

**TRANSNET NATIONAL PORTS AUTHORITY,
AN OPERATING DIVISION OF
TRANSNET SOC LTD**

**REQUEST FOR INFORMATION: FOR THE DESIGN,
FINANCING, CONSTRUCTION, OPERATION AND
MAINTENANCE OF SLOPS STORAGE, PROCESSING AND
MANUFACTURING FACILITIES AT THE PORTS OF
DURBAN, EAST LONDON, MOSSEL BAY, CAPE TOWN
AND SALDANHA.**

RFI: TNPA/2024/04/0025/63021/RFI

ISSUE DATE: 16 APRIL 2024

NON-COMPUSLORY BRIEFING: 26 APRIL 2024

CLOSING DATE: 19 JUNE 2024

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ANNEXURE A: POTENTIAL SITES

1 Disclaimer

While all reasonable care has been taken in preparing this Document, the information has been prepared by Transnet National Ports Authority ("TNPA") as an operating division of Transnet SOC Ltd ("Transnet") in good faith, based on information obtained from various sources. However, neither TNPA nor any of its advisors accept any liability or responsibility for the adequacy, accuracy or completeness of any of the information or opinions stated herein.

Save where expressly stipulated otherwise, no representation or warranty (whether express or implied) is or will be given by TNPA or any of its officers, employees, servants, agents, advisors, or any other person with respect to the information or opinions contained in this Request for Information (RFI), or in relation to this RFI.

TNPA reserves the right to amend, modify or withdraw this RFI in whole or part, and/or to terminate or amend the plans for the development, design, financing, construction, operation and maintenance of slops processing facilities at the ports of Durban, East London, Mossel Bay, Cape Town and Saldanha at any time, without prior notice and without liability to compensate or reimburse any person pursuant to such amendment, modification, withdrawal or termination.

The terms and conditions set out in this RFI are stipulated for the express benefit of TNPA. Save as expressly stated to the contrary, may be waived at TNPA's sole discretion at any time.

TNPA reserves the right to adopt any proposal made by any person, juristic or otherwise, responding to this RFI at any time and to include such proposal in any documents which may or may not be made available at any stage to any other persons responding to this RFI, without the obligation or liability to pay any compensation or reimbursement of any nature to any person pursuant to such adoption.

This RFI is provided solely for the purpose set out herein and is not intended to form any part or basis of any investment decisions by any of the Respondents, their shareholders, members, or lenders.

Each person that accesses this RFI must make their own independent assessment of the information provided, taking such advice (whether professional or otherwise) as it deems necessary.

No Respondent, its shareholders, members, contractors, suppliers or lenders shall have any claim against TNPA, its officers, employees, servants, agents or Transaction Advisors, under any circumstances whatsoever, arising out of any matter relating to this RFI of any nature whatsoever, including where such claim is based on any act or omission by TNPA, or any of its officers, employees, servants, agents or Transaction Advisors of any nature whatsoever, or where such claim is based on the content of, or any omission from, this RFI of any nature whatsoever.

2 Definitions and Interpretation

In this RFI, except as otherwise defined herein, the following terms shall have the following meanings:

- 2.1 **Bidder** - any entity or consortium that submits a Bid Response, which must be either a Project Company or a consortium of legal entities, all of whom shall become shareholders (either themselves or through an intermediary entity) in a Project Company;
- 2.2 **Bid Response** - any bid submitted by a Bidder in response to the invitation contained in the RFI to be issued by TNPA within its sole and absolute discretion;
- 2.3 **Commercial Close** - the date on which the Implementation Agreement is duly executed by the Seller and the buyer (TNPA);
- 2.4 **Commercial Operation Date** - the date after which all testing and commissioning of the slops processing facilities has been completed;
- 2.5 **Consents** - all consents, permits, clearances, authorisations, approvals, rulings, exemptions, registrations, filings, decisions, licences, required to be issued by or made with any Responsible Authority in connection with the performance of any of the Construction, Operation and maintenance of the Facility by the Project Company;
- 2.6 **Document** – this explanation and request for information slops processing facilities.
- 2.7 **Financial Close** - means the time when the Project Agreement and all financing and other agreements related to the Project have been executed and delivered and all conditions to the effectiveness of the Project Agreement and Project financing agreements have been satisfied;
- 2.8 **National Ports Act** – the National Ports Act No. 12 of 2005;
- 2.9 **Ports** - the Ports of Durban, East London, Ngqura, Port Elizabeth, Mossel Bay, Saldanha and Cape Town;
- 2.10 **Project** – the proposed development, design, construction, financing, operation, and maintenance of slops processing facilities at the ports of Durban, East London, Mossel Bay, Cape Town and Saldanha that may be granted by TNPA to the Preferred Bidder pursuant to an RFP that may be issued;

