- 7.4. Investing in a renewable energy project like an offshore wind farm would yield these environmental and socio-economic benefits and more, without posing the threat of harmful oil spills that are expensive to clean up. Total is not new to the offshore energy sector. There are currently 10 projects in its offshore wind portfolio, one of which is the Seagreen Offshore Wind Farm - Scotland's largest offshore wind farm.<sup>26</sup> Once operational in the second quarter of this year, Seagreen's 114 turbines are expected to power 1.6 million homes and displace 2 million tonnes of carbon dioxide from fossil fuel generation.<sup>27</sup> Unlike oil and gas production, which, as the report acknowledges, is limited by the location of existing reserves, wind turbines may be able to occupy a greater percentage of Block 11B/12B.<sup>28</sup> Offshore wind projects also create jobs spanning several occupations and roles, with a concentration in the manufacturing and supply chain.<sup>29</sup> With regards to areas in Block 11B/12B with deeper water depths, Total has described floating offshore wind as "an extremely promising and technical segment where Total brings its extensive expertise in offshore operations and maintenance."<sup>30</sup> Alternatively, Total could explore opportunities to invest in renewable projects on land. Given the potential of renewable energy to meet the purposes of oil and gas exploration, the ESIA should consider renewable energy projects as alternatives.
- 7.5. The two pipeline routes considered in the Draft Scoping Report cut through the Critical Biodiversity Area, even though the Draft Scoping Report notes that "development of the subsea pipelines associated with oil and gas processes [is] considered non-compatible within the CBA Natural area."<sup>31</sup> The base case was ultimately selected because it "reduces footprint impact on the marine CBA."<sup>32</sup>
- 7.6. The proposed pipeline transverses a significant portion of CBA Natural. According to the sea-use guidelines and stated in the Draft Scoping Report, oil and gas pipelines are not compatible with either CBA Natural or Restore. Limited information is available on what biodiversity features designate this area as a CBA natural area. Clarity is required to make an appropriate assessment of risk. The impact of linear infrastructure such as the pipeline in fragmenting habitats and gene flow, amongst other impacts, must be thoroughly investigated.

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<sup>26</sup> TotalEnergies, *Our Offshore Wind Portfolio*, <https://totalenergies.com/infographics/totalenergies-offshore-wind-power-portfolio-worldwide>.

<sup>27</sup> Seagreen, *Building Scotland's largest offshore wind farm*, <https://www.seagreenwindenergy.com/>.

<sup>28</sup> Michael Freeman, *Offshore Wind Can Lower Energy Prices and Beat Out Oil and Gas* (Sept. 23, 2022), The Center for American Progress, <https://www.americanprogress.org/article/offshore-wind-can-lower-energy-prices-and-beat-out-oil-and-gas/>.

<sup>29</sup> Stefek, Jeremy, Chloe Constant, Caitlyn Clark, Heidi Tinneland, Corrie Christol, Ruth Baranowski. 2022. *U.S. Offshore Wind Workforce Assessment*. Golden, CO: National Renewable Energy Laboratory. NREL/TP-5000-81798. <https://www.nrel.gov/docs/fy23osti/81798.pdf>.

<sup>30</sup> TotalEnergies, *Renewables: Total Enters Floating Offshore Wind with a First Project in the UK* (Mar. 19, 2020), <https://totalenergies.com/media/news/press-releases/renewables-total-enters-floating-offshore-wind-first-project-uk>.

<sup>31</sup> Draft Scoping Report at 103

<sup>32</sup> Draft Scoping Report at 21.

**8. The scope of the assessment must include the full impacts of the project, including downstream effects**

8.1. According to the Draft Scoping Report, “Any construction, modification or upgrades at the F-A Platform or at any onshore facility, if required by the off-taker of gas or condensates, will be subjected to a separate Environmental Authorisation (“EA”) Application.”<sup>33</sup> However, there may be upgrades required at these facilities that are not tied to the offtaker, but that result directly from the addition of the gas and gas condensates from Block 11B/12B to the pre-existing processing and offtake system. These may include upgrades to the current processing facility, for example. Any of these alterations that have impacts that must be considered under NEMA should be integrated into this application, as the development of Block 11B/12B is a direct trigger of those required changes.

