

## APPENDIX 3: EDTEA CORRESPONDENCE



**edtea**

**Department :**

Economic Development, Tourism and  
Environmental Affairs

**PROVINCE OF KWAZULU-NATAL**

Enquiries: Reka B-Kalicharan

Reference: Q/2019/38/Msund

Date: 15 August 2019

Physical Address: 8 Warwick Road, Cascades

Tel: (033) 347 1820, Fax: (033)347 1826

Postal Address: Private Bag X07, Pietermaritzburg, 3202

[www.kznded.gov.za](http://www.kznded.gov.za)

**Directorate: Environmental Services: uMgungundlovu District**

Terratest (Pty) Ltd  
P. O. Box 794  
Hilton  
3245

ATTENTION: Ms. Riona Patak  
Email: [patakr@terratest.co.za](mailto:patakr@terratest.co.za)  
Telephone: (033) 343 6789

cc.: Shannon Farnsworth @ Msunduzi Municipality – [shannon.farnsworth@msunduzi.gov.za](mailto:shannon.farnsworth@msunduzi.gov.za)

Dear Madam/s

**RE: Q/2019/38/MSUND: PROPOSED CONSTRUCTION OF A 24 UNIT RESIDENTIAL DEVELOPMENT ON ERF 61 (55 GRIMTHORPE ROAD) IN LINCOLN MEADE LOCATED IN PIETERMARITZBURG WITHIN THE MSUNDUZI LOCAL MUNICIPALITY.**

Your inquiry received by the Department of Economic Development, Tourism and Environmental Affairs (herein referred to as "this Department") on 1 April 2019; a site inspection conducted with the Environmental Assessment Practitioner (EAP), officials from the Msunduzi Municipality Environmental Management Unit and officials from this Department (on 07 May 2019); and, information provided by and a meeting held with the Msunduzi Municipality Environmental Management Unit (27 June 2019 and 08 July 2019 respectively), refers. This Department has reviewed the information provided and responds below.

**Development Proposal:**

- The client (Person Drive Trading) proposes to construct a twenty-four (24) unit residential development and associated service infrastructure (water, sewage, electricity, access, stormwater management) on Erf 61 in Lincoln Meade, Pietermaritzburg (55 Grimthorpe Road) located within the Msunduzi Local Municipality.
- The property is approximately 1.85ha in extent and the extent of the proposed development is approximately 0.98ha.
- The approximate central geographical co-ordinates for the site are 29°37'11"S and 30° 26'6.7"E.
- The northern portion of the site consists of a watercourse<sup>1</sup> (wetland area/stream) and the property is located within 4.1km of the Mpushini Protected Environment which is a Protected Area proclaimed in terms of the National Environmental Management Protected Areas Act (NEMPAA).
- The site is zoned as residential in terms of the Pietermaritzburg Town Planning Scheme.

<sup>1</sup>"watercourse" means –

(a) a river or spring;

(b) a natural channel in which water flows regularly or intermittently;

(c) a wetland, pan, lake or dam into which, or from which, water flows; and any collection of water which the Minister may, by notice in the Gazette, declare to be a watercourse as defined in the National Water Act, 1998 (Act No. 36 of 1998); and a reference to a watercourse includes, where relevant, its bed and banks; and

"wetland" means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil

### **Department's assessment and Review of Listed Activities:**

- The site falls within areas that have been identified in terms of the **Msunduzi Environmental Management Framework (EMF)** which was adopted by the MEC for Economic Development, Tourism and Environmental Affairs on the 3<sup>rd</sup> of September 2015 (Provincial Notice 125 of 3 September 2015). The adopted EMF identifies and guides development within sensitive environments. Accordingly, the EMF identifies the following areas on the site as being sensitive **viz. high wetland development constraints, high biodiversity constraints and high air quality constraints.**
- An inquiry on this property was made in October 2017 by Simon Plunkett c/o Person Drive Trading (Pty) Ltd where it was confirmed that a listed activity would be triggered (Department's correspondence dated 17 October 2017).
- The Department's EMF interpretation guideline (dated November 2015) in respect of sensitive areas defined in the Msunduzi EMF makes provision for a Preliminary Biodiversity Assessment Report to be compiled where the specialist is not satisfied with the identification of a high biodiversity constraint layer only.
- As such the Department considered your reports and responded to the EAP on 16 November 2018 (ref: Q/2018/94/Msund) where the Department reiterated the need for an Environmental Authorisation due to a listed activity/ies being triggered.
- Further to which the Department received a request dated 01 April 2019 to re-evaluate the applicability of the listed activity/ies being triggered.
- The following activities may have applicability to the proposed development:-

