



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA 0001· Environment House 473 Steve Biko Road, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/2/275/AM2

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Mr. Johnny Mokheseng
Transnet National Ports Authority
P.O. Box 38163
Mahatma Gandhi Road
DURBAN
4069

Telephone Number: (031) 361 1637
Email Address: Johnny.Mokheseng@transnet.net

PER EMAIL / MAIL

Dear Mr Mokheseng

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 21 JANUARY 2015 FOR THE PROPOSED DEEPENING, LENGTHENING, AND WIDENING OF BERTHS 203 TO 205 AT PIER 2 CONTAINER TERMINAL, PORT OF DURBAN, KWAZULU NATAL.

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 21 January 2015, the appeal decision issued by the Honourable Minister on the 09 September 2015, the amendment to the EA dated 20 September 2017, your application for amendment of the EA received by the Department on 7 October 2020 and the acknowledgement letter dated 14 October 2020, refer.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014 as amended, has decided to amend the EA dated 21 January 2015 as amended, as follows:

Amendment 1: Amendment to the project description of the EA:

The holder of the EA, as contained on page 2 of the EA amendment (14/12/16/3/3/2/275/AM1) stated as:

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Transnet Capital Projects
PO Box 38163, Point
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4069

Tel: (031) 361 1786
Cell: (082) 786 2496
Email: Mahomed.Vahed@transnet.net

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Is hereby amended to:

Mr Johnny Mokheseng
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P.O. Box 38163, Mahatma Gandhi Road
DURBAN
4069

Tel: (031) 361 1637
Cell: (083) 708 9191
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Reason for amendment:

Further developments took place at Transnet in 2020 and Transnet Group Capital was dissolved. Mr. Johnny Mokheseng has assumed the role of Project Director at Transnet National Ports Authority (TNPA) and will now take over the responsibility of the EA.

Amendment 2: Amendment to the project description of the EA:

The holder wishes to amend the project description of the EA. Therefore, the project description of the EA will now include **dredging along the northern portion of Lot 10 and the use of the Long Reach Excavator (LRE)**. Additional points to note are:

- The holder proposes the use of additional dredging equipment along the quay wall of Berths 203 to 205 and dredging at Lot 10 using LRE.
- Neither the dredging activity proposed at Lot 10 nor the use of a LRE within the project, triggers a new listed activity in terms of the EIA Regulations 2014, as amended. The proposed activity is within the existing Port and will not result in an increase of the development footprint of the Port or harbour. As such activities 15, 17, 19 and 19A of LN1 will not be triggered.
- The approved EA and EMPr mention the use of Trailer suction hopper dredger (TSHD) and Cutter suction dredger (CSD) for dredging at Berths 203-205 and TNPA will still use these types of equipment, however, TNPA proposes the additional use of the LRE along the quay wall of Berth 203 to 205 due to safety reasons. The proposed dredging equipment to be used at Lot 10 is LRE only.

Reason for amendment:

Since the original EA approval in 2015, it became apparent that while the landside construction of the caissons was assessed, lowering the caissons into the water by way of a synchro-lift, and their transportation to the construction site inherently required that the channel to the caisson construction site, and the area around the synchro-lift to be deepened too (i.e. at Lot 10 and at Berth 203-205). The approved EIA Report (14/12/16/3/3/2/275), although investigated the impacts of the proposed development, did not consider the impacts of dredging at the caisson construction site. The use of long-reach excavators as part of dredging was also not assessed or included in the EA. The applicant has stated that without deepening the basin along the northern portion of Lot 10, it is anticipated that the project execution may extend by months or years, as caissons might only be movable during high tide. There is a risk of collapse of the Quay Walls should the suction dredger be used. As such, the authorisation holder proposes the use of additional dredging equipment along the quay wall of Berths 203 to 205 and dredging at Lot 10 using LRE.

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The addition of dredging at Lot 10 using LRE will require review of the approved Central Sandbank Mitigation Strategy to determine if the proposed dredging activities at Lot 10 will have any impact on the location of the water quality monitoring stations. However, this will be done at a later stage.

Amendment 3: Amendments to the Environmental Management Programme (EMPr):

The applicant has included an addendum to the EMPr which contains the amendments stipulated below. The addendum is to be attached to the approved EMPr.

- The approved EMPr did not include the use of Long Reach Excavators (LRE) therefore the use of and impacts of such additional dredging equipment (LRE) are to be considered and the EMPr appropriately revised, where necessary:

Section 2.1.2.2 "Overall Project Components – Dredge Footprint" of the EMPr must be amended:

The following statement: *"Two types of dredgers are anticipated: 1. Trailing Suction Hopper Dredger (TSHD); and 2. Cutter Suction Dredger (CSD)."*

Is hereby amended to:

"Three types of dredgers will be for dredging: 1. Trailing Suction Hopper Dredger (TSHD); 2. Cutter Suction Dredger (CSD); and 3. Long Reach Excavator (LRE). The Long Reach Excavator will only be used along the quay walls of Berths 203 to 205 and at Lot 10."

- The roles and responsibilities section of the EMPr (Section 8) reading as:

8.5.2 The contractor will also be required to appoint a minimum of two suitably qualified Environmental Officers (minimum 5 years' experience).

