



ALL RISE

Attorneys for climate and environmental justice

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Ms Caroline Munyai
Tshifcor Investment & Resources (Pty) Ltd
By Email: caroline@tshifcor.co.za

28 February 2025

Dear Ms Munyai,

RE: JINDAL IRON ORE (PTY) LTD (“JINDAL”) – MELMOTH IRON ORE PROJECT (“MIOP”), KZN30/5/1/2/2/10130 MR: COMMENTS ON SCOPING AND THE DRAFT SCOPING REPORT (DECEMBER 2024)

1. All Rise represents the following clients:
 - 1.1. South Durban Community Environmental Alliance (“SDCEA”);
 - 1.2. the Nkwaleni Water User Association (“NWUA”);
 - 1.3. the Nkwalini and Surrounds Supporting Sustainable Rural Development community organisation (“NSSSRD”); and the
 - 1.4. Felixton Canegrowers Association.
2. We hereby submit comment on the Scoping process and draft Scoping Report of December 2024 (“DSR”) prepared by Tshifcor Investment and Resources (Pty) Ltd (“TCIR”) for Jindal’s application for environmental authorisation and waste management licence (“application”) for its MIOP.
3. We submit that the DSR and Scoping process is flawed to the extent that it cannot be accepted by the Department of Mineral Resources and Energy (“DMRE”), this despite DMRE having directed Jindal in early November 2024 to redo the public participation process and submit the final Scoping Report by 3 March 2025 in response to the complaint lodged by All Rise on 7 October 2024. (see All Rise’s complaint of 7 October 2024 and DMRE’s response dated 13 November 2024 attached as **Annexures “A” and “B”**).

4. In support of this submission, we rely upon various correspondence between All Rise and TCIR. This correspondence is not annexed hereto as it is assumed that it is contained in the public participation record of the Final Scoping Report which TCIR is required to prepare.
5. It should be noted that the ability of I&APs to submit informed comment as part of Scoping is severely prejudiced by the lack of project information and deficiencies of the DSR and public participation process. This has affected I&APs' right to raise issues and impacts for investigation and assessment in the next Environmental Impact Reporting (EIR) phase that ultimately informs decision-making.
6. We hereby submit our comment with reasons, under the following headings:
 - 6.1. Inadequate public participation
 - 6.1.1. Failure to identify and notify all I&APs;
 - 6.1.2. Failure to provide meaningful, effective and equitable opportunity for I&AP participation;
 - 6.1.3. Failure to disclose all material information;
 - 6.1.4. Misleading and inconsistent information in the DSR;
 - 6.2. Flawed draft Scoping Report;
 - 6.3. Inadequate plan of study for EIA;
 - 6.4. Comments on the EAP's responses on 30 January 2025 to All Rise's comments of 19 August 2024.
 - 6.5. Request for material information; and
 - 6.6. Unsustainable development.

7. Inadequate public participation

- 7.1. There are a number of material flaws in the public participation process that constitute unfair procedure. These are described under the following four categories:
 - 7.1.1. the failure to identify and notify all I&APs, including landowners and lawful occupiers of the site and adjacent to the site;
 - 7.1.2. the failure to provide meaningful, effective and equitable opportunity for I&APs to participate in Scoping, especially vulnerable and disadvantaged members of the community;
 - 7.1.3. the failure to disclose all material information in the DSR; and

7.1.4. cumulative consequences of the above inadequacies of the public participation process.

7.2. The reasons for these statements are set out below.

Failure to identify and notify all I&APs

7.3. The DMRE issued a directive to Jindal in early November 2024 to redo its public participation for Scoping in response to the complaint lodged on 7 October 2024 (**Annexure “A”**).

7.4. Despite Jindal being directed to specifically notify all I&APs registered in the previous application, this has not happened. A number of our clients' members and their family members registered in their personal capacity in the previous application and still do not receive communications from the EAP in the current application process.

7.5. The EAP previously stated that she had used the previous SLR database to notify I&APs only to later admit that she did not have that database and could not give a reason why (see All Rise correspondence of 22 July and 15 August 2024 and TCIR's responses of 7 and 16 August 2024). Thus, a simple statement from the EAP that notification of registered I&APs has been done will not suffice. We thus call on TCIR to provide evidence that all registered I&APs registered in the previous application have been notified of Jindal's application Scoping process and opportunity to participate and comment on the draft Scoping Report.

7.6. The EAP has also failed to comply with the EIA Regulations, 2014 (Chapter 6, Regulation 41(2)(b)) which requires notification of all landowners and lawful occupiers of the site and of land adjacent to the site.

7.7. Further, TCIR confirmed at the public meeting on 26 February 2025 that the 100 families who have been identified for relocation (as they fall within the 500m blasting zone) have not been notified. The stated intention to notify them at some later stage in the EIA process is unacceptable. These are most likely the among the most vulnerable and most affected parties and yet their participation has knowingly been excluded.

