



THE GREEN CONNECTION

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To: The Deputy Director-General
Department of Forestry, Fisheries and the Environment

Attention: Mr. Moses Ramakulukusha

By email: mSP@dffe.gov.za

10 May 2023

Dear Mr Ramakulukusha

Re. THE GREEN CONNECTION COMMENT ON DRAFT MARINE SECTOR PLANS

Introduction

This comment is submitted by the Green Connection NPC in response to the Minister's invitation to the public to comment on ten draft Marine Sector Plans (MSP).¹

The Green Connection believes that attempting to plan spatially in the ocean without taking into account the unique properties of the ocean, is doomed to fail.

The MSP process to date has attempted to allow different incompatible sectors to put forward their plans to carve up the ocean. The Green Connection believes that this is a fundamental flaw in the process, and that it fails to understand that enabling certain sectors will undermine other sectors, and that the end losers will be those most vulnerable and those least resourced to be able to fight for their rights.

The Green Connection submits that offshore oil and gas exploration in particular is incompatible with other uses of the ocean (such as fishing, ecotourism and conservation). Cumulative oil spills from offshore oil and gas infrastructure, as well as any major oil spills in the in the event of an uncontrolled wellhead blowout, will not respect spatial boundaries in a dynamic ocean and coastal environment. And save for a reference to the global fight against climate change and the statement that related mitigation efforts may result in decreasing investments into the sector over time, the Draft Offshore Oil and Gas Sector Plan fails to take into account the climate crisis and the impact that the plan could have on South Africa's international obligations to combat climate change.

The Green Connection is further concerned that the voices of small-scale fishers and fishing-dependent communities have not been heard in the Oceans Economy policy (Operation Phakisa) development process.

¹ GN.3132 of 10 March 2023.

Context

The ocean is made of liquid governed by winds and ocean currents and there are no hard boundaries. This means that whatever happens in one part of the ocean will impact on other parts to a lesser or greater degree.

This interconnectedness of the ocean is illustrated by a story that caught the imagination of the public in 1992, namely the accidental release of 2288 plastic ducks which inadvertently allowed scientists to map the ocean currents – and which were found to have travelled more than 2000km across the oceans.² It is illustrated further by the movement of Tuna, which are known to travel long distances.³ The main spawning grounds of the Western population are the Gulf of Mexico (May through July) along with the southern Caribbean (October through March). The same occurs with the areas where the Eastern population spawns: Senegal (April through June) and the Gulf of Guinea (October through March). This last area (the Gulf of Guinea) is not only one of the main spawning grounds, but also a key area for recruitment, which is the moment when, after having reached a certain size or for other reasons, the fish start to be fished for the first time. Juveniles that hatched in this area migrate from north to south along the African coast in search of warmer waters and better food supplies, to then disperse across the entire tropical Atlantic when they reach adulthood. In fact, some studies suggest that the adults migrate across the ocean and that there may be a central area of the Atlantic (30°W) where adults from both populations gather to reproduce.

Oil spills in the ocean (whether cumulative operational spills or a major spill as a result of a wellhead blowout) have devastating short term impacts on biodiversity and subsequently on livelihoods of those dependent on the ocean. Research is also showing how much longer the impacts last. For example, following the Deepwater Horizon oil spill in the Gulf of Mexico:

In the summer after the slick, oil levels along the miles of affected coastline were found to be [100 times higher than background levels](#). But eight years on, levels in the sediments in the surrounding marshland were still 10 times higher than prior to the accident.

Research shows that droplets [continued to sink to the seabed](#) even a year after the spill ended. It [affected sedimentation rates](#) - a crucial food source and habitat for some animals. For many [deep sea creatures](#), living among the sediment surface, recovery could take decades.

A study on bottlenose dolphins exposed during the Deepwater Horizon event has shown that the oil may have had an [effect on their immune system](#) that spanned generations, making it harder for them to fight off infection and disease.⁴

Long term health impacts have also been reported in respect of those involved in the clean-up of the BP Deepwater Horizon oil spill:

[A] long-term follow-up study demonstrates that those people involved in the oil spill clean-up operations experienced persistent alterations or worsening of their hematological, hepatic, pulmonary, and cardiac functions. In addition, these subjects experienced prolonged or worsening illness symptoms even 7 years after their exposure to the oil spill.⁵

The Green Connection submits that it is therefore irrational to plan as if any oil spill in any part of our ocean would be confined to the immediate vicinity of the spill. Sealife also travels, and could be

² <https://www.iflscience.com/28000-rubber-ducks-accidentally-embarked-on-an-epic-ocean-current-study-in-1992-58342>

³ <https://planetuna.com/en/what-is-the-life-cycle-of-the-yellowfin-tuna-and-its-migration-routes/>

⁴ <https://www.weforum.org/agenda/2021/10/oil-spill-environment-ocean/>

⁵ <https://www.frontiersin.org/articles/10.3389/fpubh.2018.00117/full>

affected in one part of the ocean and move to another part. Impacts would be felt not only in geographically far-apart areas, but also over decade-long time periods.

