



05 April 2023
The Chairperson
KZN Amafa and Research Institute
195 Langalibalele St
Pietermaritzburg
3201

Attention: Mr P. Ndabezitha

Dear Sir

RE: PROPOSED 80 000 TONNES PER ANNUM (TPA) TIO2 PLANT IN THE RICHARD'S BAY INDUSTRIAL DEVELOPMENT ZONE, KWAZULU-NATAL, REF: SAH22/20087

The comments letter received from the KwaZulu Natal Amafa and Research Institute (KZNARI) with respect to the Heritage Resources Impact Assessment (HIA), Environmental Impact Assessment Report and associated Environmental Management Programme submitted to the KZNARI by Mr. Gavin Anderson (HIA Specialist) refers.

1. Introduction

SRK was appointed by Nyanza Light Metals (Pty) Ltd (Nyanza) as the independent Environmental Assessment Practitioner (EAP) to undertake an Environmental Impact Assessment (EIA) for the proposed construction and operation of the 80000 tonnes per annum (tpa) Titanium Dioxide Pigment Plant to be located in Phase 1F of the Richard's Bay Industrial Development Zone. The proposed project site footprint is approximately 69ha and requires a Heritage Impact Assessment (HIA) as part of the EIA process.

SRK appointed Mr. Gavin Anderson as the independent HIA specialist to undertake the HIA study for the proposed project. The HIA report, draft Environmental Impact Report (EIR) and associated Environmental Management Programme (EMPr) were made available to all stakeholders for review and comment. KZNARI was identified as one of the commenting authorities required to comment on the proposed project and findings of the assessment. The draft reports were submitted to KZNARI on 22 November 2022 for review and comment.

2. Comments from KZNARI

An interim comment from KZNARI committee received on 9 March 2023 stated that:

Partners R Armstrong, P Aucamp, JS Bartels, CM Bauman, N Brien, JM Brown, LSE Coetser, CD Dalglish, BM Engelsman, R Gardiner, M Hinsch, SG Jones, W Jordaan, WC Joughin, DA Kilian, F Lake, JA Lake, NG Macfarlane, V Maharaj, I Mahomed, HAC Meintjes, MJ Morris, DH Mossop, GP Nel, VS Reddy, S Reuther, PJ Shepherd, T Shepherd, MJ Sim, JS Stiff, M van Huyssteen, AT van Zyl, MD Wanless, CJ Wessels, ML Wertz, A Wood

Directors WC Joughin, V Maharaj, T McGurk, VS Reddy, T Shepherd, JS Stiff, AT van Zyl

Associate Partners PL Burmeister, LI Boshoff, T Claassen, SA de Villiers, IT Doku, M du Toit, LM Linzer, JI Mainama, RD O'Brien, AM Robertshaw, LC Shand

Consultants JR Dixon, *PrEng*, GC Howell, *PrEng, PhD*, WC Joughin, *PrEng, MSc*, PR Labrum, *PrEng*, LM Linzer, *PrSci Nat, PhD*, SA Lorentz, *PhD*, RRW McNeill, *PrTech Eng*, HAC Meintjes, *PrEng, MSc*, PN Rosewarne, *PrSci Nat, MSc*, VM Simposya, *PrSci Nat*, AA Smithen, *PrEng*, TR Stacey, *PrEng, DSc*, PJ Terbrugge, *PrSci Nat, MSc*, HFJ Theart, *PrSci Nat, PhD*, DJ Venter, *PrTech Eng*

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The committee had noted that clearance site report is required as per the Heritage Impact assessment Report and Scoping Report had recommended.

Written responses/requests for reconsideration of the application or consideration of new information must be loaded to the case on SAHRIS (email khanyi.zondi@amafainstitute.org.za) within 30 days of the date of this letter or any requirements/decisions contained herein will be considered final. Extensions of this time frame can be requested upon receipt of motivation. Required additional information or revised drawings must be submitted within six months from the date of this letter or the application will lapse, and a new application will be required.

The HIA specialist submitted a query on 9 March 2023, on SAHRIS, to the case officer requesting clarification on the outcome of the application. According to the KZNARI response to the HIA specialist request for clarification:

The HIA report accompanying the application recommended that the clearing of the site and the assessment of the proposed development area be addressed in the management plan. The committee resolved that a site clearance report is required before making a final comment on the application and upheld the decision of the committee as follows:

- *The applicant is required to have the site cleared, survey the footprint, and submit a report of the findings thereafter.*
- *A management plan cannot be considered at this stage because there are no confirmed heritage resources within the development footprint.*
- *HIA is incomplete as most areas were not surveyed.*

It must be noted that in addition to the Nyanza site specific HIA, an overall HIA for the Richard's Bay IDZ Phase 1F was undertaken in 2016. The assessment found that there are no heritage resources located on the Phase 1F area. This was supported by the site specific HIA undertaken for the Nyanza Project where low significance artefacts were noted. According to the HIA study, the low significance artefacts do not require a permit. To address access issues related to some sections of the project site, the HIA specialist report includes a condition that the site clearance activities must be supervised by a qualified heritage specialist. This condition was included in the project EMP that Nyanza will be required to comply with.

3. Request for a Revised Comment and Approval

We hereby request a revision of the decision of the committee since there are other authorisations that are required, prior to commencement of site clearance as follows:

- National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA): The required site clearance for the HIA assessment as requested by the KZNARI triggers activities listed in Listing Notice 1 and 2 of the NEMA, which requires that the applicant receive an Environmental Authorisation (EA) prior to clearing of vegetation. However, for the applicant to get the EA, approval is required from KZNARI as one of the commenting authorities. It must be noted the proposed site clearance prior to the granting of the EA will trigger a NEMA Section 24 G process, which comes with an administrative fee and will result in delays on the project.
- Kwazulu-Natal Nature Conservation Act, 1992 (Act 29 of 1992) (KZNNCMA): The biodiversity assessment undertaken for the proposed project found that there are flora species located on the project site that are protected under the KZNNCMA and will require permits before they can be relocated and/or destroyed. The applicant must therefore apply for a species relocation permit prior to any site clearance activities can be undertaken. The required permit can only be applied for once the EA has been issued and the issuance of the EA requires approval from the KZNARI.
- National Forest Act, 1998 (Act 84 of 1998) (NFA): The forest located on the project site forms part of the Northern Coastal Forest, which has been declared a natural forest as per Government Notice 762 in Government Gazette 31232 of the NFA. As such, the applicant is may not cut down the forest or part of the forest prior to issuing of a deforestation permit by the Department of Forest, Fisheries, and the Environment (DFFE). The IDZ as the property owner, is responsible for the deforestation permit application.

- National Water Act, 1998 (Act 36 of 1998) (NWA). According to Section 21 of the NWA, any activities undertaken within 500m of wetlands and/or 100m of watercourses require a Water Use Authorisation. The project site is located the NWA regulated 500m buffer of wetlands and will require a WUA prior to commencement of any activities, including site clearance as has been requested by the KZNARI.

Taking the above into consideration, may we request that the KZNARI reconsiders the decision made by the committee and provide a conditional approval based on a condition that a HIA specialist will be on site during the site clearance phase of the project to ensure that there are no heritage resources that will be affected by the proposed project. The heritage management plan stipulates that condition, which has also been included in the project EMP.

We hope you will find the above acceptable.

Should you require any additional information please do not hesitate to contact me.

Yours faithfully,

SRK Consulting (South Africa) (Pty) Ltd

SRK Consulting - Certified Electronic Signature

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Ndomupei Masawi
Environmental Assessment Practitioner