7.8. The EAP has also not identified and notified I&APs in the larger area that will be impacted by the MIOP which extends well beyond the mining right area in terms of pollution (air and water) as well as the catchment management area of Mhlathuze and any other catchment that may be affected.

7.9. Participation of I&APs in Scoping at the beginning of the application is fundamental to a procedurally fair EIA process. There can be no defendable reason as to why Jindal and its

consultants (past and present) have still not managed in the fourteen year period since it lodged its first mining right application in 2011 to identify and notify these affected parties, especially as this issue about the lack of notification has been repeatedly raised by I&APs in the previous and current application, and was one of DMRE's main issues in its directive of November 2024 (**Annexure "B"**).

- 7.10. The consequence of Jindal and TCIR not having met even the minimum requirements prescribed by Regulation 41 of the EIA Regulations, 2014 of notifying in writing all landowners and lawful occupiers within and adjacent to site is that these affected parties have been denied their right to participate from early on in the EIA process and denied the opportunity to comment on the draft Scoping Report.
- 7.11. For this reason alone, the Scoping Report should not be accepted and the application for environmental authorisation and waste management licence should be refused. Jindal has had more than sufficient opportunity to get the process right and it would appear that it has no intention of conducting a compliant and procedurally fair process even when directed to by the competent authority.

Failure to provide meaningful, effective and equitable opportunity for I&AP participation

- 7.12. Part of the DMRE's aforementioned directive to Jindal was to provide the draft Scoping Report in isiZulu. This it did. However, this alone does not satisfy the requirement to provide adequate opportunity to all I&APs to comment on the draft report, especially those disadvantaged as a result of language and illiteracy, lack of access to technology, financial constraints and lack of knowledge on EIAs and the technical components of a large iron ore mine and processing plant.
- 7.13. When the first draft Scoping Report in the current application was put out for comment in July 2024, All Rise requested public meetings on the DSR which the EAP agreed to hold in Eshowe and Melmoth. These meetings did not materialize despite repeated assurances that Jindal viewed these meetings as important and despite several follow up requests by All Rise (see All Rise correspondence of 15, 19, 21, 27 August and 2 September 2024 and TCIR's responses of 16, 21, 23 and 27 August 2024).
- 7.14. When the DSR was made available a second time on 29 January 2025 in response to DMRE's directive, All Rise again immediately requested public meetings and sent follow up emails when nothing had been arranged (see All Rise email correspondence of 29 January, 3, 18 and 20 February 2025 and TCIR's responses of 30 January, 7 and 20 February 2025). Eventually TCIR scheduled a public meeting in Eshowe only, for 26 February 2025, 28 days into the comment period and two days before the deadline for comment on 28 February

2025. The majority of the I&APs that did receive notice of this meeting (many did not) were given only four days' notice despite All Rise repeatedly asking for at least two weeks' notice and the EAP initially agreeing to this.

- 7.15. Due to the lack of project information in both the DSRs, a request was made to TCIR to present this information at the meeting on 26 February 2025 (see All Rise's correspondence of 25 February 2025). Despite TCIR acknowledging receipt of this request, the presentation given at the meeting was severely lacking in content. The infrastructure and layout maps presented were not clear as they were very small in scale and the infrastructure was for the most part, was not pointed out. Although translation was given in isiZulu, it was not accurate, as the translator left out key aspects of I&AP comments and questions and added her own opinions to the responses given by TCIR.
- 7.16. Safety and lack of inclusivity were also an issue. Many of our clients' members who reside in the affected community did not attend out of safety concerns. Their fears were valid given the hostile comments made by the majority of I&APs who made comments at the meeting directed towards individuals and NGOs. There were also conversations that were overheard that were threatening.
- 7.17. The meeting was also held in the town of Eshowe, far from the actual proposed project site. It was also clear that many of the people who attended were community leaders and businessmen who arrived in expensive vehicles with Melmoth registration plates. Notably absent were people from the affected villages and farmworkers who will be directly affected by losing their jobs and livelihoods and place of residence were present. The meeting was also dominated by male voices and not one woman from the community spoke.
- 7.18. In absence of any minutes of meetings, and silence in the draft Scoping Report about holding meetings as part of Scoping (see section 3.8.2.4 of the DSR), it appears that the meeting on the 26 February 2025 was only meeting had on the DSR, and only because of All Rise's insistence. Even then, the opportunity was limited due to its extremely short notice, inadequate content, geographic location, associated transport costs, and safety issues.
- 7.19. Meetings are important especially where people do not have the level of education and literacy to be able to read and understand complex technical reports on projects that will directly affect them. Thus, making the report available on TCIR's website and placing a few hard copies at very few venues in some of the villages and providing copies to some I&APs on request late in the process, and holding one meeting far from the project site at very short notice, is completely inadequate to ensure meaningful, effective and equitable public participation.

