CHAPTER 10 CONCLUSIONS AND WAY FORWARD

This chapter provides conclusions to the Scoping Study and describes the anticipated way forward in light of the findings of the study.

10.1 CONCLUSIONS

This Scoping Study is informed, to a large degree, by the availability of existing information resulting from the previous EIA on the proposed project. The previous EIA process included an extensive public consultation process, undertaken by independent public consultation consultants in conformance with the requirements of the EIA Regulations. The database of I&APs who received information and were invited to comment on the proposed project stood at approximately 3500 upon completion of the previous EIA. The proposed project was also widely advertised and featured prominently in local media coverage. Existing information indicates that a total of 340 meetings were held during the previous EIA and that the coverage and range of organisations and sectors canvassed were comprehensive.

This Scoping Study includes a comprehensive audit of all the original issues and concerns raised during the previous EIA’s Scoping Study, Impact Assessment and Appeals phases and a thorough review of the independent specialist studies undertaken as part of the previous EIA. The identification of relevant issues, concerns and alternatives was further facilitated by distribution of the DSR for review and comment and undertaking field trips through the study area.

The Scoping Study includes an analysis of various alternatives and indicates which would be carried forward for assessment in the Impact Assessment phase of the EIA. Terms of Reference for specialist studies have been formulated in order to ensure that potential environmental impacts are adequately investigated in the next phase of the EIA and that any relevant shortcomings and/or gaps are addressed. All relevant new issues, concerns and alternatives raised during the comment period on the DSR have been considered and included in the FSR as appropriate.

10.1.1 ISSUES AND CONCERNS

10.1.1.1 Previous EIA process

The issues and concerns raised during the previous EIA process have been synthesised and classified into 12 main categories. It should be noted that these categories are by no means definitive and exclusive and have been used for convenience only. The categories, with relevant sub-categories, are as follows:

a) Social issues – health and safety impacts; environmental justice implications; social responsibility; impact on cultural values; access to farming land; social benefits/impacts; compensation, expropriation and relocation; severance; land claims; graves, burial sites and historical heritage; and indirect social impacts.

b) Economic issues – impact of tolling on commuters; impact on communities of Pondoland; impact on tourism to Pondoland; impacts on by-passed towns; impacts on towns along the KwaZulu-Natal Upper South Coast; impacts on tourism to KwaZulu-Natal South Coast; impacts on towns and communities between Port St Johns and East London; Job creation; financial and economic viability of the proposed project; economic efficiency of tolling; empowerment; impacts on businesses; impacts on agricultural practices; road user costs and benefits; benefits of the toll road; macro-economic impacts; impact on property values; and environmental resource economics.
c) EIA process and legal issues – inadequacy of information and assessment; assessment of alternative route alignments; assessment of alternative financing mechanisms; assessment of alternative modes of transport; assessment of other alternatives including the no go option; assessment of alternative toll plaza positions; assessment of cumulative impacts; flawed EIA process; bias towards the Applicant; lack of SEA and other development planning studies; link to mining; statutory obligations; legal issues; commencement of construction; Scoping; Record of Decision; sustainable development; project description; and Draft EMP.

d) Alternative routes – provision and upgrading of alternative routes; and impact of traffic diversion on alternative routes.

e) Tolling issues – rationale for tolling at a national level; fuel levy; excessive taxation; insufficient information on toll fees; National Roads Act, Unsolicited Proposal Process and Declaration to Toll process; cross-subsidisation; location and number of toll plazas; congestion caused by toll plazas; toll fees and collection methods; and discounts.

f) Specialist studies issues – hydrology; botanical; air pollution; visual; noise pollution; economic; health; climate, soils and agriculture; fauna; aquatic; heritage; social; planning/development in the Eastern Cape; tourism; and traffic impact study.

g) Public consultation process – transparency of process and provision of information; public consultation process; concerns raised not included; distribution of documents for review; input into specialist studies; consultation with authorities; use of the media; and public consultation required in the future.

h) Scope of work and construction issues – rehabilitation; monitoring; EMP; Construction phase; culverts, underpasses and overpasses; bridges; intersections and interchanges; road widening, improved vertical and horizontal alignment; access to the toll road; location of route through greenfields section; road signage and lighting; lay-byes and rest areas; road maintenance; fencing; secondary access roads; design standards; costs of project; and incident management.

i) Biophysical issues – effect on wilderness areas; effects on biodiversity; effects on Pondoland Centre of Endemism; effects on wetlands, rivers, estuaries and gorges; soil erosion; impacts on fauna; and coastal areas.

j) Road, traffic and transport issues – traffic congestion; traffic and transportation studies and data; upgrade existing roads rather than build a toll road; ring roads and bypasses; impact on Durban International Airport; impact on public transport/taxi industry; heavy vehicles; status of, and impact on, the current N2 route; and road safety issues.

k) Planning and policy issues – ribbon development; impact of improved access to the remote Pondoland area; Wild Coast SDI; land use planning and IDPs; creation of the Pondoland National Park/Conservation Area; housing and other new developments; impact on local authorities; capacity of authorities; and Provincial Growth and Development Strategy.

l) Motivation/need for the project – motivation for the project; motivation for tolling the existing N2 on the KwaZulu-Natal South Coast; motivation for tolling the existing N2 in the Eastern Cape; and motivation for tolling the existing R61 in the Eastern Cape.
10.1.1.2 Key shortcomings and/or gaps to be addressed in the current EIA process

The issues and concerns raised during the previous EIA process were audited in order to identify key shortcomings and/or gaps that need to be addressed in the new EIA process.

