



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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PER FACSIMILE / MAIL

Dear Ms Johnson

APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT (NEMA) ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS, 2014, WITH RESPECT TO THE PROPOSED MAINTENANCE AND REPAIRS OF INFRASTRUCTURE AT LAMBERT'S BAY HARBOUR WITHIN THE CIDERBURG MUNICIPALITY OF THE WEST COAST DISTRICT MUNICIPALITY, WESTERN CAPE PROVINCE

The Department confirms having received the Applicability Checklist and supporting documentation for the abovementioned project on 15 February 2017.

Your attention is therefore drawn to the listed activities as defined in terms of the NEMA EIA Regulations, 2014, as defined in GN R983, R984 and R985 of 04 December 2014. Based on the information provided, you've indicated that the proposed maintenance and repairs of infrastructure at Lambert's Bay Harbour will involve the following:

- Repair concrete structures including sealing and grouting:
Structural repair will be undertaken on the western and southern breakwaters, a navigational aid beacon, as well as the main quay and finger jetty, as required. This will include resealing and grouting of concrete on these structures.
- Repacking of the revetment:
The rubble revetment will be repaired through repacking of the rock armour units and by importing additional rock units, to be placed by mobile crane from the landside.
- Repair and replacement of marine furniture:
Bollards and fenders along the main quay and finger jetty will be repaired or replaced as required.
- Replacement of shore crane:
The existing derrick crane on the main quay will be replaced with a new knuckle crane
- Routine dredging of the harbour basin:
Dredging of the harbour basin is a standard maintenance requirement for harbour operations, and should occur regularly to ensure the proper functioning of the harbour activities. This maintenance activity has been neglected in Lambert's Bay Harbour in recent years. It has been determined that up to 51 000m³ of sediment will need to be dredged within the harbour basin to previously chartered depths, and future

routine dredging activities will be necessary as a standard maintenance practice for the harbour. A deposition site was identified and approved in the sea to the west of the western breakwater. However this deposition site has never been used and the approval has since expired. The most suitable location for the dredged sediment is therefore yet to be determined, but it is proposed that the dredged sediment be removed and deposited offshore in accordance with a specific Dredging and Dumping at Sea Maintenance Management Plan.

The Department has evaluated the submitted document and wishes to advise as follows:

Activity R983 Item 12

The development of –

- (viii) jetties exceeding 100 square metres in size;*
- (ix) slipways exceeding 100 square metres in size;*

Where such development occurs –

- (a) within a watercourse;*
- (b) in front of a development setback; or*
- (c) if no development setback exists, within 32 m of a watercourse, measured from the edge of a watercourse;*

Excluding –

(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.

The proposed work is not a new development, but entails the repair and/or maintenance of the existing revetment between the main and secondary quays and one existing slipway within the harbour. The works will not increase the existing footprint of the revetment and slipway or the harbour. In this regard, this activity is not triggered and the exclusion clause applies.

GN R 983 Item 15

The development of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding –

- (i) the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour;*
- (ii) the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;*
- (iii) the development of temporary structures within the beach zone where such structures will be removed within 6 weeks of the commencement of the development and where indigenous vegetation will not be cleared; or*
- (iv) activities listed in activity 14 in Listing Notice 2 of 2014, in which case that activity applies.*

The proposed work is not a new development; it does however entail the repair and/or maintenance of existing structures within the harbour jurisdiction. The works will not increase the existing footprint of the structures or the harbour. Therefore this activity is not triggered.

GN R 983 Item 17

Development –

- (i) in the sea;*
- (ii) in an estuary;*
- (iii) within the littoral active zone;*
- (iv) in front of a development setback; or*
- (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;*

In respect of –

- (a) fixed or floating jetties and slipways;*
- (b) tidal pools;*
- (c) embankments;*
- (d) rock revetments or stabilising structures including stabilising walls;*
- (e) buildings of 50 square metres or more; or*
- (f) infrastructure with a development footprint of 50 square metres or more –*

But excluding –

- (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;*
- (bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;*
- (cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared; or*
- (dd) where such development occurs within an urban area*

The proposed work is not a new development and entails the repair and/or maintenance of the existing revetment between the main and secondary quays and one existing slipway within the harbour. The works will not increase the existing footprint of the revetment and slipway or the harbour. Therefore this activity is not triggered.

GN R 983 Item 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*
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.*

Since the proposed dredging is for maintenance purposes, the exclusion clause applies; therefore this activity is not triggered. However, a maintenance management plan must be compiled and submitted to this Department for review and approval before commencement of any dredging activities.