- 2.11 **Project Company** - the legal entity/entities that will be awarded the right, by the TNPA, to undertake the project at the at the ports of Durban, East London, Mossel Bay, Cape Town and Saldanha and with whom, the TNPA will be concluding slops processing facility use agreement;
- 2.12 **Project Officer** – the person appointed by TNPA as the project officer for the purpose of the administration of the process contemplated in this Document;
- 2.13 **RFI Respondent** – any entity or consortium that submits a RFI response in respect of this document;
- 2.14 **RFI** – this Request for Information document which aims to solicit information from the market relating to the planned project in relation to slops processing initiatives at the Ports;
- 2.15 **RFI Response** – the submission made by an entity or organization in response to this Document, together with all necessary supporting documentation and the letter referred to in paragraph 6 of this RFI;
- 2.16 **RFP** – the request for proposals is contemplated to be issued for the service providers that will develop, design, construct, finance, operate and maintain slops processing initiatives at the Ports;
- 2.17 **Slops** - Slops are hydrocarbon-rich industrial waste, produced in engine rooms through the purification of fuels, bilge waters from mechanical systems and oily ballast water and tank cleaning waters from tankers.
- 2.18 **Transnet National Ports Authority (TNPA)** – an operating division of Transnet responsible for the safe, effective, and efficient economic functioning of the national port system, which it manages in a landlord capacity and who provides port infrastructure and marine services at the eight commercial seaports in South Africa in accordance with the provisions of the National Ports Act; and
- 2.19 **Transnet** – Transnet SOC Ltd, registration number 1990/000900/30, a state-owned company duly incorporated in terms of the company laws of the Republic of South Africa; and

3 BACKGROUND

a) Transnet National Ports Authority (TNPA)

3.1.1 Transnet National Port Authority (TNPA) as an operating division of Transnet SOC Ltd ("Transnet"), (registration number 1990/000900/30) established through the National Ports Act, No. 12 of 2005 ("the Ports Act") and provides a regulatory service in terms of its proclamation as defined in the National Ports Act;

3.1.2 Section 11 (1) of the Ports Act states: The main function of the Authority is to own, manage, control, and administer ports to ensure their efficient and economic functioning, and in doing so the Authority must:

- a) Plan, provide, maintain, and improve port infrastructure;
- b) Promote the use, improvement and development of ports and control land use within the ports, having the power to lease port land under conditions that it determines;
- c) Promote greater representation, in particular, to increase participation in port operations of historically disadvantaged people;
- d) Provide or arrange marine-related services, i.e., pilotage services, tug assistance, berthing services, dredging and hydrographic services;
- e) Regulate and control pollution and the protection of the environment within the port limits;
- f) Maintain the sustainability of the ports and their surroundings;
- g) Ensure the provision of port services, including the management of port activities and the port regulatory function at all South African ports; and

- h) Ensure that adequate, affordable, and efficient port services and facilities are provided, including regulatory oversight of all port activities;
- 3.1.3 At an operational level, TNPA occupies a strategic position in the country's transport logistics chain, managing South Africa's eight (8) commercial seaports, namely Cape Town, Richards Bay, East London, Mossel Bay, Ngqura, Port Elizabeth, Durban, and Saldanha;
- 3.1.4 The ports under the control of the TNPA span the South African coastline, which measures approximately 2 800 km. TNPA's asset base consists of port land, basic port infrastructure and marine fleet at the eight (8) commercial ports. TNPA manages port land of approximately 43,4 million m² and about 750 leases across the port system;
- 3.1.5 Operating within the port industry, TNPA provides its services to port users, namely terminal operators, shipping lines, shipping agents, cargo owners, clearing and forwarding industry. TNPA also carries a distinctive feature of being self-sustaining, unlike most other landlord port authorities that rely on national or provincial governments for financial support;
- 3.1.6 TNPA is responsible for managing waste associated with its operational activities. This includes waste from TNPA offices, depot, port control, vacant sites, and common user areas within the port limits. All ports have a service-level agreement with at least one waste service provider for handling waste (domestic and hazardous waste streams).
- 3.1.7 TNPA issues Section 57 activity licences for the provision of waste disposal services to vessels. These licences are issued to service providers as a means to stimulate the economy. Waste can be handled by a TNPA contractor or a licensed waste disposal service provider, depending on the availability of resources to attend to the request.

