

Port ROD



**MINISTRY: ENVIRONMENTAL AFFAIRS AND TOURISM  
REPUBLIC OF SOUTH AFRICA**

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Ref: 03/2/4  
A24/16/3/56

Ms M Mondl  
National Ports Authority of South Africa  
P O Box 32696  
**BRAAMFONTEIN**  
2001

Dear Ms Mondl

**DECISION ON APPEALS REGARDING THE PROPOSED DEVELOPMENT OF THE PORT OF  
NGQURA**

I refer to your appeal dated 19 December 2001, and your supplementary information dated 22 April 2002 that the Coega Development Corporation has submitted in terms of section 35 of the Environment Conservation Act, 1989 (Act No.73 of 1989), in respect of decision of the Director-General dated 21 November 2001 regarding this development.

I have evaluated all the appeals submitted to me and by virtue of the power vested in me in terms of section 35 (3) of the Environment Conservation Act, 1989, I hereby:

- (1) Uphold the initial decision of the Director-General,
- (2) Uphold the appeals against the following conditions: 1.9; 2.1; 2.2; 2.3; 2.4; 2.7; 2.12; 2.14; 2.19; 2.20; 2.22; 2.23; 2.25; 2.26; 2.29; 2.30; 2.52; 2.56 and 2.57,
- (3) Excise and or vary the conditions listed in 2 above.

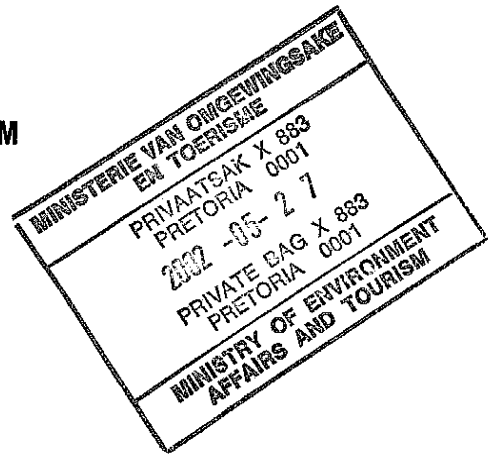
(4) Dismiss the appeals against conditions 1.4; 2.18 and 2.56.

Yours sincerely



**M V MOOSA**  
**MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM**  
**DATE:**

27/5/02



**REVISED RECORD OF DECISION IN TERMS OF SECTION 22 (3) OF THE ENVIRONMENT CONSERVATION ACT, 1989 WITH REGARD TO THE UNDERTAKING OF AN ACTIVITY DESCRIBED BELOW AS REQUIRED BY GN R. 1183 OF 5 SEPTEMBER 1997.**

**REFERENCE NUMBER: A24/16/3/56**

**BRIEF DESCRIPTION OF ACTIVITY:**

The project entails the construction of a deep-water port on the mouth of the Coega River estuary by the National Port Authority of South Africa (NPA). The harbour will have two breakwaters, with the main breakwater extending more than two kilometres into the sea, while the lee breakwater will be approximately 1km long.

Five berths will be constructed initially, with two berths each being allocated to the container terminal and dry bulk materials facility and one to a bulk liquid materials facility. The main construction activity associated with the building of the marine infrastructure is the dredging of the approach channel and turning basin; construction of the quay walls and breakwaters; land excavation to create the area for the container terminal and transport corridor and the resulting transport of material to the east headland deposition site; and the building of a sand bypass scheme.

The main land based activities involve the development of infrastructure and service facilities for the future Industrial Development Zone (IDZ) tenants and port users. This will involve preparing sites, transport routes, water and electricity services, waste sites and telecommunications. The landside development is envisaged to encompass a custom secure logistic park, an E-commerce park, areas designated for port related activities and allied industries, mixed-use corridor and electronic and technical clusters.

