

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**Case No: 2024-029857**

In the matter between:

**BIRDLIFE SOUTH AFRICA** First Applicant

**SOUTH AFRICAN FOUNDATION FOR THE  
CONSERVATION OF COASTAL BIRDS** Second Applicant

and

**THE MINISTER OF FORESTRY, FISHERIES AND  
THE ENVIRONMENT** First Respondent

**THE DEPUTY DIRECTOR-GENERAL: FISHERIES  
MANAGEMENT, DEPARTMENT OF FORESTRY,  
FISHERIES AND THE ENVIRONMENT** Second Respondent

**THE DEPUTY DIRECTOR-GENERAL: OCEANS  
AND COASTS, DEPARTMENT OF FORESTRY,  
FISHERIES AND THE ENVIRONMENT** Third Respondent

**THE SOUTH AFRICAN PELAGIC FISHING  
INDUSTRY ASSOCIATION** Fourth Respondent

**EASTERN CAPE PELAGIC ASSOCIATION** Fifth Respondent

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**FIRST AND SECOND APPLICANTS' SECOND NOTICE  
IN TERMS OF RULE 30A**

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**TAKE NOTICE THAT** the first respondent's failure to despatch to the Registrar the complete record of the decision sought to be set aside (**the impugned decision**), together with such reasons as she is by law required or desires to give or make, constitutes non-compliance with Rule 53(1)(b) and the applicants' notice of motion.

**TAKE NOTICE FURTHER THAT** the first respondent is called upon to comply fully with the said provisions of Rule 53(1)(b) and the applicants' notice of motion by providing, and supplementing the purported record filed on 25 April 2024 (**the purported record**), including with copies of the following documents:

1. All documents concerning the meeting between Dr Ashley Naidoo and the Minister held on 22 July 2023, as referred to in the handwritten note in item 92 of the purported record, at which the technical extent of island closures was allegedly discussed, including any memorandum, minutes, correspondence, recordings, notes and/or "Workflow Details";
2. All communications (including letters, e-mails, WhatsApps, sms messages, meeting minutes, calls, representations) and associated "Workflow Details" between the applicants and the Minister, officials in the Department of Forestry, Fisheries and the Environment (**DFFE**), Branches Oceans & Coasts (**DFFE: O&C**) and Branch: Fisheries Management (**DFFE: Fisheries**) concerning the impugned decision;
3. All communications (including letters, e-mails, WhatsApps, sms messages, meeting minutes, calls and representations) between SAPFIA and ECPA (the fourth and fifth Respondents) or other Industry stakeholders and the Minister, officials in the DFFE: O&C and DFFE: Fisheries concerning the impugned decision as well as all associated "Workflow Details";
4. All communications (including letters, e-mails, WhatsApps, sms messages, meeting minutes, calls, representations and associated "Workflow Details") authorising the establishment of the *International Review Panel Regarding*

*Fishing Closures Adjacent to South Africa's African Penguin Breeding Colonies and Declines in the Penguin Population (the Panel):*

- 4.1. between DFFE officials;
- 4.2. between DFFE officials and the Minister; and
- 4.3. between the DFFE or Minister and other organs of state (including but not limited to SANParks or other managing authorities, SANBI and National Treasury);
5. Ministerial authorisation of the terms of reference for the Panel;
6. All communications (including letters, e-mails, WhatsApps, sms messages, meeting minutes, calls, representations and associated "Workflow Details") between the Minister and any members of the Panel;
7. All correspondence, internal memoranda, minutes, and evidence of communications between relevant DFFE officials pertaining to the impugned decision;
8. The response from the Director General referred to in Item 1 of the purported record;
9. The "*first request*" sent to DFFE: O&C referenced in Item 3 of the purported record;
10. The "*guidance from the Minister*" referred to in paragraph 2.6 of Item 6 of the purported record;

