

CoCT Directive DP



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

REFERENCE NUMBER: 16/6/A7/4/3128/17
ENQUIRIES: Anthony Barnes/Alvan Gabriel
DATE OF ISSUE: 30.05.2017

The Executive Director: Informal Settlements, Water and Waste Services
City of Cape Town
Civic Centre
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CAPE TOWN
8000

Attention: Ms. G. Kaiser

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Dear Madam

DIRECTIVE IN TERMS OF SECTION 30A OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") IN RESPECT OF THE CURRENT EMERGENCY SITUATION: THE PROVISION OF ADEQUATE WATER SUPPLY WITHIN THE JURISDICTION OF THE CITY OF CAPE TOWN.

The request received from the City of Cape Town ("CoCT"), dated 25 May 2017, including additional information addressing the relevant considerations pertaining to Section 30A(2) of the NEMA, requesting the competent authority to issue a Directive in terms of Section 30A to address the current emergency situation related to the water supply shortage emergency situation being experienced in the CoCT, refers.

1. The competent authority, after considering the request along with the supporting information, and having taken cognisance of the requirements of Section 30A and Section 2 of the NEMA, herewith **issues the CoCT with a Directive in terms of Section 30A of NEMA** in order for the CoCT to carry out listed activities (in terms of the NEMA Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended)), related to the implementation of interventions to address the current water supply shortage emergency situation in the CoCT.
2. This Section 30A directive shall remain in effect (from the date of issue) for the duration that the CoCT is declared a disaster area as defined under Section 1 of the Disaster Management Act, 2002 (Act No. 57 of 2002) and until such time that the CoCT can demonstrate the ability to provide adequate water supply to all the areas which fall within its jurisdiction.
3. **Nature, Cause, Impact and Scope of the Emergency Situation**
 - 3.1. In the recent past, and despite increasing pressure, the CoCT was able to manage and provide an adequate supply of water to the areas within its jurisdiction;

- 3.2. However, the current emergency situation being experienced, with respect to water supply, is directly as a result of the lack of expected rainfall;
 - 3.3. There is currently a lot of uncertainty as to whether or not the current rain season will provide adequate rainfall;
 - 3.4. The levels of Dams supplying the CoCT are currently severely compromised;
 - 3.5. The threat and the associated risks that the current emergency water supply situation poses to persons, property, the economy, and life in general in the CoCT is immediate and imminent;
 - 3.6. The competent authority concurs with the need and desirability to implement emergency measures or interventions to address the current water supply emergency situation;
 - 3.7. Further to the above, on 01 March 2017, the Mayor of the City of Cape Town, declared the CoCT a local disaster area under section 55 of the Disaster Management Act, 2002 (Act No. 57 of 2002); and
 - 3.8. On 24 May 2017, the Premier of the Western Cape, declared the Western Cape a Provincial State of Disaster under section 41(1) of the Disaster Management Act, 2002 (Act No. 57 of 2002).
4. **Potential measures or interventions to prevent and/or to contain the emergency situation and/or to prevent, contain or mitigate the effect to the current water supply emergency situation**

The potential measures or interventions that may constitute a listed activity in terms of the NEMA EIA Regulations, 2014 (as amended) may include, *inter alia*, the following:

- 4.1. Development of structures or infrastructure;
- 4.2. Expansion of structures or infrastructure;
- 4.3. Maintenance;
- 4.4. Replacement of structures or infrastructure;
- 4.5. Abstraction of water;
- 4.6. Diversion of natural spring water;
- 4.7. Desalination; and/or
- 4.8. Re-use of wastewater.

The mitigation hierarchy must be implemented by the CoCT where *bona fide* measures or interventions are implemented to address the current water supply emergency situation. Consideration must always be given to Section 2 of the NEMA.

5. Listed activities relevant to the potential measures or interventions that may be implemented

Emergency measures or interventions may fall within the ambit of the following listed activities in terms of the NEMA EIA Regulations, 2014 (as amended):

Listing Notice 1 of GN No. R 327 (GN No. R983, as amended on 7 April 2017) –

Activity: 2

Activity Description:

The development and related operation of facilities or infrastructure for the generation of electricity from a non-renewable resource where—

- (i) the electricity output is more than 10 megawatts but less than 20 megawatts; or
- (ii) the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare.