**LOCALITY:**

Province: Eastern Cape

Magisterial District: Nelson Mandela Metropole

Farm Name: Coega River Mouth, Neptune, Swartkoppen and Wells Estate

Nearest Town: Port Elizabeth

**APPLICANT:**

National Ports Authority of South Africa

P O Box 32696

**BRAAMFONTEIN**

2001

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**CONSULTANT:**

Coastal & Environmental Services  
P.O Box 934  
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Contact Person: Dr Angus Paterson  
Tel: (046) 622 2364  
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**DECISION:**

**Authorisation is granted in terms of Section 22 (3) of the Environment Conservation Act, 1989 (Act No. 73 of 1989) to construct and operate the Port of Ngqura. This authorisation is granted subject to the conditions outlined below.**

**1. STANDARD CONDITIONS:**

- 1.1 This authorisation refers only to the activity as specified and described above. Any other development associated with this project and listed under section 21 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) is not covered by this authorisation, and must therefore comply with the requirements of the Act and Government Notice R. 1183.
- 1.2 Authorisation is granted in terms of Section 22 of the Environment Conservation Act, 1989 (Act No.73 of 1989). This authorisation does not exempt the holder from compliance with any other applicable legislation.
- 1.3 In the event of non-compliance by any contractor implicated in this activity, the NPA will be held liable for environmental damage.
- 1.4 The National Ports Authority (NPA) must in the event of material non-compliance with any condition of this authorisation inform the Department within 48 hours.
- 1.5 A performance-based requirement with regard to environmental impact management, must be included in all contracts related to any activity of this authorisation.
- 1.6 In the event of non-compliance by the contractor, the NPA must institute a penalty.

- 1.7 The NPA must before construction, notify all interested and affected parties of this record of decision and associated conditions, within 5 (five) working days from the date of receiving this authorization.
- 1.8 Construction must not commence until 45 days have elapsed since the date of this authorization.
- 1.9. The NPA must keep an up to date complaints register, which must be produced upon request by the authorities or any member of the public. Any complaint from the public during the construction of any activity associated with this change of land use submitted to the environmental monitoring committee (EMC) must be attended to as soon as reasonably possible. In the event that no satisfactory resolution is attained within 90 working days after the complaint has been lodged, then the EMC must refer the matter, with recommendations, to the Director-General.
- 1.10 Compliance or non-compliance records must be kept in good order and shall be made available on request by the authorities.

## **2. SPECIFIC CONDITIONS**

- 2.1 NPA and the Coega Development Corporation (CDC) in consultation with the Director-General of the Department of Environmental Affairs and Tourism shall establish the EMC. The function of the EMC shall be to monitor the NPA's compliance with the conditions of the record of decision. The committee shall consist of representatives from interested and affected parties, the relevant authorities, the CDC and NPA.
- 2.2 The NPA must implement an environmental management system (EMS) based on both the conditions of this record of decision as well as the mitigation measures proposed in the environmental impact report and the specialist reports Part 2.
- 2.3 This project is authorized on condition that both the construction and operation environmental management plans (EMPs) are compiled and submitted to this department as well as to the relevant provincial department for authorization. The construction EMP must form part of the contract documentation for contractors appointed for the construction phase.
- 2.4 The NPA must appoint an independent environmental control officer (ECO), whose sole responsibility will be to ensure that the EMPs are implemented. The ECO will be responsible to produce periodic audits on how well the project implementation complies with the project conditions. The name of such an official shall be provided to the authorities for communication purposes. The ECO will report to the EMC.
- 2.5 A proper environmental education programme must be compiled and implemented for all contractors and sub-contractors working on the project, to the satisfaction of the EMC.

