Report on public consultations on the NPA's 2021/22 – 2023/24 Tariff Application

As per Section 72(1) of the National Ports Act, 2005, on 01 August 2020, the National Ports Authority (NPA) submitted its application setting out its proposed tariffs for the services and facilities offered 2021/22 financial year for approval by the Regulator.

The tariff application was prepared and submitted based on the new multi-year Tariff Methodology applicable from 2021/22 to 2023/24 tariff periods published in March 2020. Based on this tariff methodology, the Authority's' application translates to a 19,74% overall tariff increase for the 2021/22 financial year, but they are requesting the Regulator to consider a 3,80% tariff increase by using the ETIMC.

Tariff application roadshows were held in three regions on 31 August to 01 September 2020 to allow the port users and the industry to engage with the NPA on the proposed tariff application, seek clarity and be empowered to make their submissions by 30 September 2020. Due to lockdown restrictions, the roadshows were held on virtual platform using MS teams and were attended as follows (including PRSA, Transnet and officials from government departments). The discussions during the Q&A session are captured below and reflect concerns, comments and inputs by port users on different aspect of the NPAs tariff application.

1. Eastern Cape Region

Question (Shipping line representative): Raised concerns regarding the shipping lines tariff increase of 7,12%, which is similar to last year's increase. Although shipping lines might have saved some money due to the exchange rate but in real terms, the proposed increase is above the inflation. Moreover, last year the shipping lines also get the biggest hit.

Response: The decision of the allocation of 7,12% to the shipping lines is based on the tariff strategy approved by the Ports Regulator. This decision is supported by the GPCS study, which found out that the shipping lines are not necessarily paying their fair portion. The tariff strategy is a 10-year program that aims to address imbalances around the tariffing within the port system, and that is why the tariff increase for shipping lines is 7,12%. The shipping industry would be able to accommodate the 7,12% by benefiting from the rand- dollar exchange rate, which should be in favour of foreign companies who incur costs in dollars and other currencies stronger than the rand. In real terms, it is above the inflation rate, but in the context of what the tariff strategy is trying to achieve, it is necessary and should be done now while the dollar is still way ahead and outperforming the rand.

Question (Representative of Maritime Business Chamber): Request clarity in terms of how the proposed tariff increase will affect the small businesses in the port, particularly on; the rentals and the real estate application fees.

Response: The Authority is currently working on a principle of a willing buyer and willing seller, which was formulated to guide NPA on how to account for this income stream and return on asset as the Regulator introduced the new asset valuation methodology. It is suggested that the Maritime chamber submit a proposal for the rental of premises and reduction of application fees for SMMEs to the Regulator for consideration. The tariff methodology allows for cost subsidization as long as it is transparent and meets all the government criteria. The real estate application fees will follow similar tariff adjustments.

Comment and Question (PRSA)**:** Clarified that the 19,74% average tariff adjustment is what the Authority has calculated based on the tariff methodology and their volume growth estimates. They are saying the Regulator must find means to bring it down to what they would like it to be, which is 3,80%.

- The issue of the Island view strategy has been outstanding for a very long time. The industry would want to know when the situation is expected to change and what are the opportunities for black economic empowerment investments. It would be beneficial for the Authority to provide an outline of what is exactly happening with the Island view strategy.
- What would be the impact of Transnet Group Capital and other divisions are being shut down be on the Authority, and will this result in a more significant amount of operational expenditure?

- Would it enhance their ability to spend capital because the Capex does not seem to necessarily come with approvals from their board as business cases for new projects have not been submitted with the application?
- Will this be another year where the Authority projects a higher expenditure amount, reduces it later to 50% and the Authority subsequently delivers on half of that target? That has been a trend, and port users would want some assurance that things would improve and be ultimately be different this year.