Activity Number: 9

Activity Description:

The development of infrastructure exceeding 1 000 metres in length for the bulk transportation of water or storm water—

- (i) with an internal diameter of 0,36 metres or more; or
- (ii) with a peak throughput of 120 litres per second or more;

excluding where—

- (a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve or railway line reserve; or
- (b) where such development will occur within an urban area.

Activity Number: 10

Activity Description:

The development and related operation of infrastructure exceeding 1 000 metres in length for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes –

- (i) with an internal diameter of 0,36 metres or more; or
- (ii) with a peak throughput of 120 litres per second or more;

excluding where—

- (a) such infrastructure is for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes inside a road reserve or railway line reserve; or
- (b) where such development will occur within an urban area.

Activity Number: 12

Activity Description:

The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or
- (ii) infrastructure or structures with a physical footprint of 100 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 exists, within 32 metres 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;
- (bb) where such development 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 development occurs within an urban area;
- (ee) where such development occurs within existing roads, road reserves or railway line reserves; or
- (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.

Activity Number: 13

Activity Description:

The development of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50 000 cubic metres or more, unless such storage falls within the ambit of activity 16 in Listing Notice 2 of 2014.

Activity Number: 14

Activity Description:

The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.

Activity Number: 15

Activity Description:

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 development and where coral or 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.

Activity Number: 16

Activity Description:

The development and related operation of facilities for the desalination of water with a design capacity to produce more than 100 cubic metres of treated water per day.

Activity Number: 17**Activity Description:**

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; or
- (e) infrastructure or structures with a development footprint of 50 square metres or more —

but excluding—

- (aa) the development of infrastructure and 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 coral or indigenous vegetation will not be cleared; or
- (dd) where such development occurs within an urban area.

Activity Number: 19**Activity Description:**

The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;

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;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (e) 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.

Activity Number: 19A**Activity Description:**

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) the seashore;
- (ii) 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; or

(iii) the sea;—

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

(f) will occur behind a development setback;

(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;

(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or

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.

Activity Number: 24

Activity Description:

The development of a road—

- (i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or
- (ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;

but excluding a road—

- (a) which is identified and included in activity 27 in Listing Notice 2 of 2014;
- (b) where the entire road falls within an urban area; or
- (c) which is 1 kilometre or shorter.

Activity Number: 25

Activity Description:

The development and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughput capacity of more than 2 000 cubic metres but less than 15 000 cubic metres.

Activity Number: 27

Activity Description:

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

Activity Number: 28

Activity Description:

Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:

- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares;
or
- (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;

excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.

Activity Number: 31

Activity Description:

The decommissioning of existing facilities, structures or infrastructure for—

- (i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
- (ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
- (iii) ...
- (iv) any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or
- (v) any activity regardless the time the activity was commenced with, where such activity:
 - (a) is similarly listed to an activity in (i) or (ii) above; and
 - (b) is still in operation or development is still in progress;

excluding where—

- (aa) activity 22 of this notice applies; or
- (bb) the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.

Activity Number: 34

Activity Description:

The expansion of existing facilities or infrastructure for any process or activity where such expansion will result in the need for a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the release of emissions, effluent or pollution, excluding-

- (i) where the facility, infrastructure, process or activity is included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;
- (ii) the expansion of existing facilities or infrastructure for the treatment of effluent, wastewater, polluted water or sewage where the capacity will be increased by less than 15 000 cubic metres per day; or
- (iii) the expansion is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will be increased by 50 cubic meters or less per day.

Activity Number: 37

Activity Description:

The expansion and related operation of facilities for the generation of electricity from a non-renewable resource where—

- (i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or
- (ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more.

Activity Number: 45**Activity Description:**

The expansion of infrastructure for the bulk transportation of water or storm water where the existing infrastructure—

- (i) has an internal diameter of 0,36 metres or more; or
- (ii) has a peak throughput of 120 litres per second or more; and
 - (a) where the facility or infrastructure is expanded by more than 1 000 metres in length; or
 - (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;

excluding where such expansion—

- (aa) relates to transportation of water or storm water within a road reserve or railway line reserve; or
- (bb) will occur within an urban area.