The following key shortcomings and/or gaps have been identified:

a) EIA and public consultation process
   - Adequacy of the motivation for the development of the road;
   - Adequacy of the analysis of alternatives;
   - Detailed description of the alignment of the proposed road;
   - Adequacy and integration of specialist studies;
   - Consideration of recent strategic planning and policy documentation (e.g. reports forming part of the Wild Coast Conservation and Sustainable Development Project);
   - Consideration of construction-related impacts; and
   - Assessment of impacts in relation to the “do nothing” alternative.

b) Biophysical aspects
   - Adequacy of botanical survey;
   - Consideration of potential impacts on ecosystem processes (and, in particular, those linked to the Pondoland Centre of Endemism); and
   - Assessment of the ecological sustainability of the proposed project.

c) Socio-economic aspects
   - Consideration of mining and other regional planning/development initiatives;
   - Assessment of potential impacts of the proposed project on the small towns along the existing N2 between Mthatha and Port Shepstone and existing R61 between Lusikisiki and Port Edward;
   - Consideration of tolling and associated socio-economic impacts [it should be noted, however, that tolling aspects will be considered by the Minister of Transport in terms of the applicable legislation];
   - Consideration of macro-transportation issues and potential impacts of traffic diversion due to tolling;
   - Consideration of potential impacts on sites of spiritual and religious significance;
   - Consideration of rural livelihoods and the use of medicinal and other natural veld products; and
   - Assessment of the social and economic sustainability of the proposed project.

10.1.1.3 Current EIA process

The issues and concerns raised on the current EIA process, as set out in the BID, have been synthesised and classified into 20 categories. These categories are by no means definitive and exclusive and have been used for convenience only. The categories are as follows:

b) Role of SANRAL and N2 Wild Coast Consortium;
   c) Plan of Study for Scoping;
   d) Declaration to Toll process and assessment of tolling impacts in the EIA;
   e) Information in BID;
   f) EIA time-frames;
   g) Choice of main consultants;
   h) Independence of consultants;
   i) Public consultation process;
   j) EIA process;
   k) Use of information from the previous EIA;
   l) Assessment of alternatives;
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m) Provision of information in the EIA;

n) Project description;

o) Validity of information from the previous study;

p) EIA Regulations;

q) Motivation for the project;

r) Scope of issues to be assessed in the EIA;

s) Specialist consultants;

t) Validity of curtailed scoping process; and

u) Lack of SEA.

A detailed Comments and Responses Report on the BID is presented in Appendix 9.

10.1.1.4 Issues and concerns raised during comment period on the DSR

The issues and concerns raised during the comment period on the DSR have been synthesised and classified into 12 main categories. It should be noted that these categories are by no means definitive and exclusive and have been used for convenience only. The categories, with relevant sub-categories, are as follows:

a) EIA process and legal aspects – assessment of alternatives; assessment of alternative route alignments; assessment of cumulative impacts; assessment of alternative modes of transport; assessment of alternative methods of finance; assessment of alternative toll plaza positions; international conventions; flawed EIA process; legal issues; bias towards the Applicant; lack of information in the DSR; EMP; sustainable development; project description; presentation of inaccurate information in the DSR; lack of SEA and other strategic studies; insufficient assessment; specialist studies phase; application of precautionary principle; pre-application meeting; Plan of Study for Scoping; and EIA process.

b) Public consultation process – consultation process and procedures; independence of facilitators; other organisations/entities to be consulted; failure to take into consideration concerns of stakeholders; comment period; distribution of documents for review; use of media; consultation during specialist studies; database; mandate for project; further consultation; and correspondence with authorities.

c) Specialist studies – economic; aquatic; climate, soils, agriculture and land use; air pollution; heritage; tourism; traffic impact study; botanical; social; noise; opinion surveys; and planning and development.

d) Planning and policy issues – integration with other planning initiatives; link to mining and other developments; housing and other new developments; creation of the Wild Coast National Park; ribbon development; capacity of authorities; protected areas; impact on where people choose to live; barrier effect of proposed toll road; jurisdiction over national roads; impact on other proposed developments.

e) Motivation/Need for the proposed project – motivation for the project; and motivation for tolling the existing N2 on the KwaZulu-Natal South Coast.

f) Scope of work and construction issues – scope of project; intersections and interchanges; road widening, improved vertical and horizontal alignment; design standards; road maintenance; culverts, underpasses and overpasses; toll plazas; access to the toll road; footpaths; lay byes, public transport stops and rest areas; appropriate design for greenfields section; EMP; borrow pits
and quarries; spoil areas; bridges; resurfacing; secondary access roads; construction programme; road alignment; fencing; and drainage and stormwater management.

g) Road, traffic and transportation issues – traffic and transportation studies and data; traffic congestion; road safety and security issues; ring roads and by-passes; impact on the current N2 route; impact on public transport/taxi industry; status of the current N2 and R61 and the new N2; promotion of public transport; and damage caused by heavy vehicles.

h) Alternative routes – provision of alternative routes; impact of traffic diversion on alternative routes; and upgrading of alternative routes.