Response: Concerning the Island View, work has been done a while ago and the NPA had commissioned an external consultant to assist with further interrogation of plans and engagement with the port users to develop innovative ways to open up and rationalise operations in Island View. The NPA has not established a long term view and strategy for the facilities. Port planners have been consulted to relook at how they can provide a liquid bulk facility in the port system given the developments that are happening in the country. Further engagements with the related department are still underway, such as DMRE on the energy sector and in terms of where the next opportunities for fuel and petrochemical activities will happen in the port system.

The Authority is thus not in the position to provide a final point of view, but the bulk of the work has been completed. It would be appreciated to get a commitment from stakeholders and policy departments in DOT to assist in terms of anchoring the future port plans beyond 2035, which is when the current existing operator's leases will expire and opportunities for black economic empowerment within the Island View will be opened up.

Regarding TGC and personnel, NPA has ensured that the dissolution of TGC and assimilation of personnel into ODs was in line with what the NPA required and NPA has taken up personnel from TGC who previously held responsibilities and assisting in executing projects within the NPA from 01 August 2020. Those costs were always in the NPA system in some form or another thus there is no expectation that the move will have a significant impact on operational expenditure.

On investment performance in relation to CAPEX projects, the challenges of the last few years were compounded by COVID 19. Capex expenditure over the past few years relied on one massive project i.e. berth deepening project in the Port of Durban which account for a significant proportion of capital investment. The project which was supposed to be done by TNPA from 2013 has experienced problems with contracting and has been restarted with the result that the planned budget of R7billion has escalated to R8,5 billion. The NPA needs to be more careful with assessing the risk associated with the big project as delays in one project affect the whole Capex program.

Question (Facilitator): Noting that the NPA presented on a game-changer in response to concerns raised by the Regulator and port users in previous years, the NPA was requested to provide details on the intervention including resources from TGC; specific interventions to address Capex challenges, including the SCM processes, planning capacity at NPA, and at the port level.
Response: The Authority was able to make much progress on the game changer but is struggling with process issues external to the NPA. Most of the challenges are related to the procurement process. Integration of TGC will further streamline the Authority's ability to execute since the personnel would be part of NPA, and the government process thereof would be possibly a lot more seamless than having to explain to various forums of Transnet.

Question (PRSA Board member): Request an indication as to whether they have been any estimate of how much the Capex implementation has been delayed (time frame wised) and especially value-wise, taking into account the lockdown period and the current Capex application for the next financial year.
Response: Details of the delays were covered in the presentation.

Question **(PRSA Board member):** With regards to B-BEEE for small players as well as women within the sector, asked if the Authority does investigate companies for fronting where companies have high B-BBEE participation scores which is not reflected in the management of the company.

Question (PRSA Board Member): Asked the Authority to explain the situation with leases that have expired in Island View and the seeming challenge relating to land and who it belongs to in Island View.
Response: investigations have been done in the past, and companies have been disqualified, which further delayed the expenditure. Feedback on the Island view will be provided as soon as the NPA reach finality on the lease.

Question (PRSA Board Member): Happy that finally, there would be the acquisition of cranes for the ship repair sector and a proposal to build the dedicated berth for the oil and gas in the Port of Saldanha. On the Port of Saldanha, the member requested the Authority to provide firm plans on when the process would start. On cranes, it has been identified that there is a need for 10 cranes in both Durban and Cape Town. On the slides there are 10 cranes for the port of Cape Town, are there any plans to acquire 10 cranes for the Port of Durban?

There is a slide that shows a 6 years' horizon in infrastructure development, but there is nothing said about the Port of Nolloth. It is a known factor that the government has approved the construction of the Boegoebaai Port as the ninth port replacing the Port Nolloth. Again in the 6-year horizon, there was nothing attached to the Boegoebaai Port.

On the greenfield projects, what are the plans for the Digout port? There was nothing mentioned of it in the 6-year horizon.