- 7.20. The public participation process has also been impeded by the high level of conflict in the area as a result of the MIOP having been proposed and Jindal's focus and interactions with certain community leaders and businessmen in the region who fully support the MIOP.
- 7.21. We have called on the EAP (past and present) on numerous occasions to address the conflict as is required in terms of the Public Participation Guidelines, 2017 but have repeatedly been ignored (see All Rise correspondence of 31 July and 11 September 2023; 22 July, 19 August and 13 September 2024; 26 February 2025).
- 7.22. We have also called on Jindal to halt the EIA process and appoint an expert mediator to address the conflict, but Jindal has refused by simply saying it is not feasible. It has also refused All Rise's solution to apply to the DMRE for an extension under Regulation 3(7) which would allow Jindal to keep its application open, suspend the EIA process and address the conflict.
- 7.23. In light of this ongoing conflict, public participation can never be a free, inclusive process and the vulnerable and disadvantaged members of the community are prevented from voicing their comments, especially where these comments relate to the adverse impacts of the MIOP which are undeniably significant, and in many instances, unavoidable.

Failure to disclose all material information

- 7.24. Jindal and the EAP have not disclosed all material information during Scoping or in the DSR despite being requested on numerous occasions by I&APs. The EAP has also not included in the December 2024 DSR, the issues and impacts raised by I&APs in the previous application or the Scoping undertaken in July and August 2024. The lack of information limits I&APs' ability to fully understand and comment on the project. The information that is lacking includes the following:
 - 7.24.1. There has been no engagement of specialists in the current application to provide a comprehensive and accurate description of the baseline environment and socio-economic conditions, of not only the MIOP site but also the adjacent and downstream areas that will be impacted. The reliance of specialist reports in the previous application is not supported given the significant and numerous gaps identified by I&APs and the DMRE, as well as the new layout of infrastructure and inclusion of the tailings dams in the current application. Failure to adequately describe the receiving environment in the Scoping phase prevents I&APs, the EAP and specialists from properly understanding the full range of issues and potential impacts that need to be investigated and assessed in the next EIR phase.
 - 7.24.2. There is inadequate information on the communities that will be affected – the

names of the villages are not even named in the DSR and nowhere is the number of people to be relocated mentioned. There is also no map at a suitable scale showing the affected households nor is there a description of other key structures, sites, grazing areas, fields and places of worship.

- 7.24.3. There is no description of the agricultural activities and economy in the Nkwalini Valley and surrounding areas.
- 7.24.4. There is insufficient technical information about the MIOP. The list of information requested under paragraph 12 below illustrates the material information that has not been disclosed or adequately disclosed in Scoping.
- 7.24.5. A proper description of the alternatives discarded prior to Scoping has not been provided, nor has a full set of reasons been given for discarding them.
- 7.24.6. A full and objective set of potential positive and negative impacts has not been provided by the EAP, including all the issues and impacts raised by I&APs and independent specialists in the previous application, and in the July/August 2024 Scoping process, most of which remain relevant to the current application.

Cumulative consequences of the above inadequacies of the public participation process

- 7.25. The failure to adequately identify and notify all I&APs, provide adequate and meaningful opportunity to comment and the failure to disclose all material information at Scoping renders the opportunity provided to participate inadequate, ineffective, inequitable, unreasonable and unmeaningful. This unfair procedure constitutes a reason on its own for the DMRE to reject the application.

8. Flawed draft Scoping Report

- 8.1. The DSR does not comply with the minimum reporting requirements prescribed in the EIA Regulations, including Appendix 2 for the reasons set out below.
 - 8.1.1. The DSR fails to disclose all material information as listed above under paragraph 7.24, read with paragraph 12.
 - 8.1.2. Some of the statements in the DSR such as rating the conservation importance of the indigenous vegetation on site as low (pages ii and 61), no impacts on wetland systems (pages ii and 62) the impact of traffic as being low significance (page iii, 90, 91), low agricultural sensitivity (page 52), low visual impacts (page 76), moderate to low long-term ecological impact (page 122), and low impact on air quality (page 122)

are completely baseless as there are no specialist studies provided to back these statements up, and no impact assessment is provided in the DSR.

