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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 5208 **13 September 2024**

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)

ADOPTION OF THE KWAZULU-NATAL PROVINCIAL WATERCOURSE INFRASTRUCTURE STANDARD AND ASSOCIATED ACTIVITIES EXCLUDED FROM THE REQUIREMENT TO OBTAIN AN ENVIRONMENTAL AUTHORISATION

I, Dr Dion Travers George, Minister of Forestry, Fisheries and the Environment, hereby adopt, in terms of section 24(10)(a) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), the *KwaZulu-Natal Provincial Watercourse Infrastructure Standard and Associated Excluded Activities*, including the Generic Environmental Management Programme, and based on compliance with this Standard, exclude, in terms of section 24(2)(d) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (the Act) identified activities, as set out in the Schedule, from the requirement to obtain environmental authorisation.

Essential community services, including community access roads, culverts, causeways, bridges and the provision of community water and sanitation reticulation play a fundamental role in social well-being and economic development by linking communities to basic needs and services and facilitating local economic development and employment opportunities. Most of these essential community service activities need to obtain environmental authorisation in terms of sections 24(2)(a) and 24F(1) of the Act prior to being undertaken, in that parts of the infrastructure often fall within a watercourse, in front of a development setback, or within 32 metres of a watercourse where no development setback exists, or would require the excavation or deposition of material into or out of a watercourse.

The Act provides a framework for the development, adoption and implementation of a variety of environmental management instruments in order to achieve the objectives of integrated environmental management. Section 24(2)(d) of the Act provides for the exclusion of activities from the requirement to obtain environmental authorisation based on compliance with prescribed norms or standards. These norms or standards provide the rules, guidelines or characteristics that can be commonly or repeatedly used for the purposes of achieving the objectives of the Act.

A strategic assessment was undertaken by the KZN Department of Economic Development, Tourism and Environmental Affairs to evaluate the potential for the development of a standard to manage the impacts associated with activities related to community service infrastructure being constructed or established within watercourses, in front of development setbacks or within 32 metres of a watercourse where no development setback exists. The assessment found that a high proportion of the applications for environmental authorisation received within KwaZulu-Natal, are for the formalisation, repair, replacement or upgrade of existing community access tracks and roads, bridges, watercourse crossings or community water and sanitation reticulation. Most of these projects are undertaken within the footprints of existing disturbed areas where community service infrastructure has already been established either formally or informally.

The analysis established that the assessment requirements for the *in situ* formalisation and upgrade of service infrastructure was substantially routine and that the infrastructure being established was standardised. The study further found that the conditions of authorisation and mitigation requirements within environmental authorisations issued, were commonly repeated and standard. The assessment further identified specific circumstances where the impacts identified; the assessment processes required; and/or the mitigation measures needing to be applied,

were substantively different from the norm and indicated that the structures proposed to be developed in these specific areas or circumstances should be excluded from the application of a Standard.

As the impacts and mitigation measures to formalise, repair, replace or upgrade existing community access roads, culverts, causeways, bridges, watercourse crossings as well as water and sanitation infrastructure are standard, they can be managed through a Standard and Generic Environmental Management Programme. The implementation of the Standard and Generic Environmental Management Programme would facilitate improved service delivery, reduce the cost burden on the state by not requiring the undertaking of environmental impact assessments for routine and repetitive projects and will allow development to occur in a more timely manner.

The requirements of the Standard and mitigation measures identified through the Generic Environmental Management Programme will adequately avoid and mitigate environmental impacts and ensure conformance to the principles and objectives of environmental management provided for in the Act.

The *KZN Provincial Watercourse Infrastructure Standard and Associated Excluded Activities* establishes the processes and procedures for specified watercourse infrastructure activities to be excluded from the requirement to obtain an environmental authorisation, subject to registration of these projects with the competent authority and adherence of the projects to the provisions contained in the Generic Environmental Management Programme and Standard.

The Standard can be accessed at https://www.dffe.gov.za/projectprogrammes/environmental_management_instruments and www.kznedtea.gov.za/resource-centre/legislation

The Standard, including the Generic Environmental Management Programme and associated exclusions will come into effect 60 days from the date of publication of this notice in the Government *Gazette*.

