



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

DMR 10

Private Bag X 54307, DURBAN, 4000, 333 Anton Lembede Street, 3rd Floor Durban Bay House, DURBAN

Tel: (031) 335 9600, Fax: (031) 305 5801 Email: karoon.moodley@dmr.gov.za
Reference: KZN30/5/1/1/2/10780PR Enquiries: Mr. K.G Moodley

BY HAND

THE MANAGER
MARINE SANDS (PTY) LTD
PO BOX 52673
SAXONWOLD
2132

Attention: Mr K Comline

Fax No: 086 552 8093

ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (NEMA, AS AMENDED) AND THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS, 2014 (AS AMENDED) FOR PROSPECTING BY MARINE SANDS (PTY) LTD: AREA 1 – OFFSHORE EAST / NORTH-EAST OF DURBAN HARBOUR - KWAZULU NATAL REGION.

With reference to the abovementioned application, please be advised that the Department of Mineral Resources has decided to **grant** an environmental authorisation in terms of the National Environmental Management Act (Act 107 of 1998, as amended).

In terms of Regulation 15 of the NEMA EIA Regulations, 2014 an Environmental Assessment Practitioner (EAP) must identify whether a basic assessment or scoping & EIR process must be applied to the application taking into account any notices published in terms of section 24D of the Act.

As per the application form received on 18th July 2018, your Environmental Assessment Practitioners (Dr. Alan Smith and Ms. L Guastella of Alan Smith Consulting cc) identified that a basic assessment process must be applied.

The following listed activity in Listing Notice 1 of the EIA Regulations, 2014 (as amended) was identified:

Activity 20 – ‘Any activity including the operation of that activity which requires a prospecting right in section 16 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)’

In terms of regulation 4 (2) of the Environmental Impact Assessment Regulations of 2014, you are instructed to notify all registered interested and affected parties, in writing within 14 (Fourteen) calendar days, from the date of the Department’s decision in respect of your application and the relevant information regarding the lodgement of an appeal must be provided as per the provisions of the National Appeal Regulations of 2014.

Should you wish to appeal any aspect of the decision, you must submit the appeal to the Minister of Environmental Affairs and a copy of such appeal to the Department of Mineral Resources (KwaZulu Natal Regional Office), within 20 days from the date of notification, and such appeal must be lodged as prescribed by Chapter 2 of the National Appeal Regulations of 2014, by means of the methods as prescribed below:

Appeal to the Department of Environmental Affairs:

Attention : Directorate Appeals and Legal Review

Email : appeals@environment.gov.za

By post : Private Bag X 447,
Pretoria
0001

By hand : Environmental House,
473 Steve Biko Road
Arcadia,
Pretoria,
0083

Copy of the lodged appeal to the Department of Mineral Resources:

Attention : Regional Manager: KwaZulu Natal Region

By facsimile : (031) 301 6950

E-mail : bongo.qina@dmr.gov.za

By post : Private Bag X54307, **Durban**, 4000

By hand : 333 Anton Lembede Street, 3rd Floor Durban Bay House,
Durban, 4000

In the event that you decide to appeal the decision, you must comply with the National Appeal Regulations of 2014 in relation to notification of all registered interested and affected parties. A copy of the official appeal form can be obtained from the Department of Environmental Affairs.

Yours Sincerely



Act. REGIONAL MANAGER: MINERAL REGULATION

KWAZULU NATAL REGIONAL OFFICE

DATE: 21/05/2019



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ENVIRONMENTAL AUTHORISATION

Reference number: KZN 30/5/1/1/2/10780PR

Last amended: FIRST ISSUE

Holder of authorisation: MARINE SANDS (PTY) LTD

Location of Activity: AREA 1 - OFFSHORE EAST / NORTH-EAST OF DURBAN HARBOUR

DECISION

ACRONYMS:

NEMA: The National Environmental Management Act, 1998 (Act 107 of 1998, as amended),

DEPARTMENT: Department of Mineral Resources.

EA: Environmental Authorisation.

IEA Integrated Environmental Authorisation.

EMPr: Environmental Management Programme

BAR: Basic Assessment Report

I&AP: Interested and Affected Parties

ECO: Environmental Control Officer

EIA REGULATIONS: EIA Regulations, 2014 (as amended)

MPRDA: Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002 as amended)

NEMWA: National Environmental Management: Waste Act, 2008 (Act 59 of 2008 as amended)

EIA: Environmental Impact Assessment.

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this EA, that the applicant be authorised to undertake the **NEMA EIA** listed activity (ies) specified below. Details regarding the basis on which the Department reached this granting decision are set out in **Annexure "1"** of this EA.

