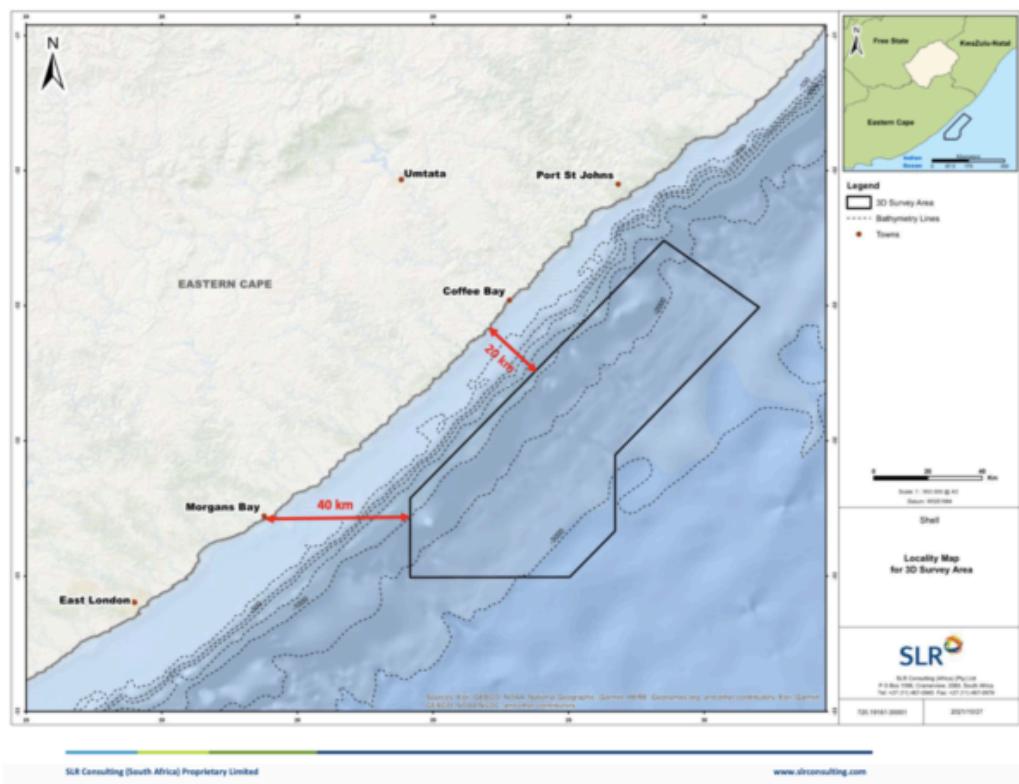




The image on the left is of the Wild Coast from an article by Claire Martens on the Natural Justice website. The image on the right is of the Wild Coast from the Sustaining the Wild Coast NPC website.

Shell v Sustaining the Wild Coast & others, Eastern Cape



The above map is of the area in which Shell has applied to do seismic testing along the Wild Coast. The map was created by SLR Consulting (Pty) Ltd.

2021 Review Application against Shell for Seismic Testing along the Wild Coast of South Africa

Applicants:

- Sustaining the Wild Coast NPC
- Wild Coast communities
- Wild Coast small-scale fishers
- All Rise Attorneys for Climate and Environmental Justice

Represented by:

- The Legal Resources Centre
- Richard Spoor Attorneys

Other Applicants:

- Natural Justice
- Greenpeace Africa

Represented by:

- Cullinan and Associates

We, along with the other applicants, sought to review the decision by the Department of Mineral Resources and Energy (DMRE) to grant an exploration right to Shell and Impact Africa, allowing them to conduct seismic surveys off the Wild Coast of South Africa, in pursuit of oil and gas. This case was first heard in the Makhanda High Court. We argued that the right should not have been granted on various grounds:

- The exploration right was granted unlawfully since there was no consultation with affected communities, and the companies' consultations with traditional leaders were insufficient.
- In awarding the exploration right, the decision-makers failed to consider the potential harm to the fishers' livelihoods, the impact on their cultural and spiritual rights and the contribution of oil and gas exploitation to climate change.
- In awarding the exploration right, the decision-makers failed to consider the Integrated Coastal Management Act and its requirement to consider the interests of the entire community, including fishers and ocean life.

The court, in September 2022, found in favour of the applicants (us) on all grounds of review. It was ruled that Shell's exploration right to conduct seismic surveys on the Wild Coast of South Africa was granted unlawfully and therefore set it aside.

This decision was challenged by Shell in the Supreme Court of Appeal (SCA), and judgment was handed down on 3 June 2024.

The SCA upheld the decision that Shell's exploration right to conduct seismic surveys off the Wild Coast was granted unlawfully.

However, the SCA also held that it would be “just and equitable” to allow the Minister of Mineral Resources and Energy to decide on Shell’s third application to renew the exploration right. In other words, despite the High Court ruling that the exploration right was granted unlawfully, Shell would still be able to appeal to the Minister to get this exploration right renewed.

The applicants applied to the Constitutional Court to appeal against this order by the SCA. This application was accepted by the Constitutional Court. Heads of argument have been submitted, and the date of the hearing is set down for the 16th and 17th of September 2025.

The argument before the Constitutional Court:

- The SCA’s order is constitutionally impermissible and should be set aside.
- The SCA’s order does not effectively protect the rights of communities and other parties to fair administrative action.
- The order was not clear on what the Minister and Shell must do to remedy the defects of the earlier processes if the third application for renewal is granted. This means that the case will inevitably end up in court for clarity on the order.

For more details visit:

<https://naturaljustice.org/wild-coast-communities-environmental-justice-organisations-appeal-shell-judgment-at-the-constitutional-court/>

Updated 17/6/2025