- 2.6 The activities of all contractors and sub-contractors must be incorporated into the EMP, and they must be made aware of the content of all conditions pertaining to this authorisation.
- 2.7 Should closure of the salt works and or the abalone farm be a necessary option, the NPA must ensure that the retrenched workers of these industries as well as the relocated communities are retrained and receive preference during recruitment of personnel for both the IDZ and the port development.
- 2.8 The NPA, together with all other stakeholders whose operations are likely to impact negatively on the marine life of Algoa Bay, must submit a strategic plan indicating their commitment towards financially and logistically facilitating the establishment of the seabird and marine mammal rehabilitation centre before operation of the port commences.
- 2.9 The NPA must implement the oil spill contingency plan before operation commences.
- 2.10 The co-management structure between NPA and the CDC must be formalised to ensure a compatible approach to managing the entire project. In this structure, clear indications of liabilities and responsibilities must be specified, prior to construction.
- 2.11 The CDC and NPA must identify all users of the Algoa Bay near shore water and accommodate their needs in the management plan, before construction and dredging commence, to avoid among other things, possible loss of income and occurrences of accidents.
- 2.12 The NPA must ensure that an alien invasive eradication plan is formulated and implemented. This will also entail the implementation of weed control measures through manual and mechanical means. Any use of herbicides should be cleared with the Provincial Department of Agriculture.
- 2.13 A management plan must be developed before the operational phase of the port by the NPA to ensure that the management of ballast water avoids pollution and the introduction of biological marine contamination through introduced organisms.
- 2.14 The NPA must facilitate the establishment of the necessary licensed general and hazardous waste disposal sites. The local authorities as well as the Department of Water Affairs and Forestry must be consulted regarding the identification and the suitability of such sites. The cost for the maintenance of the sites must go to the NPA.
- 2.15 All areas to be disturbed as a result of the implementation of this activity must be rehabilitated as soon as possible using appropriate indigenous vegetation. Available topsoil must be stockpiled for subsequent use during reclamation activities.
- 2.16 Utilisation and destruction of plant and animal species must be carefully monitored, managed and controlled to prevent destruction of protected, scarce and red data listed species. In the event of possible destruction of these species an ecologist must be appointed to identify and relocate, where possible, affected plant species to sites identified

- in consultation with the environmental control officer (ECO) and the relevant provincial department.
- 2.17 The remaining patches of both the Bontveld vegetation and the Messic Succulent Thicket must be fenced off and protected from mechanical destruction and infestation with alien vegetation prior to construction. Every effort must be made to avoid degradation of Bontveld within the port limits.
  - 2.18 The NPA must ensure that the Duthies golden mole and Pygmy hairy-footed gerbil occurring in the dune habitats in the Coega area are included in the relocation and management plan to the satisfaction of the relevant provincial environmental department.
  - 2.19 The NPA must comply with the recommendations of the scientific study entitled *"Impact Assessment of the Coega Harbour on the fishing activities, estuaries and phytoplankton production in the Algoa Bay"*.
  - 2.20 A proper fire contingency plan before compiled and implemented. The relevant authorities must approve fire contingency and management plans before construction commences.
  - 2.21 Although fragmentation of habitats will definitely occur, viable corridors must be determined with the relevant provincial environmental department and maintained between habitats to allow migration of animals.
  - 2.22 The NPA must undertake regular monitoring of the groundwater, surface water and near shore seawater in accordance with an approved monitoring strategy. Should there be any evidence of contamination, appropriate mitigation action must be implemented immediately to rectify the situation. This must form part of the EMS.
  - 2.23 The NPA must obtain the necessary dredging permit from the DEAT Directorate, Marine and Coastal Management before construction can start.
  - 2.24 A detailed monitoring plan must be compiled and implemented to ensure that the predators do not reach the Jahleel Island.
  - 2.25 Uncontrolled access to this island, and the other islands in the bay, is prohibited. Any access must be authorised by the relevant authority.
  - 2.26 The occurrence and movement of marine mammals in the proximity of the harbour must be monitored and documented. Measures to avoid collisions with them, and to limit their disturbance, during construction and operation of the harbour, must be put in place.
  - 2.27 Construction works, especially blasting, and other noisy activities, must be limited during breeding season of birds on the islands. A detailed management plan in this regard must be compiled prior to construction in co-operation with, and to the satisfaction of the relevant provincial authorities and MCM.

