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Dear Sir

RE: Port of Ngqura Strategic Environmental Assessment – Draft Strategic Impact Assessment & Environmental Management Plan (January 2025) | Comments from Biodiversity Law Centre

1. Introduction

- 1.1. These comments on the *Port of Ngqura Strategic Environmental Assessment – Strategic Impact Assessment & Environmental Management Plan* dated January 2025 (**SEA**) follow our comments on the *Port of Ngqura Strategy Environmental Assessment – Draft Scoping Report* dated February 2024 (**Draft Scoping Report**) and our response to the SEA’s associated questionnaire dated 8 December 2024 (**Questionnaire**).
- 1.2. The Biodiversity Law Centre (**BLC**) provided responses to the Port of Ngqura Strategic Environmental Assessment Questionnaire on 9 December 2023 (**Questionnaire Response**) and comments on the Draft Scoping Report (February 2024) on 20 March 2024. As indicated in the Questionnaire Response, the BLC uses law to protect and restore indigenous species and ecosystems in South Africa. We are particularly concerned about the impact of port activities on endangered sea birds

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with specific emphasis on the critically endangered African Penguin. Moreover, we support mainstreaming of biodiversity considerations in short-, medium, and long-term decision-making and ensuring that planning and implementation tools enable organs of state, such as the Transnet National Port Authority (**TNPA**), to secure ecological sustainability while pursuing justified social and economic development in accordance with the underlying imperatives of section 24(b) of the Constitution.

- 1.3. The BLC reiterates its support for TNPA undertaking the SEA and notes that TNPA's consultants have adopted a precautionary approach to the draft Strategic Impact Assessment (**SIA**). This is appropriate given the clear gaps and limitations noted in Section 4 of the SIA. Our comments are made with regard to the environmental management principles set out in section 2 of the National Environmental Management Act, 107 of 1998 (**NEMA**) as well as the objects and norms relevant to integrated environmental management contained in Chapter 5 of NEMA. We have had particular regard to the additional information needed by TNPA to support effective strategic decision-making and policy engagement before proceeding to the stage of specific environmental impact assessment (**EIA**) of any particular project contemplated in respect of the Port of Ngqura (**PoN**).

2. General Comments

- 2.1. Overall comment regarding findings of the SIA: The findings of the SIA suggest that serious critical engagement is required by TNPA to assess whether the objectives of the Port Development Framework Plan for PoN (**PDFP**) can in fact be realised given changing climate imperatives, the passage of time since the PDFP (and underlying policy) was developed, and in the light of increased development activity in Algoa Bay.
- 2.2. Problematic failure to consider upstream and downstream effects in terms of strategic decision-making: The failure to consider the strategic developments at PoN in the context of Algoa Bay as a whole (including the ports of Port Elizabeth and East London) and to fully detail upstream and downstream cumulative impacts and residual impacts is deeply unfortunate. This means that it is impossible to properly assess the potential negative impacts of the PoN "PDFP Projects" on the receiving environment at a strategic level and to understand whether negative cumulative impacts can be avoided and/or mitigated (which is, surely, the objective of understanding a Strategic Environmental Assessment). It also means that it is impossible to understand whether the impacts of the PDFP Projects on the receiving environment may in fact be linked to change of use of surrounding areas and ports which effectively reduces industrial impacts elsewhere with a net-positive ecological impact. Absent this information, the SIA appears to leave TNPA with a choice between proceeding with projects which cumulatively risk serious environmental degradation and a "no go" scenario.

2.3. Relationship between SIA and EIAs: Throughout, the SIA anticipates that specific EIAs will follow to assess the feasibility and possible alternatives to the PDFP Projects.¹ There are two consequences to this approach:

2.3.1. First, given that the SIA proceeds from this premise, we would expect that it would provide sufficient detail for individual environmental assessment practitioners to be able to frame subsequent EIAs. Table 13² of the SEMP details Management Requirements per zone which are helpful while we note that Table 15 provides an indication of specialist studies required as part of the EIA process. However, the critical gap remains in respect of cross-project cumulative impacts.

- a) At paragraph 7.3.4.4³, a list of 7 cumulative impact assessments is recommended. That these should be undertaken as a matter of priority should be highlighted for TNPA.
- b) Moreover, we specifically recommend that the “Traffic” assessment be expanded to also include maritime / boating assessments linked to the use of Algoa Bay and transportation risks; and that the cumulative impacts on potable water is integrated into the Climate Change, Socio-Economic and Estuarine Ecology cumulative impact assessments.
- c) In addition, there is an urgent need to address the cumulative impacts of terrestrial and underwater noise on the ecology of the bay which likely requires a separate specialist study to be integrated with that of the Marine Environment Cumulative Impact Assessment.⁴
- d) It is also necessary that there is a mechanism to link the results of these assessments which, themselves, need to be understood cumulatively.

2.3.2. Second, and perhaps more concerning, the SIA appears to defer many key judgments pertaining to cumulative and residual risks across PDFP Projects and risk category to EIA processes. However, project-level EIAs are unsuited to assessing the environmental risks and possibility of avoidance or mitigation of the strategic development as a whole.

- a) The consequence is that the SIA contains a number of statements of potential risk without providing TNPA with the necessary guidance as to steps which may be taken to mitigate these prior to the stage of commencing individual projects. This is enormously problematic for an

¹ Draft SIA, p 1.

² Draft SIA, pp 110-113.

³ Draft SIA, pp 122-123.

⁴ This is supported by the identification of the need for Underwater Noise Monitoring of the marine environment and Noise and Vibration Monitoring of the landside environment indicated at p 126.

organ of state bound by principles of cooperative and accountable governance and required to avoid fruitless and wasteful expenditure.

- b) We would urge the consultants to amend the SIA to include specific, practical steps that TNPA may take insofar as these were not included in the scope of this SEA.
- c) Emphasising the need for the cumulative impact assessments referenced above as well as the planning and monitoring activities indicated at pages 125-126, would assist in remedying this difficulty if linked specifically to the identified risks.
- d) This intervention would be still more effective, if provided as a clear, time-bound plan linked to the projected timeline for the PDFP Projects.⁵ Similarly, integration of this timeline with the “plan-do-check-act” approach detailed in Table 16⁶ would provide a clearly (and potentially more rigorous) recommendation for TNPA to consider in relation to the feasibility of development timelines and priorities in terms of tenders for and appointment of consultants to carry out the necessary monitoring and cumulative impact assessments prior to the (further) initiation of individual PDFP Projects.

2.4. The need for regular review of the cumulative impact of the PDFP Projects. We have had particular regard to the “Gaps, Assumptions, and Limitations” set out in paragraph 4⁷ which include the expectation of “*rigorous review and scrutiny by the relevant parties*” to refine the assessment – and which we understand to be appropriate not only through this review process (and feedback and responses which should follow), but also through the timeous EIA process for each contemplated development. However, we also understand that certain of the projects are clearly integrated and – in effect – constituted multi-phase development proposals.

2.4.1. It is critical that these remain under regular review to test the viability of the PDFP as well as the planning tools with which it intersects (*inter alia*, the Nelson Mandela Bay Municipality Integrated Management Plan, planning tools arising from Operation Phakisa and so on).