Activity Number: 46**Activity Description:**

The expansion and related operation of infrastructure for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes where the existing infrastructure—

- (i) has an internal diameter of 0,36 metres or more; or
- (ii) has a peak throughput of 120 litres per second or more; and
 - (a) where the facility or infrastructure is expanded by more than 1 000 metres in length; or
 - (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;

excluding where such expansion—

- (aa) relates to the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes within a road reserve or railway line reserve; or
- (bb) will occur within an urban area.

Activity Number: 47**Activity Description:**

The expansion of facilities or infrastructure for the transmission and distribution of electricity where the expanded capacity will exceed 275 kilovolts and the development footprint will increase.

Activity Number: 48**Activity Description:**

The expansion of—

- (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or
- (ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;

where such expansion occurs—

- (a) within a watercourse;
- (b) in front of a development setback; or
- (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 area; or
- (ee) where such expansion occurs within existing roads, road reserves or railway line reserves.

Activity Number: 50

Activity Description:

The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50 000 cubic metres or more.

Activity Number: 51

Activity Description:

The expansion and related operation of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.

Activity Number: 52

Activity Description:

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 existing 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.

Activity Number: 53

Activity Description:

The expansion and related operation of facilities for the desalination of water where the design capacity will be expanded to produce an additional 100 cubic metres or more of treated water per day.

Activity Number: 54

Activity Description:

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; or
- (e) infrastructure or structures where the development footprint is expanded by 50 square metres or more,

but 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; or
- (bb) where such expansion occurs within an urban area.

Activity Number: 55

Activity Description:

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 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 structures;
- (e) coastal marinas;
- (f) coastal harbours or ports;
- (g) tunnels; or
- (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.

Activity Number: 56

Activity Description

The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre—

- (i) where the existing reserve is wider than 13,5 meters; or
- (ii) where no reserve exists, where the existing road is wider than 8 metres;

excluding where widening or lengthening occur inside urban areas.

Activity Number: 57

Activity Description:

The expansion and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage, where the capacity will be increased by 15 000 cubic metres or more per day and the development footprint will increase by 1 000 square meters or more.

Activity Number: 63**Activity Description:**

The expansion of facilities or infrastructure for the transfer of water from and to or between any combination of the following—

- (i) water catchments;
- (iii) water treatment works; or
- (iv) impoundments;

where the capacity will be increased by 50 000 cubic metres or more per day, but excluding water treatment works where water is treated for drinking purposes.

Activity Number: 65**Activity Description:**

The expansion and related operation of —

- (i) an anchored platform; or
- (ii) any other [permanent] structure or infrastructure;

on or along the sea bed, where the expansion will constitute an increased development footprint, excluding expansion of facilities, infrastructure or structures for aquaculture purposes.

Activity Number: 66**Activity Description:**

The expansion of a dam where—

- (i) the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more; or
- (ii) where the high-water mark of the dam will be increased with 10 hectares or more.

Activity Number: 67**Activity Description:**

Phased activities for all activities –

- (i) listed in this Notice, which commenced on or after the effective date of this Notice or similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;

excluding the following activities listed in this Notice –

- 17(i)(a-d);
- 17(ii)(a-d);
- 17(iii)(a-d);
- 17(iv)(a-d);
- 17(v)(a-d);
- 20;
- 21;
- 22;
- 24(i);
- 29;
- 30;
- 31;

32;
 34;
 54(i)(a-d);
 54(ii)(a-d);
 54(iii)(a-d);
 54(iv)(a-d);
 54(v)(a-d);
 55;
 61;
 64; and
 65; or

- (ii) listed as activities 5, 7, 8(ii), 11, 13, 16, 27(i) or 27(ii) in Listing Notice 2 of 2014 or similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;

where any phase of the activity was below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.

Listing Notice 2 of GN No. R 325 (GN No. R984, as amended on 7 April 2017) –

Activity Number: 2

Activity Description:

The development and related operation of facilities or infrastructure for the generation of electricity from a non-renewable resource where the electricity output is 20 megawatts or more.

