transport

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Transport
REPUBLIC OF SOUTH AFRICA

SAMSA
SOUTH AFRICAN
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To	**:**	**The Chairman: South African Ports Regulator**
From	**:**	**The National Port Consultative Committee**
Subject	**:**	**Proposals to Transnet National Ports Authority's Alteration of Tariffs for 2020 – 2021**

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PROPOSALS TO TRANSNET NATIONAL PORTS AUTHORITY'S ALTERATION OF TARIFFS FOR 2020/2021

1. PURPOSE

The purpose of this memorandum is to submit proposals and recommendations in response to the Amendment of the Ports Authority's Tariff Application as submitted by the National Ports Authority to the Ports Regulator of South Africa (PRSA) for the 2020/21 financial year from the National Ports Consultative Committee (NPCC).

2. BACKGROUND

Section 82(1) of the National Ports Act, Act 12 of 2005, empowers the Minister of Transport in the appointment of the National Ports Consultative Committee (NPCC). The function of the NPCC, amongst others, is to consider the National Ports Authority's (NPA) tariff applications, to comment on those, and to propose meaningful alterations where it is felt necessary to do so.

The Ports Regulator of South Africa's issued a Press Statement 8th August 2019 regards the "Amendment to the Tariff Application by the National Ports Authority Tariff Year 2020/21" received 1 August 2019. The press statement invited port users and interested parties to participate in the public hearings scheduled by the PRSA across the port system 2nd to 7th August 2019. Call for participation further encouraged port users to comment and submit proposals on the Amendment as received and published. As part of the annual NPCC processes, it was resolved that an ad-hoc NPCC meeting be convened to discuss the NPA tariff application and to formulate and record an official submission to the Ports Regulator of South Africa (PRSA).

The current tariff application is the 9th submitted to be considered by the PRSA since the institution of the NPCC.

3. NPCC TARIFF RESPONSE DISCUSSION

The subject meeting was held Thursday to Friday 29th to 30th August 2019 supported by NPCC Representatives. The main aim of the discussion was the Amendment to the NPA's Tariff Application in relation to the NPCC's official response to the NPA's 2021/22 Tariff Application. The focal point of the NPCC discussion being the continuous anecdotal evidence of long-standing challenges due to the Authority not being corporatized and therefore not being able to execute its mandate as an independent Ports Authority. And the impact this has on the SA port system and in doing so the SA economy. This focal point is consistent with the Ports Act Chapter 2 (3 & 4) Establishment and incorporation of the Authority. The meeting maintained as previously submitted that the Authority's current form is not conducive to it being independent and able to make decisions as expected of an independent Ports Authority, similar like an ACSA in the Aviation industry. The meeting once again acknowledged and reflected on the granular level of transparency in which this Amendment is being handled by the Ports Regulator. The level of transparency with the Ports Authority not having its independent financials remains a challenge. This not being limited to the Authority being remiss in presenting its financials per port to provide a transparent overview of its income and expenses. To this end the meeting resolved that the response acknowledges and addresses the following key issues:

- Compliance with the National Ports Act, Port Regulations, Directives and the issues raised by the PRSA in the 2017/18 – 2019/20 Record of Decision.
- Content and Completeness: Consideration given in respect of the provision of sufficient information in the tariff application, or not.
- Methodologically Consistent: Consistency in applying the Methodology.
- Pricing Methodology: Comment on TNPA's application of the Pricing Methodology.

- Level of Content Detail: To comment on the level of content provided in the Application
- To analyse and comment on the draft Tariff Book
- Recommendations: Propose Recommendations deemed necessary.

3.1 Compliance with the Act, Regulations, Directives and the Record of decision for 2018/2019.

3.1.1 Section 72(2) of the National Ports Act, indicates that the Authority must, prior to any substantial alteration of tariffs, consult with the NPCC. Important to note that the once again did not present its Tariff Application to the NPCC. This constitutes an area of non-compliance.

Directive 22(3):

(a) the manner in which the tariffs have been calculated, and the model used by the Authority for determining and calculating tariffs;

The NPCC noted that the Ports Authority calculated its tariffs based on the Valuation methodology as was published by the PRSA March 2018 as was directed. This NPCC acknowledges the Authority's compliance with the Valuation Methodology and using same to calculate its tariff.

(b) All operating and capital costs, expenses and revenues, incurred or generated from the port service or port facility, as well as the value of the capital stock;

Operating Expenditure remains a challenge as a further level of granularity is required. The Capex budget has several aspects which are questionable and which lack detail. These include the original Operations Phakisa projects as discussed at the Lab linked to its three-foot plans and schedule; Capex is discussed at each of the PCCs per port. Important to note that Capex presented and CAPEX allowed by the PRSA and Capex approved by the TNPA are not consistent across the port system and lacks both detail and oversight. This remains true. The PCCs requested the Authority to consult widely and provide an update. Meetings were held in Cape Town and Saldanha at very short notice which did not allow many affected port users to participate. The Authority continues to rework its plans and continues to miss its targets. Operation Phakisa has been a dismal failure.

c. Directives 23(1) (c) the amounts to be invested and the revenues to be utilised in port development, safety, security and environmental protection;

The NPCC is mindful that the Authority not being corporatized or at least a separate subsidiary similar to Transnet Holdings continues to have dire implications for the SA port system and the SA economy as is evident in port congestion, the spate of corruption challenges highlighted throughout the year amongst other. The NPCC maintains that port development initiatives are directly impacted by the Transnet approval processes. The Authority not being corporatized or at least a subsidiary of Transnet further reflects in divisional compliance processes within Transnet year on year highlighting prioritisation of Transnet interests and timeframes with the Ports Authority underspending significantly on Capex and investment in critical skills. This negates the broader South African economic priorities in respect of the Ports Authority deliverables as articulated in the Ports Act of 2005 and approved by the PRSA. It is therefore difficult to conclude whether all the required areas have been addressed satisfactorily.

(i) the manner in which the tariffs will affect the cost of doing business in the ports;

Significant work has been done in this area. Further work is to be done to reduce the level of ambiguity and double charges for example partially in cargo dues between the tariff allowed by NERSA for the recovery of oil and gas infrastructure investment. Also, the ambiguity between the Port Dues and Cargo dues in respect of the duplication of services rendered in these charges and how this is explained in the tariff book.