2.4.2. Taking this approach would be consonant with assumptions (5) and (6) of the SIA which indicate that a precautionary approach has been followed to safeguarding of environmentally sensitive features and that TNPA as well as

⁵ We note that Table 17 (Draft SIA, pp 131-133) provides a PoN SEA Monitoring and Evaluation Framework including project review and use of the SEA as a decision-support tool. This could form the basis for the necessary time-bound planning framework to ensure appropriate management, tracking and accountability.

⁶ Draft SIA, p 128.

⁷ Draft SIA, para 4.4, pp 11-12.

other authorities and stakeholders are responsible for ensuring that the SEA's environmental objectives are met.

- 2.4.3. Relatedly, the recommendation regarding collaborative engagement with catchment, stormwater, climate change resilience and adaptation, protection of sensitive features in the Port, and traffic management⁸ needs a clear programme of engagement if TNPA is to follow this recommendation (and adhere to its obligations in terms of co-operative governance).
- 2.5. Omission of commenced PDFP Projects skews assessment of cumulative impacts. It is especially concerning that the SEA excludes consideration of short-term PDFP Projects that have already received environmental authorisations. These projects are clearly part of the overall strategic impetus and planning behind PoN expansion, and it is artificial to have excluded them from scope. This omission is compounded by failure to refer to any conditions attached to these projects' environmental authorisations and by the omission of consideration of the interrelationship between the, for example, the manganese terminal development at PoN, its move from the Port of Port Elizabeth and the infrastructure links, *inter alia*, with the Coega Special Economic Zone (**Coega SEZ**) and rail network.
- 2.6. Problematic omission of marine developments and activities supporting port growth such as offshore ship-to-ship bunkering and fuel transfer (**STS Bunkering**). The SIA notes that STS Bunkering is a separate assignment to the SEA and any overlap in this regard will be considered during the SEA's execution.⁹ As per our response to the Response Questionnaire, the SEA needed to assess the legal risks and make recommendations on the management of bunkering impacts going forward (which it has not done). This is especially important in the context of our comments regarding the need to consider Algoa Bay in its entirety and not just the area within port limits. STS Bunkering is integrally linked to the capacity of the port in respect of servicing vessels and TNPA's environmental risk assessment in respect of STS Bunkering activities (**Bunkering ERA**) has highlighted critical risks with the use of Anchorage 2. These considerations need to be integrated into the broader strategic assessment pertaining to ecological risks of port development, ecological carrying capacity of Algoa Bay and potential consequences for the ultimate viability of the PDFP Projects.

⁸ Draft SIA, p 129.

⁹ Comments and Responses Report, p 4.

3. Specific comments

The table below addresses specific aspects of the SEA. These comments must be read in the context of our general comments and the approach outlined above.

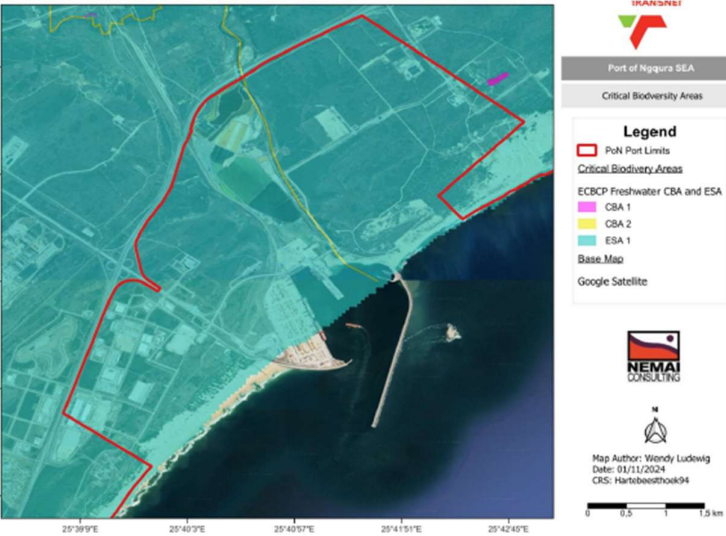
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4. Gaps, assumptions, and limitations		
11	1. <i>“A plan-do-check-act approach is thus advocated, where the SEA will undergo a cycle of planning and implementation which needs to be followed by revisions and updating by the TNPA.”</i>	<ol style="list-style-type: none"> 1) While a plan-do-check-act cycle is beneficial, the SIA does not include a clear time-bound cycle for updates, nor an express recommendation that updates must be included when significant new information becomes available. 2) There is, similarly, no indication of how updates may be affected by the (intended) regular updates and revisions of the PDFP¹⁰ nor by policy and legal changes arising subsequent to the PDFP 2022. 3) The SIA should prescribe minimum update intervals for both the SIA and SEMP.
11	2. <i>“There is a limited understanding of the proposed PDFP Projects in terms of the specific activities associated with each project life-cycle, as well as the exact project components...”</i>	<ol style="list-style-type: none"> 1) The SIA indicates that despite limited information regarding specific PDFP Projects, it is <i>“believed that reasonable judgements could be made based on the information available”</i>. As noted above, the SIA in many instances fails to provide judgements of risk, merely deferring to subsequent EIA processes. This results in decision-makers being unable to assess the overall strategic risk involved in the port expansion activities nor whether cumulative impacts can in fact be avoided and, if not, mitigated. 2) The SIA itself should make provision for redefining impact predictions as the project details become clearer and contingency plans for scenarios where the actual project components differ significantly from current assumptions. Insofar as the SEMP caters for this recommendation, it would assist if the relevant portions of the SEMP were highlighted and cross-referenced in the SIA text.
11-12	3. <i>“Due to its nature and scale, the SEA is conducted on a strategic level...”</i> <i>“[Respective EIAs] may lead to determining detailed limits of acceptable change related to</i>	<ol style="list-style-type: none"> 1) The lack of detail in the SIA may result in retroactive mitigation instead of proactive avoidance at EIA level. It is not clear that the Management Requirements in the SEMP provide sufficient detail in respect of environmental thresholds with which EIAs must align.

¹⁰ SIA, para 5.1, p 13.

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	<i>the environmental features that may be affected by the PDFP projects."</i>	
5 Overview of the Port Development Framework Plan		
12	5.1 <i>"The PDFPs were updated in 2022. The PDFPs will subsequently be updated every two (2) years and revised every five (5) years".</i>	<ol style="list-style-type: none"> 1) We note that the 2022 PDFP is treated as the "current" plan for purposes of the SIA. However, an update should have been issued in 2024. 2) If such update was not undertaken, this should be stated (with reasons). 3) If it has, it is essential that the SIA, as a whole, accounts for this update as there is a risk of misalignment between the assessment provided and the relevant planning tool. 4) This is particularly so, given developments since 2022 in relation to international and domestic considerations pertaining to climate impacts and biodiversity (including climate and biodiversity targets) which have a material impact on the manner in which the PoN expansion must be assessed – as well as on the viability of certain of the planned projects, particularly those dealing with liquid bulk and those threatening degradation of CBA areas / indigenous vegetation / benthic zones / hydrography.
12-13	5.2.1 <i>"...the central ports (East London, Ngqura, and Port Elizabeth) play a unique role in serving the Eastern Cape hinterland.... In the short-term, rationalisation of activities will see manganese exports and liquid bulk moved to the PoN, while the Ports of Port Elizabeth and East London will continue to handle significant volumes of containers and vehicles".</i>	<ol style="list-style-type: none"> 1) The interrelationship between development activities at the three ports in the Eastern Cape is express – and the projects considered as part of the SEA clearly related to a wider plan which encompasses all three Ports. 2) As indicated in our Scoping Comments, it is inappropriate for the scope of the SEA to focus only on the PoN. At a minimum, it should address the planned projects and shifts in use of the ports of Port Elizabeth and East London, not only in terms of the potential environmental impacts within these port limits, but also in relation to the surrounding terrestrial areas, the whole of Algoa Bay, and the potential impacts through changes in shipping routes / zoning of marine space and so on (including in relation to marine spatial planning). 3) In addition, given the focus on manganese ore exports, import of LNG and "gas to power initiatives" the failure to consider cumulative environmental impacts and risks associated with the transportation networks between the relevant mines / fuel sources prevents proper assessment of cumulative impacts in the relation to the economic viability

