



## Mandeni Local Municipality

### Summary of the pre-application meeting for the proposed formalization and construction of a Sportsfield in Hlomendlini, Mandeni, KwaZulu Natal.

Held: Virtual Microsoft Teams Meeting, 17 June 2021 at 09H30

**Attendees:** Ms. Nonhlanhla Hlatshwayo (Mandeni Local Municipality) (NH)  
Mrs. Romi Bellusci (SRK Consulting) (RB)  
Mr. Sipehelele Mkhize (SRK Consulting)  
Mr. Malcolm Moses (EDTEA)

#### 1 Purpose of the Meeting

SRK Consulting (South Africa) Pty Ltd (SRK) has been appointed by Mandeni Local Municipality (the Client) to assist with the necessary Environmental Authorisation (EA) process for the proposed the formalization and construction of a multidisciplinary Sportsfield located in Mandeni, KwaZulu-Natal. A pre-application meeting with the relevant competent authority is undertaken prior to submission of the environmental application. The purpose of the meeting is to discuss the proposed project, the application process and to identify any potential issues. The following sections provide an overview of the presentation to the department of Economic Development Tourism and Environmental Affairs (EDTEA) followed by the discussion and queries.

#### 2 Introduction and Project Description

*All parties introduced themselves. MM provided EDTEA's pre-application meeting agenda (Appendix 1) and RB provided a project description as follows:*

The Mandeni Local Municipality are proposing the formalization and construction of the Hlomendlini Sportsfield Project located in Mandeni, KwaZulu-Natal. The Site covers an area of approximately 3.4 hectares, and it is envisaged that the project will include the following:

**The demolition of:**

- An existing building; and
- Existing concrete block

**The construction of:**

- A soccer field.
- Open stands.
- Ablutions and changerooms.
- Septic tank and soakaway with a 110mm diameter sewer line from the abluion facilities to the septic tank.
- Water line linking into an existing water meter located offsite.
- A combi court.
- The entire site will be enclosed with a clear view/beta fence with one pedestrian gate and guard hut, and another service gate entrance / exit.

RB also presented the proposed layout drawing which superimposed all the proposed infrastructure onto the site and explained that there is a wetland on the eastern portion of the site and another wetland on the western portion of the site, the engineers re-designed the layout plan to avoid the wetland on the western portion of the site, however the wetland on the eastern portion of the site cannot be avoided and the proposed sportsfield will cut into a portion of the wetland.

### 3 Listed Activities

Based on the above project description, in terms of the National Environmental Management Act 107 of 1998 (NEMA) Environmental Impact Assessment (EIA) regulations the following listed activity under Government Notice 327 (Listing Notice 1) requiring a Basic Assessment (BA) is applicable:

#### Activity 19

- “The infilling or depositing of any material of more than 10 cubic meters into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic meters from a watercourse” as the proposed development will include the infilling of approximately 3440m<sup>3</sup> of the delineated wetland site.

Further to this, SRK sought guidance on the applicability of the following listed activity under Government Notice 324 (Listing Notice 3) requiring a Basic Assessment (BA) as the development falls within 125m of a Critical Biodiversity Area (CBA) as defined by the National Environmental Management: Biodiversity Act, 2004 (NEMBA):

#### Activity 14

“The development of infrastructure or structures with a physical footprint of 10 square meters or more where such development occurs— (a) within a watercourse

x. Outside urban areas:

(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any terrestrial protected area identified in terms of NEMPAA or from the core area of a biosphere reserve.

*MM advised that Activity 14 of Listing Notice 1 relates to the National Environmental Management: Protected Areas Act 57 of 2003 (NEMPAA) and not NEMBA under which CBAs are identified. MM confirmed he is satisfied for this activity not to be included.*

No other activities from Listing Notice 2 or 3 were identified.

### 4 Public Participation Approach

The public participation process will be undertaken as per the requirements of the 2014 EIA Regulations (as amended).