i) Tolling issues – rationale for tolling at a national level; fuel levy; excessive taxation; insufficient information on toll fees; SANRAL, the National Roads Act, the Unsolicited Proposal Process and the Intent-to-toll process; operation of toll road after 30 year concessionaire period; cross-subsidisation; location of toll plazas; environmental impacts associated with a toll plaza; number of toll plazas; impacts of toll plazas on emergency services; congestion caused by toll plazas; toll fees; use of toll fees; toll collection methods; discounts; tolling of an existing road; user pays principle; economic efficiency of tolling; opposed to tolling; tolling of alternative routes; and exit costs from toll concession.

j) Economic issues – road user costs and benefits; impact on communities of Pondoland; impact on towns and communities between Port St Johns and East London; affordability for the poor; impacts on by-passed towns; impacts of tolling N2 in KwaZulu-Natal; financial and economic viability of the project; cost of the project; impacts on business; impacts on commuters; impacts on other modes of freight transport; macro-economic impacts of the project; job creation and BEE; and impact on property prices.

k) Social issues – social benefits/impacts of the project; affordability for the poor; expropriation, compensation and relocation; and impact on traditional culture of the Amapondo.

l) Biophysical issues – effects on the Pondoland Centre of Endemism; coastal areas; integrated ecosystem approach; impact on indigenous forests; and effects on rivers, gorges, estuaries and wetlands; and fauna.

A detailed Comments and Responses Report on the DSR is presented in Volume 2, Appendix 14.

10.1.1.5 Key issues and concerns raised

This section highlights issues and concerns deemed to have significant implications for the Scoping Study and way forward in the EIA process. The following key issues and concerns have been identified during the Scoping Study:

- Legality and adequacy of the EIA process;
- Validity of the use of information from the previous EIA process;
- Adequacy of the consideration of alternatives;
- Adequacy of consideration of alternative alignments;
- Adequacy of the public consultation process;
- Adequacy of the motivation/need for the proposed project;
- Potential biophysical, social and economic impacts of the proposed project;
- General support for the proposed project in the Eastern Cape and general opposition to the proposed project in KwaZulu-Natal;
• Reliance on information provided by SANRAL;
• Cross-subsidisation; and
• Bypasses to Butterworth, Dutywa and Mthatha.

The main aspects (in italics) linked to each of the key issues and concerns are indicated and responses are provided by the EIA team and proponent, as appropriate. Issues pertaining to the EIA process, public consultation and specialist investigations are generally addressed by the EIA team while specific technical and legal matters are addressed by the proponent.

Issues and concerns relating to aspects such as the scope of work (e.g. location of interchanges, underpasses and overpasses), construction issues, location and number of toll plazas, planning and policy issues, traffic issues, etc., are not specifically addressed in this section but will be addressed in the EIA process, as appropriate (see responses in the Comments and Responses Report on the DSR - Volume 2, Appendix 14).

a) Legality and adequacy of the EIA process

A number of submissions rely extensively on the “Independent Review” of the previous EIA in questioning, for example, the legality of SANRAL lodging a new application for environmental authorisation, the Terms of Reference for the Study, the exclusion of the Intent to Toll process and the adequacy of the EIA process to date.

SANRAL has indicated that it is important to note that there are a number of errors in fact and law in the Independent Review (the Review). Further, SANRAL has been advised that the preparation of the Review was unfair and procedurally flawed in that recommendations were made without providing either SANRAL or the consultant to that process an opportunity to properly respond to the allegations and statements made in the Review. On this basis alone, it is considered that the Review does not provide a relevant or useful reference point for a critique of the new application currently before DEAT.

Section 22 read with Section 21 of the ECA requires that where the Minister identifies an activity which in his opinion may have a substantial detrimental effect on the environment no person “shall take” or “cause such an activity to be undertaken” unless that person has obtained written authorisation. Accordingly there is no doubt that unless SANRAL obtains written authorisation it may not “undertake” or “cause such an activity to be undertaken”. There is also no need or procedure for SANRAL to “prove” that it may bring the application.

It should be noted that Minister Van Schalkwyk’s decision (dated 9 December 2004) on the appeals against the previous environmental authorisation of the proposed project specifically states: “The Minister’s decision does not preclude a new application for environmental authorisation for the construction of the N2 Wild Coast toll road being submitted.”

The EIA team and SANRAL have been advised that “tolling” and the “structuring of toll fees” fall outside the ambit of the EIA Regulations and the jurisdiction of DEAT and the Appeal Authority. To deal with the levying of toll fees as part of the EIA would be ultra vires and unlawful as the procedure for the declaration of a toll road and the determination of toll fees are prescribed by the SANRAL and National Roads Act (the Act) and must take place in accordance therewith. The Act itself specifically requires a public participation process for the declaration of a toll road. To the extent that SANRAL fails to consider comments and representations made during the public participation process undertaken in terms of the Act, aggrieved parties are entitled to review the decision.
It is a fundamental principle that sustainable development requires consideration of the social, economic and environmental impacts of an activity. Indeed, it is a requirement of the Public Finance Management Act (PFMA) that all infrastructure projects must satisfy such requirements. It should be noted that the FSR includes consideration of the financial impact of tolling on various road user groups as one of the key potential issues to be investigated during the next phase of the EIA. The economic impact study will include, amongst others, an assessment of potential impacts on business, the potential impact on bypassed towns as well as an evaluation of the economic sustainability of the proposed project.

SANRAL has been advised that if the participation of an I&AP in the EIA process is aimed at nothing more than the avoidance of the payment of toll fees or the negotiation of lower toll fees in the pursuit of higher profits rather than submissions made in good faith and in the interests of promoting sustainable development, then it can be argued that the opposition to authorisation would be an abuse of the EIA process.