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		<p>and ecological sustainability of the planned port expansion in its proper development context. This omission is particularly problematic given the omission of short-term Projects 1-4 and 9 from the SIA. As indicated in our General Comments, these lay the foundation for the PoN change-in-use and expansion plans. The absence of these assessments is a key limitation which should be referenced in paragraph 4.4 of the SIA, and it should be recommended that TNPA address this gap in the assessment.</p>
6. Strategic Impact Assessment		
20	<p>6.1. "...<i>Incorporating the outcomes of the SEA's <u>targeted stakeholder engagement</u>.</i>"</p> <p>and</p> <p>6.2.1 "<i>Developing a database of stakeholders to be consulted</i>"</p>	<ol style="list-style-type: none"> 1) There is no explanation provided of the criteria used for "targeting" stakeholders – nor any rationale for being selective. In the absence of the underlying criteria (and thus assumptions), it is not possible to assess the rationality of this selection. Given the role of the SIA as a decision-making tool, it is necessary that it outlines the procedures followed in a rational manner. Failing to do so could taint any ultimate decision-making with irrationality. We would urge the consultants to make the selection procedures clear to avoid TNPA facing this difficulty. 2) We draw your attention to the Public Participation Guideline¹¹ While this guideline has been issued to support the environmental impact assessment process, the principles it sets out apply more generally (including the rationale for public participation and the importance of wide consultation). Both this guideline, and numerous judgments of the courts, have emphasised the importance of ensuring that rural, historically disadvantaged communities, people with special needs and other vulnerable or marginalised groups are consulted and that their input is properly considered. 3) In the context of an assessment which, in effect, considers long-term cumulative impact on a sensitive receiving environment, the importance of this element of public participation cannot be ignored. The SIA provides no indication of the necessary public participation, nor any explanation as to why this did not occur. This is a significant flaw given the potentially far-reaching impacts of the overall expansion plans for PoN as well as the inter-related impacts of this expansion on the neighbouring ports as well as the

¹¹ Published under GN807 in GG35769 of 10 October 2012.

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		regional rail and road network, coastline and near-shore marine environment.
22-24	6.3.1.1. Eastern Cape Biodiversity Conservation Plan ¹²	<p>1) The SIA correctly notes that the Eastern Cape Biodiversity Conservation Plan (ECBCP) is a land-use and resource-use planning tool developed in terms of national biodiversity legislation. It also, correctly, indicates that the aim of the ECBCP (and thus its area designations) is to “<i>avoid further loss or degradation of biodiversity priority areas and ecological support areas</i>”.</p> <p>2) The site is mapped as primarily Freshwater ESA1 with a small portion falling within Freshwater CBA2.</p>  <p>Figure 15: Terrestrial CBAs and ESAs in relation to the PoN</p> <p>3) The import of these designations is significant. As the SIA states, “<i>CBAs should be maintained in a natural state, with no further habitat loss. ESAs are not essential for meeting biodiversity targets but are essential in terms of terrestrial assessment for ensuring landscape connectivity between CBAs, etc. ESAs need to be maintained in a least a functional state</i>”.¹³</p> <p>4) CBA2 areas are important areas for biodiversity conservation that can be maintained near-naturally (while acknowledging that some impacts on the area might be inevitable). The SEA appears not to give enough weight to the fact that ESAs are designated to give support to CBAs (which are protected to</p>

¹² Eastern Cape Biodiversity Conservation Plan, published in terms of PN173 in PG4460 of 19 October 2020 (**ECBCP2019**).

¹³ Draft SIA, p 22.


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		<p>meet biodiversity targets). While the Freshwater CBA2 area on the site is relatively small, the state of the Freshwater ESA1 area must be managed effectively to be able to lend support to the CBA. The ECBCP expressly indicates that Freshwater ESAs are “catchments and buffers” and that Freshwater ESA1 areas require detailed technical assessment and careful management if used in relation to “other linear engineering structures”, small- and large-scale infrastructure, and renewable energy. CBA2 areas are specifically indicated as not suitable for large-scale infrastructure.¹⁴ This does not appear to have been specifically highlighted in the SIA (despite the risk rating in respect of short-term projects 5, 8, 12, 13, 15, and 16; medium-term projects 1, 2 and 3; and long-term projects 1-3 indicated in Table 5.¹⁵</p> <p>5) This lack of emphasis is reflected in the generic nature of the mitigation measures referenced in Table 10 and absence of attention paid to cumulative impacts on ecosystem services and ecological functions (which we address further below)</p> <p>6) We note that the ECBCP indicates that it has incorporated the CBAs and ESAs identified in the Nelson Mandela Bay Metropolitan Bioregional Plan (2014, as revised) (NMBMBP) and Coega Development Corporation Open Space System (2014).¹⁶ It is unclear why the SIA has determined that the NMBMBP should be regarded as less reliable than those of the Coega OSMP.¹⁷ In this regard, the differing risk ratings reflected for the ECBCP, NMBMBP, and Coega OSMP in Table 5 is difficult to understand.</p>
24-25	6.3.1.2. NMBM Bioregional Plan (NMBMBR)	<p>1) The primary objective of this bioregional plan is to ensure the protection of biodiversity in the Nelson Mandela Bay Municipality through sustainable land-use planning, resource management, and adherence to environmental legislation. As with the ECBCP2019 (above), the NMBM Bioregional Plan identifies areas of CBA and ESA.</p>

¹⁴ ECBCP2019 p 31 read with p 28.

¹⁵ Draft SIA, pp 37-38.

¹⁶ ECBCP2019, p 19.

¹⁷ Draft SIA, p 102.

