



KWAZULU-NATAL PROVINCE

ECONOMIC DEVELOPMENT, TOURISM
AND ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

DIRECTORATE: ENVIRONMENTAL SERVICES

09th Floor, Marine Building
22 Dorothy Nyembe
Durban, 4001
Tel: 31 310 5300
www.kznded.gov.za

Enquiries: Ms Hlengiwe Dladla
Tel: 087 291 5841
Email: Hlengiwe.Dladla@kznedtea.gov.za
Ref: C/0001/Jun/23

COMPLIANCE, MONITORING & ENFORCEMENT: ETHEKWINI DISTRICT

PO Box
Greyville
Durban
4023

To : Arabelia Investments (Pty) Ltd
Attention : Mr Brett Latimer

cc. Melaine Sukhraj, C: 078 670 1907, T: 031 451 9680, melaine@brettlatimer.com

Dear Sir,

AMENDED NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) (NEMA) AS AMENDED, IN RESPECT OF THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION AT MOSS KOLNICK DRIVE, UMBOGINTWINI, AMANZIMTOTI (OPPOSITE ENGEN GARAGE), LOCATED WITHIN ETHEKWINI MUNICIPALITY.

1. I, Dr Bonginkosi Dlamini in my capacity as a Grade 1 Environmental Management Inspector (EMI), having considered the matter, am of the view that you, **Mr Brett Latimer**, must be issued with a Compliance Notice in terms of Section 31L of the NEMA. The Compliance Notice that I intend to issue relates to your failure to the provisions of the law in respect of the activities conducted at Moss Kolnick Drive, Umbogintwini, Amanzimtoti (opposite Engen Garage), which is located within the eThekwini Municipality hereinafter referred to as "the site".

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2. DETAILS OF NON-COMPLIANCE

2.1 The site inspection conducted by the Department of Economic Development, Tourism and Environmental Affairs (hereinafter referred to as “the Department”) conducted on 22 June 2023 and a follow-up inspection conducted on 07 July 2023. It was observed that you have cleared 20 000m² of indigenous vegetation namely KwaZulu-Natal Coastal Belt Grassland.

2.2 I have reasonable grounds for believing that you **Mr Brett Latimer** have failed to comply with the provisions of the law as set out in tabular form below, therefore a Notice of Intention dated 11 July 2023 was issued:

Section number	Legal Provision	Finding
NEMA, as amended Section 24F(1)	<i>(1) Notwithstanding any other Act no person may – (a) Commence with a listed activity or specified in terms of section 24 (2) (a) or (b) unless the Minister or competent authority or the Minister responsible for mineral resources, as the case may be, has granted an environmental authorisation for the activity; or</i>	Environmental Authorisation was not obtained from the Department prior to the clearance of 20 000m ² of indigenous vegetation namely KwaZulu-Natal Coastal Belt Grassland.
EIA Regulations 2014, as amended, Listing Notice 1 Activity 27	<i>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for— (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i>	More than 1 hectare of indigenous vegetation namely KwaZulu-Natal Coastal Belt Grassland has been cleared on-site.
EIA Regulations 2014, as amended, Listing Notice 3 Activity 12	<i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for</i>	More than 300m ² of indigenous vegetation namely KwaZulu-Natal Coastal Belt Grassland has

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	<p><i>Maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><u>d. KwaZulu-Natal</u></p> <p><i>i. ...</i></p> <p><i>ii. ...</i></p> <p><i>iii. ...</i></p> <p><i>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;</i></p>	<p>been cleared on-site.</p>
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2.3 A follow up site inspection was conducted on 24 July 2023 and it observed that construction work on site was continuing. Therefore; the Department is amending the Notice of Intention dated 11 July 2023 – instruction 3.1.1 to clarify the intended instruction.