The correct and appropriate standards and procedure for the EIA application, as set out in the ECA and EIA Regulations (Government Notice R1183 of 5 September 1997) and other relevant legislation such as NEMA, as amended, have been followed in the EIA process to date. In this regard, it should be noted that the Terms of Reference for the Scoping Study have been duly included in the Plan of Study for Scoping submitted to the relevant environmental authorities and accepted by DEAT on 20 June 2005. The relevant legislation and applicable regulations prescribe the standards and procedure for the EIA application, rather than the Review of the previous EIA.

b) Validity of the use of information from the previous EIA process

Many I&APs expressed the view that data/information from the previous EIA cannot be used to “inform” the current process since the previous RoD was overturned through a lack of independence. It is thus argued that the process must be started afresh.

It should be noted that the Terms of Reference for the Scoping Study were derived from input and discussions with DEAT, as per Clause 5.1 of the Minister of Environmental Affairs and Tourism’s decision (of 9 December 2004) on the administrative appeals against the previous authorisation granted for the construction of the proposed project. It is considered prudent to use documentation received or compiled as part of the previous EIA process in order to identify and address relevant issues, concerns and alternatives. Failure to do so may very well result in a contention that relevant information was ignored. For example, there is no reason why an I&AP who participated in the previous EIA process should be prejudiced by having concerns which they expressed in that process discarded. In one of the submissions where the validity of the use of information from the previous EIA process is questioned, it is submitted that the comments on the DSR rely “substantively” on an appeal against the previous RoD. There is no reason why other I&APs who participated in the previous process should not have this same benefit. The distribution of the DSR for review and comment provided I&APs an opportunity to comment on the proposed project and scope of the EIA and to raise any new issues and concerns. This FSR includes all comments from the previous EIA process as well as those raised during the current Scoping Study.

The previous specialist reports are considered to reflect independent specialist studies suitable for use in the current EIA, except in two cases, namely the Eastern Cape planning/development study and the visual study. New, independent studies will be commissioned to address these aspects in light of the deemed lack of independence of the previous environmental consultant. General and specific Terms of Reference for new or updated specialist studies have been formulated in order to ensure that all relevant
issues and concerns, and identified shortcomings and/or gaps, are adequately addressed in the current EIA (refer to Chapter 9).

c) Adequacy of the consideration of alternatives

I&APs expressed the view that the Scoping Study is inadequate in its consideration of alternatives. It is argued that alternatives such as upgrading of existing routes, alternative modes of transport (e.g. rail) and alternatives methods of financing the proposed project (rather than tolling) should also be considered.

It is generally acknowledged that “fundamental” alternatives, such as the most appropriate choice for meeting a transportation need (e.g. road, rail or sea) should be addressed at the strategic planning or policy level, while the EIA process should address potential impacts of specific proposed activities (projects).

The standard interpretation of “alternatives” in relation to a proposed activity, means “different means of meeting the general purposes and requirements of the activity”. The “feasibility” or “reasonability” of an alternative must therefore be measured against the general purpose, requirements and need of the activity - this is undertaken in Chapter 5 of the FSR.

Although there may also be a need for local roads and better railways the main object of SANRAL, as prescribed by the SANRAL and National Roads Act, is the planning, design, construction, operation, management, control, maintenance and rehabilitation of national roads. It is misleading to suggest that the national road network need not be extended into a region because railway or local roads can provide a suitable alternative. All regions in South Africa are entitled to the benefit of a national road network and it is SANRAL’s obligation to ensure that the network is developed appropriately.

It is usually not possible to construct a highway of such magnitude without using toll financing. The National Treasury budgeting process has to cater for disparate needs of the society. Indeed, government policy is to prioritise social investment in education, health, housing, etc. and such large sums are required for the proposed toll highway are not readily available from Treasury. Because of this, Government policy and SANRAL legislation provides for alternative funding mechanisms, and where such is available and feasible such alternatives must be explored. According to SANRAL, the alternative funding strategy is toll road funding which has, over the years, proved to be very successful. Currently 2 500 km of South Africa’s roads are tolled.

d) Adequacy of the consideration of alternative alignments

A number of I&APs have expressed the opinion that criteria used to assess alternative alignments are dominated by economic considerations and that SANRAL has acted illegally in determining a “preferred” route based on “unbridled economic feasibility”.

SANRAL has indicated that the opinion is factually incorrect because the preference by SANRAL was not limited to only a consideration of financial and economic issues. It included a consideration of technical, environmental, social, financial and economic issues.

SANRAL has been advised that, in any event, the ECA and the EIA Regulations of 5 September 1997 do not prohibit an applicant from expressing a preference regarding the activity for which they seek authorisation. Nor do they, or any other legislation, specify what must inform the decision by an applicant in determining what it is that they intend to apply for authorisation of. What is required is that for
certain activities authorisation must be applied for before that activity may be undertaken. The ECA and its Regulations then ensure a process whereby alternatives to the activity preferred by the applicant must be properly considered, investigated and reported. This is ensured by the requirement that the applicant appoint an independent environmental consultant who must prepare the necessary reports concerning the potential impacts of the proposed activity and alternatives thereto. Chapter 5 of the FSR provides a comprehensive comparative analysis of the environmental (including social), technical, financial and economic implications of various alternative alignments and provides a rationale for proposing which ones are to be carried forward for further investigation and which ones should be discarded.