(ii) the proposed profit margin or rate of return, together with a motivation to show why this margin or return is commensurate with risk;

The Authority's Application does not differentiate between what it considers to be its investment risks impacting on its revenues and that of Transnet. This statement remains true. The NPCC is aware that as a division within Transnet the Authority does not borrow funds on the open market neither is it required to do so as the Revenue Requirement model provides that all funds be reinvested into the Authority. Notwithstanding this provision, it is not clear how this is dealt with between the Authority and Transnet. Furthermore noting the Authority's risk profile. This is a direct outflow of the Authority not being corporatized and empowered to make meaningful decisions to create an enabling environment.

(iii) The manner in which the factors set out in Directive 23 applies to the proposed tariffs.

Directive 22 (4): The Regulator may call on the Authority to provide any additional information which the Regulator required to consider the submission made in terms of sub directive 1 or 2 or to approve the proposed tariff.

The Ports Authority has consistently delayed providing comprehensive information. This is both true for the PCCs and the Port Performance Roadshows which allows for a wider platform for consultation with the Ports Authority.

Directive 22 (6): The Authority shall maintain such financial and accounting systems as are necessary for the Regulator to verify the pricing principles and models used by the Authority to determine and calculate its tariffs.

The Authority's audited statements, like ACSA, should be available to the SA public to scrutinise. This should allow for the PCCs and NPCC to have a better understanding regards the Authority's financial, governance and financial management.

Directive 23 (1): In considering the proposed tariffs in terms of Directive 22, the Regulator must have regard to whether the proposed tariffs reflect and balance the following considerations: -

(a) A systematic tariff methodology that is applicable on a consistent and comparable basis;

The NPCC acknowledges the Authority compliance with the Tariff Valuation Methodology as was published by the PRSA March 2018.

(b) Fairness;

Significant strides have been made by the PRSA to ensure fairness within the Authority's tariff processes. Whilst this is noted much more work is to be done to ensure transparency and fairness. To date, no evidence has been made available by the Authority regards its individual port profits and losses and it exercising oversight and the evidence thereof.

(c) The avoidance of discrimination, save where discrimination is in the public interest;

This is supported by the NPCC. Difficult to monitor the Authority's application of same. This remains true.

(d) Simplicity and Transparency;

There is a need to further simplify tariffs and enhance a greater level of transparency. This noting the Authority being a division of Transnet and by default being linked to the challenges within the Transnet Group.

(e) Predictability and stability;

Significant work has been done in this regard and this is acknowledged.

(f) The avoidance of cross-subsidisation save where cross-subsidisation is in the public interest; The Tariff Strategy has set out the manner in which cross-subsidisation will be addressed.

The NPCC supports cross-subsidisation within the Port system. However, it is difficult to monitor the degree to which the Authority may or may not be subsidizing Transnet Group or other Transnet divisions. This is an area which the

PRSA must investigate. This remains an area to be investigated taking into account the challenges in the media regards Transnet mismanagement.

(g) The promotion of access to ports and efficient and effective management and operations in ports.

The NPCC has several concerns in this regard. These concerns include:

The Authority's lack of oversight exercising its role as an independent Authority which includes S56, 57 and 79 respectively as articulated in the Ports Act of 2005. This remains true.

- Its delegation of Authority Framework linked to the Transnet Delegation of Authority Framework which is inconsistent with the Ports Act. This has a direct impact on decision making, Capex spends and efficiencies within the port system. To date, the Authority has not advised the PCCs or NPCCs of its renewed formal Delegation of Authority processes which would enable and empower the port system. Announcements have been made during the PRSA regulatory roadshow but not formal feedback has been provided.
- Being a division within Transnet, the Authority is not able to exercise its oversight role in general. Its capacity to exercise its oversight role is further compromised resulting in it not having the authority over terminal operators negatively impacting port efficiencies, deliverables amongst others as set out in the Ports Act of 2005. This remains a major concern compromising the Authority's role and independence.
- The Authority's year-on-year lack of CAPEX spend is a further challenge linked to its capacity to manage the port system adequately. This has a direct impact on economic development and missed economic opportunities. This remains a major concern.

3.1.2 NPCC's recommendations

a. The Authority's non-compliance with the PRSA Valuation methodology and its delay in providing the requested detailed information to support its reasons which were cited as the sustainability of the Authority hence its request to defer implementation of the valuation methodology to 2020/21.

   i. This spirit in which this non-compliance was advocated by the Ports Authority undermines both the Ports Act, the PRSA and the instruments created to ensure an enabling SA economy.

   ii. The NPCC supports that the PRSA finds a middle ground that will involve commencing the corporatisation of the Ports Authority 1 April 2019 whilst creating an interim buffer using the ETIMC.

b. The RAB Asset Valuation Methodology has a direct impact on the Revenue Requirement model. It is therefore important that the valuation methodology is implemented as a priority starting 1 April 2019 noting that the ETIMC lever could be used whilst corporatizing the Authority.

3.2 Contents and Completeness

The NPCC maintains the following position:

The Authority is mandated to provide equal opportunities to all port users without favour or prejudice.

NPCC's Recommendations:

The NPCC maintains its recommendation that the PRSA investigates all land rentals. In doing so appoint an independent valuator to accurately benchmark land use and evaluate market-related rentals.

3.3 Methodological Consistency

3.3.1 It is again acknowledged that significant strides were made by the PRSA. The PRSA published its Regulated Asset Base Valuation Methodology March 2018 which became applicable 1 April 2019. The submission published 1 August 2018 ignored the published RAB Valuation Methodology. Revenue Requirement Approach similarly does not consider the RAB Valuation Methodology as prescribed by the PRSA. Methodology for the valuation of the Authority's RAB states" **Given the significant Revenue reduction, together with the commitments of the Authority, the financial sustainability of the Authority would be at risk".** The Ports Authority is not a borrowing entity being a division of Transnet. The Authority is to articulate its key financial ratios from a risk perspective in line with its credit metrics; In doing so the Authority is to assist with clarifying its risk factors;

3.3.2

a. It is noted that the Revenue Requirement Model is therefore not compliant with the Tariff Methodology.

3.3.3 The NPCC Recommendation:

Implementation of the RAB Valuation Methodology linked to the implementation of the corporatisation of the Ports Authority.

4. Pricing Strategy

The intention of the Tariff Strategy to ensure sustainable system-wide pricing. Objectives of the pricing strategy as articulated by the PRSA is supported. The progressive move to cost-reflective tariff structures as guided by the PRSA together with the development of an efficient pricing system is supported.

4.1 Marine Service Tariff Structure

The Tariff Application makes reference to the proposed Marine Service Tariff Structure based on cost recovery and user-pay principles scheduled for implementation in 2020/21. Clarification is sought regards the Authority's early warning and related implications for Port users in this segment.