ACTIVITY APPLIED FOR:

By virtue of the powers conferred on it by the Minister of Environmental Affairs in terms of the provisions of NEMA, the Department hereby Grants an EA to Marine Sands (Pty) Ltd with the following contact details –

Mr K Comline
PO Box 52673
Saxonwold
2132

Tel no: (082 497 6859) **Fax no:** (086 552 8093)

to undertake the following activity listed in the NEMA EIA Regulations, 2014 (as amended)

Activity 20 – ‘Any activity including the operation of that activity which requires a prospecting right in section 16 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)’

The granting of this EA is subject to the conditions set out in **Annexure 2**. The Environmental Management Programme (EMPr) submitted as part of the application for an EA is hereby approved and must be adhered to throughout the life cycle of the operation. Only listed activities that are expressly specified in this EA and the associated EMPr that form part of this EA may be conducted, and any additional or new activities not specified herein must be applied for by the holder and authorised by the competent authority in the form of an amendment to the aforesaid EA and EMPr before the commencement of such activities. This condition is also applicable in the case of an amendment, addition, substitution, correction, and removal or updating of any detail in the EA and EMPr.

ANNEXURE 1: REASONS FOR THE DECISION

1. Background

Marine Sands (Pty) Ltd submitted an application for an EA for activities listed in the NEMA EIA Regulations Listing Notice 1 as:

Activity 20 – ‘Any activity including the operation of that activity which requires a prospecting right in section 16 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)’

The applicant appointed Dr A Smith and Ms L Guastella to undertake the Basic Assessment process as required by Regulation 19 of the EIA Regulations.

2. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the Basic Assessment received by the Department on 30th April 2019.
- b) The objectives and requirements of the applicable and relevant legislation, policies and guidelines and the EIA Regulations.
- c) The Public Participation Process (PPP) process and the results thereof attached as Appendix 4 of the BAR.
- d) The proposed project information and the prospecting works programme submitted in support of the prospecting right application in terms of the Mineral and Petroleum Resources Development Act, 2002 (as amended)

3. Key factors considered in making the decision

All the information presented to the Department was taken into account upon the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance are set out below.

- a) Marine Sands (Pty) Ltd proposes to sample sand dredged by Transnet National Ports Authority and no invasive prospecting is proposed.
- b) The report on the Public Participation Process undertaken and the substantiating documentation in respect of this process in comparison with the minimum requirements as prescribed in the EIA Regulations for public involvement.
- c) There are no envisaged environmental impacts based on the proposed prospecting work programme.
- d) There is no rehabilitation required as the activities are non-invasive.

4. Findings

After consideration of the information and factors listed above, the Department made the following findings –

- a) The proposed prospecting activities are non-invasive in nature.
- b) The Public Participation Process complied with Chapter 6 of the EIA Regulations. The PPP included, *inter-alia*, the following:
 - A newspaper advertisement was placed in a local newspaper, The Mercury on 25th January 2019.
 - Notification letters were sent via email to identified and registered I & AP's including Organs of State
 - Notices were placed at key locations to notify I & AP's

- A Project Information document was circulated to all key identified stakeholders and registered interested and affected parties including organs of state.
- A draft BAR was sent to organs of state and made available to I & AP's
- A register in terms of Regulation 42 of the EIA Regulations was developed.

ANNEXURE 2:

EA SITE SPECIFIC CONDITIONS

1. The prospecting activities can only be undertaken as outlined in the BAR and EMPr and this EA. The prospecting right and this EA & EMPr are inextricably linked.
2. If applicable, Environmental awareness training must occur prior to employees going onto site and must continue during the life of the operation. This will include general environmental awareness and job specific environmental awareness training.

STANDARD DEPARTMENTAL CONDITIONS:

1. SCOPE OF AUTHORISATION

- 1.1. The holder of EA is responsible for ensuring compliance with the conditions contained in the EA and EMPr. This includes any person acting on the holder's behalf, including but not limited to any agent, contractor, subcontractor, employee, consultant or any person rendering a service to the holder of the EA.
- 1.2. Any changes to, or deviation from the project description set out in this EA must be approved in writing by this Department before such changes or deviation may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviation and it may be necessary for the holder of the EA to apply for further environmental authorisation in terms of the EIA Regulations.

- 1.3. The activities, which are authorised, may only be carried out as outlined in the EA and or in the approved EMPr and issued prospecting right.
- 1.4. Where any of the contact details of the holder of the EA change, including the name of the responsible person, physical or postal address or telephonic details, the holder of the EA must notify the Department within 5 days of such change.
- 1.5. The EA does not negate the responsibility of the holder to comply with any other statutory requirements that may be applicable to the undertaking of such activity (ies).
- 1.6. The holder of EA must ensure that all areas where the authorised activities occur have controlled access to ensure safety of people and animals.

