



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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PER EMAIL / MAIL

Dear Mr Mbatha

APPROVAL OF MAINTENANCE MANAGEMENT PLAN FOR THE PORT OF PORT ELIZABETH WHICH INCLUDE MAINTENANCE OF STRUCTURES, INFRASTRUCTURE, SERVICES AND EQUIPMENT WITHIN THE EASTERN CAPE PROVINCE

The Maintenance Environmental Management Plan dated 8 February 2017 and received by the Department on 22 February 2017 refers.

Based on the information provided, the proposed development constitute the following listed activity as defined in terms of the NEMA EIA Regulations, 2014.

GN R. 983 Activity 19

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-

- (i) a watercourse;
- (ii) the seashore; or
- (iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water-mark of the sea or an estuary, whichever distance is the greater.

but **excluding** where such infilling, depositing, dredging, excavation, removal or moving-

- a) will occur behind a development setback;
- b) **is for maintenance purposes undertaken in accordance with a maintenance management plan; or**

In terms of the NEMA EIA Regulations 2014, GN. R. 983, GN. R. 984 and GN. R. 985, this Department hereby **approves** the Maintenance Management Plan submitted for the proposed maintenance of structures, infrastructure, services and equipment within the Eastern Cape Province.

M.S

With regards to this Maintenance Management Plan, please note the following:


- The Maintenance Management Plan is agreed to in terms of the NEMA EIA Regulations 2014 and only relates to the listed activity mentioned above and to the determination of whether or not environmental authorisation in terms of the NEMA is required before undertaking the listed activity.
- The fact that the Maintenance Management Plan is agreed to by the competent authority does not absolve you from your general “**duty of care**” set out in Section 28(1) of the NEMA which states that “*Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.*” (Note: When interpreting their “duty of care” responsibility, cognisance must be taken of the principles of sustainability as contained in Section 2 of the NEMA).

The proposed activity will be undertaken in accordance with the agreed Maintenance Management Plan, therefore an environmental authorisation is not required in terms of NEMA EIA Regulations, 2014.

According to the regulations, “**Maintenance**” is defined as “actions performed to keep a structure or system functioning or in service. It does not include an increase in footprint or throughput capacity. It includes reconstruction, if on the same location, capacity and footprint.”

It is however, reiterated that the Maintenance Management Plan only relates to the listed activity mentioned above. If any of the other listed activities are triggered, an environmental authorisation will have to be obtained in terms of the NEMA EIA Regulations, 2014. It remains the responsibility of the proponent to determine if listed activities are triggered and to ensure that the necessary environmental authorisation is obtained from the competent authority.

Yours faithfully



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs

Date: 09/05/2017