Ultimately, after submission of all the relevant environmental reports, the relevant environmental authority must determine whether to refuse or grant authorization for the proposed activity or any identified feasible alternative.

e) Adequacy of the public consultation process

Many submissions have been made questioning the adequacy of the public participation process – amongst others, it is alleged that not enough meetings were held, advertising and notification was inadequate and inappropriate, rural communities were excluded, businesses were not consulted, the DSR presentation was biased, the comment period on the DSR was inadequate, the DSR presentation focussed on the Eastern Cape and that the facilitators were not objective.

Appendix 10 of the DSR and FSR describe the very extensive public participation process that was undertaken. It is considered that the public participation process went well beyond the minimum requirements that are required. This is illustrated by the fact that, amongst others, the announcement of the availability of the DSR was placed in 17 national, regional and local newspapers, copies of the Executive Summary were made available in English, Afrikaans, isiXhosa and isiZulu upon request, pre-recorded radio announcements in isiXhosa and isiZulu were used to target people in the rural areas of the Eastern Cape and KwaZulu-Natal, 13 public meetings were scheduled at key urban centres and towns along the proposed and existing routes and 124 meetings in the form of authority meetings, focus groups, special interest group meetings and imbizos with rural communities were held. More than 5 000 people attended the meetings held. The DSR was made available for an eight-week comment period, despite guidelines recommending a six-week comment period. Although there was criticism of the presentation, particularly because it was deemed to focus on the Eastern Cape, every attempt was made to provide a balanced representation of the proposed project and its potential impacts along its entire route.

f) Adequacy of the motivation/need for the proposed project

Many I&APs have expressed the opinion that the rationale for the proposed activity in the DSR does not come close to substantiating the need for the project. In particular, it is indicated that the proposed road would not address the requirements for improved infrastructure in the region, which are perceived to be for upgraded and improved local road networks and possibly rail alternatives.

It is unclear what the basis is for the conclusion that a national road is not required or that infrastructure needs can be met by improving local roads “and possibly rail alternatives.” Regarding the view that the rationale for the proposed activity does not come close to substantiating the need for the project, this is contradicted in a submission where it is stated that “Much space is already devoted in the DSR (and public meetings to date) to describing supposed ‘benefits’ of the project.” It is these very “benefits” which provide the rationale for the project (refer to Section 3.3 of the FSR).
Ensuring the proper extension of the national road network need not be to the exclusion of other infrastructure development projects. Provincial Government and local authorities, for example, certainly have an obligation to ensure the upgrading of the existing local road network.

g) Potential biophysical, social and economic impacts of the proposed project

A number of I&APs raised issues and concerns relating to potential impacts of the proposed project on, amongst others, the rural poor, road user costs and benefits, public transport users, bypassed towns, businesses, communities, air quality, noise levels, historical heritage, tourism, property values, sense of place of the Wild Coast, traffic patterns and use of alternative routes, biodiversity of the Pondoland Centre of Endemism, forests and rivers, gorges and estuaries.

These issues and concerns have been duly considered in the FSR and incorporated in the Terms of Reference for Specialist Studies to be undertaken during the next phase of the EIA (see Chapters 8 and 9 of the FSR), as appropriate. The assessment of potential impacts and identification of practicable mitigation measures to minimize or eliminate potential negative impacts, enhance potential project benefits, or to protect public and individual rights to compensation, will form the basis for the evaluation of the ecological, social and economic sustainability of the proposed project and identified feasible alternatives.

h) General support for the proposed project in the Eastern Cape and general opposition to the proposed project in KwaZulu-Natal

Meetings and other interactions held with I&APs during the Scoping Study seem to indicate general support for the proposed project in the Eastern Cape portion of the proposed route, especially in the section between Mthatha and the Mthamvuna River, while I&APs in KwaZulu-Natal’s Upper South Coast have generally expressed strong objections to the proposed tolling of the existing N2.

The Scoping Study has indicated that I&APs in the Eastern Cape are generally aware of the potential negative impacts of the proposed toll highway, expressed in issues, concerns or questions raised relating to aspects such as relocation and compensation, severance of communities, reduced access to grazing land and number of proposed toll plazas. However, I&APs in the Eastern Cape, especially in the section between Mthatha and the Mthamvuna River, have also generally expressed support for the proposed toll highway, anticipating that it would also result in potential positive impacts such as reduction in unemployment and poverty levels, skills training and enhanced tourism to the region.

On the other hand, I&APs in KwaZulu-Natal’s Upper South Coast have generally expressed strong opposition to the proposed tolling of the existing N2. Main reasons cited include the following: the proposed project would not be in the public interest; tolling of an existing road would only lead to increased costs to commuters and businesses; the proposed Isipingo toll plaza would lead to increased congestion; and the diversion of traffic to alternative routes would result in unacceptable environmental, social and economic impacts.

i) Reliance on information provided by SANRAL

Certain I&APs expressed the opinion that the technical information forming the basis of the proposed project and Scoping Study cannot be deemed to be objective and unbiased as it was supplied by the project proponent, SANRAL.
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In order to address this perception, the EIA team deemed it appropriate to appoint an independent specialist roads engineer to review the technical veracity and accuracy of the information supplied by SANRAL in terms of its, and internationally accepted, design standards.