The clarity given by the Authority on the Island View strategy progress does not provide a sense of comfort that they are going to resolve the issue. The issue of Island View was to activate the section 56 process, which should have happened 10 years ago. However, now the Authority is talking about renewables and alignment with the Department of Energy. At some stage, the Authority appointed an expert to conduct a similar process they are undertaking now.

Response: On the Island view, it is not just the renewable energy that is the issue. However, the NPA is dealing with a national imperative in terms of where the next liquid bulk and fuel facility will need to be created. Concerning that, there is an exercise on building LNG facilities for importation into the country and building an infrastructure related to that. Thus it poses the question to the Authority whether there will be a move away from the Durban complex that might happen through these new initiatives. If that is the case, what is the life of the Island view beyond 2035, is there no opportunity now as part of the port planning for the future to coordinate this work nationally, and that's where DMR and DOT comes in. To assist so that NPA provides a national answer rather than patchwork that may result in spending money on a facility that does not have a long term future. The Authority is very cognisant that the expenditure is very prudent and aligned with where the rest of the country is going on liquid bulk. If there were some sense of the Durban complex's future in terms of fuels and chemicals, that would make it a lot easier for the NPA to think beyond 2035. But before the end of the financial year, the NPA should be in a position to provide some update on the long term view of the Island view facility.

On Port Nolloth and the Durban Dig Out projects, these are on the horizon though there were not part of presentation. This is because so far, the NPA has spent money on the planning (feasibility studies) of the Port of Port Nolloth and had an engagement with the mining industry in the Northern Cape and has a blueprint in terms of design, and the process is still ongoing. For the Digout port, investment has been made on the facility owned by SAA to provide a contiguous port limit land to develop the port. The process is still underway.

2. Kwa-Zulu Natal Region

Question (User representative): Current road access to and from Island View is proving to be a significant constraint on container and other operations in the precinct. The indicated increases with the Island View in-fill (*reference to Salisbury Infill*) must be accompanied by a significant additional spend on access roads. Though the municipality is working on planned road developments, what other project costs will NPA incur as a share of these essential costs?

Response (NPA): There are many projects associated with increased capacity in the port. The NPA wants to improve Bayhead road into a consistent double carriage. It is a project that is ongoing and is in the budget. The Authority recently signed an MOU with the city to enable a second road access through Edwin Swales into the Island View complex. The is a public process currently happening over the next six months. The Authority is also engaged with the Municipality for the de-proclamation of Maydon Wharf road into port limit to allow the Authority to improve the roads to support Agri-bulk and Maydon Wharf terminal.

Question: Is the NPA happy with their requested Weighted Average Cost of Debt of 10.85% over the next year considering the drop in local and foreign interest rates this year.

Response: The way the methodology works is that the NPA uses the WACC for the most recent year ending i.e. March 2020 and that was 10,85%. A reduction in the WACC is anticipated but not significant because the nature of the Transnet and NPA debt book is that most of it is fixed as guided by best practice of fixing the rate for long term assets with long payback periods as opposed to floating to avoid the risks attached to speculating. Part of the floating rate includes bonds and issues and these were affected by the downgrade of the sovereign and of State Owned Companies resulting in some of Transnet's bonds and issues being sub investment grade.

Question PRSA: With the NPA giving assurance that 90% of business cases for projects have been approved by the Transnet or deemed board, and therefore the Regulator and port users can have faith in the figures that are presented on CAPEX. Will the money come from borrowings in which case does the Authority have a sense of what the borrowing rate now during the COVID period with interest having come down globally?

Response (NPA): Concede that current borrowing rates would be favourable as there has be a marginal reduction. However, the NPA's borrowings taken a few years ago had long dated maturity and could not be refinanced as easy as those of other ODs that have been renegotiated and are lower. In the next cycle, the NPA would hopefully get favourable rates and reduction in interest rates.

Question: The increase in Group Overheads comprises Post-retirement benefits of R47m and R95m Capital Projects. Are the retirement benefit obligations likely to be an ongoing cost into the future, and what explanation is there from Group on the massive increase in Capital project costs?