- 8.1.3. The DSR is not objective in that it downplays the irreversible and significantly high adverse impacts that the MIOP will have and focuses on the positive impacts of job creation and economic development. These adverse impacts that are ignored or downplayed include the effect on water supply and quality, biodiversity, the existing livelihoods, food security, employment, the formal and informal economies, arable soils, climate change adaptation and resilience, and community structures and culture.
- 8.1.4. There is a lack of identification and assessment of cumulative impacts and latent or residual risks.
- 8.1.5. Potential alternatives are not properly described or assessed and have been discarded outside of the EIA process without providing sufficient reason or disclosing the reports that support such decisions.
- 8.1.6. The alternatives presented do not address the findings of the DMRE in its record of decision for the previous application nor are all feasible and reasonable alternatives identified. Alternatives raised by I&APs are also not included.
- 8.1.7. The description of the “No-Project” option is biased and thus flawed.
- 8.1.8. Table 6-1 that ranks the alternatives is flawed, unsubstantiated and does not meet the reporting requirements of Appendix 2 of the EIA Regulations.
- 8.1.9. Site alternatives for each of the MIOP components should have been properly identified described and assessed, with the findings presented for public comment as part of Scoping. The motivation for not including certain alternatives cannot simply be that feasibility studies were undertaken. The findings of these studies need to be fully disclosed.
- 8.1.10. Recommendations made on costs alone are not consistent with NEMA, the EIA Regulations and the S4J Guidelines that require the pursuit of the best practicable environmental option.
- 8.1.11. The section on Policy and Legislative Context is severely lacking. Not only does it leave out key pieces of national legislation and provisions pertaining to climate change, greenhouse gas emissions, noise, blasting, waste management, financial provisioning, emergencies, and biodiversity but there is no mention of provincial and

municipal legislation, plans and policies. Key national plans and policies are also not mentioned.

- 8.1.12. The Need and Desirability section is biased and omits to reflect on society's perspective and the anticipated adverse impacts. It is also severely lacking because it fails to fully apply the Section 24J Need and Desirability Guidelines. It is extremely selective in what it extracts from the municipal plans.
- 8.1.13. The plan of Study for EIA is inadequate for the reasons given under paragraph 9.

9. Plan of study for EIA

9.1. We do not accept the plan of study for EIA because:

- 9.1.1. It does not include all 18 specialist studies that are listed in the Screening Report. Instead, the EAP proposes to commission eight specialist studies only and does not provide proper motivation as to why each of the other ten studies have been excluded.
- 9.1.2. It does not include any other specialist studies necessary to fully investigate and assess the issues and impacts raised by I&APs, including those raised in the previous application and associated EIA process.
- 9.1.3. The terms of reference for the specialist studies that have been proposed do not meet the prescribed protocols for the respective themes where necessary nor do they provide for investigation and assessment of all potential issues and impacts raised to date.
- 9.1.4. The current list of specialist studies and their respective terms of reference do not adequately address the flaws identified by the DMRE in its record of decision of 29 January 2024 for rejecting the previous application.
- 9.1.5. The proposed methodology is too focused on desk top studies and limited interviews.
- 9.1.6. The proposed impact assessment methodology is mathematically flawed. Further, the source of authority provided is an outdated guideline pertaining to the 1997 EIA Regulations and thus, obsolete.
- 9.1.7. The plan of study does not provide for adequate public participation on the draft EIA report, EMPR and specialist studies.
- 9.1.8. A comment period of the minimum 30 days for a large complex project such as the

MIOP which will require a highly complex and voluminous EIA report, EMPr and specialist studies is insufficient. A comment period of at least 60 days is required.

9.1.9. There is no provision for the EAP and specialists to consult with I&APs in person and in their home language to verify the specialist findings and reach agreement on the avoidance, mitigation, rehabilitation objectives, and offset measures.

9.1.10. There is no provision for peer review of specialist reports and the EIA report by independent experts due to the complexity and need for objectivity in the EIA process, especially given the obvious bias in the DSR and lack of faith in TCIR as expressed by numerous I&APs.

9.2. In light of these deficiencies in the plan of study for undertaking the EIA, we require that the plan includes:

9.2.1. all the specialist studies that are required in terms of the Screening Report.

9.2.2. all additional specialist studies necessary to properly investigate and assess the full range issues and impacts raised by I&APs, including those raised in the previous application and associated EIA process.

9.2.3. amended terms of reference for the already proposed specialist studies that to meet the prescribed protocols for the respective themes where necessary; address all potential issues and impacts raised to date; assess the full extent of the MIOP including alternatives; and fully address the flaws identified by the DMRE in its record of decision of 29 January 2024 as reason for rejecting the previous application.

9.2.4. the specialist studies, especially the agriculture study, the social and socio-economic impact assessment, the health assessment, cultural heritage assessment and the hydrological study need to include extensive interviews with farmers associations, forestry companies and small growers, secondary agro-industry such as Felixton Mills and other sugar and paper mills, and food processing plants, water user associations, emergency services, and local community famers, traditional healers, churches, schools, clinics and community groups. These studies can only be sufficiently robust if local and traditional knowledge is actively sought through extensive engagement with these affected parties.

9.2.5. all the specialist studies need to identify options to avoid impacts, and where this is not altogether possible, to mitigate and remedy impacts. The studies must also identify any latent or residual impacts and provide recommendations on how these must be managed.