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		 <p data-bbox="808 913 1169 934">Figure 16: NMBMBP CBA and ESA in relation to the PoN limits</p> <p data-bbox="613 949 1364 1824"> 2) It is unclear why this map (Figure 16) reflects different CBA and ESA mapping to the map in the previous section (Figure 15), despite both covering the same area. We can only assume that this is due to the maps produced in relation to ECBPC2019 reflecting only Freshwater CBAs / ESAs. Given the incorporation of the NMBMBR mapping tool into the ECBPC2019, it is unclear why the SIA states that no terrestrial CBAs/ESAs are indicated at provincial level – nor why the analysis of these planning tools has not been treated in a consolidated manner. This needs to be clarified to avoid what appears to be conflicting guidelines – notwithstanding the planning instruments themselves being designed to avoid such conflict. 3) If regard is had to the implications of the large areas marked as “CBA” in Figure 16, together with the Recommended land and resource (water) use management guidelines provided in the NMBMBR,¹⁸ a number of serious concerns are highlighted. Not only are these areas subject to a general recommendation for no further loss of natural habitat, but protection levels contemplated include declaration of such land as protected areas (if public land) and incorporation into the protected area network through, <i>inter alia</i>, Biodiversity Stewardship Agreements. This protection objective is incompatible with the contemplated PDFP Projects – but has not been expressly indicated in the SIA. Of particular </p>

¹⁸ Draft SIA, p 19.

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		<p>concern, given the presence of these areas within existing development areas and port boundaries, is a failure to refer specifically to the “Development Guidelines” set out in the NMBMBR which includes minimum buffer areas and limitations on extending development footprint. Also significant is the exclusion of biodiversity offsets for CBAs associated with aquatic ecosystems.¹⁹ Generally, we note that the requirements of the NMBMBR have not been consistently reflected in the various risk ratings, mitigation provisions, and assessment of cumulative risk and planning compatibility presented in the SIA. This needs to be remedied.</p>
27	6.3.1.3. NMBM Integrated Development Plan (IDP) & Spatial Development Framework (MSDF)	<p>1) The SIA indicates that the Coega IDZ and PoN are both highlighted as key economic nodes of strategic value in the municipality and that the MSDF draws attention to the CBA network. However, nothing is said regarding how the presence of the CBA network is dealt with in these planning tools (if at all). Specific risks highlighted in the IDP (including extensive climate risk associated with drought and water shortages)²⁰ do not appear to have been integrated into the SIA’s analysis. A particular risk in relation to planning compatibility which should be noted is what appears to be the intended review of the MSDF and ECPBMP (although the timeframe provided in the IDP is unclear).²¹</p> <p>2) As addressed in more detail below, the SEA’s treatment of climate change and long-term resilience is inadequate. Assessment of climate mitigation and adaptation measures; Nelson Mandela Bay Municipality’s Climate Change and Green Economy Action Plan; and Nelson Mandela Bay Municipality’s Greenhouse Gas inventory²² are not integrated into the assessment of planning compatibility, nor of specific or cumulative impacts of climate change. The inter-relationship between port expansion activities and their climate impacts and long-term urban planning and infrastructure need to be addressed (which includes sea-level rise and the vulnerability of water supply infrastructure). Further, specific areas where adaptive management</p>

¹⁹ NMBMBR, p 21.

²⁰ IDP, pp 93; 181-188.

²¹ IDP, p 104.

²² IDP, pp 222-223. See also the implications of Municipal Finance Management Act Circular 88 at IDP, pp 336-338.

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		strategies are likely to be required should be highlighted to allow for appropriate decision-making at this strategic stage.
29	6.3.1.4. Coega Open Space Management Plan (Coega OSMP)	<p>1) While the SEA does account for the environmental features identified in the OSMP that are within port limits, it does not sufficiently evaluate whether the PDFP Projects have the potential to affect the more sensitive areas of the site, nor does it evaluate the effects on the dynamic system of Algoa Bay as a whole. Critically, there is no consideration of the conditions from land use and the Rezoning EIA at para 3.6 of the Coega OSMP²³ (which appear to apply to the port area, although this is not entirely clear); the conditions from the Port EIA including those set out at para 3.7;²⁴ or the mitigation measures arising from the Final Revised Scoping Report set out in paragraph 3.8.²⁵ These include specific conditions pertaining to ecological linkages and corridors which appear material but not effectively captured in the list of CBAs and OSMP features listed at page 29 of the SIA. The omission flows through Table 7 which does not indicate the relevance of Grass Ridge Bontveld in relation to corridor requirements, nor the implications of the presence of Algoa Dune Thicket, Colchetser Strandveld, Motherwell Karroid Thicket and Sundays Doringveld Thicket in relation to offset requirements.</p> <p>2) There is a critical risk that the planned PDFP Projects undermine the open space management reflected in the Coega OSMP. Addressing this directly at strategic level, without awaiting EIA assessments is essential for the purposes of meaningful decision-making – particularly in the context of TNPA’s emphasis on developing a “green” port.</p>
31	6.3.1.5. Addo Elephant National Park Management Plan	<p>3) The SIA recognises that there are declared marine protected areas (as well as three islands) under the management of the Addo Elephant National Park (AENP) that fall within PoN limits. However, it fails to elaborate on the alignment between the overall port expansion strategy, its component projects, and the AENP Management Plan, nor does it speak mitigation measures should the expansion negatively impact the biodiversity of these protected ecosystems. In the circumstances, it is difficult to interpret the risks set out in Table 5 in relation to this plan (or to interpret, for example,</p>

²³ Coega OSMP, pp 13-14

²⁴ Coega OSMP, pp 14-15.

²⁵ Coega OSMP, p 16.

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		<p>the import of the Marine Programme applicable to the AENP marine protected area).</p> <p>4) There appears to be no analysis of how changes in hydrology or climate, combined with cumulative (or individual) project impacts will specifically impact the MPA and those features which have been identified as the reasons for its declaration. This is a critical omission which needs remedy.</p> <p>5) We note existing pressures from industrial development activity on St Croix Island, which the SIA notes is “zoned as a Penguin area”.²⁶ The findings of the TNPA environmental risk assessment concerning offshore ship-to-ship bunkering in relation to impacts on this colony of critically endangered birds needs to be highlighted – particularly in the context of any additional assessments required <u>before</u> project-specific EIA’s are undertaken. It is insufficient to await later-stage projects to detect ecologically unsustainable impacts – and this is particular the case where existing development impacts appear not to be ecologically sustainable when regard is had to the population crash of this African Penguin colony and the role of the African Penguin as an indicator species in respect of ecosystem health.</p> <p>6) The SEA has not emphasized the limitations imposed on industrial activities within port limits by the presence of the AENP. Similarly, it has not highlighted the need for biodiversity corridors and effective wildlife movement, especially considering the site’s proximity to the Addo Elephant National Park protected area. In this regard, no mention has been made of the need for adaptive management to ensure ongoing monitoring of development projects and adjustments emerging environmental challenges or unexpected impacts on the AENP’s protected areas. This is especially important when considering cumulative impacts, especially the combined impact that the individual projects may have on the site and on the broader Algoa Bay area.</p>
34	6.3.1.6. Algoa Bay Management Plan	<p>1) The SEA identifies the PoN harbour as a continual pollution threat. Due to this continuous threat, the SEA should recommend the implementation of management practices that would address the pollution (such as regular water quality assessments, sustainable dredging practices, or a reduction of ship-generated waste) to further align with the</p>

²⁶ Draft SIA, p 31.