- 2.28 The NPA must plan for the eventuality of the increase in the number of vessels in Algoa Bay, to avoid possible collision between ships and between ships and marine animals.
- 2.29 All provisions of the National Heritage Act, 1999 (Act No. 25 of 1999) must be complied with to protect any wrecked vessels of in the area
- 2.30 All provisions of the National Water Act, 1998 (Act No. 36 of 1998) must be complied with regarding the flow diversion of the Coega River.
- 2.31 All provisions of the Health Act, 1977 (Act No. 63 of 1977) as well as provisions of the International Health Regulations Act, 1974 (Act No. 28 of 1974) must be fully complied with. Mr A Van Olm is the contact person of the Provincial Department of Health.
- 2.32 The NPA must implement a rodent management plan. The implementation of this plan should take the following into consideration:
- Consultation with their neighbours on removal of obstacles, which hampers effective rodent management especially in areas where boundaries and buffer zones to and between land occupants could influence an effective programme.
  - The number of dead rodents found should be registered and such statistics made available to the municipality concerned on at least a monthly basis.
  - Increases in the number of dead rodents should be reported immediately to the Port Health Officer and the Municipality.
- 2.33 The Environmental Health Section of the Local Authority must be progressively involved during the commencement of each stage of development, for them to set preventative criteria and to approve, environmental health-wise, the activities to be undertaken.
- 2.34 Proper HIV/AIDS awareness training must be provided to all workers on site.
- 2.35 All provisions of the Sea Shore Act, 1935 (Act No. 25 of 1935) and the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965) must be complied with.
- 2.36 The provisions of the Forest Act, 1984 (Act No.122 of 1984) must also be complied with.
- 2.37 As part of the EMS, during each stage of the development, from site preparation to final construction and operation, adequate measures to collect, remove and safely dispose of waste must be instituted for the port, back-of-the-port and the rest of the IDZ area.
- 2.38 As part of the EMS, a storm water management plan that complies with the Department of Water Affairs and Forestry's standards must be compiled and implemented.

- 2.39 Before any recycled water is reticulated, proper identification between this system, and those for fresh water, must be instituted to prevent recycled water being used for fresh water.
- 2.40 Adequate buffer zones between any form of residential area and IDZ must be provided for.
- 2.41 The NPA must ensure that disturbance of graves are avoided during construction. Graveyards must be integrated in the Coega Development Plan and access to sites shall be provided to the communities.
- 2.42 The CDC and NPA in collaboration with the Nelson Mandela Metropole must plan for the influx of job seekers to the Coega Development site.
- 2.43 Uncontrolled settlements of job seekers must be managed to avoid social disruption and environmental damage to the surrounding area.
- 2.44 In order to limit visual impact of the development on the proposed Greater Addo National Park, the CDC and NPA must appropriately design the harbour buildings, limit lighting and promote the use of screening vegetation. This must be planned in cooperation with the South African National Parks.
- 2.45 The holder of this authorisation and all contractors must adhere to all provisions of the Occupational Health and Safety Act, 1993.
- 2.46 The transportation and handling of hazardous substances must comply with all the provisions of the Hazardous Substances Act, 1973 (Act No.15 of 1973) and associated regulations, as well as SABS 0228 and SABS 0229.
- 2.47 The Best Practicable Environmental Option must be applied to all technologies during construction.
- 2.48 All mitigation measures stipulated in Chapters 5, 7 and 9 of the environmental impact report become part of this record of decision. Non-compliance with those becomes non-compliance with this record of decision.

### **3. KEY FACTORS FOR DECISION**

- 3.1 Should the project proponent implement all the mitigation measures as well as the conditions of this authorisation, no fatal flaws will emanate.
- 3.2 The environmental impact report submitted satisfies the requirements of the Environment Conservation Act, 1989.
- 3.3 The public participation process undertaken has been extensive and is considered adequate.

- 3.4 This spatial development initiative (SDI) initiated by the South African Government intends to unlock the economic potential of the Eastern Cape Province through job creation and empowerment of the previously disadvantaged communities by encouraging economic growth.

**4. SITE VISIT**

The last site visit was attended on 17 August 2001 by the following:

|                     |                                 |
|---------------------|---------------------------------|
| Mr Mpumi Mabula     | - Coega Development Corporation |
| Mr Vincent Matabane | - DEAT                          |
| Mr Zain Jumat       | - DEAT                          |
| Ms Olga Moitsi      | - DEAT                          |

**5. DURATION AND DATE OF EXPIRY:**

If the activities applied for in this permit do not commence within a period of 2 years, this authorisation will be nullified and should the applicant intend to invoke the project, the application procedure as detailed in GN. R 1183 must be followed. This permit is valid for 2 (two) years.

*MV MOOSA*

**M V MOOSA**  
**MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM**  
**DATE:**

*27/5/02*