3.1.8 The waste management function activities carried out by TNPA include:

- a) Developing and maintaining the Port Waste Management Plan;
- b) Licensing waste contractors for collection of port waste and provision of equipment;
- c) Coordinating with incoming ships and shipping agents for waste services required; and
- d) Implementing the MARPOL annexures with regards to waste management at the Ports. Figure 1 below illustrates the TNPA 8 commercial ports.

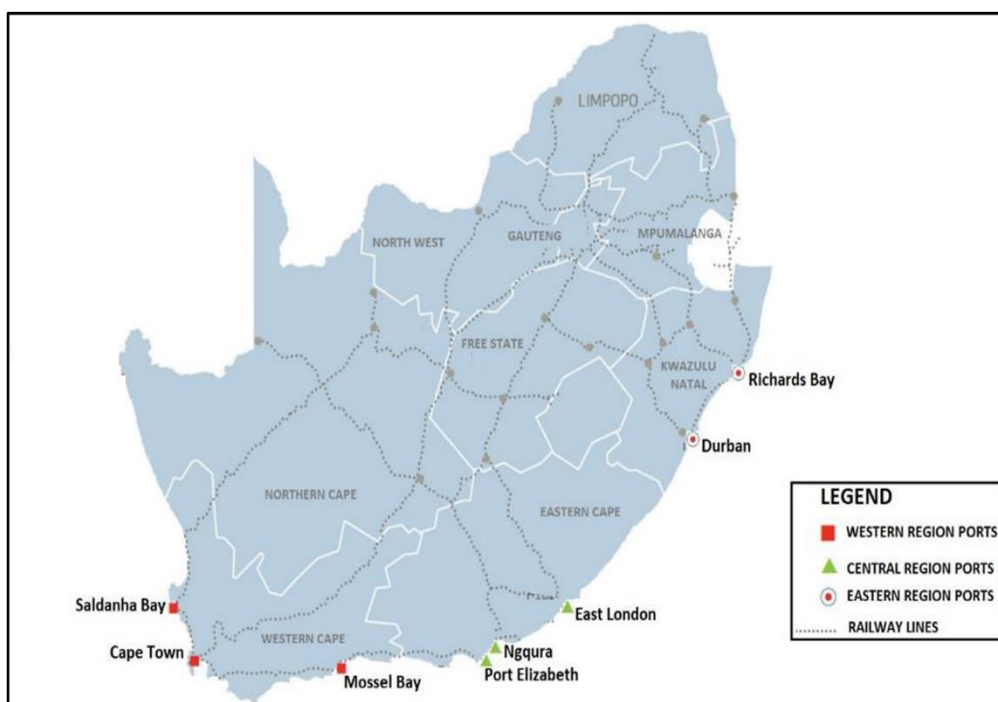


Figure 1: TNPA 8 Commercial Ports

All commercial ports are required to have an Integrated Waste Management Plan in line with the requirements of the National Environmental Management: Waste Management Act 2008 (Act No. 59 of 2008) and the National Ports Act 2005 (Act No. 12 of 2005).

4 Overview

- 4.1** Ninety (90%) percent of the world's goods are transported by ships, using a combined 350 million tons of fuel oil every year and leading to 98 million tonnes of slops being produced by the global commercial fleet each year (International Chamber of Shipping (ICS), 2017). At present approximately 120 million litres (~42 million tonnes) of used oil is collected in South Africa annually (Source: Rose Foundation.org.za. 2022);
- 4.2** The generation of oily wastes varies and depends on factors such as the size of the ship, engine room design, preventative maintenance, age of the components on the ship, type of engine, the age of the engine, type of fuel burnt, engine running hours per day and (in the case of slops) the number of oil tank cleanings and the type of fuel carried;
- 4.3** While the type and volume of oily waste generated varies between vessels, all vessels produce some oily residues;
- 4.4** Slops are hydrocarbon-rich industrial waste, produced in engine rooms through the purification of fuels, bilge waters from mechanical systems and oily ballast water and tank cleaning waters from tankers (Source: MARPOL);
- 4.5** Legislation dictating how ship owners must dispose of waste is stringent, and disposal must be conducted in line with the IMO's MARPOL Convention 73/78 (MARPOL), which prohibits all ships from discharging wastes at sea which could result in pollution of the marine environment;
- 4.6** For ship owners and operators disposing of slops represents just one sustainability challenge they have to act upon under IMO and E.U. regulations;
- 4.7** There are dedicated treatment systems for oily waste in South Africa and private collection services are provided at all 8 commercial ports through Section 57 licenses;
- 4.8** All slops need to be disposed without negatively impacting the environment and legal documents must be produced to prove compliant processing;