11. All minutes, recordings and notes of the “*facilitated meeting*” referred to Item 6 of the purported record;
12. All recommendations and associated “Workflow Details” prepared by DFFE: O&C referred to in paragraphs 2.7 and 6.2 of Item 6 of the purported record;
13. The proposals requested in the handwritten note reflected on Item 11 of the purported record and which were to be delivered by the Minister by the end of July 2021;
14. All records pertaining to the public meeting held on 12 August 2021 and referenced in Item 14 of the purported record;
15. The presentation made to the Minister in relation to the approval of the African Penguin Biodiversity Management Plan which is contemplated by Items 26 and 34 together with associated minutes, memoranda, “Workflow Details” and other records;
16. The “MCE217229” document, “Workflow Details” and related documentation reflected in comments from Ashley Naidoo recorded in Item 41 of the purported record;
17. The response to the Minister’s handwritten query appended to Item 77 of the purported record;
18. The documents, “Workflow Details” and associated records pertaining to the media statement produced as Item 93 of the purported record.

**TAKE NOTICE FURTHER THAT** the first respondent is called upon to comply fully with the said provisions of Rule 53(1)(b) and the applicants' notice of motion by providing such reasons as she is by law required or desires to give or make regarding the impugned decision.

**TAKE NOTICE FURTHER THAT** should the first respondent fail to remedy her aforesaid non-compliance by despatching the full record within ten (10) days of the date of this notice and notifying the applicants accordingly, the applicants shall apply for an order, *inter alia*, compelling the first respondent to comply with the said provisions of Rule 53(1)(b) and the applicants' notice of motion.

**DATED at CAPE TOWN on this the 16<sup>th</sup> day of MAY 2024.**



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**BIODIVERSITY LAW CENTRE**

Applicants' Attorneys  
Centre for Biodiversity Conservation  
Kirstenbosch  
Newlands

**CAPE TOWN**

Tel: 072 955 1489 / 079 248 5663

E-mail: [kate@biodiversitylaw.org](mailto:kate@biodiversitylaw.org);  
[nina@biodiversitylaw.org](mailto:nina@biodiversitylaw.org)

Ref: BLC/Penguins2

**C/O**

**NIENABER ATTORNEYS**

33 Walker Street  
Midstream, 1692

**PRETORIA**

Tel: 012 012 5087

E-mail: [renee@nienaberattorneys.co.za](mailto:renee@nienaberattorneys.co.za);  
[pieterh@nienaberattorneys.co.za](mailto:pieterh@nienaberattorneys.co.za)

Ref: PHW/LT298

**TO:**  
**THE REGISTRAR OF THE ABOVE**  
**HONOURABLE COURT**  
PRETORIA

**AND TO:**  
**THE STATE ATTORNEY**  
First, Second and Third Respondents'  
Attorneys  
SALU Building, 19<sup>th</sup> Floor  
255 Schoeman Street  
**PRETORIA**  
Tel: 012 309 1630  
E-mail: [DiMolepo@justice.gov.za](mailto:DiMolepo@justice.gov.za)  
Ref: 1122/2024/Z52

**SERVICE IN TERMS OF RULE**  
**4A(1)(c)**

**AND TO:**  
**DAWSON EDWARDS & ASSOCIATES**  
Fourth and Fifth Respondents' Attorneys  
"De Hoop"  
2 Vriende Street  
Gardens  
**CAPE TOWN**  
Tel: 021 462 4340  
Fax: 021 462 4390  
E-mail: [Marius.diemont@dawsons.co.za](mailto:Marius.diemont@dawsons.co.za)  
**C/O SCHABORT POTGIETER**  
**ATTORNEYS INC**  
Per: Reinhardt Potgieter  
189 Soutpansberg Road  
Riviera  
**PRETORIA**  
Tel: 012 329 0179  
E-mail: [office@schabortpotgieter.co.za](mailto:office@schabortpotgieter.co.za)  
[reinhardt@schabortpotgieter.co.za](mailto:reinhardt@schabortpotgieter.co.za)

**SERVICE IN TERMS OF RULE**  
**4A(1)(c)**