



**agriculture
& environmental affairs**

Department:
Agriculture
& Environmental Affairs
PROVINCE OF KWAZULU-NATAL

Directorate: Environmental Services

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Date : 05 August 2013
Usuku :
Datum :

Fax Transmission

Triplo 4 Sustainable Solutions

Attention: **Ms. Aletta J Plomp**
Tel: **032 946 3213**
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Dear Madam

RE: DC29/Q0041/2013 - THE PROPOSED CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT ON 50B COLWYN DRIVE (BIRDAVEN ESTATE), SHEFFIELD BEACH, LOCATED WITHIN THE KWADUKUZA MUNICIPALITY, ILEMBE DISTRICT.

1. The applicant, Triplo 4 Sustainable Solutions, acting on behalf of the land owner of 50B Colwyn Drive located in Sheffield Beach, enquired the Environmental Impact Assessment (EIA) requirements for the proposed residential development on the said property.
2. Subsequently a site visit was undertaken by Mr. Malcolm Moses representing the Department of Agriculture and Environmental Affairs, Ms. Aletta Plomp and Melissa Padayachee (both representing Triplo 4 Sustainable Solutions) on 15 February 2013.
3. Following the site visit Triplo 4 Sustainable Solutions submitted a site plan (essentially a proposed layout plan) for the Departments consideration on 08 April 2013. The site plan is attached as Annexure 1 herewith, for easy reference. Annexure 1 has also been modified to allow for easy reference to the proposed activity in context of the site. Whilst there may be other layouts that exist, the correspondence herewith must be read in conjunction/reference with Annexure 1 attached herewith.
4. **Background:**
 - a) The landowner proposes the sub-division of the said site to enable the establishment of a low density development on the property. Approximately 18 opportunities are proposed with each opportunity comprising of an area of approximately 1000-1500m².
 - b) Originally most of the area was utilised for agricultural purposes (farming sugar cane). According to the enquiry form, there were no trees on the property, however on acquiring the property Mr. Graham, rehabilitated the area and rehabilitated these areas, using indigenous vegetation. He also established an ornamental water feature on the proposed development area.

5. **Annexure 1 herewith refers. Kindly note the following:**

- a) Item A and B highlighted in Annexure 1 falls within the definition of watercourse as envisaged in the 2010 EIA Regulations. However, item C is regarded as an ornamental feature and is not considered a watercourse as provided for in the 2010 EIA Regulations. Considering the proximity of the proposed development to the watercourse, the following listed activity could potentially be triggered: Activity 11 (x) and 11 (xi) of GNR 544 of the NEMA 2010 EIA Regulations. Activity 11 (x) and 11 (xi) reads as follows:

"The construction of:

(x) buildings exceeding 50 square metres in size; or

(xi) infrastructure or structures covering 50 square metres or more

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from edge of watercourse, excluding where such construction will occur behind the development set back line."

- b) In addition, the proposal potentially triggers Activity 18 of GNR 544 of the NEMA 2010 EIA Regulations. Activity 18 reads as follows:

"The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock or more than 5 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving;

a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or

b) occurs behind the development setback line."

- c) Based on the information provided in the EIA enquiry form, Triplo 4 Sustainable Solutions avers that no development is proposed within 32 metres from the bank of a watercourse, hence Activity 11 (x) and 11 (xi) is not considered applicable.

d) Further the Department assumes the following:

- It is assumed that the existing access road will be upgraded and not expanded and will therefore not exceed the 50 square metre threshold as provided in Activity 11 listed above.
- Furthermore, more than 5 cubic metres of any material will not be infilled, deposited, dredged, excavated, removed or moved from a watercourse.

6. Based on the information provided, the observations made during the site visit and the assumptions made by the Department, the Department is of the opinion that the above mentioned proposed project does not trigger any listed activity which is identified in terms of section 24 (2) and 24 D of the National Environment Management Act (Act 107 of 1998) (NEMA), Environmental Impact Assessment Regulations, 2010. Therefore the landowner can commence with the construction of the proposed project as they **do not** require an environmental authorization, provided the following measures are undertaken:

- Locate the bank of the watercourse on Watercourse A and B as depicted in Annexure 1 herewith.
- At a distance of 32 metres from the bank of the watercourse (A and B) clearly demarcate the 32 metre buffer and ensure that no structures, infrastructure or buildings exceeding 50 square metres occur within the 32 metre buffer.
- Ensure that no construction of bridges/crossings (of any size) occur within the 32 metre buffer.
- Ensure that no more than 5 cubic metres of any material will not be infilled, deposited, dredged, excavated, removed or moved from/into a watercourse.