- 9.2.6. all specialist studies need to consider cumulative impacts, including the cumulative impact of the full extent and duration of Jindal's future mining (best and worst case scenario) of the minerals within its proposed mining area as well as other developments in the region, including those that affect the shared catchments.
- 9.2.7. a more robust and scientifically acceptable impact assessment methodology must be adopted.
- 9.2.8. adequate public participation opportunities for I&APs that include sufficient local and online meetings that consider geographic location, safety, cost, gender, language and literacy.
- 9.2.9. a comment period of at least 60 days is required for the draft EIA Report, EMPR and specialist reports.
- 9.2.10. direct interaction with specialists to assist with I&AP understanding of technical reports.
- 9.2.11. adequate provision for the EAP and specialists to consult with I&APs in person and in their home language to verify the specialist findings and reach agreement on the avoidance, mitigation, rehabilitation and financial provision, and offset measures.
- 9.2.12. peer review of specialist reports by independent experts due to the complexity and need for objectivity in the EIA process.

10. Issues and impacts to be assessed in detail by specialists in the next EIA phase

- 10.1. It is clear from our submissions above that the DMRE should not accept the Scoping Report, firstly because of the inadequate public participation process, and secondly, because of the deficient Scoping Report which cannot be remedied outside of a public process by the DMRE simply placing certain conditions on the acceptance of the Scoping Report. This would amount to unfair procedure.
- 10.2. However, should DMRE accept the Scoping Report and the EIA proceeds to the EIR phase, the following issues and impacts need to be investigated and assessed by the relevant specialists.
 - 10.2.1. The Mhlathuze catchment is overallocated, and there is no prospect of supply for the MIOP without severely impacting current water users. The impact on other water uses in the catchment (right up to Richards Bay and estuary) needs to be fully investigated.
 - 10.2.2. Any other alternative water sources or catchments need to be fully disclosed, and their

impacts need to be fully identified and assessed.

- 10.2.3. A water balance is required for the MIOP and far more information on the water demand must be provided, as well as sources of water supply.
- 10.2.4. Water pollution in the catchment and how this will affect potable water supply, irrigation and other water users.
- 10.2.5. The impacts of water pollution and reduced supply on aquatic biodiversity, including impacts on the fish stock and fishing.
- 10.2.6. The impacts on the Mhlathuze estuary and any other estuaries that may be affected.
- 10.2.7. The impacts on groundwater are also of concern both in terms of water pollution and resource depletion.
- 10.2.8. The MIOP will introduce pollution into a receiving environment that is relatively free of chemicals, waste and emissions. The concerns that must be investigated and addressed specifically related to dust (including PM10 and PM2.5), noise, chemicals used for mining and processing, slurry, spills of pollution control dams, chemical and hydrocarbon spoils, and acid mine drainage.
- 10.2.9. Vast areas of agricultural land (commercial, small-scale and subsistence farming) will be destroyed, impacting on food security, jobs, livelihoods and the local and regional economies (formal and informal).
- 10.2.10. The Felixton mill is highly dependent on cane supply that is inextricably linked to the water provided by the Umhlatuze as well as itself being reliant on it. The impact on viability of farms supplying the mill not only result in farms going out of business, but also the mill itself resulting in significant loss of jobs and negatively impact the local and regional economy. There will also be cumulative impacts as the closure of Felixton Mill will impact farms that are not directly reliant on the Umhlatuze.
- 10.2.11. Many of the members of Felixton Canegrowers Association also have other crops where the produce and/or end user is significantly more sensitive to contaminants which may not be picked up in sugar cane but will be in the alternative crops results in costly, potentially catastrophic, rejection of produce.
- 10.2.12. Degradation of soils through pollution and erosion.
- 10.2.13. Pollution of drinking water for people and animals.

- 10.2.14. Vast areas of ecological importance and several protected and red data species and protected species (plants, invertebrates and vertebrates – terrestrial and aquatic) will be destroyed affecting biodiversity and conservation targets and efforts, as well as those people who are highly dependent on natural resources (including medicinal plants, food, grazing, building materials and fuel).
- 10.2.15. Aspects integral to the mining and processing operations need to be properly assessed including the tailings storage facility, transport and utility infrastructure.
- 10.2.16. Traffic impacts and road safety, including pedestrians and livestock.
- 10.2.17. Loss of jobs and livelihoods in the agricultural, forestry and tourism sectors (informal and formal) and the secondary local and regional economic impacts this will have on local towns and other businesses (formal and informal).
- 10.2.18. The planned and potential development options to local residents and the region and the impact of the MIOP on foreclosing or limiting these options.
- 10.2.19. The contribution of the MIOP directly and indirectly to greenhouse gas emissions (Scope 1, 2 and 3).
- 10.2.20. The impact of the MIOP on people's resilience to climate change in the region and ability to adapt.
- 10.2.21. The pressure of the MIOP on existing services, including emergency services.
- 10.2.22. The socio-economic impacts and psychological trauma caused to community residents who will need to relocate their homes and graves and lose their livelihoods, social networks and safety nets.
- 10.2.23. The socio-economic impacts and psychological trauma caused to private landowners, tenants and farm workers who will need to relocate and lose their homes, businesses and jobs.
- 10.2.24. The relocation of graves and loss of other heritage resources including site and landscapes.
- 10.2.25. The impact on cultural and spiritual practices as a result of relocation from ancestral land, loss of sacred places and places of worship.
- 10.2.26. The loss of livestock as a result of loss of grazing, lack of water resources as well as safety concerns for livestock falling into pits, pollution control dams etc.