It is well documented that due to Global downturn of the economy coupled with poor terminal efficiencies, the current bunker prices, the Shipping Lines can no longer accept proposed Marine Tariff increase for noticeable drop/ lack of service and infrastructure delaying the turn around of vessels. All these berthing/operational delays which are on the increase adds additional costs to the Shipping Lines Line having vessels to increase speed burning up more bunkers, bypassing ports with additional transhipments all resulting in the overall escalation of vessel costs which Lines are unable to sustain or absorb.

If one looks at the port of Ngqura which has been marketed as a Transhipment Hub port servicing sub-Sahara Africa:

1. An average of 60 percent of the container volumes is derived from transhipments.
2. Important to note that it is the Shipping Line which dictates/nominates which transhipment port is used to tranship all their international full/empty transhipment containers. The main decision drivers being Terminal Efficiency and Cost-Effectiveness. This continues to be a challenge.
3. SA continues to lose valuable business to neighbouring countries which SA can ill afford. Notwithstanding this continues threat African countries are constantly upgrading and investing in their port infrastructures to grow their volumes and market share. The current state of the SA port system and the Authority's compromised position in being independent aids to further business loss due to poor terminal efficiencies and costings. The NPCC wishes to reiterate that it is of paramount importance that overall port performance must improve in accordance with global standards to retain and grow volumes. The SA port system is bleeding and it does not seem to recognise this bleeding.

4. Operations Phakisa – A dismal failure to date; an intervention is required. Operations Phakisa – A dismal failure to date; an intervention is required. The majority of projects have been delayed by five (5) to eight (8) years from the originally promised dates. These include maintenance items ranging from capstans, cranes, dry dock refurbishing, and many items that were scheduled at Operation Phakisa. Infrastructural developments are also late from the design and construction of these facilities. These include Berth 205, Mossgas jetty in Saldanha, Ship repair in Richards Bay, Caisson for East London plus no resolution of Initiatives 1, 3, 4 and 6. Operation Phakisa is a dismal failure in Cape Town, out of 16 projects only 4 have been completed, all other projects have been postponed and postponed. 90% of these projects have been spoken about since 2014 e.g. The installation of the 10 cranes have been on the cards since 2016 to be completed by 2019, now they will be completed by beginning 2022.

5. TNPA needs to ensure that TPT complies with its S56 agreements and ramping up installed capacity with additional equipment and teams in an effort to improve terminal performance. This highlights the importance of the Authority's independence from the TPT whom, amongst others, it is obligated by the Act to oversee.

6. Vessel Surging: This remains a major concern and whilst Capex has been approved rolling out the Moormaster/Shore Tension installation to the other berths must be prioritised to minimise operational delays. Feedback regards some progress is acknowledged. However, the pace of progress is a concern as it has a direct impact on vessel calls.

7. Deepening of the Durban berths: Noted that berth outages in Durban started with berth 203 - 205 in October 2018 to be concluded 2025. However, with the cancellation of the contract by Contractor, this project is out for tender in September 2019. As a result, the contract will not be concluded by 2025 but a few years later. This much-needed capacity creation plan is going to put additional pressure on other ports and in particular Ngqura. The NPCC await the

Authority's berth deepening proposed plan deviating cargoes ensuring that SA does not lose any cargo. This plan is still to be shared with the Shipping Lines too. Some shipping lines will have to move from DCT to Pier 1 which is not ideal as some vessels will battle to berth at Pier 1 due to vessels sizes

8. Clarity is to be provided as to how the TNPA prioritises berth vessels. A greater degree of transparency and how berthing communication is shared with Container Shipping lines. Concern was expressed that this may result in the Authority berthing Breakbulk or Bulk vessels in Durban in particular ahead of container vessels.
9. Berth due penalties: This issue was previously raised and remains a concern. This is where the Port is charging the bulk vessels for weather delays for weather sensitive cargos. In Cape Town there are no alternate cargos to work in the rain. Weather is a “force majeure”.
10. The Cruise Liner Industry is growing in leaps and bounds yet the Port has not made any planning for extra berths for the Cruise Liners when there will be more than one ship in Port and there are no incentives for the Cruise Liners to call at every Port in South Africa or to call many times. This would benefit the greater part of the Western Cape.
11. The cost of doing business in South Africa and in particular calling at Durban, Port Elizabeth or Ngqura and Cape Town is becoming extremely expensive for shipping lines. It is our view that TNPA should be incentivising these lines with lower berthing tariffs when all 3 major ports in South Africa are called at.
12. Deepening of 203, 204 and 205 with current draft restrictions – recommendation – port dues not based on GRT but capped on vessel allowed to load considering draft restrictions; this to be in force until such time that the deepening project in the Port of Durban has been completed as this will have a direct material negative impact on the Shipping lines and their parcel sizes; This too remains a concern.

5. Capex Approval:

Pre-approval of Capex which would be aligned with the decision making within the Authority and the Group whilst the Authority is being corporatized;

An update on clauses in the Tariff Book

6. Ports Authority Business and Oversight:

6.1 Key Capital Investment programme:

NPCC consultation Roadshow with regards to the Ports Authority's Port Development Framework Plans and Capex Programme.

Port	Date	Venue	RSVP by
Saldanha Bay	Mon, 20th May 2019	Siyabonga Hall, Port of Saldanha	09:30 – 12:30
Cape Town	Tues, 21st May 2019	Cape Town Lodge Hotel, Cape Town	09:00 – 12:30
Ngqura & Port Elizabeth	Thurs, 23rd May 2019	TNPA Admin Building, Port of Ngqura	09:00 – 12:30 13:30 – 16:30
Richards Bay	Mon, 27th May 2019	Elwazini Centre, Port of Richards Bay	09:00 – 12:30
Durban	Tues, 28th May 2019	Hilton Hotel, Walnut Road, Durban	09:00 – 13:30
Johannesburg	Wed, 29th May 2019	Garden Court, OR Tambo Intl Airport, 2 Hulley Road, Isando Ext 3 Johannesburg	09:00 – 12:30
East London	Thurs, 30th May 2019	East London Golf Club, 22 Gleneagles Road, Bunkers Hill, East London	09:00 – 12:30
Mossel Bay	Fri ,31st May 2019	Kitchen Hall, Old Power Station Building, Mossel Bay	09:00 – 12:00

The main aim was to technically consult with Port Users regards the Port Development Framework Plans and how this influences Capex provision and impacts efficiencies. The engagement platform further facilitated consultation and discussion regards the 6 year Capex plan horizon per port and how efficiencies dovetail with this process informing the tariff process.