Response (NPA): There is a spike in post-retirement obligation for Ports Authority based on the actuary valuation report done by Transnet for the divisions. The costs have been rising over the years and it is an ongoing cost for the NPA.

Group capital costs affected by NPAs inability to spend of Capex where some of the teams that would have been made available to do the work for TNPA, their costs come through from Transnet as part of the group overhead costs. Going forward with TGC having been dissolved, the NPA will have better handle on it i.e. in the case where resources are not fully utilised, they can be moved to and accounted for in other projects which is part of the game changer. There should be an improvement going forward.

Question (Port user): Durban port users are very concerned about the impact on capacity during the Berth Deepening Project. This is an NPA project but TPT and port users will feel the effects. What assistance, if any, can NPA offer to both parties in relieving what is going to be an issue over the next few years.

Response (NPA): The NPA has held various engagements with port user segments to plan for possible impact on and availability of capacity during the implementation of the project. The phasing of the project will ensure minimisation of impact on availability of capacity.

Question (Shipping line): TPT performance and resultant ship turnaround times continue to be a concern for us. As landlord, what measures is NPA taking to enforce oversight role over TPT?

Response (NPA): The oversight has entailed a notice was served on TPT in 2019 by the NPA on concerns around performance and lack of efficiency. TPT presented plans and investments to improved efficiency coupled with the work of other stakeholders and role-players to decongest the port of Durban. The ports policy envisages efficiencies being brought about by competition and the Maydon Wharf container facility aims to bring about required competition. It is great to hear of growth aspirations in the Maydon Wharf precinct. Will the landside infrastructure support this initiative?

Question (Port user): Beira's port has recently started receiving its first Panamax size vessels. In line with your hinterland strategy, are you concerned about losing container traffic that was perhaps traditionally moving via Durban and SA to neighbouring countries?

Response (NPA): The NPA is aware of development in other ports e.g. Port of Maputo, Walvis Bay and Mauritius that would divert traffic from SA ports hence effort being placed on investing in terminal capacity that is relevant to the requirements of needs of the economy and customers and to compete the container space.

Question (Port user): In one of the slides, it shows that the NPA is exploring a container terminal at Maydon Wharf but this is not included in the Durban section 56 project pipeline slide. At what stage is the NPA considering the container facility, what size is it likely to be, and what is the anticipated timing for it?

Response: Maydon Wharf development is an idea and concept that has been on the pipeline for a long time superseded by thinking around the development of a Bayhead terminal for containers, followed by the Dig-Out Port, expansion of Salisbury Island Infill all of which aimed at rationalising and optimising investments and match growth expectations in container sector. The Maydon Wharf facility has been part of the evolving thinking. Work has been done before to develop it as a 2million TEU facility with the required road access. This is now being reviewed. There are land issues to be addressed with TPT and notice of intention to develop/port plans has to be served on players in the area. Overall the project is still in conceptual phase with more work on environmental approvals, etc. The Expression of Interest of the project may be at the end of the Financial Year. The section 56 process would be in the next three years.

Question (Port user)**:** Island View road conditions are terrible. Durban municipality indicated that the IV road network is not part of public roads; therefore, a total rehabilitation and maintenance thereof needs to be done by the Durban port. Has this been considered in the budget?
Response: Was answered by the NPA alongside a series of Capex / Capacity related questions.

Question (PRSA): Suggests that the Authority holds sessions (roadshows) on Island View, a transparent one for the whole country to see. On the issue of borrowings- mentions that since 90% of business cases have been approved, he would like to get an understanding if the Authority has already gone to the market to raise capital or not as this would give us a clear understanding of the Authority's cost of borrowing.

Response (NPA): Agrees with PRSA that the markets are currently favourable and that the National Treasury is assisting with the funding of significant port projects such as the Durban Digout project.

