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The relationship between planning and environmental management in Gauteng

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No. R. 386 **21 April 2006**

LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED IN TERMS OF SECTIONS 24 AND 24D OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

The Minister of Environmental Affairs and Tourism has in terms of sections 24 and 24D of the National Environmental Management Act, 1998 (Act No. 107 of 1998), listed the activities in the Schedule.

This Notice comes into effect on the date of commencement of the Environmental Impact Assessment Regulations, 2006, made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006.

Definitions

1. In this Notice, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates -

"agri-industrial" means an undertaking involving the production, processing, manufacture, packaging or storage of agricultural produce and includes battery farm operations that are under roof;

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"aquaculture" means the farming of animals or plants in an aquatic environment;

"asbestos" means any fibrous mineral silicates, including actinolite, amosite, anthophyllite, chrysotile, crocodolite or tremolite;

"associated structures or infrastructure" means any building or infrastructure that is necessary for the functioning of a facility or activity or that is used for an ancillary service or use from the facility;

"canal" means an open structure that is lined or reinforced for the conveying of a liquid or that serves as an artificial watercourse;

"channel" means an excavated hollow bed for running water or an artificial underwater depression to make a water body navigable or to improve the flow of water in a natural stream, river or the sea;

"concentration of animals" means the keeping of animals in a confined space or structure, including a feedlot, where they are fed in order to prepare them for slaughter or to produce secondary products such as milk or eggs;

"construction" means the building, erection or expansion of a facility, structure or infrastructure that is necessary for the undertaking of an activity, but excludes any modification, alteration or upgrading of such facility, structure or infrastructure that does not result in a change to the nature of the activity being undertaken or an increase in the production, storage or transportation capacity of that facility, structure or infrastructure;

"dangerous goods" means goods that are capable of posing a significant risk to the health and safety of people or the environment and which are listed in South African National Standard No.10228 designated "The identification and classification of dangerous goods for transport", SANS 10228:2003, edition 3, published by Standards South Africa, ISBN 0-626-14417-5, as may be amended from time to time;

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"expansion" means the modification, extension or alteration of a facility, structure or infrastructure at which an activity takes place in such a manner that the production, treatment, storage or capacity of the facility is increased;

"floodplain" means a discernable flat landscape feature next to a river or stream that was created by weathering and sedimentation over time;

"high-water mark" means the highest line reached by the water of the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

"infill development" means urban development, including residential, commercial, retail, institutional, educational and mixed use development, but excluding industrial development, in a built up area which is at least 50 percent abutted by urban development and which can be readily connected to municipal bulk infrastructure services;

"mariculture" means the culture or husbandry of fish in sea water;

"mine" when used as a noun or a verb as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

"mineral" means a mineral as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

"mining area" means an area as defined in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

"mining permit" means a permit as defined in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

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"mixed use", with regard to an activity, means the presence of two or more types of land use in an area;

"petroleum" means any liquid, solid hydrocarbon or combustible gas as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

"phased development" means an activity that is developed in phases over time on the same or adjacent properties to create a single or linked entity through interconnected internal vehicular or pedestrian circulation, sharing of infrastructure, or the continuum of design, style or concept by the same proponent or his or her successors.

"prospecting" means prospecting as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

"prospecting area" means an area as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

"prospecting right" means a right as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

"reconnaissance permit" means a permit as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

"retention area" means an area as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

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"**retention permit**" means a permit as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

"**sea**" means the water and the bed of the sea and the subsoil thereof, below the high-water mark, including the water and the bed of any tidal river and tidal lagoon;

"**South African Manual for Outdoor Advertising Control**" means the Department of Environmental Affairs and Tourism and the Department of Transport publication titled "South African Manual for Outdoor Advertising Control", published by the Department of Environmental Affairs and Tourism, April 1998, ISBN: 0-621-27343-0;

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

"***the regulations***" means the Environmental Impact Assessment Regulations, 2006.