DR DION TRAVERS GEORGE
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

1. Definitions

In this Schedule a word defined in the National Environmental Management Act, 1998 (Act No. 107 of 1998) or the Environmental Impact Assessment Regulations, 2014, as amended has the same meaning, and unless the context indicates otherwise—

"Environmental Impact Assessment Regulations" means the Environmental Impact Assessment Regulations, 2014 published in terms of section 24(5) of the Act under Government Notice No. R. 982 in Government *Gazette* No. 38282 of December 2014, as amended from time to time;

"Generic EMPr" means the generic environmental management programme as contained in Annexure 2 to the Standard and includes all method statements or standard operating procedures approved for the registered project;

"project" means an activity or set of activities undertaken for the formalisation, repair, replacement or upgrade of existing community services including access roads, culverts, bridges, causeways, or watercourse crossings and existing water and sanitation reticulation infrastructure;

"the Act" means the National Environmental Management Act, 1998 (Act No. 107 of 1998); and

"the Standard" means the KwaZulu-Natal Provincial Watercourse Infrastructure Standard and Associated Excluded Activities.

2. The KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs has developed the *KwaZulu-Natal Provincial Watercourse Infrastructure Standard and Associated Excluded Activities*.

3. The Standard is developed and adopted in terms of section 24(10)(a) of the Act for the purpose of excluding the activities contemplated in paragraph 5 of this Schedule, read with Appendix 1 of the Standard, from the requirement to obtain environmental authorisation prior to commencement, subject to compliance with the Standard and the Generic EMPr.

4. Based on compliance with the provisions of the Standard, the activities contemplated in paragraph 5 of this Notice are excluded from the requirement to obtain environmental authorisation in terms of section 24(2)(d) of the Act, when undertaken entirely within the KwaZulu-Natal province; and, on condition that the activities meet the inclusion criteria contained in Appendix 1 of the Standard and none of the eliminating criteria contained in Appendix 1 are applicable.

5. The following identified activities, read with Appendix 1 of the Standard, are hereby excluded from the requirement to obtain environmental authorisation:

5.1 Environmental Impact Assessment Regulations Listing Notice 1 of 2014, as amended:
- 5.1.1 Activity 12(ii);
- 5.1.2 Activity 19; or
- 5.1.3 Activity 48(i); or

5.2 Environmental Impact Assessment Regulations Listing Notice 3 of 2014, as amended:
- 5.2.1 Activity 12(d)(iv) and (xii);
- 5.2.2 Activity 14(ii); or
- 5.2.3 Activity 23(ii);

or any combination of these activities.

6. The provisions of the Standard are not applicable if–
   (a) any activity not excluded as contemplated in paragraph 5, read with Annexure 1 of the Standard, is triggered, in which case environmental authorisation must be obtained for all applicable identified activities;
   (b) any portion of the project is intended to be undertaken outside of the KwaZulu-Natal province;
   (c) any portion of the project has commenced prior to its registration as a registered project; or
   (d) an excluded activity forms part of a mining application or constitutes a mining activity.

7. Compliance with the Standard does not negate the obligation of the proponent to comply with all other applicable legislation.

8. Where this Standard does not apply, with the exception of paragraph 6(c), the requirements of the Environmental Impact Assessment Regulations apply.

9. Failure to comply with the requirements of the Standard, including the failure to register a project prior to commencement, constitutes an offence in terms of section 49A(1)(bA) of the Act.

10. The provisions of the National Appeal Regulations, 2014, as amended, are applicable to an appeal against any decision taken in terms of this Notice or the Standard.

11. An application for environmental authorisation submitted in terms of the Environmental Impact Assessment Regulations for identified activities contained in this Government Notice, which is pending on the date of coming into effect of the Standard and exclusion contemplated in this Notice, must be finalised in accordance with the procedures of the Environmental Impact Assessment Regulations or may be withdrawn.

12. An environmental authorisation issued prior to the coming into effect of the Standard and this Notice for activities that are excluded in terms of this Notice, remains valid as if the Standard and exclusion are not in effect.

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