

N2 WILD COAST TOLL HIGHWAY AUTHORITIES COORDINATION COMMITTEE

TERMS OF REFERENCE

Preamble

The N2 Wild Coast Toll Highway extends over a distance of approximately 410km between the Gonubie Interchange (near East London in the Eastern Cape) and the Mtamvuma River (near Port Edward). The N2 national road will follow a new route through the area known as the Wild Coast and will connect major centres including East London, Butterworth, Idutywa, Mthatha, Ndwalane, Lusikisiki, Port Edward, Port Shepstone and Durban. The new route will be approximately 85km shorter than the existing N2 via Mount Frere, Kokstad and Harding and will lead to a travel time saving of approximately 3 hours between East London and Durban.

The South African Government's Strategic Integrated Projects (SIPs) were adopted in the National Infrastructure Plan in 2012 with the aim of transforming the economic landscape while simultaneously creating significant numbers of new jobs and strengthening the delivery of basic services. The SIPs cover social and economic infrastructure across all nine provinces (with an emphasis on lagging regions) and include catalytic projects that can fast-track development and growth. The N2 Wild Coast Toll Highway forms part of SIP 3: South-Eastern node and corridor development.

Approximately 96 km of the N2 Wild Coast Toll Highway will be on a greenfields alignment between Mzimvubu River (near Port St Johns) and the Mtamvuna River (near Mzamba).

The project includes:

- Two mega-bridge structures on the Msikaba and Mtentu Rivers, and associated haul roads;
- Seven additional major river bridges and three interchange bridges;
- Approximately 96 km of new class one road and 17 km of "brownfield" class one road;
- New interchanges, pedestrian walkways and bridges as well as agricultural underpasses; and
- Local collector / access roads, underpasses and overpasses.

It should be noted that the current construction programme commences with the two mega-bridges and associated haul roads and excludes any work in KwaZulu-Natal.

Environmental authorisation for the construction of the N2 Wild Coast Toll Highway was granted in a Record of Decision (RoD 12/12/20/701) by the Department of Environmental Affairs on 19 April 2010. The authorisation was granted subject to various conditions and condition 6.2.4 required the establishment of an Authorities Coordination Committee as follows:

The applicant shall convene an authorities coordination committee quarterly or as agreed upon with this department during the planning and construction phase of the project and shall in addition to representation from the ECOs, invite representation from the following authorities:

- *Department of Environmental Affairs (this department);*
- *Kwazulu-Natal Department of Agriculture and Environmental Affairs (DAEA);*
- *Eastern Cape Department of Economic Development and Environmental Affairs (EC-DED&AF);*
- *Department of Water Affairs (DWA);*
- *Department of Agriculture, Fisheries and Forestry (DAFF);*
- *Department of Minerals (DM);*
- *Ezemvelo KZN Wildlife;*
- *Eastern Cape Parks Board;*
- *South African National Parks;*
- *Relevant local authorities; and*
- *South African Heritage Resources Agency (SAHRA).*

The PEM shall fulfil the role of Secretariat of the ACC. This committee shall serve as a forum for the discussion and coordination of project related issues and for timeous dissemination of information about progress on the project to the key authorities. The composition of the committee may be changed if circumstances justify it.

The first Authorities Coordination Committee meeting was convened on 21 July 2016.

This document sets out the ACC's Terms of Reference.

1. NAME

The name of the committee established for the discussion and coordination of project related issues and for timeous dissemination of information about progress on the Wild Coast Toll Highway to the key authorities is the **N2 Wild Coast Toll Highway Authorities Coordination Committee (ACC)**.

2. GUIDING PRINCIPLES

2.1 The Constitution of the Republic of South Africa and the Intergovernmental Relations Framework Act 13 of 2005 provide guiding principles and values for intergovernmental relations and cooperative governance to facilitate co-ordination in the effective provision of services and the realization of national priorities. These include:

- Co-operate with one another in mutual trust and good faith
- Fostering friendly relations;
- Assisting and supporting one another;
- Informing one another of, and consulting one another on, matters of common interest;
- Coordinating their actions and legislation with one another; and
- Adhering to agreed procedures.