SCHEDULE

ACTIVITIES IDENTIFIED IN TERMS OF SECTION 24(2)(a) AND (d) OF THE ACT, WHICH MAY NOT COMMENCE WITHOUT ENVIRONMENTAL AUTHORISATION FROM THE COMPETENT AUTHORITY AND IN RESPECT OF WHICH THE INVESTIGATION, ASSESSMENT AND COMMUNICATION OF POTENTIAL IMPACT OF ACTIVITIES MUST FOLLOW THE PROCEDURE AS DESCRIBED IN REGULATIONS 22 TO 26 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2006, PROMULGATED IN TERMS OF SECTION 24(5) OF THE ACT -

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Activity number	Activity description	Identification of competent authority
1	The construction of facilities or infrastructure, including associated structures or infrastructure, for – (a) the generation of electricity where the electricity output is more than 10 megawatts but less than 20 megawatts; (b) the above ground storage of 1 000 tons or more but less than 100 000 tons of ore; (c) the storage of 250 tons or more but less than 100 000 tons of coal; (d) resorts, lodges, hotels or other tourism and hospitality facilities in a protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003); (e) any purpose where lawns, playing fields or sports tracks covering an area of more than three hectares, but less than 10 hectares, will be established; (f) sport spectator facilities with the capacity to hold 8 000 spectators or more; (g) the slaughter of animals with a product	The competent authority in respect of the activities listed in this part of the schedule is the environmental authority in the province in which the activity is to be undertaken unless it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.

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	throughput of 10 000 kilograms or more per year; (h) the concentration of animals for the purpose of commercial production in densities that exceed - (i) 20 square metres per head of cattle and more than 500 head of cattle per facility per year; (ii) eight square meters per sheep and more than 1 000 sheep per facility per year; (iii) eight square metres per pig and more than 250 pigs per facility per year excluding piglets that are not yet weaned; (iv) 30 square metres per crocodile at any level of production, excluding crocodiles younger than 6 months; (v) three square metres per head of poultry and more than 250 poultry per facility at any time, excluding chicks younger than 20 days; (vi) three square metre per rabbit at and more than 250 rabbits per facility at any time; or (vii) 100 square metres per ostrich and more than 50 ostriches per facility per year or 2500 square metres per breeding pair; (i) aquaculture production, including mariculture and algae farms, with a product	

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	throughput of 10 000 kilograms or more per year; (j) agri-industrial purposes, outside areas with an existing land use zoning for industrial purposes, that cover an area of 1 000 square metres or more; (k) the bulk transportation of sewage and water, including storm water, in pipelines with - (i) an internal diameter of 0,36 metres or more; or (ii) a peak throughput of 120 litres per second or more; (l) the transmission and distribution of electricity above ground with a capacity of more than 33 kilovolts and less than 120 kilovolts; (m) any purpose in the one in ten year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including - (i) canals; (ii) channels; (iii) bridges; (iv) dams; and (v) weirs;	

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	(n) the off-stream storage of water, including dams and reservoirs, with a capacity of 50 000 cubic metres or more, unless such storage falls within the ambit of the activity listed in item 6 of Government Notice No. R. 387 of 2006; (o) the recycling, re-use, handling, temporary storage or treatment of general waste with a throughput capacity of 20 cubic metres or more daily average measured over a period of 30 days, but less than 50 tons daily average measured over a period of 30 days; (p) the temporary storage of hazardous waste; (q) the landing, parking and maintenance of aircraft including - (i) helicopter landing pads, excluding helicopter landing facilities and stops used exclusively by emergency services; (ii) unpaved aircraft landing strips shorter than 1,4km; (iii) structures for equipment and aircra storage; (iv) structures for maintenance and repair; (v) structures for fuelling and fuel storage; and (vi) structures for air cargo handling;	

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	(r) the outdoor racing of motor powered vehicles including - (i) motorcars; (ii) trucks; (iii) motorcycles; (iv) quad bikes; (v) boats; and (vi) jet skis; (s) the treatment of effluent, wastewater or sewage with an annual throughput capacity of more than 2 000 cubic metres but less than 15 000 cubic metres; (t) marinas and the launching of watercraft on inland fresh water systems; (u) above ground cableways and funiculars; (v) advertisements as defined in classes 1(a), 1(b), 1(c), 3(a), 3(b), 3(l) of the South African Manual for Outdoor Advertising Control.	