- 4.9** Slops collectors collect the slops from the vessels at the various ports, the collectors then deliver the slops to various collection points. The slops are then sent for processing at facilities across South Africa. Eventually, the collected slops are recycled into various products in a sustainable and environmentally responsible manner;
- 4.10** Many ports do not have adequate reception facility (ies), and the opportunities for waste collectors to dispose of slops sustainably are limited; and
- 4.11** TNPA has intentions to participate in a commercial structure of the slops beneficiation facility for the global market.

4.12 Environment and Sustainability

- 4.12.1 The National Environmental Management legislation ensures protection of the environment and is aligned with section 24(b) of the Constitution which states that *"everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation and promote conservation"*;
- 4.12.2 Thus, stakeholders and regulators expect compliance with legislation and adherence to sustainable development practices in line with the National Framework for Sustainable Development in South Africa (2008);
- 4.12.3 There are significant ecological changes associated with many years of ports development, hence it is important for TNPA to comply with legislation and proactively implement environmental best practices to balance port development, operations, and the protection of ecological assets;
- 4.12.4 TNPA has upheld the ecological balance between Port operations and Biodiversity conservation through legal compliance controls and the Port Integrated Management System (PIMS). This includes implementation

of ISO standards like 14001: Environmental management and other legal assurance audits;

4.12.5 In addition, oversight programmes have been implemented to mitigate against environmental risks associated with the ports' licensed activities; and

4.12.6 TNPA applies the "Duty of Care" approach in its operations, thus requiring that all waste streams handled within the Ports limits comply with all legislations. This includes the licensees having proof of proper disposal mechanisms by producing legal, safe disposal certificates.

4.12.7 This RFI thus falls in line with the work that TNPA is doing to ensure sustainable ports development, and the continued reduction of negative environmental impacts that exist within the ports system.

5 Request for Information

- 5.1** The objectives of this RFI are to establish market appetite from interested parties for the development of processing, storage and manufacturing facilities for vessel slops;
- 5.2** Assess the market technologies, pipe-line projects, and delivery schedules for processing and manufacturing facilities at the Ports of Durban, East London, Mossel Bay, Cape town and Saldanha. This will prepare TNPA for starting the Project and acquiring the necessary information to execute these projects; and
- 5.3** TNPA seeks to also establish the most suitable business model and/or commercial partnership structure with interested parties, for the beneficiation of slops into a viable business.
- 5.4** TNPA intends, through this RFI to:
- 5.4.1 Better understand the Respondents' slops projects;
 - 5.4.2 Gauge market appetite for the project;
 - 5.4.3 Formulate the scope and extent of the Project;
 - 5.4.4 Determine the product portfolio in demand and of interest from the market from slops recycling;
 - 5.4.5 Evaluate and determine the best business model and commercial structure to inform the RFP route to ensure that it responds to market demand;
 - 5.4.6 Determine the appropriate risk allocation between the TNPA and the Service Provider in undertaking the Project; and
 - 5.4.7 Understand requirements and market demand for TNPA to establish the slops facilities.

5.5 TNPA requests that all entities or companies that may wish to submit bids, in response to a possible RFP in future, with respect to the Project, respond to this RFI in the manner and form herein specified. The submission of an RFI response is not, and will not be a compulsory requirement for responding to the RFP in future;

5.6 Respondents are to note the following:

5.6.1 TNPA does not prescribe the suggested solution and instead seeks information that will be useful if the project moves on to the RFP stage;

5.6.2 Possible slops storage, processing and manufacturing facilities, and locations for each port are provided as "Annexure A" to this RFI, these options are to be confirmed post the requisite approvals from relevant governing institutions. In proposing a possible solution, Respondents should propose options for site locations in addition to the options provided by TNPA, if they might have different propositions. The final options shall be developed, investigated, and finalised for the subsequent RFP phase;

5.7 Respondents should indicate any requirements for the project land which would include aspects such as exclusion zones, laydown areas, servitudes, etc., that they foresee in developing the possible solution proposed above;

5.8 Respondents are requested to submit information in their responses to this RFI on how best the TNPA could package the Project in the event that it progresses to the RFP stage of the Project; and

5.9 Respondents are requested to provide any other information in respect of their Project that they deem necessary to bring to TNPA's attention.