- 10.2.27. The impacts on local residents who will not have to relocate but will be living next to a noisy, dusty, polluting mine, including processing plant and tailings dams.
- 10.2.28. The impacts of blasting and vibrations not only on the structural integrity of people's homes, schools and other buildings but also on their well-being. The impact of blasting especially on school children and the psychological trauma they will suffer as a result. The impact of blasting on animals (domestic and wild) which are more sensitive to sound and vibrations than humans.
- 10.2.29. The health impacts on the affected communities as a result of the MIOP.
- 10.2.30. Additional costs to local residents who will have to travel longer distances to schools, clinics and work as a result of the MIOP.
- 10.2.31. The loss of jobs of farm workers as a result of the MIOP (directly due to farms being bought by the mine as well as neighboring farms which will be impacted by noise, dust and pollution making it impossible for them to farm and live).
- 10.2.32. How many jobs will be available to affected local residents (community members and farm workers who will lose their jobs as a result of the MIOP)? For this, a detailed breakdown should be provided as to the number, type and duration of jobs that will be created by the MIOP at the different phases, what skills will be required per job type, and which of these, and how many, will be available to current local residents (not employees who come from elsewhere, move into the area and become local residents).
- 10.2.33. Increased demand on a constrained service delivery system.
- 10.2.34. The MIOP will drastically alter the social fabric and characteristics of the area. There will be increased crime and influx of people looking for employment.
- 10.2.35. The divisions and conflict in the community as a result of the MIOP resulting in violence (including assassinations of people opposing the project), escalated by the EIA process.
- 10.2.36. The significant safety risk to people residing in areas adjacent to the MIOP, especially low lying areas next to a large open pit as well as waste discard dumps and other stockpiles.
- 10.2.37. The significant safety risk to people and the environment as a result of the tailings dam should it malfunction or worse, burst.
- 10.2.38. What emergency plans will be in place and what emergency services are available or

needed.

- 10.2.39. The closure vision, and rehabilitation and closure objectives.
- 10.2.40. The alternatives in the previous application should be included in the current EIA process, together with the preferred layouts of the current application. The full set of tailing dam options that have been looked at by Jindal need to be properly assessed in the EIA process before they are discarded.
- 10.2.41. Site, technology and other alternatives for each of the MIOP components needs to be properly described and assessed, with the findings presented for public comment. The motivation for not including certain alternatives cannot simply be that feasibility studies were undertaken. The findings of these studies need to be fully disclosed.
- 10.2.42. The option of designing a smaller mining operation and small processing plant and therefore, smaller tailings dams should be considered as an alternative. Just because the mineral exists, doesn't mean it has to be completely mined out.
- 10.2.43. Proper consideration needs to be given to cumulative impacts, including the cumulative impact of the full extent and duration of Jindal's future mining of the minerals within its proposed mining area (best and worst case scenario) as well as other developments and initiatives in the region, including those that affect the shared catchments, availability of land for agriculture and forestry.
- 10.2.44. Proper consideration needs to be given to latent or residual impacts and how these will be managed.
- 10.2.45. There needs to be an objective summary assessing the sustainability of the MIOP considering the full set of anticipated negative impacts and the ability to avoid them, or if this is not altogether possible, the ability to mitigate and remedy the negative impacts.

11. Comments on EAP's response of 30 January 2025 to All Rise's comments of 19 August 2024

- 11.1. The EAP has incorrectly cited the law in terms of our submissions about the premature submission of the application. The National Appeal Regulations (specifically Regulation 4(1)(a)) states that I&APs have 20 days from when the I&APs are notified of the competent authority's decision. Thus, we stand by our comment made on 19 August 2024 that the current application for environmental authorisation was submitted prematurely. I&APs were only notified on 9 February 2024 of the DMRE's decision of 29 January 2025, thus, any submission prior to 1 March 2024 was unlawful.

11.2. For the rest of All Rise's comments, TCIR relies upon various approvals, meetings and reports to substantiate its statements with providing any evidence. We thus request that this evidence as listed under paragraph 12.1 below, before we accept the EAP's responses at face value, especially given the EAP's track record to date.

