

Dear Sabelo

The MSF met this week to discuss what it considers to be a crisis in the management of the UPL section 30 process and related matters.

As you know, the last meeting between the MSF and UPL was cancelled over the issue of the involvement of the media (specifically Tony Carnie) in such meetings. A small group nevertheless met, and the discussion was fruitful. It was proposed that focussed meetings would be held in the future and that these meetings would be "private" so that UPL could "take the MSF into its confidence" when making disclosures that would not otherwise be made publicly. The media would not be allowed to attend such meetings.

When this proposal was presented to the greater MSF body, it was rejected out of hand. The MSF will not attend meetings controlled by UPL, both as to what information is disclosed and who may attend. Furthermore, it is unacceptable for information to be given to representatives at a meeting and for them to be expected to keep such information confidential. It defeats the entire purpose of the MSF. No further meetings have been requested.

At the MSF meeting earlier this week, the relationship between the MSF and the authorities was brought into question. Quite clearly there is no relationship. It was envisaged when the MEC established the MSF, that EDTEA, would "take the MSF into its confidence", and that the MSF would be involved in the governance of the section 30 compliance process.

Instead of there being communication between stakeholders and the authorities, and between stakeholders and UPL, stakeholders have been subjected to what may only be termed as an "information dump" that is of no assistance to ordinary members of the public.

The MSF has raised its concerns about the lack of coordination and cooperation between the three spheres of government, and that this is compromising the process.

There seems also to be disharmony between members of the specialist team, and of greater concern, the existence of an internal UPL team that includes non-scientists, who decide what information is contained in specialist reports and what is released to the authorities and the public. If this is true, it is completely unacceptable. The MSF is not aware of the true facts and requires a full investigation of the matter by the authorities and public disclosure of the findings. The MSF must be part of this investigation.

As you know, the PCD reached full capacity this week. You instructed UPL to reduce the volume to 60% as required by the directive, as amended.

UPL is reducing the volume of the PCD by discharging the contents into the watercourse. This commenced sometime on Friday or Saturday morning, and as at 10am on Saturday 21st October 2023, was still underway.

The MSF has sight of the letter addressed to you by UPL's attorney and the recommendations of GroundTruth (both attached for ease of reference of the recipients of this email who may not have seen them). It is clear that UPL is proceeding on the advice of its attorney and the recommendations of its specialist, in blatant disregard the section 30 directive and the directive issued by DWS only a few days ago.

The MSF does not agree with UPL's interpretation of the law when it contends that it does not need to comply with municipal stormwater bylaws, or the National Water Act. In the case of the latter, the MSF was pleased to see the directive issued by DWS as it confirms the MSF's understanding of the law.

Many questions arise from what is obviously, the unlawful discharge of contaminated water into the watercourse. Monitoring the impact after the event as suggested in the attorney's letter and the GroundTruth recommendations is unacceptable. There is no indication that the estuarine specialists will be monitoring the marine environment at all.

The problem is compounded by the fact that the treatment plant at the PCD has not been functioning properly in recent days.

The discharge does not appear to have been approved under the directive in place. Your urgent advice as to whether EDTEA, the JOC or DWS approved the discharge is required. If it has not been approved, please explain what steps you and your colleagues intend to take.

Aside from the possible contravention of the section 30 directive, and the DWS directive, the discharge of contaminated water into the watercourse without a water use licence or exemption is a criminal offence, as is the failure to comply with the municipal stormwater bylaws.

The MSF has been disappointed that no prosecution has resulted from the incident and must assume that the authorities are unwilling or unable to progress with criminal action. The MSF will accordingly lodge a criminal complaint concerning the discharge currently taking place with SAPS.

The MSF requires an urgent meeting with EDTEA to discuss all these issues and if necessary, to redefine the role and purpose of the MSF. The meeting may be in person (with online attendees) or virtual. Any morning this coming week 23rd October, onwards, except Wednesday 25th, would be suitable. It would be advisable for EDTEA to have its legal advisors in attendance.

Please respond urgently.

Yours sincerely

Jeremy

Jeremy Ridl

Multi-Stakeholder Forum Convener