The following main Interested and Affected Parties (I&APs) have been identified:

- EDTEA (Competent Authority)
- Mandeni Local Municipality
- iLembe District Municipality
- Department of Water and Sanitation (DWS)
- Department of Rural Development and Land Reform
- Local ward councillor

The following public notification will be undertaken:

- Two adverts will be published one English and one in Zulu.
- Site notices will be placed (2 English, 2 Zulu).
- An English Background Information Document (BID) will be submitted to I&APs explaining the project and inviting them to register as I&APs.
- All reports, will, where possible be submitted to I&APs and commenting authorities electronically.
- The Draft hard copy BA Report will be made available at the primary school adjacent to the site and Ward Councillor’s office.
- No stakeholder meetings have been scheduled (unless requested).

*On the matter of confirming whether the SRK’s Public Participation approach is adequate, MM asked that the EAP ensures that the process meets the minimum requirements of the Public Participation Guideline in terms of the NEMA EIA Regulations. Furthermore, MM expressed that while we cannot*

*anticipate the latest requirements in terms of the country's COVID-19 alert level in terms of the Disaster Management Act: Regulations relating to COVID-19 Government Notice R480 of 2020 and subsequent amendments, the EAP should remain cognizant of the Directions Regarding Measures to Address, Prevent and Combat the Spread of Covid-19 Relating to National Environmental Management Permits and Licences (Government Notice Regulation 650, dated 5 June 2020).*

## 5 Specialist studies

RB explained that the following specialist studies were being undertaken as part of the Environmental Assessment:

- Freshwater Assessment to define any freshwater ecosystem within the site area and the ecology of the freshwater ecosystem
- Traffic Impact Assessment

A Water Use Authorisation is also being undertaken as a separate assessment.

*RB requested confirmation from MM as to whether, in his opinion, any other potential specialist studies were required.*

*MM requested that a geotechnical investigation be undertaken. SM confirmed that a geotechnical investigation into the physical properties of soil earthworks and foundations for proposed structures was undertaken to inform the Preliminary Design Report. The EAP has access to the report and will make use of it where necessary within the Basic Assessment report. MM also indicated that the EAPs must refer to the Screening report and the recommended specialist studies and assess the need for these within the BA report.*

*RB confirmed that a section in the body the BA report will be included which deals with the specialist studies identified as part of the screening report and the EAPs recommendation as to the applicability in the context of the proposed project.*

## 6 Discussion

- MM expressed that EDTEA is satisfied with the project description and supports that a BA process is required.
- MM requested the following issues be addressed in the EA application form:
  - The EAP must indicate in the project description that the site has two wetlands
  - The project description must be clearly linked to the triggered activities
  - The property description in the application form must correlate with the one in the screening report.
  - The EAP must double check the property description to confirm whether there is any requirement for landowner consent.
  - Coordinates from four points must be used as opposed to central point used in application form.
  - The EAP must confirm exact square meterage that will fall within the watercourse.
  - The application must be accompanied by an email to EDTEA regarding confirmation of potential additional triggered listed activities, MM requested that the EAP specifically relook at Activities 12, 27, 28, 48 and 54 of Listing Notice 1. In relation to the additional listing notices, The EAP must put forward a motivation as whether or not the development is within the edge or outside the edge of a built-up area (i.e an urban area).
- MM enquired whether the Client had sent an enquiry form to EDTEA, to which NH confirmed that the Municipality had sent an enquiry form especially considering that it would be a prerequisite for the Municipality to obtain funding approval from the Department of Cooperative Governance and Traditional Affairs (COGTA). MM and NH will liaise with each other to confirm receipt of the enquiry form.
- MM advised that the EAP must adopt Impact mitigation hierarchal approach to impact management. The exact volume of infilling to be undertaken must be indicated and demonstrate alternatives considered to avoid infilling of the wetland.
- The EAP must comprehensively assess the impact of each alternative considered as EDTEA adopts a *No Net-Loss Principle* and will not entertain any loss.
- MM also suggested that the engineers relook at layout options to see if the wetland can be avoided altogether.

- Regarding Public Participation, MM advised that DFFE resolved that EAPs must seek to comply/satisfy minimum NEMA legislated requirements during that National COVID-19 Lockdown various alert levels. The EAP must indicate which measures have been employed to ensure due consideration has been given while making Public Participation as effective as possible.
- MM advised that EDTEA will require one hard copy of each report. In terms of Regulation 40 sub-section 3, the EAP may send reports to EDTEA to assess adequacy prior to going out to public for comment.
- The EAP must ensure that the EMP is project specific.
- MM will send EDTEA's General Requirements for the EA application process.