Activity Number: 6

Activity Description:

The development of facilities or infrastructure for any process or activity which requires a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding –

- (i) activities which are identified and included in Listing Notice 1 of 2014;
- (ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;
- (iii) the development of facilities or infrastructure for the treatment of effluent, polluted water, wastewater or sewage where such facilities have a daily throughput capacity of 2 000 cubic metres or less; or
- (iv) where the development is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will not exceed 50 cubic metres per day.

Activity Number: 9

Activity Description:

The development of facilities or infrastructure for the transmission and distribution of electricity with a capacity of 275 kilovolts or more, outside an urban area or industrial complex excluding the development of bypass infrastructure for the transmission and distribution of electricity where such bypass infrastructure is —

- (a) temporarily required to allow for maintenance of existing infrastructure;
- (b) 2 kilometres or shorter in length;
- (c) within an existing transmission line servitude; and
- (d) will be removed within 18 months of the commencement of development.

Activity Number: 11**Activity Description:**

The development of facilities or infrastructure for the transfer of 50 000 cubic metres or more water per day, from and to or between any combination of the following —

- (i) water catchments;
- (i) water treatment works; or
- (ii) impoundments;

excluding treatment works where water is to be treated for drinking purposes.

Activity Number: 14**Activity Description:**

The development and related operation of—

- (i) ...
- (ii) an 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 development and where coral or indigenous vegetation will not be cleared.

Activity Number: 15**Activity Description:**

The clearance of an area of 20 hectares or more of Indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—

the undertaking of a linear activity; or
maintenance purposes undertaken in accordance with a maintenance management plan.

Activity Number: 16**Activity Description:**

The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.

Activity Number: 24**Activity Description:**

The extraction or removal of peat or peat soils, including the disturbance of vegetation or soils in anticipation of the extraction or removal of peat or peat soils, but excluding where such extraction or removal is for the rehabilitation of wetlands in accordance with a maintenance management plan.

Activity Number: 25**Activity Description:**

The development and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughput capacity of 15 000 cubic metres or more.

Activity Number: 26**Activity Description:**

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 structures;
- (e) coastal marinas;
- (f) coastal harbours or ports;
- (g) tunnels; or
- (h) underwater channels;

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

Listing Notice 3 of GN No. R 324 (GN No. R984, as amended on 7 April 2017) –

Activity Number: 2**Activity Description:**

The development of reservoirs, excluding dams, with a capacity of more than 250 cubic metres.

1. Western Cape

- i. A protected area identified in terms of NEMPAA, excluding conservancies;
- ii. In areas containing indigenous vegetation; or
- iii. Inside urban areas:
 - (aa) Areas zoned for use as public open space; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.

Activity Number: 3**Activity Description**

The development of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast or tower—

- (a) is to be placed on a site not previously used for this purpose; and
- (b) will exceed 15 metres in height—

but excluding attachments to existing buildings and masts on rooftops.

i. Western Cape

- i. All areas outside urban areas;
- ii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose, within urban areas; or
- iii. Areas zoned for use as public open space or equivalent zoning within urban areas.

Activity Number: 4

Activity Description:

The development of a road wider than 4 meters with a reserve less than 13.5 metres.

i. Western Cape

- i. Areas zoned for use as public open space or equivalent zoning;
- ii. Areas outside urban areas;
 - (aa) Areas containing indigenous vegetation;
 - (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or
- iii. Inside urban areas:
 - (aa) Areas zoned for conservation use; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.

Activity Number: 10

Activity Description:

The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.

i. Western Cape

- i. Areas zoned for use as public open space or equivalent zoning;
- ii. All areas outside urban areas; or
- iii. Inside urban areas:
 - (aa) Areas seawards of the development setback line or within 200 metres from the high-water mark of the sea if no such development setback line is determined;
 - (bb) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or
 - (cc) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.

Activity Number: 12

Activity Description:

The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

i. Western Cape

- i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been

- identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
- ii. Within critical biodiversity areas identified in bioregional plans;
- iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;
- iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or
- v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.

Activity Number: 14

Activity Description:

The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or
- (ii) 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.