6 Information to be provided by the respondent in its RFI response.

Respondents are required to submit the following information in the RFI Response, which information should include the information requested below together with supporting documentation in respect thereof. Apart from the requirements below,

respondents are encouraged to submit any additional information that may assist TNPA in its planning to capacitate the port system for slops processing.

6.1 Respondent's Company / Consortium profile

- 6.1.1 The name of the Respondent, and its full registration details;
- 6.1.2 The name and contact details of the person appointed by the Respondent as its representative in the event that the Project Officer wishes to engage with the Respondent on any aspect of the RFI Responses; and
- 6.1.3 A comprehensive company profile detailing the Respondent's previous experience and track record in undertaking the development of a hydrogen and/or ammonia facility of the nature outlined in this RFI which is to include the CVs of the Respondent's executive team members.

6.2 The proposed slops processing facilities.

- 6.2.1 Possible Locations:
 - a) The Respondents shall identify and submit which ports will be best suitable for the project, in addition to the proposed site production locations. The following considerations must be taken into account for the proposed site locations;
 - b) The size and geometry of the sites should accommodate the storage facilities and accompanying civil, electrical, piping interconnections and other works;
 - c) Access and interconnections to the regenerated/ recycled lubricants networks;
 - d) Geological and topographical suitability for the construction and erection of the various structures in a cost-effective manner;

- e) Adherence to port's environmental regulations, law requirements and restrictions; and
- f) Market overview, commercial value chain and product portfolio to be generated from the slops recycling and the projected volumes to make the project commercially viable.

6.3 Pre-Feasibility Stage Programme:

- 6.3.1 The Respondent shall submit an activity programme, in the form of a Gantt chart, which will reflect the various activities stemming from this scope of work with the duration for each activity;
- 6.3.2 What is the Respondent's projected capital investment required to undertake the Project? It should be noted that TNPA under its mandate as per the Ports Act, will invest and own common-user infrastructure (includes the berth, piping, manufacturing associated marine infrastructure, etc.) within the port.
- 6.3.3 Provide details on an indicative tariff. Detail to also be provided on the capacity charges as well as any other components of the tariff with the necessary detailed motivations for the tariff breakdown.

6.4 Information relevant to the Project Status

- 6.4.1 Provide high level project lifecycle phases (concept, design complete, construction commenced, construction complete);
- 6.4.2 Provide details of preferred sites for the manufacturing facility and/or slops processing equipment;
- 6.4.3 What are the projected timelines to operationalize the slops storage, processing and manufacturing facilities?

6.4.4 What, if any, is the anticipated use of existing infrastructure? and

6.4.5 What, if any, is the technical interface information and constraints?

6.5 Commercial Transaction Structure

6.5.1 What is the proposed commercial structure, having regard to the expected return on the investment in the port infrastructure?

6.5.2 What is the expected tenure of the Project to obtain the expected return on investment in relation to the project capital expenditure for each port?

6.5.3 How does this Commercial structure integrate with the intended operating and business model? Please elaborate and unpack your envisaged operating and business model explaining the rationale, therefore; and

6.5.4 The Respondent is required to provide a general background on how the Respondent intends to finance the Project.

6.6 Alignment with Government's Strategic Objectives

6.6.1 What will be the Respondent's project contribution to new jobs, skills development, Black owned partnership, and development of SMMEs?

6.6.2 How will the Respondent ensure that the Project remains environmentally sustainable?

6.7 Compliance

6.7.1 Which are the most critical regulatory approvals required to ensure the success of the Project? Are there any regulatory approvals already obtained?

6.7.2 How will the Respondent obtain and retain all relevant and necessary regulatory requirements to undertake the Project? What would be the timelines?

6.7.3 Environmental Analysis and Assessment Methodology:

6.7.4 It is recommended that the Respondent provides proposed site locations that are in the least environmentally sensitive areas (e.g., brownfield areas), with existing environmental approvals and/or will require the lowest amount of environmental legislative requirements.

6.7.5 For the proposed location in each port, the Respondent shall submit the following:

- a) The environmental approvals, with reference to the relevant Acts, that will be required for each proposed port location;
- b) An outline of the required environmental assessments as a function of the scope, functional design and location of the site e.g.; a Marine Impact Assessment (MIA);
- c) An outline of any additional potential environmental hindrances to the project implementation with solutions to overcome; and
- d) Identification of any possible environmental risks and impacts with mitigation plans to ensure no impact occurs. The environmental studies shall be finalised once the scope, design and final site location are selected in each port and the relevant legislated environmental approval requirements and applications are lodged with the respective competent authority.