2 APPEAL OF AUTHORISATION

- 2.1. The holder of the EA must in writing, within 14 (fourteen) calendar days from the date of this decision and in accordance with EIA Regulation 4(2) do the following:
 - 2.1.1 Notify all identified and registered I&APs of –
 - (a). The outcome of the application;
 - (b). The date of the decision;
 - (c). The date of issue of the decision and;
 - (d). The reasons for the decision as included in Annexure 1 and Site Specific and Departmental Standard Conditions in Annexure 2.
 - 2.1.2. Draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations.
 - 2.1.3. Draw the attention of all registered I&APs to the manner in which they may access the decision.

2.1.4. Provide the registered I&APs with:

- (a). Name of the holder (entity) of this EA
- (b). Name of the responsible person for this EA
- (c). Postal address of the holder;
- (d). Telephonic and fax details of the holder and
- (e). E-mail address of the holder if available.

3. COMMENCEMENT OF THE ACTIVITY (IES)

- 3.1. In order to ensure safety, all employees must be given the necessary personnel protective equipment (PPE).
- 3.2. This EA and EMPr must be provided to the site operator and the requirements thereof must be made fully known to him or her.
- 3.3. In terms of sections 28 and 30 of NEMA, and sections 19 and 20 of the National Water Act, 1998 (Act No. 36 of 1998), any costs incurred to remedy environmental damage must be borne by the person responsible for the damage. It is therefore imperative that the holder of the EA reads through and understand the legislative requirements pertaining to the project. It is the responsibility of the holder of the EA to take reasonable measures which include informing and educating contractors and employees about environmental risks of their work and training them to operate in an environmentally acceptable manner.
- 3.4. This EA may be amended or withdrawn at any stage for non-compliance and provides no relief from the provisions of any other relevant statutory or contractual obligations.
- 3.5. An appeal under Section 43 (7) of the National Environmental Management Act (NEMA), Act 107 of 1998 (as amended) suspends an EA or exemption or any provisions of conditions attached hereto, or any directive unless the Minister directs otherwise.
- 3.6. Should you be notified by the Minister of a suspension of the EA pending appeal procedure, you may not commence with the activity (ies) until such time that the Minister allows you to commence with such activity (ies) in writing.

- 3.7. The Department reserves the right to audit and/or inspect the activity (ies) without prior notification at any reasonable time and at such frequency as may be determined by the Regional Manager.
- 3.8. This EA will only be effective in the event that a corresponding Prospecting Right is issued in terms of the MPRDA (as amended) and none of the activities listed in this EA may commence without the aforementioned Prospecting Right.
- 3.9. Should there be any conflicting conditions between this EA and approvals granted by other authorities, the responsibility rests with the holder of EA to bring it to the attention of the Department for resolution.

4. MANAGEMENT OF ACTIVITY (IES)

- 4.1. A copy of the EA and EMPr must be readily available for inspection during activities. The EA and EMPr must be produced to any authorised officials of the Department who request to see it and must be made available to any employee or agent of the holder of the EA who works or undertakes work at the property (ies).
- 4.2. The content of the EMPr and its objectives must be made known to all contractors, subcontractors, agents and any other people working on the site.
- 4.3. Non-compliance with any condition of this EA and associated EMPr may result in the issuing of a directive in terms of section 28 and or a compliance notice in terms of section 31L of NEMA.

5 REPORTING TO THE DEPARTMENT

- 5.1. The holder of EA must:
- 5.1.1. submit an Environmental Audit Report to this Department every two years and such report must be done by a qualified Environmental Assessment Practitioner and the audit report must specify whether conditions of this EA, EMPr were and are adhered to;

- 5.1.2. identify and assess any new impacts and risks as a result of undertaking the activity/ies, if applicable;
 - 5.1.3. identify shortcomings in the EMPr and closure plan, if applicable;
 - 5.1.4. identify the need, if any, for any changes to the management, avoidance and mitigation measures provided for in the EMPr and closure plan;
 - 5.1.5. if applicable, specify whether the corrective action/s taken for the previous audit's non-conformities, were adequate;
 - 5.1.6. specify the name of the auditor and
 - 5.1.7. be submitted by the holder to the competent authority within 30 days from the date on which the auditor finalised the audit.
- 5.2. Should any shortcomings in terms of Regulation 34(4) be identified, the holder must submit recommendations to amend the EMPr and closure plan in order to rectify the identified in the aforementioned audit report.
- 5.3. All complaints received from I&AP's during any of the phases of the operation must be acknowledged within five days of receipt and addressed within 10 days (where reasonably possible). All complaints must be recorded and a report must be forwarded to the competent authority with all relevant details of the complaint, complainant and how the complaint was resolved within 30 days of receipt of the complaint.
- 5.4. The holder of the EA must, within 24 hours of incidents occurring, notify the Competent Authority of the occurrence or detection of any incident on the site, or incidental to the operation of the site, which has the potential to cause, has caused or may cause pollution of the environment, health risks, nuisance conditions or water pollution.
- 5.5. The holder of the EA must, within 14 days, or a shorter period of time, if specified by the Competent Authority from the occurrence or detection of any incident referred to in condition 5.4, submit an action plan, which must include a detailed time schedule, and resource allocation signed off by top management, to the satisfaction of the Competent Authority in respect of measures taken to –