**GNR No. 324 Activity Number 12<sup>2</sup>: "The clearance of an area of 300 square metres or more of indigenous vegetation<sup>3</sup> except where such clearance of indigenous vegetation....."**

**(b) In KwaZulu-Natal:...**

**xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority; or..."**

- Terratest (Pty) Ltd's letter dated 13 March 2019 indicated that the vegetation on the site is highly transformed with encroachment of alien vegetation which has decreased the biodiversity value of the vegetation. A site inspection conducted on 07 May 2019 with Terratest, the Msunduzi Municipality (Environmental Management Unit) and officials of this Department confirmed that the site has little indigenous vegetation present.
- Hence whilst the EMF lists the site as sensitive in terms of a high biodiversity constraint; the above activity is unlikely to apply as the site is dominantly covered by alien invasive species and unlikely to entail the clearance of more than 300 square metres of indigenous vegetation.

**GNR No. 324 Activity Number 14<sup>3</sup>: "The development of-**

**(i) .....; or**

**(ii) infrastructure or structures with a physical footprint of 10 square metres or more; where such development occurs**

**(a) within a watercourse;...or**

**(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;...**

**(d) In KwaZulu-Natal:...**

**viii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;..."**

<sup>2</sup>This is a summary of the listed activity. The full listing is contained in GNR 324 dated 7<sup>th</sup> April 2017 and is available free online at [www.gpwonline.co.za](http://www.gpwonline.co.za)

<sup>3</sup>"indigenous vegetation" refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years.

- The proposed development site is also located within a high wetland development constraint sensitive area in terms of the adopted Msunduzi EMF.
- The Msunduzi Environmental Management Unit have confirmed that watercourses/wetlands and their associated buffers are regarded as being sensitive in terms of the adopted Msunduzi EMF.
- Terratest provided the wetland data to Msunduzi Environmental Management Unit and the Municipality have confirmed the wetland boundary and indicated that there will be development within the 32m buffer which is regarded as being sensitive in terms of the adopted Msunduzi EMF.
- Accordingly, these sensitive areas are reflected on the Layout Plan attached as Appendix 1 of this correspondence.
- As such where infrastructure or structures with a physical footprint of 10 square metres or more will be developed within the watercourse or within 32m of a watercourse within sensitive areas identified within an adopted EMF; the above activity will apply.

**Decision:**

1. Based on the information provided, a site inspection on the 07 May 2019 and information provided by and a meeting held with the Msunduzi Municipality (27 June 2019 and 08 July 2019 respectively), this Department has re-evaluated the proposal and is of the view that **the proposed development would trigger an activity listed in terms of Government Notice No R324 of 7 April 2017** viz. Item No. 14 of GNR 324 of 7 April 2017.
2. Furthermore, where there will be infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, pebbles or rock of more than 10 cubic metres from a watercourse then GNR No. 327 Activity Number 19 Government Notice No. R327 of 7 April 2017 will be triggered too.
3. Should the client wish to proceed with the development, the client is required to appoint an Environmental Assessment Practitioner (EAP) to undertake a **Basic Assessment Process** as detailed in Government Notice No. R325 (Chapter 4 Part 2) to investigate, assess and evaluate the impact of the proposed development on the environment and to submit the relevant application forms and Basic Assessment Report to this Department for review and consideration.
4. The inquiry process cannot be used as the environmental impact assessment process, however the supporting documentation supplied, can form the basis of information that would be considered in the formal Basic Assessment process.
5. The Department recognises that the spatial data used in the biodiversity constraint layer may be outdated and has not been comprehensively ground-truthed. Accordingly, the site inspection findings and the vegetation assessment were considered in the re-evaluation. Please note that the Department is only able to consider a Preliminary Biodiversity Assessment Report in terms of the high biodiversity constraint layer only.
6. The client and the appointed EAP are required to contact the Department to arrange a pre-application meeting at your earliest convenience.

The delay in responding to you on this matter is regretted as the official was required to attend to a high volume of work and it had been communicated to the EAP that previous correspondence on the matter still applies in that an application for Environmental Authorisation is required. **The activity/activities being triggered may not commence prior to an Environmental Authorisation being issued by this Department.**

Yours sincerely



**For: Acting Head of Department**

Department of Economic Development, Tourism and Environmental Affairs

Name: Reka Bhikraj-Kalicharan

Designation: Control Environmental Officer: Grade A

Date: 15 August 2019