7. Should there be any further changes to the proposed development, or should the assumptions made/information provided be incorrect, you are kindly required to confirm the Department requirements, if any, in writing, prior to the commencement of construction.
8. Should construction commence and it is found that any of the listed activities commenced unlawfully, the Department reserves the right to pursue the legal recourse available to it.
9. It is the responsibility of Triplo 4 Sustainable Solutions to inform the landowner of the contents of this correspondence.
10. Should you wish to proceed with the above-mentioned development, this Department brings to your attention your obligations to ensure that 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, where the determination of environmental degradation and the need for remediation will be decided by this Department.
11. This Department retains the right to inspect the property at any time during its development and operational phases, and reserves its rights in terms of Section 28(4) of the National Environmental Management Act, 1998 to ensure that reasonable measures are taken to prevent, minimize or rectify pollution or degradation to the environment.
12. This correspondence does not exempt you from complying with the requirements of other legislation or bylaws. Although the Department is not the Competent Authority for the National Water Act, the Department suggests you contact the Department of Water Affairs for their requirements, if any. The Department is referring you to the Department of Water Affairs only because this would lead you to also confirm where the bank of the watercourse is and would essentially assist you in complying with the Departments requirements.
13. Please don't hesitate to contact me if you have any queries.

Please contact this Department if you have any queries regarding this correspondence.

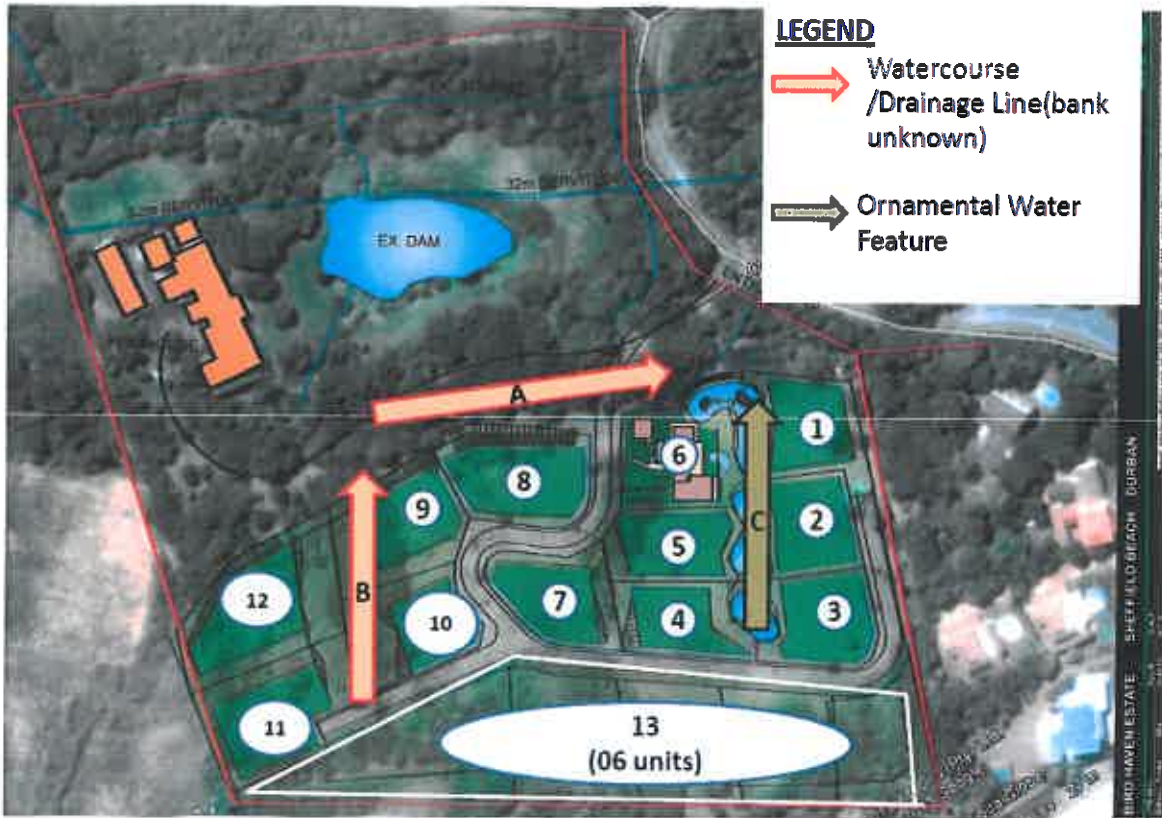
Yours faithfully



for: Acting Head of Department:
Department of Agriculture and Environmental Affairs

05/08/2013

ANNEXURE 1: SITE PLAN AND COMPONENTS PROPOSED



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