6.1.1 Capital investment applied for:

Applicable to the current financial year and which has not been spent together with previous year lack of CAPEX spend is of material concern. This trend is an area which we require the PRSA and Minister of Transport to address as it has a direct impact on capacity creation, maintenance and therefore the economy of South Africa.

6.1.2 Capital Investment Programme Summary:

The Investment programme section 6.3 on page 17 of 60 notes projects listed as undefined and ambiguous and incomplete considering submissions as discussed at the respective PCC meetings; NPCC recommends that clarity be provided regards projects per port, at what approval stage and FEL stage each one is and the respective timeframes linked to each. (Reference to Page 17 of the Authority's Tariff Application) – Port of East London extends breakwater and deepens and widening entrance;

6.1.2.1 Port of Richards Bay

From the Port of RCB the following observations, in respect of the recent NPCC Tariff Application 2020 – 2021 workshop, deem appropriate to be captured in the first draft of the Letter to the Minister;

It was noted that the opening statement from the Chair alluded to some collective soul searching on the part of the PCC delegates in so far as their figurative mortality in the NPCC structure when it came to deliberations over the proposed tariff application tabled before the Port Regulator for his approval. It was initially felt that, for the umpteenth year, the PCC delegates were yet again expected to 'jump through the hoops' and sign off on a document with a fait-accompli outcome whereas there was little to indicate true buy-in from TNPA on the pressures Industry carries in a parallel universe to keep the doors open. Closer to the truth a general sentiment of mistrust of TNPA in their dealings prevailed. A few examples were forwarded of TNPA showing evidence of the application of the tariff book done in bad faith.

Case in point it having been reported of more than one case of bonafide operational vessels closing hatches during rain in the case of weather-sensitive being discharged.

The vessel became subject to berth dues (applicable to vessels on lay-by / conducting repairs) while thus waiting for the weather to clear. The moot point of Shipping Lines having been charged helicopter rated tariffs for the dispatch of pilots to the pilot station whereas the traditional pilot launch was used on grounds of the helicopter being 'grounded' for repairs. It has also been noted that on occasions (at the Pilot's apparent discretion) a 'second' assistant craft (tug) was not made fast (lane attached) during un-berthing of vessels but actually moored on a layby berth adjacent to the harbour entrance whereas the full '2 assist crafts' were charged to the PDA. These kinds of things do little to engender amicable relations but rather foster sentiments of mistrust.

The Authority would do well by applying its mind and discretion when committing to the issuance of billable charges.

Segment information

for the year ended

	Transnet Freight Rail		Transnet Engineering		Transnet National Ports Authority		Transnet Port Terminals		Transnet Pipelines	
(in R million)	**Audited 31 March 2018**	Audited 31 March 2017	**Audited 31 March 2018**	Audited 31 March 2017	**Audited 31 March 2018**	Audited 31 March 2017	**Audited 31 March 2018**	Audited 31 March 2017	**Audited 31 March 2018**	Audited 31 March 2017
External revenue	**42709**	38 696	**2 467**	1 622	**10 113**	8 943	**12 386**	11 143	**4 484**	4 352
Internal revenue	**1 000**	418	**8783**	7 758	**1 586**	1 436	**7**	7	**4**	3
Total revenue	**43709**	39 114	**11 250**	9 380	**11 699**	10 379	**12 393**	11 150	**4 488**	4 355
Earnings before interest, tax, depreciation, derecognition and amortisation (EBITDA)	**20 473**	17 263	**(139)**	(457)	**7 196**	6 367	**4 172**	3 794	**3 192**	3 377
Total assets[2, 4]	**192 964**	175 865	**20 245**	17 083	**94 359**	90 747	**17 853**	18 341	**43 873**	41 619
Total liabilities[4]	**123 823**	116 105	**18713**	14 415	**43 872**	45 533	**6 573**	8 277	**23 375**	22 856
Capital expenditure[3]	**17 598**	15 746	**275**	945	**1 054**	2 020	**1 365**	1 208	**1 544**	1 706
Cash generated from operations after changes in working capital	**20703**	19 202	**(3 978)**	(753)	**8 308**	7 277	**4 463**	3 854	**3 423**	3 403

It is noted from Transnet's (SOE) consolidated Audit Report for 2018 that, among other things like TNPA still not separated from the Transnet Group by way of the long-overdue corporatisation, TNPA's P&L results, for the most part, appear to still have a distinct influence on the Transnet (SOE) overall results. The NPCC questions again (in terms of Pg 8 of 69, Section 1 c.) whether the practices of group Tax burden and debt risk is apportioned correctly by operating divisions or diluted.

In Section 5 and 5.1 (pg 12 of 69) in respect of the overview of the Business of the Authority, reference is made to the Authority's strategic focus and more specifically the key of that focus where is proposed to be centred on providing marine infrastructure ahead of demand. The NPCC makes the following observation.

For the past 10 years, TNPA has been advised by major port users directly and via the individual PCC structures of the Port of Richards Bay and Saldanha Bay, of the global trend of ever-increasing lengths of vessels calling through the port systems. Contrary to the required ethos of 'providing marine infrastructure ahead of demand', the Port of Richards Bay remains frustrated with having to deal with the 7-SERIES berths, designed and configured 40 years ago, are today, for the most part 33% under-utilized due to a lack of berth length. Furthermore, NPA remains silent when the Terminal Operator in the Port of Saldanha Bay prescribes a moratorium on an LOA restriction at its MPT berths. Yet on Page 30 of 69 the Authority laments the downturn in vessel calls as shipping lines pursue the advantage of economies of scale by deploying larger vessels.

The two concepts could not be further opposed.

Still, on that subject, the NPCC notes that on Pg 15 of the PRSA's Public Consultation report of its Cape Town session (dd 07 August 2019), although in reference to assist craft power, the NPA concedes the 'layout of the Port of Cape Town is outdated'.