These guiding principles shall be at the core of and inform the purpose and proceedings of the ACC.

2.2 All participants in the ACC shall act in an accountable and responsible manner and behave with dignity and self-control.

2.3 Good faith, common understanding and necessary urgency shall underline all ACC

proceedings and members shall commit themselves to achieving the project goals wherever possible.

- 2.4 The activities and discussions of the ACC shall be transparent.
- 2.5 All members of the ACC shall have access to information relating to the ACC's activities.
- 2.6 When making recommendations the ACC shall take cognisance of the principles stated in the National Environmental Management Act (NEMA) Act 107 of 1998 (as amended) and other relevant legislation, and seek to balance developmental and environmental considerations.
- 2.7 Where consensus cannot be reached and it is necessary to resolve an issue, the issue must be referred to the relevant Competent Authority for a decision.

3 FUNCTION AND PURPOSE

- 3.1 To serve as a forum for the discussion of project related issues and the coordination of responses to address project related issues and problems.
- 3.2 To facilitate cooperative governance in the implementation of the project.
- 3.3 To serve as a forum for the identification of project related risks and the timeous intervention thereon.
- 3.4 To assist in resolving any project related disputes.
- 3.5 To assist with eliminating or fast tracking any project related blockages or obstacles.
- 3.6 To assist in expediting any licence or permit applications or approvals required for the implementation of the project and ensure that the project complies with all relevant legislation and conditions of authorisation.
- 3.7 To provide for the timeous dissemination of information about progress on the project to the key authorities.

4 COMPOSITION OF THE ACC

The organisations represented on the ACC as stipulated in the Record of Decision are:

- Department of Environmental Affairs (DEA):
- Eastern Cape Department of Economic Development and Environmental Affairs (DEDEA)
- Department of Water and Sanitation (DWS)
- Department of Agriculture, Forestry and Fisheries (DAFF)
- Department of Mineral Resources (DMR)
- Department of Rural Development and Land Reform (DRDLR)
- Department of Cooperative Governance and Traditional Affairs (CoGTA)
- Eastern Cape Provincial Heritage Resources Authority (ECPHRA)
- Eastern Cape Parks and Tourism Agency (ECPTA)
- OR Tambo District Municipality

- Alfred Nzo District Municipality
- Port St Johns Municipality
- Ingquza Hill Municipality
- Mbizana Municipality

As the current construction programme excludes any work in KwaZulu-Natal, the Kwazulu-Natal Department of Agriculture and Environmental Affairs (DAEA) and Ezemvelo KZN Wildlife do not form part of the ACC.

South African National Parks declined participation in the ACC.

- 4.2 Each member organisation is to be represented at ACC meetings. Should the principal representative be unavailable for a particular ACC meeting, an alternate should attend in their place.
- 4.3 The South African National Roads Agency SOC Ltd (SANRAL), as the project proponent with final accountability and responsibility for the project, is also a member of the ACC.
- 4.4 SLR Consulting as the Project Environmental Manager (PEM) and ACC Secretariat shall attend all ACC meetings.
- 4.5 The Environmental Control Officers (ECOs) appointed on the project shall attend all ACC meetings.
- 4.6 Any member organisation who fails to be represented at three consecutive meetings of the ACC shall be asked to re-commit to or withdraw from the ACC.

5 ACCOUNTABILITY AND RESPONSIBILITY OF ACC MEMBERS

- 5.1 Representatives are nominated by their organisations and are accountable to the organisations they represent, and are responsible for keeping these organisations informed of ACC proceedings and progress on the project.
- 5.2 Members must respect the confidentiality of discussions at meetings. The approved minutes serve as the record of the meeting.
- 5.3 Subject to clause 5.2 above, a member's participation in ACC proceedings should not be interpreted as a waiver of that member's right to challenge, comment upon or deal with any issue pertaining to the project outside the forum. However, where the ACC has already resolved an issue by consensus, a member intending to protest or challenge that issue must inform the ACC chairperson of their intention to do so.
- 5.4 Final accountability and responsibility for the project lies with SANRAL and its appointed representatives and contractors, but only in respect of their respective activities. The ACC is not a management committee and it is not legally responsible for project activities or for any consequences resulting from such activities.
- 5.5 Where consensus cannot be reached and it is necessary to make a recommendation, the issues of disagreement shall be recorded in writing and referred to the relevant authority for its decision.