Question (Head PCC/NPCC): The NPA responses to lack of expenditure on CAPEX, is not sufficient. On behalf of PCC, propose that the NPA provides responses to questions raised by industry on projects in each of the regions.

Response (NPA): Commend the work done by the head of secretariat. The details of the interventions that the Authority will be implementing and engagements with the PCCs is included in the presentation. The NPA is developing a strategy that will stand the test of time and anchoring the Port Development Framework as guide to the plans of the Authority that will guide ports developments in the long term, notwithstanding the changes in the organisation.

Comment PRSA: Request that the NPA follow up on the commitment to arrange a session on Island View strategy which must include lease renewal, transformation issues with B-BBEE as well as timelines.

Response NPA: the session and process will be directed and informed by the outcomes of the engagements with the DOT and DMR.

3. Western Cape Region

Question: Under the leadership of Port Manager, Port of Cape Town lobbied the Port Regulator office through a memo/submission to consider the introduction of penalties for vessel overstays within the dry docks which is meant to act as a deterrent to vessels overstaying. The Ship Repair Industry fully supports that initiative. Can the Authority indicate if that initiative is achievable within a foreseeable future?

NPA Response: Noted that according to the speaker the ship repair industry fully supports the proposal. However, the Authority suggests that the ship repair industry submits the proposal to the Regulator as part of the commenting process on the tariff application. The NPA will also follow a process to obtain formal support from the ship-repair industry and make a submission through the regulatory process based on consensus in the industry.

Question (Academic): Pleased to hear that progress is made in making NPA a subsidiary of Transnet. Appreciate from the Chairperson's message that the NPA will be treated as subsidiary for the 2021/22 tariff application. The application is not correct as some variables would need to change e.g. tax will change from 14% to 28%, and so forth, which would make a difference to the calculation of the tariff the NPA is applying for. The NPA applied based on assumptions of volume increase of 7.5%, but own calculation based on a 3% increase in volumes means a tariff increase of more than 25%. There is a risk that the tariff will be higher than what is applied for depending on volumes which will be affected by lockdown and the recession that the country is facing. It is no longer business as usual, there has been significant changes and there must be improvement in the tariff methodology. Completion of process that have been started i.e. revaluing and readjusting the Regulatory Asset Base in alignment with the guidelines (valuation of assets methodology); the asset beta to reduced further to lower 0,35; consider including a debt beta and use of the ETIMC. With these proposed measures, tariffs can be reduced or there may be no change in tariffs for the forth coming years.

Response (PRSA): The tariff methodology was developed over time and has been a journey which has entailed iterative processes in consultation with port users, progressively arriving at the three multi-year tariff methodologies published. The Regulator has focused on and progressively addressed the various aspects that were highlighted including tax and other implications. The Minister of Public Enterprises and the Group CEO of Transnet on the 6th of May 2020, in Parliament, reported that the Authority will be corporatized and section 3(2) will be implemented by the end of this financial year. This means that the Authority must be treated as a subsidiary / a corporatized entity in the tariff determination as it is expected to be a subsidiary from the year that the new tariff comes into effect. This means that the treatment of the different components that have been written up in the methodology as they would apply to a subsidiary must be implemented. The Authority has not implemented the methodology in the way it is supposed to as a subsidiary because they have not been informed that they are subsidiary as yet. The Authority does not make themselves a subsidiary. The responsibility is with the Minister of Public Enterprises in terms of the National Ports Act. The Regulator will expect that what the Minister says will be done and treat the application accordingly. The Regulator has in the past lowered tariffs and done so successfully.

The treatment of RAB has been very clear from the beginning in the way the Regulator has dealt with the corporatisation process (as reflected in the first record of decision after the finalisation of the valuation of assets methodology). On the specific application of the equitable tax rate, on corporatisation this will be treated as an expense through the clawback mechanism the NPA will be sure that the full tax bill will be covered if the entity is not corporatised.