**9. The ESIA must fairly assess both the negative and positive impacts associated with the no-go alternative**

9.1. The description of the No-Go alternative, as currently previewed in the Draft Scoping Report, focuses heavily on detailing the economic and social benefits that South Africa would forego without an accounting of the environmental, climate, and social harms that would be avoided. The ESIA should fairly represent the costs and benefits of choosing not to proceed with the project.

9.2. It would be prudent for the ESIA to report on history of the compliance, incidents, spills and failures and any other environmental harm that have occurred across the globe, associated with operations by TOTAL E & P South Africa B.V., Qatar Petroleum International Upstream LLC, CNR International (South Africa) and Main Street 1549 (Pty) Ltd.

**10. The ESIA must comprehensively assess the impacts on tangible and intangible heritage and cultural resources**

10.1. The ESIA should assess impacts on tangible and intangible heritage and cultural resources through a specialist heritage impact assessment study. The Draft Scoping Report references a number of different specialist assessments that will be employed to study specific and relevant impacts such as marine acoustic; marine ecology, air quality and climate change, oil spill modeling and drill discharge modeling, socio-economic impact studies and lastly closure in terms of financial provisioning. However there does not appear to be the inclusion of a separate

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<sup>33</sup>[https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA\\_567\\_ESIA\\_Drill\\_FEIR\\_221115\\_FINAL\\_Optimized.pdf](https://cdn.slrconsulting.com/uploads/2022-12/TEEPSA_567_ESIA_Drill_FEIR_221115_FINAL_Optimized.pdf), p. 2.

and specialist assessment on the impact to heritage resources. Instead, reference is made to the consideration of “the results of the Cultural Heritage study undertaken for Block 11B/12B”, which is an existing study. This study has not been made available as part of this phase of the assessment, and consequently we are not able to comment on its contents. Furthermore, it appears that this report will not be made available for public comment, contrary to NEMA requirements.

10.2. NEMA requires that environmental management is sustainable, meaning, in part, “that the disturbance of landscapes and sites that constitute the nation’s cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied”. The National Heritage Resources Act, 25 of 1999 (“NHRA”), provides further guidance with respect to which heritage resources are constitute “the nation’s cultural heritage”. One of the aims of the NHRA is to “promote good management of the national estate and to enable and encourage communities to nurture and conserve their legacy so it may be bequeathed to future generations” (NHRA, Preamble). Pursuant to this objective, “those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities”.

11. These heritage resources must be identified and the potential impact on these resources assessed as part of a heritage impact assessment. In addition to the tangible heritage resources, heritage resources which must be considered include “places to which oral traditions are attached or which are associated with living or intangible heritage”, and “landscapes and natural features of cultural significance”. These could include particular species which hold significant cultural and heritage importance to small-scale fishers.

## **12. The application must adequately assess negative socio-economic impacts.**

12.1. The ESIA should clearly identify and map out fishing grounds used by small-scale or artisanal fishers to ensure that project activities will not interfere with them and thus the fishers’ livelihoods, either directly or indirectly, Some of the impacts which should be specifically examined include those from spills or changes to the behavior of resident species due to project activities, which may reduce accessibility to or abundance of target species.<sup>34</sup>

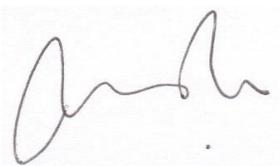
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<sup>34</sup> Nathan Andrews et al., *Oil, fisheries and coastal communities: A review of impacts on the environment, livelihoods, space and governance*, Energy Research & Social Science 75 (2021), <https://www.sciencedirect.com/science/article/pii/S221462962100102X>.

**13. The ESIA must consider impacts on food security and food sovereignty, especially in relation to livelihoods that may be impacted by the proposed production and related activities.**

13.1. The Draft Scoping Report fails to consider impacts on food availability and security into a climate impacted future, and it appears that there are no plans to do so in the ESIA. A right to food perspective is critical in this assessment.

Yours sincerely,



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**THE GREEN CONNECTION**

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**NATURAL JUSTICE**

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