12. Request for material information

12.1. We request the following **documents referred to in TCIR's response of 30 January 2025:**

- 12.1.1. DMRE's written approval/s of extensions referred to at the top of page 2 under Section 3.
- 12.1.2. A list of state organs consulted referred to on page 3 under Section 4.
- 12.1.3. Minutes of the "*numerous meetings conducted with various community members including traditional authorities conducted during the consultation process*" and "*private landowners*" referred to on page 3 under Section 4.
- 12.1.4. Minutes of the "*several engagements with private landowners identified through the consultation process*" referred to on page 3 under Section 4.
- 12.1.5. Evidence that the "*Majority of the previous registered IAPs have been registered in the current process*" referred to on page 4 under Section 4.
- 12.1.6. Copies of the newspaper advertisements placed in July 2024 referred to on page 4 under Section 4.
- 12.1.7. Minutes of the "*several public engagements*" referred to on pages 5 and 7 under Section 4.
- 12.1.8. Minutes of meeting that "*created a breakthrough*" referred to on page 5 and 7 under Section 4.
- 12.1.9. Minutes of meetings held "*at the community halls and in the project area*" referred to on page 6 under Section 4.
- 12.1.10. Details of the "*different teams dealing with stakeholder engagement*" referred to on page 6 under Section 4.
- 12.1.11. Specialist report that identified that "*there are no wetland systems identified*" in

relation to the proposed mine infrastructure referred to on page 8 under Section 5.

12.1.12. Minutes of the community meeting of 12 January 2025 referred to on page 7 under Section 4.

12.1.13. Detailed feasibility reports used to determine the “*best option for the project*” referred to on page 12 under Section 6.

12.2. We request the following **documents referred to in the DSR**:

12.2.1. “*The Prefeasibility (PFS) and detail Feasibility (DFS) studies undertaken by Jindal Iron Ore (Pty) Ltd [that do not] support an underground mine development at MIOP.* (Section 3.8.1.2, page 27).

12.2.2. The Gap Analysis (Section 6.0, 5th bullet, page 123).

12.2.3. The monitoring, data collection and fieldwork done to determine the baseline conditions (Section 6.0, first bullet, page 123 of the DSR).

12.2.4. Fieldwork by the EIA specialist team to obtain additional baseline data (Section 6.1, 3rd bullet, page 124 of the DSR).

12.2.5. Records of workshops with the specialist team to identify key impacts and issues to outline the plan of study (Section 6.1, 4th bullet, page 124 of the DSR).

12.2.6. The TSF Site Selection Study was undertaken in 2014/2015 by tailings specialists to ascertain where possible suitable sites would be for the TSF (Section 2.2.1, page 6 of Agricultural Agro-Ecosystem Study, Appendix F of the DSR).

12.2.7. The 2022 screening report of three possible TFS sites conducted by SLR (Section 2.2.1, page 6 of Agricultural Agro-Ecosystem Study, Appendix F of the DSR).

12.3. Due to the lack of material information provided during Scoping and in the DSR, **we also request the following information**:

12.3.1. A full description of the MIOP and maps at a larger scale that provide the boundaries and full set of dimensions of mining right area applied for, pits, discard dumps, processing plant and tailings dams and all other associated infrastructure, including pipes, roads, power lines, pollution control, stormwater control, as well as timeframes and duration for the different phases.

12.3.2. A detailed description of mining methods that will be used to extract the ore and other minerals and the waste discard dumps, topsoil stockpiles etc.

- 12.3.3. A detailed description of the processing plant including the inputs and outputs of materials, chemicals, energy, waste, emissions etc.
- 12.3.4. A description of the tailings dam set up, including size, process and safety risks.
- 12.3.5. The volume of water that will be required for the each of the different mining and processing operations, the total volume of water required annually as well as its source/s.
- 12.3.6. The amount of electricity that will be required to run the mining and processing operations and from where will this power be sourced.
- 12.3.7. The different markets for the iron ore once produced.
- 12.3.8. A detailed breakdown of the number, type and duration of jobs that will be created by the MIOP at the different phases, what skills will be required per job type, and which of these, and how many, will be available to current local residents.
- 12.3.9. The number of homesteads and the names of the schools, clinics, and churches that will need to be relocated for the South East Pit and associated infrastructure including processing plant, pipelines, and tailing dams. Outside of the traditional authority area, the number of people, including farm workers who will also need to be relocated, must be included.
- 12.3.10. The location and size of the other pits anticipated for the rest of the mining area (North and rest of South Block), their anticipated scheduling and estimated duration.
- 12.3.11. Jindal's most recent mining work programme.
- 12.3.12. The other sites investigated for the location of the tailing dams and the positive and negative aspects of each option as per the findings of the feasibility studies.
- 12.3.13. The current status of the Social and Labour Plan and the consultation undertaken to date.
- 12.3.14. The status of the other licence applications, including water use licence and planning approval.
- 12.3.15. The extent of the project/study area i.e. the area/s and sectors which will potentially be impacted environmentally, socio-economically and culturally by the MIOP.