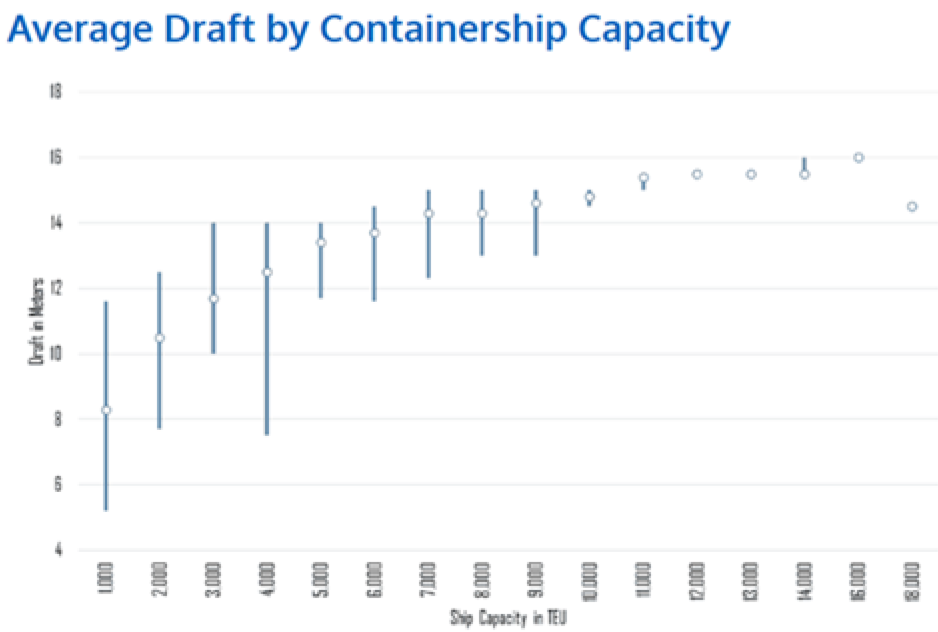

TABLE: (above) shows CONTAINER VESSELS where those after 4000 TEU capacity draw 12.5m or more.

Figure 5: New built orders of containerships (2015-18)

TABLE; shows a clear trend of new orders away from 7000 (or less) TEU capacity vessels and pointing to steady growth in the container industry towards MEGASHIPS as the scale of economies continues to be the Holy Grail of Shipping Lines. By the inclusion of this data in the application dossier, it is evidenced that TNPA has a justifiably firm grip on global trends however this is not manifested in their future large line item projects on Pg 62 of 69. The NPCC notes that there is little evidence to support the need for urgency to deepen DCT berths / 'modernise' CTCT and channel configuration.

The NPCC looks to the DPE for urgent strategic intervention and asks that a focus group be established to analyse the functional modernity of the entire South African port system in todays market and what the global trend indicates where it may be in the next 20 / 40 years

In respect, if the TNPA's proposed Capital Investment Programme, (Page 17 of 69), the NPCC seeks clarity on whether or not the KPI installed norms (instead of TPT's current achievements) was integrated on the simulations used for extrapolating capacity planning. In terms of the PCC being 'consulted' in respect of the Port Development Framework Plan, the NPCC felt that the system was lacking and falls far short of inclusive consultation. Closer to the truth the NPCC viewed the process of being an 'informative' approach. There appears to be some discomfort or perhaps a lack of understanding of the process in so far as 'being heard' on Ports User's needs and requirements on the NPA's deliverables within the development framework and was felt that TNPA's 'port-by-port' roadshows are more a sharing session on how TNPA intends to allocate CAPEX with little room for adjustment influence any longer.

Section 6.3 (Pg 18 of 69) supports the view above of the NPCC that there still appears to be a blurring of the capital spend lines between the divisions. Listed for the Port of Richards Bay, 2 of the 6 main projects relate to TFR infrastructure upgrades, albeit within the Port boundary, but to what weighting of cost burden between TFR and TNPA? Does it also beg the question of any (or all) of the TFR infrastructure within the Port system boundaries are separated from the TNPA's RAB?

Still under Section 6.3 (Pg 19 of 69) and Operation Phakisa. As an aside, the NPCC would like clarity if this economic growth vision is still relevant under the hand of our new State President and his Cabinet? If indeed so and the project does not de-rail our visionary Minister of Finance's views, it is noted that the infrastructure development required for the realisation of a Ship Repair / Floating Dry Dock (SR/FD) at the Port of Richards Bay is repeated in 'Table 5'. Given that the SR/FD coming to fruition depends wholly on foreign investor confidence and spend appetite in a politically volatile landscape, the NPCC would like clarity under which category this very substantial CAPEX will be ultimately be captured (Section 56 comes to mind) and how then its influence on the RAB will be monitored. The reason for the confusion is that this SR/FD project is captioned/repeated again under the envisaged 2020/2021 Concession

Programme in Table:8 C," KWAZULU NATAL REGION / RICHARDS BAY. If foreign investment is going to be shouldering the lion's share of the development, it should not be allowed to influence TNPA's CAPEX forecast requirements.

During the Road Show Q&A session at the Port of Richards Bay, on the 27th May this year, the overshadowing genre of questions was OPERATIONAL in nature, pointing a general finger at the apparent or perceived shortfall of the Authority's oversight mandate over the licenced Terminal Operator. It is one thing to state that the MOPS / TOPS functionary design should be dealing with Port efficiencies or lack thereof but these measures are retrospective and reactionary. The NPCC suggests one possible recourse available is the corrective leverage provided by effect on the tariff in terms of the WEGO matrix. While it remains unclear how this will be applied, it was the general feeling from the NPCC that the current 5% CAP on the matrix will not necessarily affect any meaningful behavioural outcome, and should be revised upward until sustainable levels of installed norms are reached or exceeded by TPT.

In respect of POINT 50, under the banner of TNPA proposed CAPEX, again there is evidence of blurring the lines between intended spend on BERTH 702 (agreed TNPA's jurisdiction) and TIPPLERS CONVERSION (in the interest of TPT).

Figure 8: Ports Regulator's Asset Allocations

Port User Asset Class	Lessees	Terminal Operator	Cargo Owners	Shipping Lines
Breakwaters	33% shared on a NBV basis		33%	33%
Channels, Fairways, basins			50%	50%
Quay walls, berths and jetties		50%		50%
All ship working vessels and aids to navigation				100%
Vessel repair infrastructure	40%	15%	15%	30%
All movable NPA assets, buildings and structures (not part of lease agreements) and unused land	50% shared on a NBV basis		25%	25%
Terminal land and staging areas		100%		
Non-Terminal Land including recreational and yachting	100%			
All common access infrastructure	66% Shared on a NBV basis		33%	
Overheads	50% shared on a NBV basis		25%	25%

The NPCC remains uncomfortable with the lack of division of TNPA's required CAPEX from an ill-appointed project spend in so far as it will affect the Tariff application outcome. TABLE 8 clearly shows how the PRSA has allocated the RAB by the class of activity benefit, and by extension, apportionment of cost-share. TIPPLERS fall into the category of TERMINAL OPERATOR and so should have no reach over TNPA CAPEX view.