I. Western Cape

- i. Outside urban areas:
 - (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
 - (bb) National Protected Area Expansion Strategy Focus areas;
 - (cc) World Heritage Sites;
 - (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.

Activity Number: 15

Activity Description:

The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.

f. Western Cape

- i. Outside urban areas, or
- ii. Inside urban areas:

- (aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010;
- (bb) A protected area identified in terms of NEMPAA, excluding conservancies; or
- (cc) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act as adopted by the competent authority.

Activity Number: 16

Activity Description:

The expansion of reservoirs, excluding dams, where the capacity will be increased by more than 250 cubic metres.

i. Western Cape

- i. A protected area identified in terms of NEMPAA, excluding conservancies;
- ii. In areas containing indigenous vegetation; or
- iii. Inside urban areas:
 - (aa) Areas zoned for use as public open space; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose, including residential areas.

Activity Number: 18

Activity Description:

The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.

i. Western Cape

- i. Areas zoned for use as public open space or equivalent zoning;
- ii. All areas outside urban areas:
 - (aa) Areas containing indigenous vegetation;
 - (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or
- iii. Inside urban areas:
 - (aa) Areas zoned for conservation use; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.

Activity Number: 22

Activity Description:

The expansion and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage facilities or infrastructure will be expanded by 30 cubic metres or more but no more than 80 cubic metres.

i. Western Cape

- i. Areas zoned for use as public open space, conservation or an equivalent zoning;
- ii. All areas outside urban areas; or
- iii. Areas inside urban areas:
 - (aa) Areas seawards of the development setback line or within 200 metres from the high-water mark of the sea if no such development setback line is determined;

- (bb) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or
- (cc) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.

Activity Number: 23

Activity Description:

The expansion of—

- (i) dams or weirs, where the dam or weir, is expanded by 10 square metres or more; or
- (ii) infrastructure or structures with a physical footprint is expanded by 10 square metres or more;

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

I. Western Cape

- i. Outside urban areas:
 - (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
 - (bb) National Protected Area Expansion Strategy Focus areas;
 - (cc) World Heritage Sites;
 - (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.

Activity Number: 26

Activity Description:

Phased activities for all activities –

- i. listed in this Notice and as it applies to a specific geographical area, which commenced on or after the effective date of this Notice; or
- ii. similarly listed in any of the previous NEMA notices, and as it applies to a specific geographical area, which commenced on or after the effective date of such previous NEMA Notices –

where any phase of the activity was below a threshold but where a combination of the phases, including expansions, or extensions, will exceed a specific threshold; -

excluding the following activities listed in this Notice –

- 7;
- 8;

11;
13;
20;
21; and
24.

6. Reporting protocol

The reporting requirements associated with this Directive are limited to measures or interventions that constitute a listed activity in terms of the NEMA EIA Regulations, 2014 (as amended), and where this Department is the Competent Authority.

6.1. General requirements

Monthly updates must be submitted to this Department, the Department of Water and Sanitation, Heritage Western Cape and the Department of Environmental Affairs: Oceans and Coasts on the status of the water supply emergency situation within the CoCT and the progress being made on the implementation of emergency measures or interventions to address the water supply emergency situation. This monthly update must be submitted before the last working day of each month.