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		<p>objects of the Algoa Bay Management Plan. The cumulative impacts of such will also need to be addressed, again in the broader context of the bay as a whole. This is important information that will guide future EIAs.</p> <p>2) The threats of an increase in pollution (due to an increase in PoN traffic) have not been addressed in the SEA. For example, there needs to be provision for oil spill contingency planning to address aspects such as containment measures, emergency response, and monitoring.</p>
39-66	6.4 Encroachment of PDFP Projects into Environmentally Sensitive Areas	<p>1) Figure 23 (“Preliminary Sensitivity Map for PoN”) is a potentially valuable tool for the purposes of the subsequent assessment – and it is vital that the overlays are capable of easy interpretation. In some cases, it is difficult to identify areas referenced in the key (possibly due to the size of the colour boxes in the key itself. This could be relatively easily remedied.</p> <p>2) While Figures 32 to 34 contextualise the PDFP Projects in relation to the sensitivity map, the three separate maps do not clearly indicate the cumulative impact on sensitive areas. This is particularly problematic in relation to the central, wetland area and the planned relocation and expansion of break bulk storage / the container terminal. The potential impact is critical as it appears that the viability of this set of projects is interlinked with the relocation / development of liquid bulk / LNG storage facilities (although, problematically, this is not entirely clear from the SIA).</p> <p>3) We note that the estuarine function zone (NWM5 Wetland) and area of critically endangered NMBM Vegetation Types within this area. However, we have not identified any indication in Section 6 of the SIA indicating whether the impacts of, specifically, short-term projects 7 and 8, medium-term project 2, and long-term project 4²⁷ either individually or cumulatively are capable of mitigation given the critically endangered vegetation type in this area.</p> <p>4) Similarly, no reference is made to any conditions of the environmental authorisations for short-term projects 1, 2, 4 and 9 (nor the underlying EIA risk assessments) in relation to impacts on the estuarine functional zone and wetland. It is not clear whether the sensitivity map is drafted <u>prior</u> to the</p>

²⁷ Draft SIA, Table 7, pp 48-50.

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		<p>commencement of these projects or whether it accounts for transformation subsequent to their completion.</p> <p>5) Given the deferral of specific assessments to EIA stage,²⁸ the purpose of applying the Screening Tool has not been made clear. It would be helpful to understand how this has been used during the SEA process – and to have an explicit statement regarding why these assessments were not possible within the scope of SEA.</p> <p>6) Sections 6.4.3.1 and 6.4.3.2, including Tables 7 and 8, raise significant concerns regarding the direct, indirect, and cumulative impacts of the PDFP Projects as noted in the text of these sections.</p> <p>7) Collectively, this raises questions regarding the underlying strategic decision to focus development activity in this area and whether the SIA should recommend that TNPA engage with local, regional, and national government stakeholders (including the Department of Transport) to assess whether the PoN developments remain viable. This is particularly as the PDFP Projects appear to have had a long genesis which originates from national strategic planning linked to Operation Phakisa and other development planning that may have been overtaken by subsequent legal, technological and scientific developments.</p> <p>8) It certainly raises questions as to whether more detailed assessments of key impacts such as noise, habitat and ecosystem services loss, and climate resilience can await individual project assessment through EIA processes. Rather, it would appear that detailed studies of the port expansion project as a whole are required as a matter of urgency – and it would assist if the SIA flagged those studies which need to be undertaken in order to highlight whether part or whole of the intended development is in fact a “no go” (and, consequently, whether pursuing individual projects in the interim would amount to fruitless and wasteful expenditure). As indicated above, we note the reference to cumulative impact assessments in the SEMP. These should be highlighted up-front as priorities for TNPA and noted in the SIA which gives the impression that only EIAs may provide the relevant information.</p>

²⁸ Draft SIA, p 47.

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80-102	6.7. Strategic Assessment of Potential Cumulative Impacts	<ol style="list-style-type: none"> 1) While the SEA identifies possible cumulative impacts, it does not consider how these impacts will affect the entirety of Algoa Bay, nor does it consider these impacts in the combined context of each proposed project. This is especially important because of the dynamic coastal environment of the bay as well as the interactions that occur between the bay's three ports and the adjacent protected area (which includes the important bird islands in the PoN's limits). 2) The SEA also fails to provide clear mitigation and monitoring strategies in this context. The reference to "Limits of Acceptable Change" in paragraph 6.7.4 is presented in the broadest terms without recommendations enabling decision-makers to meaningfully consider cumulative impacts at a pre-project and strategic stage – which is surely the intended aim of TNPA undertaking the SEA. No connection is drawn between the SEA Situation Assessment Report (and a clear cross-reference is not provided to any particular Annexure or section) and there is no indication that this report includes specific guidance on the predicted cumulative effects of the PDFP Projects (pending further cumulative assessment recommended in the SEMP). Similarly, there is no indication as to whether the cumulative impacts identified may be mitigated in terms of the measures identified in paragraph 6.6, Table 10. 3) It is insufficient to defer recommendations to EIA stage, as this assumes that projects will in fact proceed to this stage. The effect is to avoid recommendations which enable the decision-maker to assess, <i>inter alia</i>, whether all or part of the intended port expansion is in fact ecologically sustainable; whether redesign and/or alternatives and/or a no-go option is necessary; or whether the combined activities of the Coega SEZ and PoN may exceed the ecological carrying capacity of the receiving environment. 4) The limitations of the SEA to the PoN without considering upstream and downstream impacts leads to some important omissions in terms of risks and assumptions pertaining to the ongoing strategic need for the identified projects. In particular, failure to link "internal" to "external" impacts is enormously problematic (and we note that the initial stakeholder questionnaire sought information regarding specific projects in the area which do not appear to have been referenced). We also note key omissions in relation to TNPA's own risk assessment pertaining to offshore ship-to-

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		<p>ship bunkering and fuel transfer and the consequences for the vessel capacity of the PoN. Our comments on the subparagraphs of section 6.7 proceed from this premise.</p>
81-83	6.7.2.1 Internal Impacts – Traffic	<ol style="list-style-type: none"> <li data-bbox="602 485 1370 1291">1) A key enabler of the utility of the Manganese terminal (which has been excluded from scope) is the viability and ecological sustainability of the proposed expansion of Transnet’s Manganese Ore Export Railway line and associated infrastructure from Hotazel in the Northern Cape to the PoN. However, the underlying assumption behind this development relates to the global demand for manganese, the extent of manganese deposits in the Northern Cape, and the ecological sustainability of the manganese mining activities in that area. It would, in fact, be appropriate for a SEA to have been conducted that considers all elements of this supply and value chain in order to assess whether these developments are in fact justified given inevitable environmental impacts. Similarly, the impact of relocating the manganese terminal from the Port of Port Elizabeth to PoN is critical to understand the regional environmental impacts (as well as potential offsets) that may arise from this activity. While the discussion of “Traffic” at paragraph 6.7.2.1 alludes to the interrelationship between rail and port developments, the strategic importance of these interrelationships (and the attendant risks) is not detailed – nor is any mention made of the status of the status and/or progress of the interrelated projects or their projected completion dates. <li data-bbox="602 1291 1370 1648">2) Where projected completion dates <u>are</u> mentioned (such as the August 2020 completion of the Kirkwood-Addo branch line upgrades), it is not clear whether these have in fact occurred or are yet to be completed. In the case of the latter, no explanation of delays is provided and there is no clear means of directing the decision-maker to a source which explains such delays. This is material in terms of risks associated with potential stranded assets arising from the PDFP and the decision-maker’s ability to assess whether high-risk activities should in fact proceed. <li data-bbox="602 1648 1370 1894">3) We support the need for a comprehensive Traffic Impact Assessment as recommended at p 83. Such assessment should, ideally include an assessment of specific projects outside PoN limits at the level of the relevant transport corridors. In addition to the stakeholders of NMBM, CDC, TFR, and the Eastern Cape Department of Transport, the relationship between the port expansion projects and wider