3. INTENDED INSTRUCTIONS

3.1 In accordance with Regulation 8(2) (b) of the EMI Regulations, you are afforded an opportunity to make written representations within **twenty-four (24) hours** of receipt of this notification, if you are of the view that there are any compelling and substantial reasons for me not to exercise my powers in terms of Section 31L of NEMA to issue you with a Compliance Notice which will require you to inter alia:

3.1.1 **Cease** with any further clearing of vegetation and construction work on site within 24 hours;

3.1.2 Engage the services of an independent Environmental Assessment Practitioner (EAP) and specialist required to investigate evaluate and assess the impacts of your non-compliance on the environment;

3.1.3 Within **sixty (60) working days** of receipt of this Compliance Notice; compile and submit an Assessment Report, including but not limited to:

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- 3.1.3.1 A Rehabilitation Plan including mitigation measures to address the environmental damage caused.
- 3.1.4 Submit the Assessment Report and the Rehabilitation Plan to the eThekweni Municipality: Biodiversity Management Department (BMD) for comments and to the Department for final approval, for the attention Control Environmental Officer: Ms **Yugeshni Naicker** CME EDTEA eThekweni Office, within **sixty (60) working days** of receipt of this Compliance Notice at the following address: **9th floor, Marine Building, 22 Dorothy Nyembe Street, Durban, 4001**;
- 3.1.5 Upon approval from the Department, the Rehabilitation Plan must be implemented within **thirty (30) working days**.
- 3.1.6 The Department reserves the right to include further conditions during the commenting process as per point 3.1.4 of this notice.

4. PROCEDURAL ARRANGEMENTS

- 4.1 In the compliance notice, should you wish me to vary the compliance notice, including extending the period to which it relates, you may make representations to me as Environmental Management Inspector Grade 1 to do so within **forty-eight (48) hours** of receipt of the compliance notice, at the following address: **KZN Department of Economic Development, Tourism & Environmental Affairs at 22 Dorothy Nyembe Street, the Marine Building 9th Floor, Durban, 4001.**
- 4.2 In the Compliance Notice, if you wish to lodge an objection to the Compliance Notice, you may do so by making representations in writing, to the MEC within **thirty (30) days** of receipt of the Compliance Notice.
- 4.3 You may also make representations to the MEC to suspend the operation of the Compliance Notice pending finalisation of the objection, at the following address: **Department of Economic Development, Tourism & Environmental Affairs, Private Bag X 9152, Pietermaritzburg 3200 or hand delivered to No. 270 Jabu Ndlovu Street, Pietermaritzburg, 3201.**

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4.4 Irrespective of any representations you may make to me or to the MEC, you must comply with the Compliance Notice when it has been issued to you unless the MEC agrees to suspend the operation of the Compliance Notice.

5. FAILURE TO COMPLY

Act / Regulation name and Section / Regulation Number	Offence and penalty
Section 49A(1)	<i>A person is guilty of an offence if that person – (a) commences with an activity in contravention of section 24F(1);</i>
Section 49B(1)	<i>A person convicted of an offence in terms of section 49A(1)(a)... is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.</i>

6. Should you fail to comply with point 3.1 above, which is to make representations in writing to me within **twenty-four (24) hours** of receipt of this notice of intention; a Compliance Notice will be issued.

7. Please be reminded that failure to comply with a Compliance Notice when it has been issued, you will have committed an additional offence in terms of section 49A (1) (k) of the NEMA.

8. We wish to make it clear that the instructions contained herein are made in the interest of responsible environmental management and with a view to a co-operative resolution of the issue. Depending on the outcome of the representations made in this regard, the Department will decide upon a way forward regarding this matter. The submission of the requested information above does not imply that no further action may or will be taken against you.

9. If you are unclear about any aspect of this notice of intention to issue a compliance notice, kindly contact the person indicated for enquiries in writing as soon as possible.

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10. You may avail yourself of the remedies contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) if you wish to do so, in light of the above adverse finding on your matter.

Signed at **Pietermaritzburg** on this **27th** day of **July** 2023

_____ (Signature)

Grade 1 Environmental Management Inspector

Name	Dr Bonginkosi Dlamini
Address	No. 270 Jabu Ndlovu Street, Pietermaritzburg, 3201
Email	BonginkosiR.Dlamini@kznedtea.gov.za
Contact No.	033 264 2500

Acknowledgement of Receipt:

AMENDED NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) (NEMA) AS AMENDED, IN RESPECT OF THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION AT MOSS KOLNICK DRIVE, UMBOGINTWINI, AMANZIMTOTI (OPPOSITE ENGEN GARAGE), LOCATED WITHIN ETHEKWINI MUNICIPALITY.

Attention : Ms Yugeshni Naicker, Grade 2 EMI, eThekwini District

Email : Yugeshni.Govender@kznedtea.gov.za

Cc : Ms Hlengiwe Dladla

: Hlengiwe.dladla@kznedtea.gov.za

Received by Mr / Ms _____ on behalf of the company _____

On this ____ day of _____ 2023, at _____ Signature: _____

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