6.2. Pre-implementation requirements

- 6.2.1. It is accepted that the CoCT is in the process of finalising a Water Supply Emergency Intervention Plan to address the current water supply emergency situation and to ensure resilience with respect to water supply security into the future. This Water Supply Emergency Intervention Plan must be finalised as soon as is reasonably possible. The final Water Supply Emergency Intervention Plan, must set out the list of measures or interventions that will fall within the ambit of this Section 30A Directive, describe each measure or intervention and explain how each measure or intervention specifically links to the current water supply emergency situation, as well as indicating the timeframe over which the measure or intervention will be implemented. This Water Supply Emergency Intervention Plan must be submitted to this Department for acceptance before commencing with any of the listed activities. Copies of the Water Supply Emergency Intervention Plan must also be provided to the Department of Water and Sanitation, Heritage Western Cape and the Department of Environmental Affairs: Oceans and Coasts for their information. The Water Supply Emergency Intervention Plan must demonstrate how it relates to the Water Demand Management Plan included in the CoCT's Integrated Development Plan.
- 6.2.2. A generic Environmental Management Programme (EMP) must be finalised as soon as is reasonably possible and submitted to this Department for acceptance before commencing with any of the listed activities, and copies of this EMP must also be submitted to the Department of Water and Sanitation, Heritage Western Cape and the Department of Environmental Affairs: Oceans and Coasts for their information.
- 6.2.3. Method statements for each of the measures or interventions to be implemented, as part of the Water Supply Emergency Intervention Plan, must be finalised as soon as is reasonably possible for all those that constitute a listed activity and must be submitted to this Department for acceptance, before commencing with any of the listed activities. Copies of these method statements must also be submitted to the Department of Water and Sanitation, Heritage Western Cape and the Department of Environmental Affairs: Oceans and Coasts for their information.

6.3. Requirements during implementation

- 6.3.1. The CoCT must submit audit reports (per measure or intervention to be implemented) to this Department for commenting purposes and acceptance. Copies of these audit reports must also be submitted to the Department of Water and Sanitation, Heritage Western Cape and the Department of Environmental Affairs: Oceans and Coasts for record purposes. The outline for the submission of audit reports is as follows:
 - 6.3.1.1. A first audit report within six (6) months of the commencement of an emergency measure or intervention (per measure or intervention to be implemented). This audit report must *inter alia* confirm how the mitigation hierarchy has been implemented, how section 2 of the NEMA has been considered and how the best practicable environmental option has been selected from alternatives considered; and
 - 6.3.1.2. A second audit report within three (3) months of completion of an emergency measure or intervention (per measure or intervention). This second audit report must *inter alia* confirm how the measures or interventions implemented have contributed to addressing the current water supply emergency situation and improved the water supply security in the CoCT. This second audit report must also detail how all the environmental impacts associated with each measure or intervention implemented have been mitigated.

6.4. Post-implementation requirements

- 6.4.1. A final audit report must be submitted, within six (6) months of completion of all measures or interventions (as per the Water Supply Emergency Intervention Plan) implemented to address the current water supply emergency situation. This final audit report must *inter alia* confirm how all of the risks associated with the water supply emergency situation have been addressed and how all of the measures or interventions implemented have contributed to ensuring the future resilience of water supply security by the CoCT. It must further indicate what future interventions, that may fall outside the scope of this Directive, are planned, to maintain such resilience into the future.
- 7. You may contact Mr. Anthony Barnes on (021) 483 4094 or Mr. Alvan Gabriel on (021) 483 2742 for further guidance and support pertaining to this Directive.
 - 8. You are encouraged to maintain open communication lines with all relevant authorities and must ensure that all stipulated authorities are included in the reporting protocol. This Department will endeavour to assist in such efforts as far as is reasonably possible.
 - 9. Please note that a person convicted of an offence in terms of Section 49(A)(1)(g) of the NEMA, namely failure to comply with a directive, is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.

10. Please note that Section 28 of the NEMA remains applicable to all interventions to be implemented. Section 28 states the following: "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."

Your interest in the well-being of the environment is appreciated.



HEAD OF DEPARTMENT

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 30.05.2017

Copies to:

- (1) Ms. A. Petersen (Berg-Olifants Proto CMA, Department of Water and Sanitation)
Email: Petersena@dws.gov.za
Fax: (021) 941 6072
- (2) Dr. J. Mphepya (c/o Mr. Y. Peterson / Ms. N. Baijnath-Pillay (DEA: Oceans and Coasts))
Email: Y.peterson@environment.gov.za / NBaijnath-Pillay@environment.gov.za
Fax: (021) 819 8410
- (3) Mr. M. Dlamuka (Heritage Western Cape)
Email: Ceoheritage@westerncape.gov.za
Fax: (021) 483 9845
- (4) Mr. R. Khan (Department of Water and Sanitation)
Email: KhanR@dws.gov.za
Fax: (021) 941 6072
- (5) Mr. G. Gerber /Ms. K. Rughoobee (DEA&DP: Directorate Development Facilitation)
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