- 12.3.16. A detailed description of the alternatives that have been investigated and assessed and more substantial motivation for not taking certain alternatives forward.
- 12.3.17. Opportunities that have been provided for I&APs to participate in Scoping and comment on the draft Scoping Report, including a list of all meetings held to date.
- 12.3.18. Efforts made to address the conflict in the community and ensure consensus.
- 12.3.19. A full summary of issues and impacts identified in the previous application and where these have been included in the Scoping Report (specific sections and page numbers to be provided) and how they will be addressed in the next EIR phase.
- 12.3.20. A full summary of issues and impacts identified during Scoping in the current application and where these have been included in the Scoping Report (specific sections and page numbers to be provided) and how they will be addressed in the next EIR phase.

- 12.4. Without this information, neither our clients nor other I&APs are able to fully participate in Scoping. Further, DMRE will not be sufficiently informed to accept the Scoping Report.

13. Unsustainable development

- 13.1. Notwithstanding the limited information that has been placed before I&APs in the previous application and the current application, it is obvious to see that the MIOP in its present form can never be viewed as sustainable development for the following reasons:
 - 13.1.1. The MIOP will result in unacceptable pollution and ecological degradation and damage, especially considering the full extent of the MIOP (i.e. 26 000 ha mining right area) of which only 1 590 ha is currently being assessed as part of the current EIA.
 - 13.1.2. It is virtually impossible to avoid or even mitigate and remedy the many significant adverse impacts on the environment, socio-economic conditions and cultural heritage, resulting in significant latent and residual impacts in perpetuity.
 - 13.1.3. The true cost of effectively mitigating and remedying the adverse impacts to avoid latent or residual impact will render the project financially unfeasible.
 - 13.1.4. More jobs will be lost than will be created.

- 13.1.5. The people bearing the costs will not be the same people who benefit from the project.
- 13.1.6. The MIOP will result in the inequitable access to environmental resources (especially water, soil, vegetation), benefits and services preventing basic human needs from being met.
- 13.1.7. The MIOP's estimated water demand of 1,500 cubic meters per hour is unsustainable in an already water-scarce region and regardless of the feeder catchment/s, such extraction rates cannot be met without dire consequences for local communities, agriculture, forestry, industry and the ecological reserve.
- 13.1.8. The external costs to the environment ultimately borne by society will result in environmental injustice. The adverse environmental impacts will be distributed in a manner that unfairly discriminates against large sectors of society, particularly persons who are vulnerable and disadvantaged.
- 13.1.9. Jindal has not proven that it has the ability to implement mitigation measures and to comply with any conditions of authorisation. It has not fully rehabilitated and addressed the environmental damage caused by its prospecting activities. There is ongoing erosion caused by its initial cutlines and drilling platforms. Jindal previously committed to make every effort to fix and prevent further soil and slope degradation but has made no effort to rectify the issue. As such, we question its integrity and ability to implement mitigation measures.

14. Conclusion

- 14.1. For all the reasons set out above, the draft Scoping Report is flawed to the extent that any acceptance of the final report without further consultation, will be procedurally unfair. These flaws cannot be corrected without starting the Scoping process afresh.
- 14.2. In total, Jindal through its various EAPs, has conducted Scoping four times since 2011. Not only do these repeated deficiencies waste I&APs' time and effort, and cause psychological stress and uncertainty for many, but they also prolong and heighten the conflict and the physical threats that many community members are under.
- 14.3. We thus call on the DMRE to reject the application for environmental authorisation and waste management licence, having already recently provided the applicant and EAP with a second opportunity to conduct a compliant Scoping process in the current application

process and address all the issues raised in All Rise's complaint of 7 October 2024. This it has not done.

- 14.4. We further call on the DMRE to direct Jindal to address the conflict in the community before continuing with any EIA activities.
- 14.5. We also call on the competent authority and Jindal to accept people's right to say no to the MIOP and the EAP to objectively record all I&APs objections in its reporting.
- 14.6. Should Jindal and TCIR proceed to submit a final Scoping Report to the DMPR despite the aforementioned defects, we hereby reserve our right to comment on the Final Scoping Report and public participation process directly to the DMPR.
- 14.7. Kindly confirm that TCIR will provide all I&APs with a copy of the final Scoping Report, inclusive of all appendices within 7 calendar days of submitting it to the DMRE, together with a list of sections that TCIR has amended or added.

Yours sincerely,

Janice Tooley

(Sent by email and therefore not signed)