6.8 Information Relevant to the Timing of the Project

6.8.1 How much time will a bidder require:

- a) To prepare a bid response, taking into account any due diligence that a Bidder will need to carry out; and
- b) to finalise all the requirements, to achieve financial close.

6.8.2 What is the timing of the Commercial operation date from Financial Close? Respondent to provide the necessary supporting documentation in support of such assertion;

6.8.3 What are the key issues relevant to the timing of the Respondents' submission for this Project that the Respondent would like to bring to TNPA's attention; and

6.8.4 What is the anticipated critical path between Financial Close and the Commercial Operation Date for the Project?

7 Format and submission of RFI responses

7.1 Submission of RFI Responses

7.1.1 The RFI Responses must be submitted to TNPA by no later than Wednesday, 19 June 2024 at 12h00;

7.1.2 RFI Responses reaching TNPA later than the date and time specified above may, in TNPA's sole discretion, not be considered by TNPA;

7.1.3 All costs incurred by a Respondent in connection with this RFI and the preparation of its responses hereto shall be borne by the Respondent;

7.1.4 The Respondent will not have to pay any monies in order to submit an RFI Response; and

7.1.5 The Respondent is encouraged to submit any additional information that, in its view, would assist TNPA in the further development of the Project.

7.2 Copies of the RFI Response

7.2.1 Each RFI Response is required to be delivered to TNPA by way of 1 (one) soft copy of the entire RFI Response, and the documents contained therein must be:

a) Uploaded on the Transnet e-tenders portal;

b) Emailed to: slopsrfi@transnet.net;

- c) In Microsoft Word format, version 2007 or later, save where the document cannot be accessed by Microsoft Word, in which event it must be provided in a PDF format; and
- d) Properly indexed, readable and capable of being opened.

7.3 Format of RFI Responses

- 7.3.1 The Respondent is requested to complete the RFI Response and provide all the information required in terms of this RFI and address every item;
- 7.3.2 All pages should be numbered consecutively from beginning to end and there should be an index to the entire RFI Response; and
- 7.3.3 The RFI Response can be contained in more than one document and with annexures as the Respondent may consider appropriate to provide the information requested. All documents comprising the RFI Response must be visible from the index to the RFI.

7.4 Language of the RFI Response

- 7.4.1 The RFI Response and all documents forming part of it must be in English;
- 7.4.2 Any printed literature submitted with the RFI Response may be in another language as long as it is accompanied by an English translation (made by an accredited translator) of the entire document;
- 7.4.3 For the purpose of interpretation of the RFI Response, TNPA will rely on the English translation provided; and
- 7.4.4 All correspondence and any other documentation and oral communication exchanged between the Respondent and TNPA shall be in English.

7.5 Signing of the RFI Response

7.5.1 The Respondent is requested to provide a signed letter with its RFI Response.

7.6 Further Information

7.6.1 TNPA reserves the right to seek additional information from the Respondent regarding its RFI Response, as it may, in its sole discretion, determine, whether such information has been requested under this RFI or otherwise, and may request the Respondent to present supplementary information, in respect of its RFI Response; and

7.6.2 The Respondents may, following the submission of an RFI Response, be requested to engage with TNPA and/or other relevant government stakeholders to discuss matters relevant to its RFI Response. Any meetings will take place via MS Teams unless otherwise arranged.

8 Contact with the project officer.

8.1 The Respondent must give the name and contact details of the person whom it appoints to undertake all contact with the Project Officer in its RFI Response, as provided for above (Information to be provided by Respondents in their RFI Responses);

8.2 After the submission of its RFI Response, the Respondent may only communicate with TNPA through such person and TNPA shall be entitled, at its sole discretion, to disregard any communication from the Respondent, that does not come from such contact person, and that does not go directly to the Project Officer. Once the Respondent has been issued with a unique identification number this is to be used in all communications with TNPA; and

- 8.3** Where engagement is required with the Respondent as highlighted above, other representatives of TNPA and the Respondent will be requested to be available for such engagement.