Is hereby amended to:

'The main contractor will also be required to appoint a minimum of two suitably qualified Environmental Officers (minimum 5 years' experience) whereas the Transnet Dredging contractor will be required to appoint a minimum of one suitably qualified Environmental Officer (minimum 5 years' experience).'

- Section 13.2 of the EMPr must be amended to include the updated impacts identified and assessed in Section 4.3 of the Final Amendment report.
- Section 14.2 of the EMPr must be amended to include a section titled: *"Management of Dredging along Quay Walls; Berths 203 to 205 and Lot 10."* The following conditions are also to be added to the amended EMPr:
 - a. The applicant must ensure treatment and remediation are undertaken by making sure that the appointed Control Environmental Officer (CEO) / Environmental Officer (EO) and employees are aware of the procedure to be followed, necessary materials and equipment are available, for dealing with spills and leaks, which includes notifying the Engineer and the relevant authorities.*
 - b. DFFE: Branch O&C must be part of the relevant authorities to be notified ypeterson@environment.gov.za.*
 - c. No construction activities (related to the use of the LRE and dredging at Lot 10) with potential to affect the general public to enjoy the coast should be scheduled and take place during peak season.*
 - d. Construction period to be scheduled avoiding heavy rain and stormy season, where possible. Historical data must be used for best time period allocation.*

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- e. *No structures are to be designed and placed within the Coastal Public Property (CPP). Furthermore, the construction and maintenance (related to the use of the LRE and dredging at Lot 10) responsibilities of the proposed development will remain the applicant's throughout all phases of this project. Should the area experience any natural/un-natural disasters, and as a result of such debris from the stabilization structure are washed up to the coast and sea, the applicant will be held liable for the clean-up and rehabilitation of the area;*
- f. *Vehicles and machinery have potential of releasing fuel and oil emissions while in operation. No vehicles and machinery must be refuelled within the coastal zone.*

Reason for amendment:

The EMPr stipulated that TSHD and CSD were to be used for project dredging, to the exclusion of long-reach excavators. The impacts of such additional dredging equipment are to be considered and the EMPr appropriately revised, where necessary. The EMPr was previously designed for construction to be undertaken by one main contractor, it therefore makes no provision for small-scale service providers to participate in the works. To correct this, TNPA endeavours to apply for a revision of section 8.5 "Roles and Responsibilities" within the EMPr to support the structuring and resourcing of smaller entities who will be working on the project.

Amendment 4: Inclusion of specific conditions:

The following are to be included under the section "Specific Conditions" of the EA (page 18):

- 43. An additional water quality monitoring station WQ 21 be at a position with the following geographic coordinates: 29°53'16.66"S; 31° 0'30.79"E. Monitoring activities as outlined in the Central Sand Bank Monitoring Programme (CSMP) should be undertaken at WQ 2 and WQ 21 with WQ 2 now designated as an impact monitoring station and WQ 21 as a reference station. It is imperative the monitoring at WQ 21 commence before any dredging is undertaken at Lot 10 to enable some intercalibration between data from these two stations while monitoring at WQ 2 (and the other impact monitoring stations - WQ3, WQ4 and WQ5) need only commence at the same time as dredging commences. The monitoring activities as outlined in the original and approved Central Sand Bank Monitoring Programme (CSMP) must remain as is in all other respects.
- 44. All mitigation measures stipulated in the amendment report and addendum to the EMPr must be adhered to. The mitigation measures contained in the EA and supporting documents remain valid.
- 45. Construction (related to the use of the LRE and dredging at Lot 10) must be scheduled to avoid mangroves, and a such the following mitigation measures as recommended by Anchor Environmental (2020) must be implemented:
 - a) The walls of the Lot 10 caisson yard must remain intact until dredging of Lot 10 is complete.
 - b) Care must be taken in the selection of equipment and operational techniques. Ideally, the Long Reach Excavator with a "watertight" or enclosed clamshell bucket to minimise sediment levels in the water column during dredging.
 - c) Strong adaptive supervision must be implemented during the dredging programme, especially when the Long Reach Excavator is being used.
 - d) The construction period, specifically related to dredging activities at Lot 10 and associated with the Long Reach Excavator (LRE) only, should be scheduled to avoid heavy rain and storms.
 - e) No vehicles or machinery should be refuelled in the coastal zone and employees must be made aware of procedures to be followed should spills or leaks transpire.

Reason for amendment:

The above conditions have been highlighted as a result of the assessments conducted for this proposed amendment and are necessary for inclusion into the EA in order to effectively manage any associated impacts with the proposed amendments.

This proposed amendment letter must be read in conjunction with the EA dated 21 January 2015 as amended. In terms of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000), you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) which stipulates that the Department should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Department accountable should the Department abuses or compromises your personal information in any way.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) days of the date of the EA, of the Department's as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 2 of National Environmental Management Act, 1998 (Act No. 107 of 1998) National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribe the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@environment.gov.za ;

By hand: Environment House
473 Steve Biko Road,
Arcadia
PRETORIA
0083; or

By post: Private Bag X447
PRETORIA
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Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@environment.gov.za.

Yours faithfully



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment

Date: 03/05/2021

cc:	Leena Ackbar	ECA Consulting	E-mail: leena@ecaconsulting.co.za
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