6 MEETINGS

- 6.1 The ACC shall meet on a quarterly basis, at a suitable venue.
- 6.2 In the event of an unusual incident related to the N2 Wild Coast Toll Highway, the chairperson may, at his or her discretion, call a special meeting to deal with the incident, or if any three members request such a meeting. Such special meetings will be called in consultation with SANRAL.
- 6.3 The ACC shall deal with the following matters at its regular meetings:
 - 6.3.1 Reports by SANRAL on progress, constraints and general matters relating to the N2 Wild Coast Toll Highway, including results of audits and monitoring programmes and complaints received from the public and action taken;
 - 6.3.2 Issues and areas of concern to the ACC (whenever possible, these should be forwarded in writing to the chairperson before the meeting for inclusion on the agenda, and also to anyone who will be able to provide answers, in order to facilitate fruitful discussion at the meeting);
 - 6.3.3 Any report back on issues, activities or meetings outside the regular ACC meetings, for example, subcommittee meetings and meetings between the regulators and SANRAL;
 - 6.3.4 Relevant reports in respect of the N2 Wild Coast Toll Highway, such as audit, site visit and Biodiversity Offset Agreement progress reports.
 - 6.3.5 Correspondence; and
 - 6.3.6 General matters.
- 6.4 All reports must be circulated prior to the meeting at which they are to be considered.
- 6.5 The ACC may appoint persons or subcommittees to deal with specific issues. Normally these should consist of ACC members, who may be assisted by technical specialists where appropriate. Subcommittees must report back to the ACC as soon as they have reached a conclusion or a resolution on an issue, which must be open for review at an ACC meeting.

7. CHAIRPERSON

- 7.1 The Chairperson shall ensure that ACC meetings and other ACC activities are conducted in an orderly fashion.
- 7.2 Where appropriate, the Chairperson shall mediate disputes between ACC members.
- 7.3 The Chairperson is accountable to the ACC and shall at all times act in an objective and unbiased manner and shall ensure that all members are given a fair hearing.

8. ADMINISTRATION

- 8.1 SLR Consulting, as the PEM, shall act as Secretary to the ACC and shall
- 8.1.1 convene meetings and prepare agendas;
 - 8.1.2 circulate all relevant documents and/or any other relevant information to ACC members;
 - 8.1.3 take and compile minutes and distribute them to ACC members (both principal and alternate representatives);
 - 8.1.4 file ACC records, other relevant documentation and maintain a record of all ACC activities; and
 - 8.1.5 perform any other administrative tasks designated by the ACC.
- 8.2 The PEM shall record the names and addresses of all members and their representatives. Members shall notify the Secretary in writing of any change in contact details. Any notice or correspondence sent to the recorded details of members shall be considered good service of such notice or correspondence.
- 8.3 The PEM shall ensure that all minutes and any other documentation received or generated by the ACC are properly kept and are available for inspection on request by any ACC member.

9. FINANCIAL MATTERS

- 9.1 SANRAL shall be responsible for all administrative costs and meet all the appropriate and reasonable costs associated with the ACC's effective functioning, as well as administrative disbursements, and specialist and/or professional service fees.
- 9.2 ACC members will not receive payment for their participation on the ACC.

10. INSPECTIONS AND SITE VISITS

- 10.1 Unless the ACC decides otherwise, a site visit for ACC members must be scheduled in conjunction with every ACC meeting.
- 10.2 SANRAL shall provide ACC members with reasonable access to all the sites on the N2 Wild Coast Toll Highway and provide information that is necessary for coordination purposes.
- 10.3 Members may accompany specialists who are visiting the sites on the N2 Wild Coast Toll Highway as part of an audit or specialist investigation.
- 10.4 ACC members are expected to comply with all safety instructions and procedures while on site.

11. AMENDMENTS

- 11.1 The ACC may at a duly constituted meeting amend these Terms of Reference with the consent of 75% of its members present.