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Department :

Economic Development, Tourism and
Environmental Affairs

PROVINCE OF KWAZULU-NATAL

Enquiries: Nontokozo Mvelase

Reference: Q/2018/74/Msund

Date: 24 August 2018

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Health Environment Safety Quality

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Dear Sir/Madam

**RE: Q/2018/74/MSUND: PROPOSED SMME TRAINING CENTRE AND YOUTH ENTERPRISE PARK
LOCATED ON ERF 1977 WITHIN EDENDALE -CC IN MSUNDUZI LOCAL MUNICIPALITY.**

Your inquiry received by the Department of Economic Development, Tourism and Environmental Affairs (herein referred to as "this Department") on 20 July 2018; information provided by the Msunduzi Municipality Environmental Management Unit (received 23 July 2018) refers; This Department has reviewed the information provided and responds below.

Development Proposal:

The development proposal is as follows:

- The proposed development entails the establishment of an SMME Training Centre and Youth Enterprise Park (YEP) by clustering containers to achieve a small business enterprise node in the area of Imbali adjacent to F J Sithole road.
- The development area comprises existing building ruins with no roof tops and windows.
- There are existing tar roads as part of surrounding infrastructures around the property boundary area.
- The proposed development area is 0.56ha and the total extent of the property is 2.5ha.
- The development area is zoned as an educational zone.

The following activities may be applicable to the proposed development:

GNR 327 of 07 April 2017 Activity Number 12: "The development of-

- (i) Dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or

(ii) Infrastructure or structures with a physical footprint of 100 square metres or more;

where such development occurs-

- (a) within a watercourse;¹**
- (b) in front of a development setback; or**
- (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;-**

excluding-

- (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;**
- (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;**
- (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;**
- (dd) where such development occurs within an urban area;**
- (ee) where such development occurs within existing roads, road reserves or railway line reserves; or**
- (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.**

- Whilst buildings and infrastructure exceeding 100m² in extent are proposed, the above will not apply as the proposed development is not located within a watercourse or within 32m of a watercourse, and where it would be sited as such the site is excluded as it is located within an urban area. Additionally part of the site is transformed buildings in ruin and damaged with asbestos roofing.

GNR 327 of 07 April 2017 Activity Number 19:

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shell grit, pebbles or rock of more than 5 cubic metres from –

- (i) A watercourse;**

¹ **Watercourse:-** (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 a reference to a watercourse includes, where relevant, its bed and banks; and

“Wetland” means any 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 support vegetation typically adapted to life in saturated soil.

- (ii) The seashore; or
- (iii) The littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater-

But excluding where such infilling, depositing, dredging, excavation, removal or moving-

- (a) Will occur behind development setback;
- (b) Is for maintenance purposes undertaken in accordance with a maintenance plan; or
- (c) Falls within the ambit of Activity 21 in this Notice, in which case that activity applies.

Should any development require infilling/depositing/dredging/excavation or removing or moving of more than 10m³ of soil from a watercourse this activity will be triggered.

GNR 327 of 07 April 2017 Activity Number 27: "The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation² is required for-

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

Whilst the total extent of the site is 2.5km the above will apply not apply since the proposed development footprint will be below the minimum legislated thresholds (0.56ha) and the area is not regarded as indigenous vegetation as it is sparsely vegetated has footpaths vehicle access roads, and buildings that are currently damaged or in ruin on the site.

GNR 327 of 07 April 2017 Activity Number 28: Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development ":

- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or**
- (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;**

excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.

- The total area to be built will be 0.56 hectares and total extent of the property is 2.5ha hence the above will not apply since the proposed development is located on land zoned as educational, not agricultural, game farming or equestrian purposes or afforestation.

GNR 324 of 07 April 2017 Activity Number 12: "The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan".

² **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".

In KwaZulu-Natal

- i. Trans-frontier protected areas managed under international conventions;
- ii. Community Conservation Areas;
- iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;
- iv. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
- v. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
- vi. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on even in urban areas;
- vii. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning;
- viii. A protected area identified in terms of NEMPAA, excluding conservancies;
- ix. World Heritage Sites'
- x. Sites or areas identified in terms of an international convention;
- xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;
- 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**
- xiii. In an estuarine functional zone.

Whilst more than 300sqm of development will occur, the site cannot be regarded as indigenous vegetation and the Msunduzi Environmental Management Framework Unit confirmed that the site does not fall within a sensitive area (correspondence dated 23 July 2018).

Decision

Based on the information provided in your correspondence dated 20 July 2018; information provided by the Msunduzi Municipality Environmental Management Unit (received 23 July 2018); this Department is of the opinion that the proposed activity does not require Environmental Authorisation in terms of the EIA Regulations 2014 (as amended) and cannot be regarded as an activity listed in terms of Regulations 327, 325 and 324 of the National Environmental Management Act (Act No.107 of 1998). Should you wish to proceed with the above-mentioned development, this Department brings to your attention your obligations to ensure that:

1. Msunduzi Municipality (correspondence dated 03 July 2018) confirms that the site has a 500m wetland buffer and it is noted that a watercourse (stream/perennial river) is located 482m from the development. Accordingly, any infrastructure and/or supporting infrastructure associated with the proposed development may not be constructed below 1:100 year floodline and or in any river/stream (watercourse) or within 32m of a watercourse.

2. Should the developer wish to amend the development parameters; or undertake any other activities on the proposed site for the proposed development, a determination must be made by an Environmental Assessment Practitioner as to whether the amended parameters and/or repositioning of the development require Environmental Authorisation.
3. All relevant parties, including the applicant, all project managers, contractors and sub-contractors must be made aware of their responsibility for compliance with the provisions for *Duty of Care and remediation of environmental damage* contained in Section 28 of the National Environmental Management Act, Act 107 of 1998.
4. Additionally you are advised that the various businesses' into YEP may require their own environmental authorisation should they trigger a listed activity.
5. All asbestos must be disposed off in accordance with accepted industrial standards and must be disposed off at an appropriately registered disposal site. Safe disposal certificates must be available on request. In this regard you are required to comply with the Department of Labour's Guide to Asbestos Regulations 2001 (published March 2003) where applicable.
6. This correspondence does not grant authorisation or exemption from compliance with any other relevant and applicable legislation.

Should you have any queries or wish to discuss the points raised above, please do not hesitate to contact the writer. Any delay in responding to you on this inquiry is regretted.

Yours sincerely



for: **Acting Head of Department:**

Department of Economic Development, Tourism and Environmental Affairs