9 Non-Compulsory briefing

- 9.1** A non-compulsory briefing session meeting will be conducted via Microsoft Teams on Friday, **26 April 2024** @ 10h00. Interested parties can join the briefing session by using a link that will be provided on the TNPA website; and
- 9.2** Interested parties who wish to submit an RFI Response and who did not participate in the non-compulsory information sharing session will not be excluded from submitting an RFI Response

10 Requests and clarifications

- 10.1** The Respondent may request clarification on any item contained in this RFI by not later than Friday, 17 May 2024 at 12h00;
- 10.2** All enquiries, queries, and requests for clarification in respect of this RFI must be in writing and addressed to the Project Officer and emailed to slopsrfi@transnet.net; and
- 10.3** TNPA will endeavour to respond to all reasonable written queries and requests for clarification raised by any Respondent.

11 Confidentiality

- 11.1** The information contained in this RFI is confidential and proprietary to TNPA. In accepting this RFI, "suppliers", "service providers" and/or "Agents" agree to the following conditions, under the applicable legislation:

- 11.1.1 Each party recognises and agrees that the Confidential Information has been compiled, created, and maintained by special effort and expense of the other party;

11.1.2 Each party recognises and agrees that disclosing or disseminating Confidential Information to a third party will have a materially adverse effect on the other party and agrees not to disclose or disseminate the Confidential Information to any third party. Except as necessary to perform its obligations hereunder, each party shall not use, reproduce, or draw upon the Confidential Information or circulate it within its own organisation;

11.1.3 Each party shall provide notice to the other party of any demand made upon it under lawful process to disclose or provide the other party's Confidential Information. Such party agrees to co-operate with the other party if it elects to seek reasonable protective arrangements or oppose such disclosure, at the expense of the party that is seeking the protective arrangements or opposing the disclosure;

11.1.4 Any Confidential Information disclosed pursuant to such lawful process shall continue to be Confidential Information, the access to such Confidential Information shall be limited to those persons:

- a) only with a need to review such information for the purposes for which the disclosure was required; and
- b) who agree in writing to keep the Confidential Information confidential.

12 Offering of Commission or Gratuity

12.1 If a Respondent, or any person employed by him, is found to have either directly or indirectly offered, promised or given to any person in the employ of TNPA, any commission, gratuity, gift or other consideration, TNPA shall have the right and without prejudice to any other legal remedy which it may have in regard to any loss or additional cost or expenses, to disqualify the RFI Respondent from further participation in this process and any other subsequent processes in this regard; and

12.2 In such an event, the Respondent will be responsible for all and any loss that TNPA may suffer as a result thereof. In addition, TNPA reserves the right to exclude such a Respondent from future business with TNPA.