The independent technical review report (see Volume 2, Appendix 17) draws the following conclusions:

- “...satisfied that the correct methodologies and procedures were followed, and that the most suitable design standards have been adopted. However, he considers that bypasses should be planned for Butterworth, Dutywa, and Mthatha, and implemented sooner rather than later”;
- “While the measurement of existing AADT figures can be expected to be reasonably accurate, the prediction of accurate figures for generated and attracted traffic along a new route is notoriously difficult. However, the ITR is satisfied that, although the different methods used produced varying results, the Tolplan methodology and procedures adopted were acceptable, and the correct decision was made in the acceptance of their more conservative figures actually used in the financial and economic analyses”;
- “The ITR supports the assumptions and inputs that were used in the cost/benefit analysis, and, from a perusal of the analysis, he sees no reason to dispute its results and conclusion, which appear to support the proposed N2 Wild Coast Toll Highway”; and
- “This facility [“Quantm” suite of programmes] is clearly a fore-runner of a new generation of computer aids that has the potential to accelerate the investigation, and optimisation, of new “greenfields” routes. In this case, it has been useful in the investigation of possible alternative routes, and has helped to persuade the ITR that SANRAL’s preferred route is the most suitable.”

j) Cross-subsidisation

I&APs have expressed concern that the proposed project would impose cross-subsidisation on the residents and commuters in the KwaZulu-Natal portion of the proposed toll highway by requiring them to fund a road in the Eastern Cape which they would never use.

The perception that the South Coast of KwaZulu-Natal would fund the remainder of the proposed project is incorrect. The proposed toll highway provides for a total of 7 mainline toll plazas and 24 ramp toll plazas, including the existing Oribi mainline plaza. SANRAL has indicated that the spacing and positions of toll plazas have been chosen taking a number of considerations into account. These include:

- The actual physical limitations of where a toll plaza can be located such as sight distance, approach and departure grade, proximity to services, etc.
- Spacing to provide for equitable toll tariffs for the majority of users in that specific toll section. For instance one cannot levy a toll tariff at the proposed Isipingo toll plaza (urban or commuter trip) to cater for a trip all the way to Margate, a “rural trip”. Hence rural toll plazas are usually between 80 to 100 km apart and urban toll plazas less than 20 km apart (5 to 15 km). This provides a mechanism whereby equitable toll tariffs, commensurate with the trip length, can be set with the “open toll system” common to South Africa. Closed toll systems are expensive to implement and operate and are therefore not very common throughout the world. Electronic toll collection (ETC) may change this in the future.
- Toll tariffs are based on the relative benefit that a user would theoretically experience when a section of toll road is used. This benefit is derived from the difference between road user costs incurred before (“do nothing”) and after implementation of the toll road. The price elasticity of toll tariffs is very carefully modelled, as they are sensitive to variation as all commodities (not utilities) are where the
user has a choice. Most utilities (such as water and electricity) are fixed at prices that are sometimes exorbitant because they usually are monopolies and the prices tend to be fairly inelastic.

- The toll revenue generated at a specific toll plaza may be perceived to “subsidize” other sections of a toll road because the relative quantum of the particular revenue for the specific plaza could be disproportionate to actual “toll length” of that particular toll section. This is not the case because the actual capital and operational expenditure on the toll highway over its lifespan tend to equalise over all its sections, i.e. where there are higher traffic volumes and theoretically higher revenue, increased capital and operational expenditure over time will also be experienced.

k) Bypasses to Butterworth, Dutywa and Mthatha

A number of I&APs and key stakeholders such as local municipalities have expressed concern that the proposed project does not make provision for bypasses to the above towns during the initial construction phase. The independent technical reviewer also expressed the opinion that such bypasses appear to be required in the initial construction phase.

SANRAL has indicated that the initial conceptual design of the proposed project took place between 2001 and 2003. At that stage the bypasses were workshopped with the relevant municipalities and other stakeholders. Compromise decisions were reached regarding Butterworth and Dutywa where the existing through roads would be retained and preliminary interim designs were produced and approved by the parties. The temporary solutions made provision for safety and access improvements while providing improved traffic flow through the towns. These interim solutions appear not to be feasible anymore as developments and traffic growth have rendered them either impossible to implement or of little value if they are. In the case of Mthatha, a preliminary design of the bypass was completed to preserve the land. SANRAL and National policy requires national road bypasses to all towns and this policy is being implemented over time. SANRAL has indicated it is now considering implementation of the bypasses as soon as possible. As mentioned in Section 4.3, the proposed bypasses to Butterworth, Dutywa and Mthatha would be subject to a separate environmental authorisation process.

10.1.2 ALTERNATIVES

The Scoping Study includes consideration of the “do nothing” alternative, alternative route alignments and alternative positions of toll plazas and indicates which would be carried forward for further investigation in the Impact Assessment phase of the EIA.

10.1.2.1 Alternative alignments considered initially

Specialist botanical, social and economic input was obtained in order to provide key information for a comparative analysis of alternative alignments considered in the initial phase of the Scoping Study (prior to distribution of the DSR for review and comment), as follows:

- Upgrade the existing N2 between Mthatha and Port Shepstone;
- Upgrade the existing R61 between Mthatha and Port Shepstone; and
- Alternative greenfields alignments between Lusikisiki and the Mthamvuna River.