In this regard the NPCC requests closer scrutiny of the proposed 'Key Focus Areas of Capital Investment Program (Section 6.3 on Pg 18 0f 69), in so far as the Terminal Operator(s) stand to benefit off TNPA intended CAPEX allocation. The following thus stands out;

- Port of Ngqura: Manganese Project

Still, on the Manganese Ore, the NPCC seeks clarity from the Authority as to which port(s) will be absorbing the projected 8% growth forecasted on Pg 28 of 69?

As a general view, the NPCC notes with concern that NPA lament the potential loss of baseline income from expected fewer vessel calls (Pg 30 of 69) yet NPA is still not backing themselves by increasing berth lengths / deepening the berths with any larger vision in mind. Our neighbouring Port of Maputo has re-configured as well as increased the depths on its primary bulk berths from 10.0M to 14.4M in the past 3 years. Our port systems are fast stagnating and Shipping Lines will be forced to reduce increasing anchorage detention risks related to congestion, by cutting out some ports.

In closing – while it is fair to say that Port Users have comfort in the knowledge that the ongoing trend of NPA's 'underspending' provides short term relief in way of maintaining downward pressure on the annual tariff adjustments through the claw-back mechanisms in the methodology, this has to be seen as a very blinkered approach to keeping the South African port systems up to date, globally relevant and tradable. It has to be ventured that Port Users would sooner embrace a succession of uncomfortable but predictable upward tariff adjustments in exchange for a dynamic, on a like for like basis a globally competitive and, above all, accountable port system than a slowly deteriorating performer in the Terminals, stagnating infrastructure and media reports of incredible headline earnings / profits declared by the SOE.

If the South African economy is to claw itself back into the sunshine, the DPE and the SOE will do well in nurturing a culture of partnership with the Port Users. Heed the calls of intervention with urgency and solid intent. Hold accountable and answerable those mandated to effect the changes required to facilitate the desperately needed turnaround strategy. The port systems cannot continue with 'business as usual'.

I wish to refresh the sentiment expressed in my submission. It would appear that we are facing a fait-accompli in so far as the application for an increase goes. Nonetheless, in the interest of the Port Users and their mandate thus bestowed on us, we (the NPCC Tariff workshop committee) would be remiss in not imploring the PRSA of South Africa to apply his mind in an incredibly difficult economic climate and ask that he set aside any increase in Marine Services for the next year or at least no more than what the CPI prescribes, which for the record is sitting on 4.5%.

6.1.2.2 Port of Durban

In short, our suggestion was simply for the Regulator to consider implementing another enhancement to the calculation of the required revenue based on asset value, which should state that, for assets to be included and qualify for the return on those assets, they must have been commissioned and available to add value to port users' activities. This stems from our frustration with berth IV5, for which capital expenditure from the TNPA has been completed (as far as I know) already by end 2014/early 2015, after the commencement of the project was also delayed by some 2 years due to poor planning from TNPA (it came out of operation June 2009). The berth is expected to only come back in operation somewhere around mid-2020, which would have been 11 years out of service for industry. During these last 10 years our conservative estimate of ADDITIONAL demurrage, directly linked to the non-availability of IV5 is a min of R50m/yr to cargo owners using the chemical berths. N some years it was substantially more.

Our suggestion is therefore that in general, the Authority can only include capital for new investments in their asset base (for purposes of revenue calculation process) once the project has been completed and beneficial operation to port users has commenced. For maintenance and refurbishment projects (like IV5), I suggest in the NPCC we discuss the concept of an acceptable period for completion of major projects. If such assets remain unavailable to the detriment of and causing extra costs to port users, there should be pressure on the Authority to get these completed within a set max time, to avoid losing revenue during subsequent tariff determination cycles.

6.1.2.3 Port of East London

The Automotive manufacturing sector is regarded as the largest manufacturing sector in our economy. The automotive sector is very dependent on international trade and we need a fully functional port network to facilitate trade with other countries. We are totally reliant on the cost and efficiency of our port operations. In order for us to achieve our strategic objectives, all stakeholders must be globally competitive across our value chain.

We noted a 1.5% increase is requested for the container and automotive sector. We request a 0% increase, as our primary concern being the operational efficiency of port services. Added to this is the very low level of investment into the port of East London. We would also like to bring it to your attention that we do not agree with the 9.75 increase in marine services. This will definitely increase the cost of doing business in our country.

Capex:
The Port Capex expenditure is of great concern to us. Why do we have such a long Capex process?
As a PCC and NPCC member of the East London Port, I have seen the current major capital Investment Projects and the Operation Phakisa Projects. It saddens me to see that none of these projects will be beneficial to the automotive sector. We are the biggest contributor to our economy in terms of trade, however very little is done to ensure we have an operational port that can facilitate trade. I have been very vocal on the development of the East London Port. We had several meeting with Transnet and their board members to emphasize the need to invest in the port of East London. We pleaded with them to make a socio-economic decision, as we need a port to assist us with our operations. We have a port on our doorstep but cannot use it due to the lack of investment over the years. East London needs Mercedes-Benz, the Eastern Cape needs Mercedes Benz. Our country needs Mercedes-Benz. We need some urgent intervention to get investment into the Port of East London to facilitate our container

trade and to increase the Car Terminal capacity. We as a manufacturing plant is growing. We are getting ready to start producing the next model ad we have been engaging the port to get new equipment and infrastructure, to deepen the draft and to widen the entrance channel of the port. For the last 20 years, we were very vocal at the start of the East London Port. We have been pleading for help from the authorities. We are too late for the next Mercedes- Benz model, however with some focus and commitment I am sure the authorities can make it happen and grant us the investment required to put East London back on the map again. We need some urgent intervention to get the right investment into the port of East London.

The shortage and ageing equipment are delaying both landside and waterside operations. This is affecting the performance of the port which impacts us directly. Deterioration of equipment with no or very little maintenance plans. We need new equipment to be able to facilitate trade within our ports systems.

Is it not possible for the Port Regulator to regulate TPT as well. We, the industry need some urgent intervention with TPT.

In conclusion:

We would like to see the project listed on the Major Capital Projects and on the Operation Phakisa Major Projects, that will boost trade and contribute positively to our economy. All TNPA costs increases will all be passed through to the cargo owners via TPT and the shipping lines where they will firmly place the blame on TNPA. The 9.7% is simply way higher than any other basket index and will continue to inflate the total costs we pay on top of the high cost we already paying to use our inefficient local ports.