GN R 983 Item 49

The expansion of -

- (i) jetties by more than 100 square metres;*
- (ii) slipways by more than 100 square metres;*
- (iii) buildings by more than 100 square metres;*
- (iv) boardwalks by more than 100 square metres; or*
- (v) infrastructure or structures where the physical footprint is expanded by 100 square metres or more;*

Where such expansion or expansion and related operation occurs –

- (a) within a watercourse;*
- (b) on front of a development setback;*

(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;

Excluding –

(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;

(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;

(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;

(dd) where such expansion occurs within an urban edge; or

(ee) where such expansion occurs within existing roads or road reserves.

The proposed work entails the repair and/or maintenance of existing harbour structures within the harbour and the footprints of the existing structures will not be expanded. Therefore this activity is not triggered and the exclusion applies.

GN R 983 Item 52

The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within ports or harbours where there will be no increase in the development footprint of the port or harbour and excluding activities listed in activity 23 in Listing Notice 3 of 2014, in which case that activity applies

The proposed work entails the repair and/or maintenance of existing harbour structures within the harbour jurisdiction however; the footprints of the existing structures will not be expanded. Therefore this activity is not triggered and the exclusion applies.

GN R 983 Item 54

The expansion of facilities –

(i) in the sea;

(ii) in an estuary;

(iii) within the littoral active zone;

(iv) in front of a development setback; or

(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;

In respect of –

(a) fixed or floating jetties and slipways;

(b) tidal pools;

(c) embankments;

(d) rock revetments or stabilising structures including stabilising walls;

(e) buildings where the building is expanded by 50 square metres or more; or

(f) infrastructure where the development footprint is expanded by 50 square metres or more –

But excluding –

(aa) expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or

(bb) where such expansion occurs within an urban area.

The proposed work entails the repair and/or maintenance of the existing revetment between the main and secondary quays and one existing slipway within the harbour. The works will not increase the existing footprint of the revetment and slipway or the harbour. Therefore this activity is not triggered and the exclusion clause applies.

GN R 983 Item 55

Expansion –

- (i) in the sea;*
- (ii) in an estuary;*
- (iii) within the littoral active zone;*
- (iv) in front of a development setback; or*
- (v) if no development setback exists, within a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever is the greater;*

In respect of –

- (a) facilities associated with the arrival and departure of vessels and the handling of cargo;*
- (b) piers;*
- (c) inter and sub-tidal structures for entrapment of sand;*
- (d) breakwater structures;*
- (e) coastal marinas;*
- (f) coastal harbours or ports;*
- (g) tunnels;*
- (h) underwater channels;*

But excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.

The proposed work entails the repair and/or maintenance of the existing revetment between the main and secondary quays and one existing slipway within the harbour. The works will not increase the existing footprint of the revetment and slipway or the harbour. Therefore this activity is not triggered and the exclusion clause applies

GN R 983 65

The expansion and related operation of an island, anchored platform or any other permanent structure on or along the seabed, where the expansion will constitute an increased development footprint, excluding expansion of facilities, infrastructure or structures for aquaculture purposes.

The proposed work entails the repair and/or maintenance of existing harbour structures within the harbour jurisdiction. The footprints of the existing structures will not be expanded; therefore this activity is not triggered

GN R 984 Item 14

The development and related operation of –

- (i) an island;*
- (ii) anchored platform; or*
- (iii) any other structure or infrastructure on, below or along the sea bed;*

Excluding –

- (a) development of facilities, infrastructure or structures for aquaculture purposes; or*
- (b) the development of temporary structures or infrastructure where such structures will be removed within 6 weeks of the commencement of the development and where indigenous vegetation will not be cleared.*

The proposed work entails the repair and/or maintenance of existing structures within the harbour basin. There are no proposals to develop or operate any new structures or infrastructure on, below or along the seabed. This activity is therefore not triggered.

GN R 984 Item 26

Development –

- (i) in the sea;*
- (ii) in an estuary;*
- (iii) within the littoral active zone;*
- (iv) in front of a development setback; or*
- (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;*

In respect of –

- (a) facilities associated with the arrival and departure of vessels and the handling of cargo;*
- (b) piers;*
- (c) inter-and sub-tidal structures for entrapment of sand;*
- (d) breakwater structure;*
- (e) coastal marinas;*
- (f) coastal harbours or ports;*
- (g) tunnels; or*
- (h) underwater channels;*

But excluding the development of structure within existing ports or harbours that will not increase the development footprint of the port or harbour.

The proposed works will entail the repair and/or maintenance of existing harbour structures within the harbour jurisdiction. There will also be structural repair work to a navigational aid, the slipway repair facility, breakwater structures and marine furniture. No expansion to the existing development footprint will occur as a result of the aforementioned works. As such this listed activity is therefore not triggered.