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		strategic developments suggests also that the Departments of Transport and Mineral Resources in the Northern Cape should be consulted. Given that “transport” includes not only road and rail, but also marine transport, consultation with SAMSA should also be specified.
83-87; 96-97; 69-79; 102-105	6.7.2.2 Climate Change and 6.7.2.8 Air Quality and 6.6 Strategic Assessment of Potentially Significant Impacts and 6.8 Identification of Significant Residual Impacts	<p>1) We have dealt with these categories together due to significant overlaps.</p> <p>2) Paragraph 6.7.2.2 points out potential impacts of climate change on the PoN generally. However, this is not applied to the specific set of projects under consideration – nor to the strategic objectives behind these projects and the associated activities other than to identify those projects within the 1m, 2m and 5m zone in respect of predicted rise in water level. The SIA does not draw conclusions in respect of the consequences of the identification of projects within the 1m and 2m flood lines – nor the cumulative impact of flooding and/or sea water rise in relation to these projects (most of which appear to affect the development of additional container and/or fuel storage facilities).</p> <p>3) Similarly, there is no indication of whether these projects (let alone the expansion as a whole) is climate resilient, requires modification to adapt to predicted impacts of climate change along the time-horizons anticipated for development, nor whether the expansion of the port as currently planned could in fact be affected by temperature, sea level rise, changing storms / winds and rainfall so as to diminish the viability of the design and intended use of the expanded port facilities. In fact, the SEMP recommends further cumulative impact assessments.²⁹ This is of particular concern, given the “residual impacts” identified at paragraph 6.8 notably under the headings “Infilling of the Port to increase capacity” (p 102); “Development activities that may cause impacts to the hydrodynamics of the Port” (p 103); “Development activities in proximity to sensitive areas” (p 103); and “Impacts to climate change (carbon sink disturbance) from clearing of natural area” (p 103). These impacts, including instability change in wave patterns and loss of climate sinks indicate heightened risks even in the absence of considerations of climate resilience and issues of sea-level rise / changing wind-patterns.</p>

²⁹ Draft SIA, pp 122-123.

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		<p>4) There is no indication of whether the measures required to mitigate these impacts identified in paragraph 6.6, Table 10 are capable of addressing the <u>cumulative</u> climate and air quality impacts – nor whether the impacts of the project developments, port expansion, and its attendant activities would contribute to climate impacts including through increase emissions, heat generation³⁰ and removal of potential climate sinks / buffer zones.³¹ This is particularly concerning when reading Table 9 in relation to the relatively high risk ratings in respect of climate, air-quality, and various indicators associated with the estuarine, marine and landside environments in relation to projects 13 (short-term); 2-4 (medium term); and 1-2 (long-term).</p> <p>5) While incorporating climate change resilience criteria into engineering designs; minimising encroachments into natural areas; and carbon offsetting options³² do respond to climate impacts, there is no indication of whether these mitigation measures are in fact viable given the current development plans.</p> <p>6) The deferral of an assessment of cumulative impacts of the PDFP Projects on air quality does not enable a decision-maker to assess whether the development, as a whole, can be justified in the light of potential risks to the receiving environment. One would have expected some engagement with air quality modelling to inform an assessment of air quality impacts, including but not limited to, emissions of greenhouse gases, given South Africa’s international obligations in relation to climate emissions. It is inadequate to defer any assessment to individual EIAs when the purpose and object of the SIA is to provide an indication of cross-project air and climate impacts.</p>
87-92; 69-79; 102- 105	6.7.2.3 Marine and Estuarine Environments and 6.6 Strategic Assessment of	<p>1) We note that the assessment of the impact on the Coega Estuary addresses the “<i>concurrent or sequential implementation of the various PDFP Projects</i>”.³³ Moreover, the impact assessment expressly considers existing cumulative pressures on the estuary. This is a critically important approach to all cumulative impacts. It is not clear</p>

³⁰ See Draft SIA, p 90 “*Warming of water temperature through discharge of heated water*” indicated as a potentially significant cumulative impact under “Marine and Estuarine Environments”.

³¹ See Draft SIA, p 90 “*Loss of ecosystem goods and services*” indicated as a potentially significant cumulative impact under “Marine and Estuarine Environments”.

³² Draft SIA, pp 71; 73; 75-76; 76-77.

³³ Draft SIA, p 89.

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	<p>Potentially Significant Impacts</p> <p>and</p> <p>6.8 Identification of Significant Residual Impacts</p>	<p>why this approach has <u>not</u> been followed in respect of impacts on “Traffic” and “Climate Change”.</p> <p>2) It would be helpful if, at p 89 (“Habitat Disruption and Loss”) the SIA specified those projects which “<i>can lead to the complete loss of the estuarine environment</i>”. This is a critical risk that needs to be made absolutely clear to the decision-maker who should be left in not doubt as to which project or projects may be a “no go” from this perspective. There is no clear indication in paragraph 6.6, Table 10 which projects are intended (and where identified mitigation measures will be insufficient in relation to habitat loss). We note that consideration of offsets³⁴ is only possible in relation to terrestrial habitats. The South African regulatory framework does not currently provide for offsets in relation to estuarine habitats or the marine realm.³⁵ Moreover, offsets are not possible where residual impacts cannot be offset through the ecological equivalence principle i.e. where biodiversity is irreplaceable.³⁶ The generic statement pertaining to consideration of offsets fails to indicate whether potential habitat / biodiversity loss that has been identified includes irreplaceable biodiversity. This is problematic given that the identified overlaps with CBA areas makes it likely that such irreplaceable loss is a consequence of the planned developments.</p> <p>3) The statement that “<i>runoff and discharges from the proposed PDFFP Project sties during the construction or operational phases can introduce pollutants, including heavy metals, chemicals, and nutrients into the Port</i>”.³⁷ Again, the lack of specificity does not aid a decision-maker in assessing where mitigation efforts should be placed – or whether such impacts cannot be mitigated at all resulting in the need to consider whether port expansion is in fact ecologically sustainable. We note that while impacts of potential runoff on water quality, estuarine and marine species, recreational use and subsistence fishing is mentioned, the SIA omits impacts on ecotourism, commercial fisheries and aquaculture³⁸ – each being an economic activity which is being promoted by</p>

³⁴ Draft SIA, p 71.

³⁵ National Biodiversity Offset Guideline, published as GN3569 in GG 48841 of 23 June 2023 (**National Biodiversity Offset Guideline**), p 12.

³⁶ National Biodiversity Offset Guideline, p 17.

³⁷ Draft SIA, p 89.

³⁸ See Draft SIA, Figure 42, p 64.