The following conclusions are drawn in terms of upgrading the existing N2 or R61 in relation to the “do nothing” alternative:

- Upgrading the existing R61 would result in similar environmental risks as compared to upgrading the existing N2. However, it would result in higher risks to social functions/processes, more capital and
operational costs and lower road user cost savings and total financial and economic benefits. These are primarily due to it being approximately 19 km longer and of poorer vertical and horizontal alignment than the existing N2. Road users would thus prefer to use the existing N2 between Mthatha and Port Shepstone, rather than an upgraded R61. The costs associated with upgrading the existing R61 would thus not be justifiable. In light of these considerations, it is proposed that upgrading the existing R61 is not carried forward for further investigation in the Impact Assessment phase of the EIA; and

- Upgrading the existing N2 would result in lower risks to sensitive ecosystems and in lower capital and operational costs as compared to the proposed toll highway. However, upgrading the existing N2 would result in higher risks to social functions/processes and substantially (i.e. orders of magnitude) lower road user cost savings and total financial (and economic) benefits (linked to it being approximately 75 km longer and of poorer alignment than the proposed toll highway). Its vertical alignment would be less energy/fuel efficient compared to the proposed toll highway as substantially more ascents and descents would be encountered. Moreover, upgrading the existing N2 between Mthatha and Port Shepstone would result in no change to the current poor access to the Wild Coast area. This would be so since a relatively small portion of the required travelling would be undertaken on the upgraded road relative to the required travelling on district and local roads. In light of these considerations, it is proposed that upgrading the existing N2 between Mthatha and Port Shepstone is not carried forward for further investigation in the Impact Assessment phase of the EIA.

Four alternative greenfields alignments between Lusikisiki and the Mthamvuna River were considered, namely:

- SANRAL’s preferred alignment;
- The Inland Mzamba route;
- The coastal route; and
- The SDI route.

The following conclusions are drawn in terms of the alternative greenfields alignments between Lusikisiki and the Mthamvuna River:

- The SDI and Coastal routes would result in similar environmental, technical, financial and economic costs and would be substantially less expensive than the other greenfields alignments. However, the SDI and Coastal routes would have major disadvantages, as follows:

  - Both would traverse the Mkambati Nature Reserve and would result in high risks to the ecological integrity of the statutorily proclaimed reserve;
  - The SDI route would impact directly on the habitat of a known vulture colony at the Msikaba River; and
  - The Coastal route would have poor linkages with the existing local road network and existing communities, i.e. it would be remote from the geographical centres of communities situated between the river gorges. The SDI route would be more favourable than the Coastal route in this regard, but is considered less favourable than SANRAL’s preferred route and the Inland Mzamba route.

- SANRAL’s preferred route and the Inland Mzamba route would pose similar, but lower, risks to sensitive ecosystems as compared to the SDI and Coastal routes since the former would affect lower proportions of habitats with high sensitivity. However, the Inland Mzamba route would result in higher risks to social functions/processes and higher bridge construction costs and road user costs. It is thus considered that the Inland Mzamba route would provide no advantage over SANRAL’s preferred
route and would thus not be carried forward for further investigation in the Impact Assessment phase of the EIA.

An additional greenfields route, which would be situated north-west of the Msikaba Sandstone Formation and would thus avoid the Pondoland Centre of Endemism, has also been considered for comparison with the other alternative greenfields alignments. This alignment was derived from the “Quantm Pathfinder” corridor route selection computer programme, an “artificial intelligence” software package that can theoretically determine the most cost-effective corridor for a route based on pre-determined exclusion zones, costs and design criteria. This programme determined a minimum of 50 possible alignments and the cheapest and most logical alignment was chosen to be included in this analysis. The findings are discussed below:

- The route is considered of low to medium risk to ecologically sensitive habitats and is thus considered the most favourable of the greenfields alignments in terms of potential loss of sensitive ecosystems. It would, however, affect the highest number of homesteads and businesses, and is considered to pose medium to high risks to cultural and social functions/processes. This route would be substantially more expensive than the other alignments (Total Costs of R 5.73 billion); it would cost almost twice as much as SANRAL’s preferred route (R 3.09 billion) and would be about 10 km longer. The route would need the construction of three long bridges (with spans totalling 4.8 km) and a tunnel 3.1 km in length. Also, its vertical alignment would be less energy/fuel efficient compared to the other greenfields routes as substantially more ascents and descents would be encountered, resulting in much lower road user benefits. This route is thus not considered financially and economically viable.

10.1.2.2 Additional alternative routes considered after distribution of the DSR

Subsequent to the distribution of the DSR for review and comment, I&APs proposed a number of additional route alignments for further consideration. Alignments which seemed feasible in terms of meeting the key objectives of the proposed project (improved road access and linkage to the region while reducing road user costs and optimising safety and socio-economic benefits) have subsequently been analysed for comparison with either the proposed N2 Wild Coast Toll Highway between Mthatha and Port Shepstone or SANRAL’s preferred route between Lusikisiki and the Mthamvuna River. Specialist botanical, social and financial and economic input was obtained to inform the comparative analysis of the additional alternative alignments. These routes were inspected during a site visit undertaken between 15 and 19 October 2006.

The following additional alternative routes are considered:

- Gallagher route between Mthatha and Port Shepstone;
- WESSA (Dr Keith Cooper) route between Lusikisiki and the Mthamvuna River; and
- Coastal Mzamba route between Lusikisiki and the Mthamvuna River.