Ocean and Climate Change

The ocean sustains life and is a vital part of South Africa's climate change response strategy.

The United Nations' (UN) *2030 Agenda for Sustainable Development*, which was adopted by all UN Member States in 2015, provides a shared blueprint for peace and prosperity for the people and the planet, now and into the future. It includes 17 Sustainable Development Goals (SDGs), '*which are an urgent call for action by all countries – developed and developing – in a global partnership. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans...*'⁶

SDG 14 requires states to conserve and sustainably use the oceans, sea and marine resources for sustainable development.⁷ In its 2022 report on SDG 14, the importance of the oceans in mitigating climate change is highlighted, as well as the threat posed by increased ocean acidification (including in respect of the ocean's capacity to absorb CO₂ from the atmosphere):

The ocean absorbs around one quarter of the world's annual carbon dioxide (CO₂) emissions, thereby mitigating climate change and alleviating its impacts. This critical service, however, comes at a price: it is altering the carbonate system and increasing the acidity of the ocean. Ocean acidification threatens organisms and ecosystem services, endangers fisheries and aquaculture, and affects coastal protection by weakening coral reefs. Further increases in acidification are expected to accelerate over the coming decades. As acidification worsens, the ocean's capacity to absorb CO₂ from the atmosphere will diminish, limiting its role in moderating climate change.

Over the last two years, the number of observation stations reporting on ocean acidification has almost doubled, from 178 in 2021 to 308 in 2022. Gaps in reporting and data remain. Observation sites in the open ocean have indicated a continuous decline in pH over the past 20 to 30 years.

Within our own Constitution, section 24 recognizes that everyone has the right to (a) an environment that is not harmful to their health or well-being; and (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that: (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development. The Green Connection submits that from a climate crisis perspective, it is inevitable that the extraction, processing, storage, transport and end-use of oil and gas from the continued promotion by government of the expansion of offshore oil and gas exploration and exploitation will result in significant emissions of greenhouse gases (GHGs). These GHGs will add to the GHGs already present in the atmosphere, resulting in increased adverse impacts on human health and well-being and on the environment (including marine 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, 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.

⁶ <https://sdgs.un.org/goals>

⁷ <https://unstats.un.org/sdgs/report/2022/Goal-14/>

South African's National Climate Change Response White Paper⁸ indicates that the South African government (among other things):

Regards climate change as one of the greatest threats to sustainable development and believes that climate change, if unmitigated, has the potential to undo or undermine many of the positive advances made in meeting South Africa's own development goals and the Millennium Development Goals (MDGs).

The White Paper also reaffirms that in terms of the provisions of Articles 4, 5, 6 and 12 of the United Nations Framework Convention on Climate Change (UNFCCC) as well as Article 10 of the Kyoto Protocol, South Africa already has existing international legally binding obligations to (among other things): sustainably manage, conserve and enhance GHG sinks and reservoirs, including (among others) coastal and marine ecosystems, and oceans.

In 2023, the United Nations released its *Synthesis Report of the IPCC Sixth Assessment Report (AR6)*. Regarding *Mitigation and Adaptation Options across Systems*, the report states the following regarding Energy Systems:

C.3.2 Net zero CO₂ energy systems entail: a substantial reduction in overall fossil fuel use, minimal use of unabated fossil fuels, and use of carbon capture and storage in the remaining fossil fuel systems; electricity systems that emit no net CO₂; widespread electrification; alternative energy carriers in applications less amenable to electrification; energy conservation and efficiency; and greater integration across the energy system (high confidence). Large contributions to emissions reductions with costs less than USD 20 tCO₂-eq-1 come from solar and wind energy, energy efficiency improvements, and methane emissions reductions (coal mining, oil and gas, waste) (medium confidence)...⁹¹⁰

It is also relevant to note that the IEA's *Net Zero by 2050* report states that:

Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway... 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. Unabated coal demand declines by 98% to just less than 1% of total energy use in 2050. Gas demand declines by 55% to 1 750 billion cubic metres and oil declines by 75% to 24 million barrels per day (mb/d), from around 90 mb/d in 2020.¹¹

The Marine Spatial Planning Act, 2018 (MSP Act), puts forward the following principles that apply to marine spatial planning and which should be applied and considered having regard to the precautionary approach:

- (a) The sustainable use, growth and management of the ocean and its resources;
- (b) the identification of economic opportunities which contribute to the development of the ocean economy;

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https://www.gov.za/sites/default/files/gcis_document/201409/nationalclimatechangeresponsewhitepaper0.pdf

⁹ In this context, 'unabated fossil fuels' refers to fossil fuels produced and used without interventions that substantially reduce the amount of GHG emitted throughout the life cycle; for example, capturing 90% or more CO₂ from power plants, or 50–80% of fugitive methane emissions from energy supply.