GN R 985 Item 14

The development of –

- (viii) jetties exceeding 10 square metres in size;*
- (ix) slipways exceeding 10 square metres in size;*
- (x) buildings exceeding 10 square metres in size;*
- (xi) boardwalks exceeding 10 square metres in size;*
- (xii) infrastructure or structures with a physical footprint of 10 square metres or more;*

Where such development occurs –

- (a) within a watercourse;*
- (b) in front of a development setback; or*
- (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;*

excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;

(f) In Western Cape:

- i. Outside urban areas, in:*
 - (aa) a protected area identified in terms of NEMPAA, excluding conservancies;*
 - (bb) National Protected Area Expansion Strategy Focus areas;*
 - (cc) World Heritage Site;*
 - (dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;*
 - (ee) Sites or areas listed in terms of an International Convention;*

- (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;*
- (gg) Core areas in biosphere reserves; or*
- (hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been identified.*

Although repair work will be undertaken on the Western and Southern breakwaters, which is connected to Bird Island, a Nature Reserve managed by Cape Nature, no work will be specifically undertaken on the Island itself. Therefore, this work will not impact negatively on Bird Island. The Bird Island is listed as a Protected Area in terms of the Protected Areas Act, 57 (Act 57 of 2003) (Protected Areas Register, DEA 2014). The Breakwater and Bird Island form part of the harbour jurisdiction and is located inside of the urban area, and the exclusion therefore applies and this activity is not triggered.

GN R 985 Item 23

The expansion of –

- (viii) jetties where the jetty is expanded by 10 square metres or more in size;*
- (ix) slipways where the slipway is expanded by 10 square metres or more in size;*
- (x) buildings where the building is expanded by 10 square metres or more in size;*
- (xi) boardwalks where the boardwalk is expanded by 10 square metres or more in size;*
- (xii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more in size;*

Where such development occurs –

- (a) within a watercourse;*
- (b) in front of a development setback adopted in the prescribed manner; or*
- (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;*

excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;

(f) In Western Cape:

i. Outside urban areas, in:

- (aa) a protected area identified in terms of NEMPAA, excluding conservancies;*
- (bb) National Protected Area Expansion Strategy Focus areas;*
- (cc) World Heritage Site;*
- (dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;*
- (ee) Sites or areas listed in terms of an International Convention;*
- (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;*
- (gg) Core areas in biosphere reserves; or*
- (hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.*

No existing structures will be expanded; therefore this activity is not triggered

Based on the information provided by you, this Department is of the opinion that the proposed development does not constitute any listed activities as defined in terms of the NEMA EIA Regulations, 2014. However, it triggers the exclusion clause as per Activity 19 of GN R.983, which states that a Maintenance Management

Plan (MMP) must be submitted to the Department for approval before commencement of the related maintenance activities. You are therefore requested to submit a MMP for approval before commencement of the proposed maintenance and repair works for Lambert's Bay Harbour.

The proposed removal of sunken vessels does not constitute any listed activities as defined in terms of the NEMA EIA Regulations, 2014. Written authorisation is therefore not required from the relevant authority prior to the undertaking of the aforementioned activity.

Should any revision of your development comprise any other activities that constitute a listed activity/ies as defined in GN R983, R984 and R985 of 04 December 2014 an Application for Environmental Authorisation must be lodged with the relevant Competent Authority prior to the commencement with construction activities. Be reminded that the onus on applicant to determine all applicable listed activities that would require Environmental Authorisation prior to the commencement of the construction activities.

In addition to above, the Department further advises that you further confirm the applicability of Listing Notice 3 (GN R.985) activities with the Western Cape Department of Environmental Affairs and Development Planning (DEADP).

Additionally, we wish to bring to your attention that the 'NEMA Applicability Form' is no longer available online as it was removed from the Departmental website. The onus of the Applicant/EAP to ascertain whether activities are listed or not. However, if there are any specific EIA queries related to the proposed development you may email it to EIAAdmin@environment.gov.za and if you have any EIA Regulation related interpretation queries you may email them to IQ@environment.gov.za.

You are hereby reminded of Section 24F of the NEMA which states that no activity may commence prior to an Environmental Authorisation being granted by the Competent Authority. In this regard, the MMP must be approved before any repair and maintenance works can commence.

This department reserves the right to revise or withdraw its comments or to request further information from you should new information on this matter become available.

Yours faithfully



Mr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations

Department of Environmental Affairs

Letter signed by: Ms Sindiswa Dlomo

Designation: Acting Director: Integrated Environmental Authorisations

Date: 02/03/2017

Cc	Mr Vuyo Ngonyama	Department of Public Works	Vuyo.ngonyama@dpw.gov.za
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