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		<p>various government policies, and which is dependent on the ecological sustainability of Algoa Bay.</p> <p>4) While certain of the risks of dredging in relation to water quality are mentioned, the specific impacts on the biodiverse benthic environment of Algoa Bay is not (although this is detailed in relation to project 6 when considering project-by-project impacts).³⁹ This is a critical omission. Similarly, while the impact of changes to hydrodynamic functioning on seabirds is referenced (and a general statement is made in relation to seabirds, marine mammals and their prey),⁴⁰ no mention is made of specific impacts on fish nurseries which are known to be present in the vicinity of the port and which may have far-reaching impacts on ecosystems as well as other economic activities both in the region and beyond. This is despite descriptions of sensitivity provided in relation to short-term project 6 in Table 8.⁴¹ It is particularly concerning that the presence of the critically endangered dusky kob, nationally vulnerable elf, spotted grunter and Garrick species and nursery area for dusky sharks⁴² are features which are not carried through to the cumulative impact section of the SIA.</p> <p>5) While the bulleted impacts at pp 90-91 indicate, <i>inter alia</i>, “<i>presence of contaminants and possible impacts on bottom-dwelling organisms, fish, and fishermen</i>”, this has not been highlighted in the text and is a significant omission.</p> <p>6) The paragraph pertaining to the location of St Croix Island and the scientific data indicating sensitivity of the African Penguin to noise impacts (and increased ambient noise arising from increased maritime traffic) is significant. This is more so, since the uplisting of the African Penguin to critically endangered in October 2024 which should be specifically recorded in the SIA. Avoiding all interference with the population of African Penguins at St Croix Island is critical given this threat status and the particular obligations on organs of state – including TNPA – in relation to protection of threatened species and the prevention of their extinction. We note that the presence of the African Penguin on St Croix and the location of this island is a material consideration in relation to the ecological carrying capacity of Algoa Bay and</p>

³⁹ Draft SIA, pp 54-55.

⁴⁰ Draft SIA, p 90.

⁴¹ Draft SIA, pp 54-55.

⁴² Draft SIA, p 54.

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		<p>whether operations following from port expansion are capable of being ecologically sustainable.</p> <p>7) Similarly, the relationship between the impacts of port expansion, “<i>several important habitats... beyond the boundaries of the Port</i>” and breeding colonies / foraging habitats of endangered species such as Cape Cormorant and Cape Gannet should be specifically mentioned. While proximity to Jaheel Island is mentioned in respect of individual projects, cumulative impacts of these projects on the island is not – nor is cumulative impacts on the Addo MPA, despite reference to proximity of certain projects.</p> <p>8) In this regard, we would urge the development and adoption of an Underwater Noise Mitigation and Management Plan⁴³ as a matter of priority based on current noise impacts. This would require development of a critical baseline against which the viability of future developments could be assessed. Existing studies pertaining to noise impacts (including those conducted as part of the TNPA environmental risk assessment) may serve as a useful starting point for developing the relevant plan.</p> <p>9) We note that among the “residual impacts” noted at paragraph 6.8 (pp 102-104), underwater noise implications; impacts on avifauna that utilise intertidal habitats; habitat loss; loss of ecosystem goods and services; risk of introducing alien and invasive species; pollution risks; risks to protected areas; degradation and loss of important bird areas (including impacts on the Bird Island group) are listed. When read against the individual sensitive features identified in Table 8⁴⁴ (which are not highlighted in the section concerning cumulative impacts), the potential cumulative and residual impacts become particularly concerning. Even without such detail, the listed “residual impacts” suggest that serious reconsideration of the planned port expansion is required. It is not clear, however, that sufficient guidance to decision-makers is provided in the absence of alternatives and in the light of the limited consideration given to the “no go option”.</p>
92-93	6.7.2.4 Terrestrial biodiversity	1) While noting that the absence of detail regarding individual projects prevents quantification of indigenous vegetation

⁴³ Draft SIA, p 71.

⁴⁴ Draft SIA, pp 54-56.

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		<p>loss,⁴⁵ it would assist if this paragraph specified which projects “<i>encroach on the CBA’s and OSMP Features identified in the OSMP</i>”.⁴⁶ This can be ascertained by cross-referring to other sections of the report, however, in the context of <u>cumulative impacts</u>, this impact is obscure to a decision-maker and thus difficult to understand and assess in the context of the overall development strategy.</p> <p>2) No project can be considered ecological sustainable if removing CBA habitat and this could pose a critical risk – particularly if this attaches to projects that are sequenced after those which lay their groundwork but where such encroachment does not arise (and where an EIA would not highlight this risk). The interrelated nature of projects may, in other words, require redesign of earlier projects to avoid CBA habitat loss at a later date. This needs to be apparent to a decision-maker from the text of the SIA.</p> <p>3) Of particular concern, when regard is had to Table 7 of the report, is that the projects identified as within CBA areas appear linked to fuel storage developments. Even without project-level detail, this is a critical flaw in the overall port expansion design that needs to be revisited. This needs to be clearly highlighted in the SIA.</p>
93-94	6.7.2.5 Watercourses	<p>1) The listing of projects “<i>within or in proximity to wetlands</i>” does not enable a decision-maker to ascertain which of these projects is intended to be built <u>in</u> wetland areas and which projects, adjacent to wetlands, may have impacts that cannot be adequately mitigated. It is also not clear whether short-term projects 7, 8 and 10; medium-term projects 1-3; and long-term projects 2-3 for example, might have potential to rehabilitate wetland and riparian areas, notwithstanding the initial project focus of break bulk storage, renewable energy and canalisation. Far greater clarity regarding the linkages between these developments is required to fully appreciate cumulative impacts (and rehabilitation potential). Such contextual assessment is needed within this portion of the SIA itself, not only for the benefit of strategic decision-makers and change management processes, but also to enable effective and meaningful public comment.</p> <p>2) It is not clear why “<i>detailed wetland delineation information</i>” was not available. It would appear that this is key information</p>

⁴⁵ Draft SIA, p 93.

⁴⁶ Draft SIA, p 93.

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		given the overall port expansion strategy. We would urge TNPA to procure this information as a matter of urgency together with a detailed risk assessment of the cumulative impacts of the planned activities.
94-95; 102- 105	6.7.2.6 Infrastructure and Services and 6.8 Identification of significant residual impacts	<p>1) The SIA appears to defer all conclusions in respect of Infrastructure and Services to the EIA process and contains only the general statement that cumulative impacts will “strain” existing services.⁴⁷ However, this overlooks the strategic links between the port expansion projects and the strategic purpose of the port’s development in contributing to regional development. It also does not account for the role of Project 13 (“<i>Introduce offshore renewable energy solution</i>”). It is not clear, for example, whether the purpose of this project is to contribute to the services required by the port itself or is for purposes of some alternative offtake. If so, it is necessary to consider the potential impacts on sensitive marine features as detailed in Table 8⁴⁸ in the context of meeting demand for increased energy / electricity services.</p> <p>2) Similarly, without engaging with the relationship between the Coega SEZ and PoN projects, it is difficult to understand social and environmental impacts of increased needs in respect of sewage, potable water, electricity, communications, and so on. This is critical given the apparently poor state of water availability and sanitation services in Nelson Mandela Bay Municipality recorded in its IDP.⁴⁹ We note that given the role of PoN in relation to international shipping, the expansion projects may also add requirements for receiving additional vessels (including ensuring that sewage receiving facilities are available). These are critical considerations at a strategic planning level.</p> <p>3) Significantly, paragraph 6.7.2.6 does not specifically address the cumulative impacts on ecosystem services. However, in paragraph 6.8, loss of ecosystem services is referenced – without detail of the nature of the ecosystem services being considered. This is a key omission given what appear to be significant “<i>residual risks</i>”. The SIA does not enable a decision-maker to assess the interrelationship between demand for “utilities”, the ecological impact of meeting such</p>

⁴⁷ See Integrated Development Plan of Nelson Mandela Bay Municipality (2022/23 – 2026/27) (IDP), pp 282-283.

