

**To:**

**The Honourable Minister Barbara Creecy  
Minister of Forestry, Fisheries and Environment**

For attention: **Department of Forestry, Fisheries and the Environment  
Appeals and Legal Review Directorate**

Attention: Director: Appeals and Legal Review

Per Email: [appeals@dffe.gov.za](mailto:appeals@dffe.gov.za) / [TSangweni@environment.gov.za](mailto:TSangweni@environment.gov.za)

Copy to: **Triplo4 Sustainable Solutions**

Attention: Ms Hantie Plomp

Per E-mail: [saldanhabayksa@triplo4.com](mailto:saldanhabayksa@triplo4.com) / [pppsaldanha.triplo4@gmail.com](mailto:pppsaldanha.triplo4@gmail.com) / [hantie@triplo4.com](mailto:hantie@triplo4.com)

Copy to: **Karpowership SA (Pty) Ltd**

Attention: Mr Curtis Meintjies

Per E-mail: [Curtis.Meintjies@karpowership.com](mailto:Curtis.Meintjies@karpowership.com)

16 January 2024

Dear Honourable Minister

**APPEAL IN TERMS SECTION 43(1) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, AGAINST THE DECISION OF THE NATIONAL AIR QUALITY OFFICER TO GRANT A PROVISIONAL ATMOSPHERIC EMISSION LICENCE IN TERMS OF SECTION 41(1) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, (2004), TO KARPOWERSHIP SA SALDANHA BAY (RF) (PTY) LTD**

PROJECT REF: PAEL/WCP/KSA-SB/12/04/2021-4438

1. This is an appeal to the Honourable Minister of Forestry, Fisheries and the Environment against the decision of the National Air Quality Officer ("NAQO") to grant a Provisional Atmospheric Emission Licence ("PAEL") in terms of section 41(1) of the National Environmental Management: Air Quality Act, (2004) ("AQA"), to Karpowership SA Saldanha Bay (RF) (Pty) Ltd ("KPS").
2. This appeal is made by Natural Justice ("NJ") and The Green Connection ("TGC").
  - 2.1. 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 resources, through legal empowerment.
  - 2.2. The Green Connection is a non-profit company, that believes that economic growth and development, improvement of socio-economic status and conservation of natural resources can occur only in 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.

3. This appeal also supported and joined by groundWork and the South Durban Community Environmental Alliance (“SDCEA”):
  - 3.1. groundWork is an environmental justice and non-profit organisation that works with South and Southern African communities on environmental justice and human rights issues focusing on coal, climate and energy justice, waste and environmental health.
  - 3.2. SDCEA is a non-profit environmental justice alliance comprised of numerous grassroots organisations in South Durban and KwaZulu-Natal. SDCEA works on issues around environmental justice and sustainable development, and collectively, strives to realise clean air, water and soil and for the alleviation of environmental racism and poverty. The SDCEA has for the last two decades participated in forums for the improvement of environmental management in KZN and in particular, in the industrial areas south of Durban.
4. The Appellants have legal standing to bring the appeal not only in terms of section 43 of the National Environmental Management Act, 107 of 1998 (“NEMA”), but also to enforce environmental laws in terms of section 32 of NEMA.
5. The Appellants received a copy of the PAEL in the notification email from Triplo4 on 5 December 2023, and the appeal is accordingly lodged timeously within 20 days of receipt, taking into account the period of 15 December to 5 January which is excluded from the reckoning of days. See attached copies of the notification and the PAEL, marked **Annex A**.
6. In compliance with regulation 4(2)(iii) read with regulation 4(1) of the Appeal Regulations, we hereby confirm that:
  - 6.1. this letter, with the attached Appeal submissions and supporting documentation, is copied – and will be sent simultaneously – to Karpowership, and to the Environmental Assessment Practitioner, Triplo4 Sustainable Solutions;
  - 6.2. as per an earlier request, the EAP has not furnished the Appellants with the details of the registered I&APs, and therefore they rely on the EAP to distribute the appeal.
7. We accordingly request that this appeal be furnished by the EAP, who is already in possession of the database of I&APs and relevant distribution system, to all registered interested and affected parties.
8. We enclose and hereby submit the following:
  - 8.1. a copy of the email notification from the Environmental Assessment Practitioner as **Annex A**.
  - 8.2. the detailed Grounds of Appeal, together with supporting documentation as **Annex B**;
  - 8.3. a copy of the email from the EAP regarding the distribution of the appeal as **Annex C**; and
  - 8.4. the DFFE’s appeal response form containing the grounds of appeal, in Word format.
9. The Appellants have sought, to the best of their ability, to comply with the legal requirements of the National Appeal Regulations.
10. Kindly confirm receipt of this letter and the enclosed annexes comprising the Appeal.
11. Should you have any queries in relation to this Appeal, or require any additional information, please let us know.
12. Kindly also keep us updated on the progress of the Appeal.

Yours faithfully,

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**NATURAL JUSTICE**

*Per:* David Mtshali

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**THE GREEN CONNECTION**

*Per:* Priyanka Naidoo

[priyanka@thegreenconnection.org.za](mailto:priyanka@thegreenconnection.org.za)

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