



## **environmental affairs**

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

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### **NATIONAL ASSEMBLY**

**(For written reply)**

**QUESTION NO. 1300 {NW2511E}**

**INTERNAL QUESTION PAPER NO. 22 of 2019**

**DATE OF PUBLICATION: 25 October 2019**

**Mrs A M M Weber (DA) to ask the Minister of Environmental Affairs, Forestry and Fisheries**

- (1) Whether mining activities are prohibited or restricted in wetland areas in the Republic; if not, what is the position in this regard; if so, what are the details of the (a) legislative provisions relied upon when restricting or prohibiting mining, (b) process that needs to be followed in order to stop mining activities in wetland areas and (c) mechanisms put in place by her department to rehabilitate an area affected by mining activities in a wetland area;
- (2) whether portion 24 of the farm Boschmanspoort 159 IS in Mpumalanga is located within a wetland area?

**1300. THE MINISTER OF ENVIRONMENT, FORESTRY AND FISHERIES REPLIES:**

1. Prohibitions or restrictions of activities are part of a series of environmental impact management measures aimed at facilitating sustainable development. Such measures should be applied within the constitutional framework and all other applicable laws as administered by all departments, but more specifically those responsible for minerals, environment and water

affairs. Most environmental issues are managed primarily in terms of the overarching legislation which is National Environment Management Act, (Act 107 of 1998) (NEMA) and its Specific Environmental Management Acts (SEMA's).

Conservation of wetlands is a cross-cutting mandate and the management of impacts therefore depend on the nature of the proposed activity. Legislative provisions that may be relevant to wetlands areas in the Republic are:

- **The National Environmental Management Act, Act 107 of 1998:**
- **Mineral and Petroleum Resources Development Act, Act 28 of 2002**
- **National Environmental Management: Biodiversity Act, Act 10 of 2004**

(b) Currently there is no "process to stop mining activities in wetlands areas" in South Africa, unless the wetland is part of the protected area system. However, in terms of section 49 of Mineral Petroleum Resources Act 28 of 2002, the Minister of Minerals Resources and Energy may prohibit or restrict the granting of any reconnaissance permission, prospecting right, mining right or mining permit in respect of land identified by the Minister for such period and on such terms and conditions as the Minister may determine.

The EIA Regulations require that an EIA process be undertaken for identified activities and submitted to the competent authority for consideration and informed decision-making. These Regulations regulate the procedure and criteria as contemplated in Chapter 5 of the NEMA relating to the preparation, evaluation, submission, processing and consideration of, and decision on, applications for environmental authorisations for the commencement of activities, subjected to environmental impact assessment, in order to avoid or mitigate detrimental impacts on the environment, and to optimise positive environmental impacts, and for matters pertaining thereto. In this regard an application for environmental authorisation may be refused. One of the many identified activities requiring an environmental authorisation in terms of Listing Notice 1 of the EIA Regulations 2014 (as amended), is the following:

*'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'.*

(c) In terms of section 41 of Mineral Petroleum Resources Act 28 of 2002, the Minister of Minerals and Energy, before granting a mining or prospecting right, shall approve the environmental management plan or programme. In terms of section 39 (4), financial provision for the rehabilitation or management of negative environmental impacts has to be made by an applicant.

In addition, according to section 43 of Mineral Petroleum Resources Act, Act 28 of 2002, the Minister of Mineral Resources and Energy may not issue a mining closure certificate until the permit holder of a prospecting or mining right takes responsible measures to address pollution or ecological degradation, including rehabilitation thereof.

(2) According to information generated from the Departmental National Web Based Environmental Screening Tool, the South African National Biodiversity Institute's wetland maps and the attached screening report, Portion 24 of the Farm Boschmanspoort 159 IS, in the Mpumalanga province, is located within a Critical Biodiversity Area (CBA) , although the web based survey tool does not indicate the presence of a wetland. Attached please find the two maps and the screening report supporting the response provided.

**Regards**



**MS BD CREECY, MP**

**MINISTER OF ENVIRONMENT, FORESTRY AND FISHERIES**

DATE: 8/11/2019