6.1.3 Strategic Capital Objectives:

The Authority to explain the context "To preserve the current revenue streams without obtaining additional volumes'. Page 18 of 60 Table 5.

6.2 Capital infrastructure cost:

The cost of building berths in SA appears to be uncompetitive and excessive compared to international capital developments constructed by SA companies. SA companies constructing infrastructure costs per running meter can be said to be approximately four to- ten times as much in similar environmental conditions e.g. depths of water, wave action etc.

SUMMARY of MANAGEMENT RATIOS DISCUSSED AT OPERATION PHAKISA (2014)

Project	Structure	Length(m)	Escalated Cost 2014 (million)	Ratio (million/running meter)
Bahrain (New Container Deep Terminal)	Deck on pile	2100	R2028	R0.966
Bahrain *	Deck on Pile	2100	R522	R0.249
MPT Terminal (Saldanha)	Counterfort	660	R260	R0.393
Sonils Angola (Luanda)	Counterfort	408	R420	R1.029
SAOGA Report	Caisson	500	R1000	R2.000
Pier 2 (203 – 205) (Dbn)	Caisson	1200	R5600	R4.666
Pier 1 (Durban)	Caisson	1200	R4876	R4.063
Saldanha Berth 205 **	Deck on pile	380	R4000	R10.53

* Without dredging and causeway (25 million m^3)
** TNPA Estimate

This has a direct impact on the Authority's CAPEX pricing and provision. We request that the PRSA investigates these contracts, note the administrative fees from Transnet and the overall viability of such contracts being awarded and how this compares internationally. The PRSA oversight investigation must include TNPA projects awarded to in-house Transnet services. Further including bids rendered not competitive due to this in-house arrangement; In doing so consider the award of all TNPA Capex Projects and how this may compare with the same work which could have followed an open and transparent bidding process. This would further have allowed localising CAPEX to spend and consider pricing and quality competitiveness in the open market.

6.3 Strategic Capital investment objectives

Table 5 page 18 of 60: Clarity to be provided regards maximising ROI by obtaining additional volumes vs. preserving current revenue streams without obtaining additional volumes; Previously JOCs were established to assist with improving operational efficiencies. This ambiguity to be explained.

6.4 Operations Phakisa Projects:

Three-Foot-Plans to be revisited as agreed at the Lab including the Amendments made by the Ports Authority without consulting with all stakeholders. The outcomes of the Ops Phakisa Meeting held May 2018 at the Hilton Hotel in Durban to be provided to all. Projects articulated in the Application considered to be undefined and non-specific; The Authority to provide details, timelines and budgets linked to pre-approval processes; as approved by Operation Phakisa versus current estimates. In addition, maintenance projects should be included apart from infrastructural development.

SUMMARY of CONTRACTORS MANAGEMENT RATIOS DISCUSSED AT OPERATION PHAKISA (2014) vs TNPA COSTS

Project	Structure	Length(m)	Cost (million)	Ratio (million/meter)
Bahrain	Deck on pile	2100	R2028	R0.966
Bahrain *	Deck on Pile	2100	R522	R0.249
MPT Terminal	Counterfort	660	R260	R0.393
Sonils Angola	Counterfort	408	R420	R1.029
SAOGA Report	Caisson	500	R1000	R2.000
Pier 2	Caisson	1200	R5600	R4.666
Pier 1	Caisson	1200	R4876	R4.063
Saldanha Berth 205 **	Deck on pile	380	R4000	R10.53

- Without dredging and causeway

** TNPA Estimate

6.5 Real Estate:

Discrepancies in Lease agreements as highlighted by port users across the port system; PRSA to investigate and monitor the Ports Authority exercising its oversight; Rentals linked to Ship Repair considered to be excessive. The proverbial playing field to be equalised; Long term Leases to be enabling and competitive within the sector; Must be cross-subsidised within the broader system which the Act allows.

6.6. Human Capital Management;

TNPA to consider Human Capital Investment in all critical areas as a key objective to deliver on its mandate.

6.7 Nine Commercial Ports:

Ports Authority to give consideration that it has nine commercial ports and not eight as indicated on page 20 of 60 Table 6: Real Estate Salient features; The Authority to clarify how it has provided in the tariff application for the ninth port the cost reflection of same if any.

6.8 Waterfront Developments:

Table 7 page 21 of 60. Concession Programme: Complementarity recipe of a commercial port alongside Waterfronts encouraged. However, it is important that Port users not be required to fund such a model. Due consideration must be given in respect of the Authority's perspective in respect of port land, quays and water space for non-port related activities. Time horizon important that same space would not be needed later for port activities. Local regional Municipalities to be responsible for funding such concepts and models. PRSA to review the balancing act logic between available land in ports with minimal or declining economic activity and available land capacity in relation to Short, medium and long term economic developments.

6.9 Authority's Volume Projection:

NPCC acknowledge significant improvement. Need for greater collaboration between the Ports Authority, Shipping Lines, cargo owners and Terminal Operators to have reliable volume projections.

6.10 Exclusivity of concessions:

PRSA to have oversight of the exclusive use of berths granted to some concessionaires. Berths are common user facilities and should be available to all port users.

6.11 Operating expenditure:

Need for consultation with the NPCC with regards to Opex elements where little evidence of spend is provided. Noting poor performance in some of the ports, this is specifically relevant where it influences material tariff changes.

6.12 Weighted average Tariff Adjustment of 4.2%:

NPCC wish to draw the PRSA's attention to the disconnect between tariffs and efficiencies. Efficiencies have not improved resulting in unnecessary costs for shipping lines and cargo owners calling SA ports. Current logistics routes, the cost of doing business in SA, economic inflation and cost to consumers are key variables informing SA's competitiveness.

6.13 Cargo Dues:

6.13.1 Cargo Dues Double billing between NERSA and the Ports Authority

Double billing of utilisation of quayside space between NERSA approved tariffs to recover investment and the Ports Authority tariffs – Cargo dues; a portion of investment is still apportioned to cargo crossing the quayside; Same charge contention that a portion of cargo dues billed twice in that the cargo owner already pays the tariff set by the Energy Regulator; PRSA to explain and advise how this will be handled between the Authority and the NERSA. Furthermore how this double billing will be corrected.