The following conclusions are drawn in terms of the Gallagher route:

The Gallagher route would result in lower risks to the receiving ecological environment than the proposed N2 Wild Coast Toll Highway between Mthatha and Port Shepstone. However, this route would result in no change to the current poor access to/from the Wild Coast area and would result in higher risks to social functions/processes since a larger number of settlements would be affected. The total construction and operational costs would be considerably higher than the SANRAL proposed route while it would offer no distance advantage. In addition, large sections of the route would follow the existing R61 (118 km) and the existing N2 (43 km) and, thus, inherently poorer alignments. Moreover, the route would
result in a negative financial NPV of approximately -R 5.475 billion and thus a Benefit:Cost ratio of less than 1. It would therefore not be financially (or economically) beneficial to society to construct the proposed Mark Gallagher route. In light of these considerations, it is proposed that the Gallagher route between Mthatha and Port Shepstone is not carried forward for further investigation in the Impact Assessment phase of the EIA.

The following conclusions are drawn in terms of the WESSA and Coastal Mzamba routes between Lusikisiki and the Mthamvuna River:

- The WESSA route would result in lowest risk to the receiving ecological environment compared to the Coastal Mzamba and SANRAL preferred routes between Lusikisiki and the Mthamvuna River. However, it would affect the highest number of structures in its 80 m road reserve and would be the longest in distance and thus travel time. Also, it would be least favourable in terms of integration with the existing road network and provision of access to communities in the Wild Coast area. Moreover, its total costs would be approximately twice as much as the other two routes.

- The Coastal Mzamba and SANRAL preferred routes would result in similar technical and financial implications. The Coastal Mzamba route would, however, be less socially intrusive than the SANRAL preferred route since it would affect a lower number of social structures and would result in lower intensity impacts in terms of loss of community access onto/across existing roads and community fragmentation. Moreover, the Coastal Mzamba route would avoid much of the area between the Mthentu and Mthamvuna rivers which would form part of the Wild Coast/Pondoland National Park planning domain.

In light of these considerations, it is proposed that the Coastal Mzamba route is carried forward for further investigation in the Impact Assessment phase of the EIA and that the WESSA route is discarded.

10.1.2.3 Overall summary

In summary, the following alternatives are considered “feasible” and are proposed to be carried forward for assessment in the Impact Assessment phase of the EIA:

- The “do nothing” alternative;
- SANRAL’s preferred alignment between Lusikisiki and the Mthamvuna River;
- Site-specific alternative route alignments in the greenfields sections of the proposed project, i.e. in the sections between Ndwalane and Ntafufu and between Lusikisiki and the Mthamvuna River, as follows:  
  - for the proposed alignment between Ndwalane and the Mzimvubu River;
  - for the proposed alignment in the vicinity of Ntafufu village and the Ntafufu River;
  - for the proposed alignment of the approach to the Msikaba bridge crossing site;
  - for the proposed alignment across the Mthentu River; and
  - for the proposed alignment across the Mnyameni River.
- The Coastal Mzamba route between Lusikisiki and the Mthamvuna River; and
- Alternative mainline toll plaza positions to SANRAL’s preferred Ndwalane and Mthentu mainline toll plazas.
10.1.3 PROPOSED SPECIALIST STUDIES

The previous specialist reports are considered to reflect independent specialist studies suitable for use in the current EIA, except in two cases, namely the specialist Eastern Cape planning/development study and the visual study. New, independent studies will be commissioned to address these aspects in light of the deemed lack of independence of the previous environmental consultant.

General and specific Terms of Reference for updated or new specialist studies have been formulated in order to ensure that all relevant issues and concerns are adequately addressed in the current EIA. In particular, the specialist studies are required to:

- Review previous independent specialist reports, where applicable, in order to determine the continued relevance thereof;
- Update existing information, where applicable, in light of any relevant new information and current project details; and
- Ensure that all relevant issues/potential impacts and key shortcomings and/or gaps are adequately addressed.

The following specialist studies would be undertaken:

- Vegetation and flora;
- Fauna;
- Aquatic ecosystems;
- Soils, land use and agriculture;
- Social;
- Tourism;
- Cultural and historical heritage;
- Noise;
- Air quality;
- Visual;
- Traffic;
- Planning/development; and
- Economic.

Specialists would be required to assess and rate potential impacts in terms of a rigorous assessment methodology. This would include consideration of uncertainty and potential cumulative effects. Specialists would also be required to consider recommended mitigation measures in light of their likely effectiveness and practicability.

The specialists will be required to attend an initial workshop to facilitate integration between the various specialist studies. In parallel with the specialist studies, various meetings with key interest groups and/or communities will be held to further discuss and understand the potential impacts relating to the proposed project and identified feasible alternatives.

Prior to completion of the specialist reports, the findings will be presented to the project technical team in order to provide a clear picture of where any likely problems exist and to enable the technical team to identify attainable alternatives (e.g. design or alignment changes).

Independent specialists in the various specialist study fields will review the adequacy of the specialist reports before they are finalised and integrated into the next phase of the EIA.
10.2 WAY FORWARD

The FSR will be submitted to DEAT (the lead environmental authority) and the Eastern Cape and KwaZulu-Natal environmental authorities for consideration. It is anticipated that the provincial environmental authorities would provide comment to DEAT on the adequacy of the Scoping Study and FSR and the way forward on the EIA process. DEAT’s decision on the Scoping Study and FSR will be communicated to all identified I&APs.

The anticipated way forward on the EIA process, as noted above and presented in Section 2.6, would involve specialist investigations of the identified potential impacts associated with the proposed project and identified feasible alternatives. The specialist study findings would then be integrated and evaluated in a Draft EIR which would be distributed for public and authority review. As in the case of the DSR, a number of public interactions would be held during the comments period on the Draft EIR. Thereafter the report would be updated to a Final EIR to be submitted to the relevant environmental authorities for consideration and decision-making.

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