Response (NPA): The NPA has been part of the process of developing the methodology and engaging with port users on various aspects in the journey outlined and welcome the input made. For the Authority, it is important that what is done in the regulatory process takes into account the wider environment and circumstance that are prevalent in addition to the tariff methodology. With the economic crisis, the decision must also ensure a sustainable entity that is able to invest in infrastructure and operate.

Question (NERSA): Efficiency parameter WEGO based on the KPIs productivity indicators may be backed by parametric measures of efficiency measurement of TNPA over time through stochastic frontier modelling to generate efficiency scores of TNPA ex-post. Hence the 5% adjustment to profit as an incentive or disincentive for efficiency or inefficiencies may be implemented as an alternative to the TNPA's actual efficiency scores i.e. to base results on findings from an appropriate SFA model as an objective measure of efficiency. NERSA is also looking into the SFA methodology to incentivise efficiencies over time.

Response (PRSA) Welcome the proposal to use SFA model to quantify improvements in efficiencies in South African ports. The Regulator looked into using the DEA methodology as the port context is different. There is sufficient panel data to allow for use of both DEA and SFA approaches and the Regulator will welcome further engagements and look into how NERSA is applying SFA in its context.

The design of the WEGO model was to allow port users to have say on how the unique problems in their ports are addressed. WEGO allows, through the differentiated weighting of KPIs for each port to determine where attention must be paid in their respective ports. WEGO allows for port users of each port to determine specific performance KPIs to be targeted each year. Using the different theoretical model is used to assess the overall gains and wins on these problems. The WEGO system as it is a combination of academic exercise based on internationally accepted KPIs and measurement techniques combined with expert industry and Authority's inputs into the different areas of ports where performance must be addressed. The 5% was the maximum that the Authority would gain on its return on equity for a 10% improvement on performance, which will increase to 7,5% in exchange of a 15% increase in overall performance and vice versa.

Question (PCC/NPCC secretariat): Directed to both the Regulator and TNPA related to the Authority's net profit, can the net profits can be used to offset some of this year's required tariff increases (the 19% increase). Although the NPA has indicated that the Regulator has mechanisms in the tariff methodology (to address higher tariff increase) in the form of ETIMC, we haven't spoken about the Authority's net profits, particularly how this should be considered towards reducing tariffs. In a future end state, the Authority is not a division within Transnet, that would be different.

NPA Response: The use of net profits is determined in the tariff methodology. Of the various methodologies, the approach that has been selected is the revenue requirement methodology. This methodology has building blocks which effectively establishes as per directives that the entity must have enough revenue to cover its costs, the owning of assets and ensure that it can fund those assets. With that methodology the required revenue was determined at R13,6billion and given assumptions around volume growth, the overall adjustment will be 19% to cover the business needs. The suggestion made entails a different approach along the lines of balance sheet affordability. Such a methodology would allow for the proposal to use net profits to smooth tariff increase to be explore or implemented.

Question (PCC/NPCC secretariat): On the Authority's loan book and trying to understand how the loans book include the NPA, from a transparency perspective, can the Authority make information public or at least available to the Ports Regulator on loans and interest paid on the loans.

NPA Response: The tariff application indicates a 10,85% weighted average cost of debt and with the economic crisis governments and central/reserve banks around the world are starting to reduce lending rates. Should the NPA not go lower that the 10,85% rate. In terms of the existing loan book it will not be possible because a majority of those if fixed and the floating portion is not significant. The Authority is anticipating new loans to come in at much cheaper rates and in time that should dilute the 10,85%. Adjustment to the actual rate will be done through the claw-back based on what will materialise and the Authority actively monitors this. On transparency on the loan book, there is certain information that is not made public, especially as the Treasury is run centrally at Transnet level. Details of the loan book will be shared with the Ports Regulator, as part of supporting information to the tariff application i.e. each of the loans allocated by Transnet to the NPA for funding of the organisation and how they have progressing over time and associated cost of debt.

End.