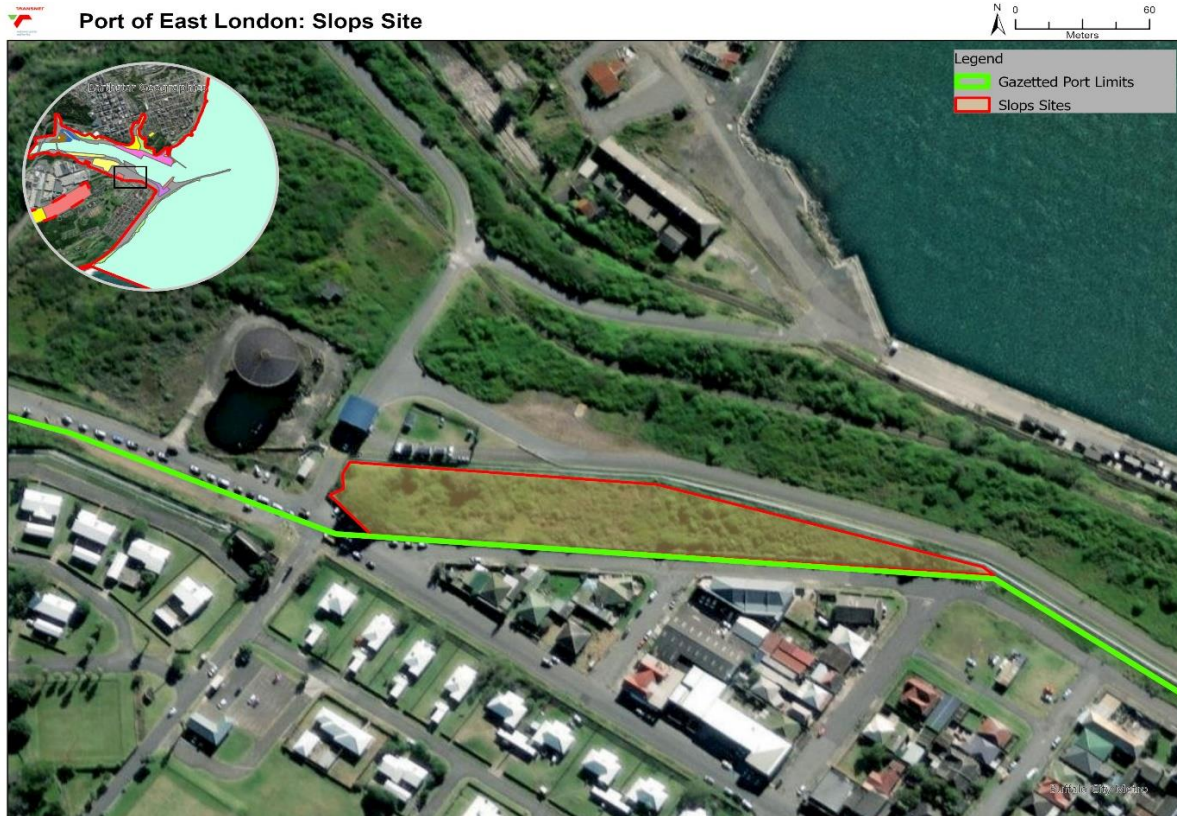
Annexure A: Potential Sites

The indicative sites for the mentioned ports are provided below. The sites will be firmed up after obtaining the market demand and performing a detailed analysis to develop a sound solution that will respond to the market demand.

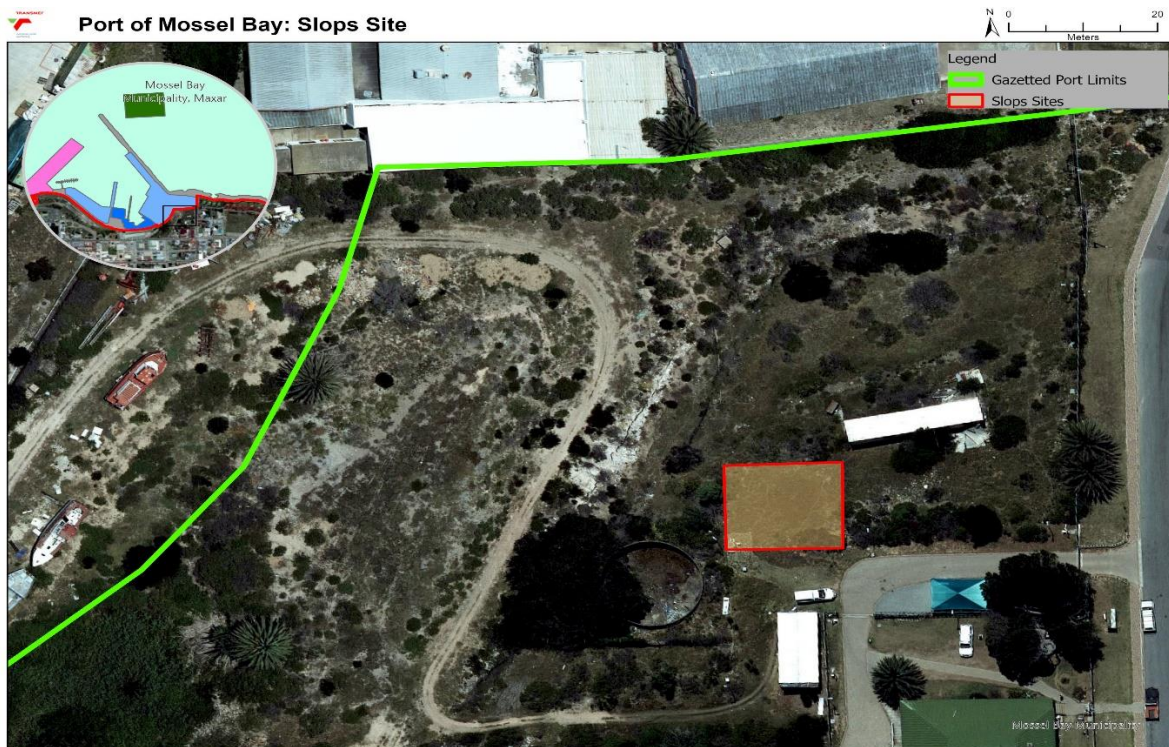
1) Port of Durban: Indicative site



2) Port of East London: Indicative site



3) Port of Mossel Bay: Indicative site



4) Port of Cape Town: Indicative site



5) Port of Saldanha: Indicative site

