CHAPTER 11    DISPOSING OF STORMWATER FROM A NATIONAL ROAD

Page

11.1    OVERVIEW 2

11.2    POLICIES AND PROCEDURES 2

11.3    INFORMATION REQUIRED BY SANRAL 3

11.4    ANNEXURES 4

ANNEXURE 11.4.1    Example of standard conditions to control stormwater 5
11.1 OVERVIEW

11.1.1 In terms of the common law, a property owner is entitled to protection against interference with the natural flow of water from a neighbour's property as a result of the construction of artificial works.

11.1.2 In terms of the Act, SANRAL may divert storm-water from or under a national road onto any land\(^1\).

11.1.3 If the diversion of such storm-water causes any damage, SANRAL must pay compensation for such damage\(^2\).

11.1.4 Where a township is established on land adjoining a national road, the person establishing the township must receive and dispose of the storm-water discharged or diverted from the national road\(^3\).

11.1.5 Where a township is established on land adjoining a national road, SANRAL will not be liable for any damage caused in the township by the storm-water\(^4\).

11.2 POLICIES AND PROCEDURES

11.2.1 In terms of the Act, SANRAL is entitled to divert storm-water from or under a national road onto any land and does not require the consent of the landowner to do so.

11.2.2 However, SANRAL may, in certain instances, be required to obtain environmental authorisation before diverting such storm-water\(^5\).

11.2.3 The Minister of Environmental Affairs and Tourism has identified certain activities which may significantly affect the environment and which must be considered, investigated and assessed prior to their implementation\(^6\).

11.2.4 These activities may not be commenced without the prior authority of the Minister\(^7\) or the MEC\(^8\).

11.2.5 The bulk transportation of sewage and water, including stormwater, in pipelines with an internal diameter of 0.36 metres or more, or a peak throughput of 120 litres per second or more, is an identified activity and the construction of such facilities will require the authorisation of the environmental authorities\(^9\).

11.2.6 In order to limit any damage to an adjoining landowner's property, SANRAL must comply with the requirements of the Drainage Manual\(^10\).

11.2.7 If a developer wishes to establish a township within a building restriction area\(^11\), the written approval of SANRAL is required\(^12\).

11.2.8 SANRAL is entitled to impose conditions and such conditions may relate to the manner in which stormwater must be disposed of from such township\(^13\).

11.2.9 A building restriction area does not apply to land in an urban area, except commonage land, land which is used or destined to be used mainly for farming or horticulture or the keeping of animals, or land which consists of any other open space.
which has not been developed or reserved for public purposes. However, in any application for township establishment alongside a national road, SANRAL will still be an interested and affected party and will be entitled to make submissions to the approving authority for consideration with such application. This will especially apply if the road reserve is contiguous to the land on which it is intended to establish the township.

11.2.10 In these instances, SANRAL must make submissions for the inclusion of appropriate conditions in any authorisation issued by the approving authority. Such conditions will relate to the design and construction of measures within such township to control stormwater.

11.3 INFORMATION REQUIRED BY SANRAL

11.3.1 In the event that a claim is received for compensation for damage caused by the diversion of stormwater from or under a national road, SANRAL must obtain the following detailed information in order to assess the claim:

11.3.1.1 when the alleged incident occurred;

11.3.1.2 where the alleged incident occurred;

11.3.1.3 how the alleged incident occurred;

11.3.1.4 the damage that was allegedly caused; and

11.3.1.5 details regarding the amount of compensation claimed and how it has been determined.

11.3.2 Any negotiations that are undertaken with respect to the alleged incident and the compensation payable should be conducted on a without prejudice basis in order to not prejudice any litigation that may arise should the matter not be settled.

11.3.3 In order to assess an application for the establishment of a township alongside a national road, SANRAL must obtain at least the following information and documentation:

11.3.3.1 a copy of the town planning layout;

11.3.3.2 engineering report;

11.3.3.3 stormwater plan;

11.3.3.4 a 1:50 and 1:100 year floodline certificate; and

11.3.3.5 the draft conditions of establishment.

11.3.4 Copies of this information and documentation should be available from the developer or the relevant approving authority. Care must be taken to ensure that comments have been submitted to such approving authority within the period allowed for this purpose.
11.4 ANNEXURES

11.4.1 Example of standard conditions to control stormwater (See Annexure 11.4.1)
11.4 ANNEXURE

Annexure 11.4.1 Example of standard conditions to control stormwater

1. The South African National Roads Agency Limited will not be liable for any damage or diminishment in value of the property arising out of any impact the development hereby approved may have on existing stormwater drainage on the property.

2. Such facilities as are necessary for the control and disposal of stormwater from the township shall be constructed to the satisfaction of the South African National Roads Agency Limited.

3. The South African National Roads Agency Limited hereby reserves the right to impose any conditions that it deems necessary and reasonable in the circumstances prior to granting final approval.

4. The written confirmation of the South African National Roads Agency Limited, that the conditions referred to herein have been fulfilled to its satisfaction, shall be required prior to the opening of any township registers with respect to the township.

5. The Applicant shall supply the South African National Roads' Agency Limited with a certificate of a professional engineer confirming that all the requirements of the South African National Roads Agency Limited have been fulfilled.