6.13.2 Cargo Dues for Petroleum Products – Transhipments

Transhipment of liquid bulk cargoes is allowed for a period of two months where after the full cargo dues fee become applicable. The port cannot be turned into a storage area by increasing dwell times excessively. Noting this crude oil and heavy fuel oil tend to be in storage for lengthier periods. It is further recommended that storage dwell time be considered consistent with the NERSA allocation mechanism process which allows for a three-month rolling nomination. Scheduling to consider prioritization of investment. Similar concerns were expressed in the Port of Ngqura. Noting this market pricing and developments must serve to inform incentives and punitive measures. Proposed that the Authority has the flexibility to use dwell times both as an incentive and punitive measure subject to capacity availability;

6.14 Tariff Book Clarification

Annexure A: The Authority's tariff book page 43 of 60. Clarification and differentiation to be explained in simple and clear terms as to the interrelatedness and apportionment between cargo dues, port dues and berth dues and where the PRSA draws the line. Explaining the grey areas should negate double billing in the future.

6.16 Dredging on the African Continent vs. Dredging in SA:

Concerns express that the Authority continues to prioritise dredging in other parts of the African continent at the expense of the South African Port system resulting in delays dredging SA ports. This resulting in vessel not being able to come in fully laden etc. This directing impacting parcel sizes and efficiencies.

6.17 Consultation with the PCCs and NPCC

The National Ports Act 2005 Chapter 11 – 81. (3) States that:

"The Authority must consult the Ports Consultative Committee regarding-

(a) any major scheme relating to the expansion or development of a particular port

Experience at the PCCs is that very scant information is provided by the Authority and does not allow for responsible decisions to be made on capital expenditure. The Authority must provide reasonable information to make informed and educated decisions on developments and capital expenditures that will benefit South Africa and its stakeholders.

The Ports Act Chapter 8 Section 72 (2) requires that the Ports Authority must, prior to any substantial alteration of a tariff consult with the National Ports Consultative Committee. This is further supported by the Port Regulations of 2007.

7. NPCC Observations and Recommendations:

It is recommended that the PRSA considers Observations and recommendations made throughout this submission including:

7.1 Valuation of the Regulated Asset Base

NPCC supports the Regulated Asset Base Valuation Methodology which forms the basis for the Revenue Requirement Model. To date, the Authority has not furnished the PRSA with any material information supporting its motivation that the implementation of the Valuation methodology threatens the sustainability of the Authority. Noted that the implementation constitutes an inflated revenue loss on TNPA's side. Notwithstanding this, the NPCC supports that the appeal from Transnet Group is given consideration. In doing so that the PRSA uses the ETIMC to cover a portion of the Valuation Methodology, decreases the RAB by R1bn and defer the remaining portion to the 2020/2021 financial year. The NPCC proposes that this be done on the basis of action being put in place together with the Department of Transport and the Department of Public Enterprises to begin the process of corporatizing the Ports Authority. This proposal takes into account the Authority's inability, in its current form, to act as an independent Authority.

7.2 TNPA Oversight - Major concern

Anecdotal evidence suggests that the Authority has not acted within the prescripts of the Ports Act and Port Regulations in respect of exercising its oversight role. In its capacity as a division within Transnet, it is rendered powerless in ensuring that all port users including Transnet divisions are held accountable through the various agreements legislated instruments. Its lack of Capex spend, long decision processes, which has been on the NPCC Agenda, amongst others, for the last eight years bears testimony to this. There have been many good intentions on the Authority's side but little progress due to the Authority's current constraints in its current form. Commitments made at the recent NPCC meeting as was done in prior years are noted.

7.3 Real Estate: Major concern

The NPCC proposes that the PRSA investigates current agreements and all legal instruments as set out in the Act, Regulations and details in directives and which the Authority is required to both be compliant with and ensure compliance with port users. In doing so consider compliance, fairness and competitiveness within those agreements and the measures required to follow through on areas of non-compliance. NPCC notes that the criteria used by the Authority are not consistent throughout the port system which enforced is not consistent either. The current Delegation of Authority (DOA) has been a discussion point for at least eight years and has not come to a head. The Authority's ambitious plans to upgrade it DOA is noted. However, it is almost too late. It is important that leases be sufficiently long-termed to enable economic activity and allow for recouping investment. DOA must contribute to an enabling environment. This is but one example.

7.4 Efficiencies linked to WEGO

The NPCC supports that the PRSA implements WEGO as it relates to efficiencies and that the PCCs KPI sub-committees form part of this process.

7.5 Full Implementation of the Act: Corporatisation

The many challenges linked to the Ports Authority in its current form necessitates that the Authority become complaint with the Ports Act of 2005 and Regulations of 2007. Current long-standing challenges have a direct bearing on the effectiveness and management of the Port system negatively impacting the competitiveness of the South African economy.

Ports Act Chapter 2; Section 3 (1) (2) (3) (4) has been long delayed and therefore in breach of the Act. The NPCC recommends that the current challenges which have continued with soft periodic Band-Aid interventions be addressed. The NPCC recommends that the processes convert the Authority and in so doing realise the value to the broader SA economy and not to Transnet only, commence as a priority. It is proposed that various scenarios be modelled to look at an end state Transnet without the Ports Authority and what support it may require to operate fully. The NPCC recommends that the contemplation of the Ports Authority corporatisation end state in relation to its value creation to the SA economy be prioritised and ensure that it is fully corporatized with its own Board reporting separately to the Department of Public Enterprises as an independent Ports Authority SA (Pty) Ltd as set out in the Act of 2005 Chapter 2 Section 3 and 4.

Noting the complexity and overall breach of the act, the NPCC recommends that this process be inked to timelines.

7.6 Final Tariff Recommendation

It is noted that it is difficult to argue that an increase is allowed when sub-standard services are provided in some of the ports. Noted that there is operational expenditure which must be recovered together with the marginal Capex spend in comparison to what was allowed by the PRSA. The Authority's lack of Capex spend and lack of maintenance has and continues to have dire consequences for the SA economy negatively impacting the competitiveness of SA. This whilst many African ports are fast investing in port development and making relevant decisions.

7.1 Marine Tariffs:

Kindly note the recommendations under 4.1.

PRSA to consider current challenges in its review.

Cargo Dues:

Liquid bulk Fuel and Chemical - proposing an absolute minimal percent increase due to the fact that there have very little maintenance and no additional infrastructure investment;
Rental increases: Marginal Increase to be considered whilst the PRSA investigation is underway and whilst inconsistencies and lack of transparency is being addressed;

Overall increase proposes to be minimal if any increase at all noting the many challenges highlighted throughout this submission in response to the Ports Authority's Application.

Submitted for the Chairman's consideration.