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2	Construction or earth moving activities in the sea or within 100 metres inland of the high-water mark of the sea, in respect of – (a) facilities for the storage of material and the maintenance of vessels; (b) fixed or floating jetties and slipways; (c) tidal pools; (d) embankments; (e) stabilising walls; (f) buildings; or (g) infrastructure.	
3	The prevention of the free movement of sand, including erosion and accretion, by means of planting vegetation, placing synthetic material on dunes and exposed sand surfaces within a distance of 100 metres inland of the high-water mark of the sea.	
4	The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic metres from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland.	
5	The removal or damaging of indigenous vegetation of more than 10 square metres within a distance of 100 metres inland of the high-water mark of the sea.	
6	The excavation, moving, removal, depositing or compacting of soil, sand, rock or rubble covering an area exceeding 10 square metres in the sea or within a distance of 100 metres inland of the high-water mark of the sea.	

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7	The above ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1 000 cubic metres at any one location or site.	
8	Reconnaissance, prospecting, mining or retention operations as provided for in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), in respect of such permissions, rights, permits and renewals thereof.	The competent authority for this part of the schedule is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.
9	In relation to permissions, rights, permits and renewals granted in terms of 8 above, or any other similar right granted in terms of previous mineral or mining legislation, the undertaking of any prospecting or mining related activity or operation within a prospecting, retention or mining area, as defined in terms of section of 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).	
10	The establishment of cemeteries.	The competent authority in respect of the activities listed in this part of the schedule is the environmental
11	The decommissioning 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 more than 10 hectares.	

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12	The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).	authority in the province in which the activity is to be undertaken unless it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.
13	The abstraction of groundwater at a volume where any general authorisation issued in terms of the National Water Act, 1998 (Act No. 36 of 1998) will be exceeded.	
14	The construction of masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, but excluding - (a) masts of 15 metres and lower exclusively used (i) by radio amateurs; or (ii) for lighting purposes (b) flag poles; and (c) lightning conductor poles.	
15	The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.	

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16	The transformation of undeveloped, vacant or derelict land to – (a) establish infill development covering an area of 5 hectares or more, but less than 20 hectares; or (b) residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare.	
17	Phased activities where any one phase of the activity may be below a threshold specified in this Schedule but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.	
18	The subdivision of portions of land 9 hectares or larger into portions of 5 hectares or less.	
19	The development of a new facility or the transformation of an existing facility for the conducting of manufacturing processes, warehousing, bottling, packaging, or storage, which, including associated structures or infrastructure, occupies an area of 1 000 square metres or more outside an existing area zoned for industrial purposes.	
20	The transformation of an area zoned for use as public open space or for a conservation purpose to another use.	

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21	The release of genetically modified organisms into the environment in instances where assessment is required by the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) or the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).	
22	The release of any organism outside its natural area of distribution that is to be used for biological pest control.	
23	The decommissioning of existing facilities or infrastructure, other than facilities or infrastructure that commenced under an environmental authorisation issued in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, for - (a) electricity generation; (b) nuclear reactors and storage of nuclear fuel; (c) industrial activities where the facility or the land on which it is located is contaminated or has the potential to be contaminated by any material which may place a restriction on the potential to re-use the site for a different purpose; (d) the disposal of waste; (e) the treatment of effluent, wastewater and sewage with an annual throughput capacity of 15 000 cubic metres or more;	

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	(f) the recycling, handling, temporary storage or treatment of general waste with a daily throughput capacity of 20 cubic metres or more; or (g) the recycling, handling, temporary storage or treatment of hazardous waste.	
24	The recommissioning or use of any facility or infrastructure, excluding any facility or infrastructure that commenced under an environmental authorisation issued in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, after a period of two years from closure or temporary closure, for - (a) electricity generation; (b) nuclear reactors and nuclear fuel storage; or (c) facilities for any process or activity, which require permission, authorisation, or further authorisation, in terms of legislation governing the release of emissions, pollution, effluent or waste prior to the facility being recommissioned.	
25	The expansion of or changes to existing facilities for any process or activity, which requires an amendment of an existing permit or license or a new permit or license in terms of legislation governing the release of emissions, pollution, effluent.	