- 5.5.1. Correct the impact resulting from the incident;
 - 5.5.2. Prevent the incident from causing any further impact; and
 - 5.5.3. Prevent a recurrence of a similar incident.
- 5.6. In the event that measures have not been implemented within 21 days of the incident referred to in condition 5.4, or measures which have been implemented are inadequate, the Competent Authority may implement the necessary measures at the cost of the holder of the EA.

6. INVESTIGATIONS

- 6.1 If, in the opinion of the Competent Authority, nuisances or health risks may be or are occurring on the site, the holder of the EA must initiate an investigation into the cause of the problem or suspected problem.
- 6.2 If, in the opinion of the Competent Authority, pollution may be or is occurring, the holder of the EA will be required to initiate an investigation into the cause of the problem or suspected problem. If applicable, such investigation must include the monitoring of the water quality variables, at those monitoring points and such frequency as may be specified by the Competent Authority.
- 6.3. Investigations carried out in terms of conditions 8.1 and 8.2 above must include the monitoring of the relevant environmental pollution, nuisance and health risk variables, at those monitoring points and such frequency to be determined in consultation with the Competent Authority.
- 6.4. Should the investigation carried out as per conditions 8.1 and 8.2 above reveal any unacceptable levels of pollution, the holder of the EA must submit mitigation measures to the satisfaction of the Competent Authority.

7. COMMISSIONING AND DECOMMISSIONING

- 7.1. The commissioning and decommissioning of individual activity (ies) within the overall listed prospecting activity must take place within the phases and timeframes as set out in the EA and EMPr.

8. SITE CLOSURE

- 8.1. The holder of EA must apply for a closure certificate in terms of Section 43 (3) of the Mineral and Petroleum Resources Development Act (Act 28 of 2002, as amended) within 180 days of the occurrence of lapsing, abandonment, cancellation, cessation, relinquishment and completion of development.
- 8.2. The application for closure indicated above must be submitted together with all relevant documents as indicated in Section 43 of Mineral and Petroleum Resources Development Act (Act 28 of 2002), as amended.
- 8.3. The holder of the EA remains responsible for any environmental liability, pollution or ecological degradation and compliance with the conditions of EA and the management and sustainable closure thereof until the Minister has issued a Closure Certificate in terms of Section 43 of Mineral and Petroleum Resources Development Act (Act 28 of 2002).

9. NEMA PRINCIPLES

- 9.1. The principles set out in Section 2 in Chapter 1 of the National Environmental Management Act, 1998 (Act No.107 of 1998) must be applied to this prospecting operation and any matter relating to this operation; and must serve as a guideline for the interpretation, administration and implementation of all environmental requirements.
- 9.2. This prospecting operation must be conducted in accordance with generally accepted principles of sustainable development by integrating social, economic and environmental factors into the planning and implementation of this prospecting operation in order to ensure that the exploitation of mineral resources serves present and future generations.

9.3. The holder of this EA must at all times give effect to the general objectives of integrated environmental management as laid down in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and must

- manage all environmental impacts as an integral part of the prospecting operation and must as far as it is reasonably practicable, rehabilitate the environment affected by the prospecting operations to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development; and is responsible for any environmental damage, pollution or ecological degradation as a result of his or her prospecting operations and which may occur inside and outside the boundaries of the area to which the EA relates

10. DISCLAIMER

The Department of Mineral Resources in terms of the conditions of this environmental authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

11. DECISION:

In view of the above-mentioned proposed non-invasive prospecting operation and associated BAR and EMPr, the competent authority is satisfied that the proposed listed activity will not conflict with the general objectives of Integrated Environmental Management stipulated in Chapter 5 of NEMA, and that no potentially detrimental environmental impacts might result from the proposed activity.

An environmental authorisation is accordingly **GRANTED** to **Marine Sands (Pty) Ltd.**



Act. REGIONAL MANAGER: MINERAL REGULATION

KWAZULU NATAL REGIONAL OFFICE

DATE: 21/05/2019