⁴⁸ Draft SIA, p 55.

⁴⁹ See IDP, pp 36-37.

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		demands and the risks associated with loss of ecosystem services.
94-95	6.7.2.7 Waste	1) It would be of assistance if the current capacity of Alocs landfill as well as Koedoeskloof and Arlington waste disposal sites was specified (as well specific references to compatibility or incompatibility with Nelson Mandela Bay Municipality's Integrated Waste Management Plan). ⁵⁰ While it may not be possible, at this stage, to quantify the cumulative impact of waste in detail, estimates relating to existing landfill capacity could be provided in relation to estimated waste volumes for large-scale industrial developments. There could certainly be some indication provided to TNPA as to what manner of engagements are required with NMBM in respect of additional waste generation during the construction stage to enable the municipality (or TNPA) to take any necessary measures. In the absence of at least estimates and indications of any difficulties in this regard, it is difficult to understand how TNPA (and NMBM) may respond to potential waste impacts in accordance with a risk averse and cautious approach as required by the national environmental management principles.
97-98	6.7.2.9 Socio-Economic Environment	1) The statements are so vague in this section as to prove almost meaningless for purposes of strategic decision-making and assessment. It is puzzling that no modelling was included in this study (and if this was not within scope, we question this omission). It appears irrational to embark about port expansion projects ostensibly aimed at socio-economic development, if the impacts render such development activity socially, economically, and/or environmentally unsustainable or without independent social and economic justification (which includes an assessment of both negative and positive impacts on the local, regional and national economy as well as local, regional and national social impacts).
98	6.7.2.10 Cultural and Heritage Resources	1) We note, with concern, that short-term projects 14 and 15 and medium-term project 3 are identified both in relation to direct impacts on heritage sites as well as on wetlands and CBA areas. It would appear that these impacts (themselves cumulative) mitigate against proceeding with these projects. This consideration is obscured by failing to consider the cumulative effect of different impact categories in relation to the PDFP Projects as a whole.

⁵⁰ See IDP, pp 225-227.

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102-105	6.8 Identification of Significant Residual Impacts	<p>1) The SIA states that “<i>the Coega OSMP CBA was taken to be more accurate than the NMBMBP CBA classifications therefore a high impact was given to project [sic] that occur in the Coega OSMP CBA but moderate impact for projects that occur within the NMBMBP</i>”. We cannot identify any reason for this determination. This is concerning, particularly as the purpose of the NMBMBP CBA is expressly to map habitat sensitivity for planning purposes and is a gazetted planning tool. The SIA provides no lawful basis for “downgrading” the assessments of the NMBMBP CBA.</p> <p>2) The list of residual impacts, nevertheless, is considerable and raises questions regarding whether the planned port expansion is ecologically sustainable – let alone socially and economically justified. The projects listed as posing a particularly high risks include projects directly linked to renewable energy development – and it is not clear whether, absent these projects, the broader development remains energy-secure and economically viable. Similarly, most of the activities associated with LNG reception and storage developments have been identified as carrying high risk. Again, this raises questions regarding the viability of the strategic plans pertaining to LNG development at PoN and Coega.</p> <p>3) We note the final paragraph of this section which indicates “<i>The above projects and risks need to be carefully considered moving forward</i>”. It is clearly insufficient to await EIA processes for individual projects before this occurs. It is unclear why the SIA – designed to assess risks at the strategic level and with regard to the cumulative project plans – has not been able to provide clearer indications as to whether the identified ecological risks can in fact be mitigated (on a reading of the SIA, it would seem they cannot). At a minimum, it would be anticipated that this section of the SIA would refer to the mitigation measures identified in Table 10 and identify those which must be addressed – and possibly those which can be addressed immediately (not least those identified in relation to “Improper integration with national, provincial and municipal planning”; development of a Noise Mitigation and Management Plan; development of an Air Quality Management plan to reduce impacts on important seabird breeding islands of Algoa Bay).</p>

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105-106	6.9 Considering the No-Go Option	<p>1) The SIA indicates that “<i>no alternatives were available for the PDFP Projects</i>” at the time of the SIA. This presents significant difficulties in assessing a “no go option” in relation to the strategic objectives behind the port expansion as a whole (to which the individual projects contribute). In this regard, it is particularly problematic that the cumulative impacts of the PoN projects have not been considered in relation to the change-of-use of the PoN relative to that of the Port of Port of Elizabeth – and the strategic objective of shifting industrial activity away from the Port of Port Elizabeth towards the PoN (as we understand the position in the PDFP to be). Given this strategic focus, it is artificial to consider only the PoN projects in relation to a “no go option” (or, for that matter, alternatives). Critically, this section of the SIA does not provide a basis for the TNPA, as decision-maker, to determine whether the planned industrial development strategy (encompassing also the Coega SEZ) is in fact practicable if TNPA is to meet its obligations, through its ports mandate, to mainstream environmental concerns and “<i>secure ecologically sustainable development</i>”.</p> <p>2) The cumulative impacts in section 6.7 (above) have not been considered adequately enough in the broader context of the No-Go Option. This could be expanded to reflect how these impacts would not manifest should the projects go ahead. This would align with the SEA’s objective of presenting a full range of likely consequences. The SEA merely states that the “associated environmental and social risks to the receiving environment no longer apply” and that it “includes the avoidance of potentially significant impacts”. The absence of detail does not provide an adequate basis for the decision-maker to assess the merits of the no-go option – particularly where certain of the projects carry particularly high risks of negative environmental impacts.</p> <p>3) Given the interconnected nature of the various projects, it is inadequate to leave determination of the merits or otherwise of the no-go option to separate EIA processes. Doing so may result in fruitless and wasteful expenditure on the part of TNPA, lack of viability of first stage (short-term) projects and prevent TNPA assessing strategic alternatives in relation to port and infrastructure development – including, if necessary, determining that implementation of various policy statements guiding TNPA’s operations may need review given changing priorities and environmental imperatives.</p>

4. Conclusion

- 4.1. We trust that our comments will be taken under consideration and that they contribute to ensuring that the SEA is as robust as possible. We remain committed to assisting with TNPA's processes in the interests of supporting their efforts to engage with a wide range of stakeholders and in the interests of ensuring that all development is transparent, lawful, and ecological sustainable. This can only be achieved if impacts on biodiversity, vulnerable ecosystems (such as those in the coastal zones), and marine spaces are appropriately scoped, evaluated, and assessed and with a proper appreciation of the need for a reflexive approach to cumulative assessment.
- 4.2. We would welcome the opportunity to engage further as TNPA's projects and strategy develops.

Yours faithfully,



BIODIVERSITY LAW CENTRE NPC
Per Nina Braude