

PROPOSED POSITION: LEAD ENVIRONMENTAL LEGAL SPECIALIST

Company:	Nicholas Smith & Assoc
Name:	Nicholas Smith
Nationality:	South African
Profession	Attorney
Position	Director
Date of Birth	07.08.1967
Specialisation	Environmental and administrative law
Start date with NS & A	1 March 2005 (date of establishment of the firm)
Experience:	12 years

Qualifications:

- Bachelor of Arts: University of Cape Town, 1990
- Bachelor of Arts (Hons): University of Natal, 1991
- Bachelor of Laws: University of Cape Town, 1993
- Advanced Diploma in labour law: RAU, 1996
- Master of laws: University of Cape Town, 2001
- Admitted attorney of the High Court of South Africa (1996)

Membership of Professional Institutions:

- Member of the Law Society of the Cape of Good Hope

Mr Nicholas Smith holds a Masters degree in environmental law. Nicholas also holds the BA (University of Cape Town or UCT), BA (Hons) (University of Natal) and LLB (UCT) degrees, as well as an Advanced Diploma in labour law (from the Rand Afrikaans University). He also completed in 2001, a two-year (part-time) Master of Laws in environmental law and policy at the University of Cape Town. The *capita selecta* that he completed are in marine resources law, coastal zone law, South African environmental law, and international environmental law. His dissertation considered and analysed critically, the regulation of estuarine ecosystems in South African law.

Nicholas was admitted as an attorney in the Transvaal Provincial Division in February 1996 and in the Cape of Good Hope Provincial Division in March 1996.

Nicholas is an experienced environmental lawyer who has been practising exclusively in this field for the past nine years. He co-founded Winstanley and Smith Attorneys in 1998 and thereafter, Winstanley Smith and Cullinan Inc (in 2001) and assisted in establishing *EnAct* International's Cape Town office, in 1998. He is the principal and founder of Nicholas Smith and Associates, which commenced business on 1 March 2005. His associates in the firm are Sibonelo Ndlovu and Richard Summers. They are assisted by Janse Rabie. All four lawyers in the firm are the holders of Masters degrees in environmental law.

Relevant project experience:

A sample of work experience (with the emphasis on the larger projects undertaken) during the last decade includes:

- Assisting with the preparation of a baseline review of all existing national legislation governing pollution control and waste management in Namibia. The baseline review was prepared with the aim of drafting new integrated legislation to regulate pollution control and waste management in Namibia. This project was undertaken in conjunction with staff from the London office of *EnAct* International Limited ("*EnAct*").
- Undertaking an environmental due diligence for a major parastatal in the energy provision business in South Africa, with discrete facilities in the Western Cape and Mpumalanga provinces, focusing on discrete aspects and impacts of those operations. The due diligence involved *in loco* inspections at four sites, extensive interviews with personnel at those sites, and the drafting and settling of a comprehensive review of all existing South African environmental law pertinent to those operations and in particular, their regulation of the aspects and impacts there.
- Undertaking a substantive due diligence and co-authoring detailed reports regarding the proposed disposal of state-owned assets used for energy generation in the Islamic Republic of Mauritania (a World Bank-funded project undertaken with CSIR as lead consultant).
- Assisting a variety of corporate clients in Southern Africa with ISO 14 001 certification. Legal registers have been prepared for clients in South Africa, Swaziland and Namibia, and we have undertaken work foundational to the preparation of an environmental management system, for a corporate client in Zambia.
- Preparing an environmental legal review of applicable natural resource management and forestry legislation for a major forestry company and pulp producer in Bhunya, Swaziland. One element of the review exercise was an analysis of a range of new environmental legislation which has been prepared for Swaziland, by *EnAct*, and on contract with the British Department for Foreign Development. One of these laws (the waste regulations) has already been gazetted and there are a number of others that will have profound implications for industry in Swaziland if published in their present form.
- Assisting in an environmental due diligence on the operations of a division of a major South African synthetic fuel producer. Our firm was approached by the lead due diligence team (Arthur Andersen) to conduct this portion of the due diligence (as well as the occupational health and safety component).

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- Undertaking various large-scale due diligence exercises for a variety of corporate clients, including a number of South Africa's leading commercial law firms which instructed us to undertake all of the environmental aspects of the due diligence. Ordinarily, the exercise would include land-use and planning issues, emissions to different media and the legal regulation of those emissions, an analysis of all contractual arrangements of the company under review to assess its likely environmental risk and the potential for liability, rights to use natural resources during the industrial process, and issues of public liability. The companies that we have analysed include synthetic fuel producers, chemical companies, forestry companies, paper producers, producers of seed, and producers of a variety of industrial and domestic products.
- Involved in assisting a major local fishing company to understand and implement an environmental management system to ISO 14000 specifications. I have undertaken the legal component of a number of environmental reviews that have as their aim the production and adoption of an environmental management system. In some cases we have produced an electronic version of our report and/or the database (most notably for a marine diamond mining company) in order for it to be capable of easy updating. In the case of the Namco database we entered into a joint venture with Jutastat, the electronic publishing company and produced the database on CD-Rom;
- Working on a six month multi-disciplinary project in the Maloti-Drakensberg mountains which related to the most appropriate manner in which to preserve the high altitude biodiversity found in that area. This project was funded by the World Bank and administered by the Global Environment Facility.
- Preparing a review of existing and future laws and policies at national, provincial and local authority level for a trust that is undertaking the provision of water supplies and sanitation services to disadvantaged rural communities in five different provinces;
- Briefed by the CSIR to prepare a review of relevant Zambian environmental legislation to assist a client with its plans for a major investment in that country;
- Instructed by the Robben Island Museum to conduct a legal and administrative review of existing controls that govern activities with environmental implications on the island. This project contained specific components related to the marine environment;
- Drafting a legal review for Marine and Coastal Management (in the national Department of Environmental Affairs and Tourism) on the domestic legal regime regulating estuaries. I presented my paper at a national workshop on estuarine management held in Port Elizabeth in May 2000.
- Assisting *EnAct* with the preparation for enactment into law of the principles contained in the *White Paper on Sustainable Coastal Development in South Africa* (as a national statute, the (draft) National Coastal Management Bill).
- Drafting the legal component for the nomination for World Heritage Site status, of the Cape Floral Kingdom.
- Providing environmental legal advice to Eskom and its joint venture partner in a significant project related to the provision of energy in the Eastern Cape.
- Drafting opinions, reports and baseline reviews for a range of commercial clients dealing with different issues in environmental law, including atmospheric emissions, waste management, the entitlement to access to information, rehabilitation obligations in South Africa and the like.
- Providing strategic environmental legal advice on the new EIA Regulations promulgated under the national Environmental Management Act to a range of clients including provincial environmental departments and other organs of state like municipalities, environmental consultancies, corporate clients and individuals.
- Litigating in various divisions of the South African High Court on a range of opposed applications (including interdict applications and review proceedings) for a variety of clients including the City of Cape Town, the Petroleum Gas and Oil Corporation of South Africa (Pty) Ltd, individual clients and NGOs like WESSA and the Endangered Wildlife Trust.

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Date: _____