¹⁰ https://report.ipcc.ch/ar6syr/pdf/IPCC_AR6_SYR_SPM.pdf

¹¹ https://iea.blob.core.windows.net/assets/7ebafc81-74ed-412b-9c60-5cc32c8396e4/NetZeroby2050-ARoadmapfortheGlobalEnergySector-SummaryforPolicyMakers_CORR.pdf

- (c) the promotion of collaboration and responsible use of the ocean through consultation and cooperation;
- (d) the advancement of an ecosystem and earth system approach to ocean management which focuses on maintaining ecosystem structure and functioning within a marine area;
- (e) adaptive management, which takes into account the dynamics of the ecosystems and the evolution of knowledge and of activities in South African waters;
- (f) the principle of spatial resilience and flexibility;
- (g) the promotion of equity between and transformation of sectors;
- (h) the reliance on the best available scientific information;
- (i) the equitable resolution of conflict scenarios including the implementation of trade-offs, relocations and other available resolutions;
- (j) the principle of efficiency, whereby decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts;
- (k) the principle of good administration coherent and holistic planning and management; and
- (l) South Africa's international obligations and cross-border cooperation.¹²

The MSP Act goes on to stipulate that where there is a conflict between existing uses, developing uses or activities, maximum co-existence of uses or activities should be preferred wherever possible but where such co-existence is not possible, the abovementioned principles must be applied to resolve such conflict.¹³

In the Green Connection's view, the logical manner in which to plan for activities that could take place in our ocean would be to first apply this set of principles which align with sustainability and the precautionary principle.

The Green Connection believes that while certain sectors such as fishing, aquaculture, ecotourism and conservation, might be compatible with a health ocean, other sectors - such as marine traffic - may require some adjustment to ensure they do least harm, while other sectors - such as the offshore oil and gas sector – is totally incompatible with a healthy sustainable ocean into the future.

Climate change is the planetary crisis that today's generations must tackle in order to ensure a sustainable future for the next generations.

Failure to hear the voices of Small-Scale Fishers and Fishing-dependent Communities

in 2021, the Green Connection hosted an Oceans Tribunal on the blue economy. The aim of the Tribunal was to provide a platform for small-scale fishers and coastal communities to speak about the challenges that oil and gas development could pose to their livelihoods and wellbeing. Communities gave testimony on how they have not been included in discussions, despite having the right in law to participate meaningfully in environmental governance,¹⁴ and on their understanding of how they have been and will be negatively affected by the oil and gas industry.

¹² Section 5(1).

¹³ Section 5(2).

¹⁴ The National Environmental Management Act, 1998 (NEMA) includes principles that apply throughout the Republic to the actions of all organs of state that may significantly affect the environment, and include (among others) the following:

- 2(4)(c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.
- 2(4)(f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity

The judges for this tribunal included prominent legal experts nationally as well as international environmental leaders. The judges heard testimonies from various coastal communities dependent on fishing for survival and resolved to recommend the following:

- That Operation Phakisa be revisited and reformulated, following in-depth and meaningful consultation with fishers and fishing communities who depend on the oceans and coast for their livelihoods, and who have a deep historical and cultural connection with the ocean and coast. A new Oceans and Coastal Governance policy based on consultations with fishing communities should be developed that recognises the rights of fishers, and which draws on the historical, traditional and customary way of life, knowledge and wisdom of these fishers and fishing communities, and which seeks to preserve the oceans and coast as a shared resource for the benefit of current and future generations, rather than commodifying the ocean and coast, and their resources, for exploration, expansion and exploitation by a corporate and political elite.
- That government declares a moratorium on further oil and gas exploration, and embraces the opportunity to craft a new economy based on renewable energy, and which serves the interests of current and future generations of South Africans through a transparent, inclusive and just transition.
- That the right to fish and other marine living resources be recognised and respected by government, and that small-scale fishers and communities (including first nations) are not denied access to and control over the land of their forebearers.

This statement by the tribunal judges, as well as the proceedings from the Tribunal, were handed over the Climate Change Commission on 26th July 2022¹⁵, and has informed the Green Connection's work with affected communities going forward. The Green Connection submits the Tribunal Statement¹⁶ and Tribunal Report¹⁷ to DFFE as part of its comment on the draft MSPs.

Endorsement

necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.

- 2(4)(g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge.
- 2(4)(o) The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage.

¹⁵

<https://thegreenconnection.org.za/2022/07/26/the-green-connection-shares-its-oceans-tribunal-verdict-with-presidential-climate-commission/>

¹⁶ <https://thegreenconnection.org.za/wp-content/uploads/2022/07/The-Green-Connection-Oceans-Tribunal-Verdict-Statement.pdf>

¹⁷ <https://thegreenconnection.org.za/wp-content/uploads/2023/05/2021-Tribunal-Report.pdf>

In the main, the Green Connection supports and endorses comments submitted by Masifundise and Natural Justice on the draft MSPs, and requests that these comments be read as if specifically incorporated herein.

A handwritten signature in black ink, appearing to read 'Neville van Rooy', is positioned above the text '(unsigned due to load shedding)'. The signature is written in a cursive style with a large initial 'N'.

(unsigned due to load shedding)

Liz McDaid

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Neville van Rooy

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