## 7 Way Forward

The proposed way forward is summarised below:

- Since the meeting the project team and engineers have re-assessed the layout options and have confirmed that the layout plan cannot be moved to avoid the wetland. As such Activity 19 of Listing Notice 1 has been confirmed as the main trigger for this application. As requested SRK has re-assessed all other requested Listed activities and provided feedback in Appendix 3 and requests that the competent authority confirms agreement on the project triggers. Since re-assessing the listed activities, Activity 27 has been found to be applicable and will be included in the EA application form.
- MM sent EDTEA's General Requirements (Appendix 2) for the EA application process via email within an hour after the meeting.
- SRK will update the application form with the additional information requested by MM.
- MM and NH will liaise with each other to confirm receipt of the enquiry form.

Notes taken by: S. Mkhize

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# Appendices

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# Appendix 1: Meeting Agenda (Supplied by EDTEA)



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**AGENDA**

**PRE-APPLICATION MEETING : HLOMENDLINI SPORTSFIELD**

**Date: 17 June 2021**

**Time: 09:30am**

**Duration: Max 45min**

- |   |               |
|---|---------------|
| 1. Welcome  | Malcolm Moses |
| 2. Purpose of meeting                             | Malcolm Moses |
| 3. Details of proposal                            | EAP           |
| 4. Departments considerations/ requirements       | ALL           |
| 4.1 Application form and Process;                 |               |
| 4.2 Listed activities;                            |               |
| 4.3 Alternatives;                                 |               |
| 4.4 Public participation;                         |               |
| 4.5 Specialist Studies;                           |               |
| 4.6 EMPr;   |               |
| 4.7 Fatal Flaws;                                  |               |
| 4.8 Submission of documents/General Requirements. |               |
| 5. Other:   | ALL           |
| 5.1 _____   |               |
| 5.2 _____   |               |
| 6. Way forward                                    | EDTEA         |

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# Appendix 2: General Requirements of EA Application Process

## **ANNEXURE 1: GENERAL REQUIREMENTS**

- Project Description must be detailed and must link with listed activity applied for.
- Also provide a brief description of the receiving environment (state the name of any environmental features present).
- Be very clear on development only, expansion only or development/expansion and related operation and ensure that all related impacts are assessed accordingly.
- Dimensions for ALL structures, infrastructure and associated infrastructure must be provided.
- Provide the total development footprint.
- Provide the extent of indigenous vegetation clearance or similar loss of biodiversity (for example: any loss of wetlands)
- All listed activities (in LN1, LN2 AND LN3) triggered must be identified by the EAP.
- Correct reference of the listing notices must be used – There is no 2017 EIA Regulations. Recommended referencing: Example – Activity 19 of LN1 of the 2014 EIA Regulations as amended.
- The same activity at different locations may require a Combination request to Regulation 11 of the 2014 EIA Regulations.
- The listed activity must have a clear explanation as to how it would be triggered.
- If the project is indeed a SIP, a letter from the KZN SIP Committee must be provided/attached with the application form. PS. Different timeframes applicable.
- Co-ordinates must be provided for each listed activity. The co-ordinates must be reasonable in context of the project.
- Need and Desirability must be detailed.
- Reasonable alternatives must be investigated.
- There has to be a logical assessment of impacts: Project Description → Link to listed activity → Assessment of ALL impacts (including comparative assessment of alternatives) → Mitigation Measures and Recommendations → Translation into a detailed site specific EMPr.
- Current health/state of receiving environment pre and post development.
- Effective use of the Impact Hierarchy is critical. If there are offsets this must be a last resort and importantly any offset must be resolved PRIOR TO LODGING OF AN APPLICATION.
- The EMPr must be auditable/enforceable and assess ALL Impacts – No ambiguous language (appropriately, suitable etc. – explain exactly how). Do not use words such as may, should – rather say must). Comply with Appendix 4 of the 2014 EIA Regulations, as amended.
- Rehabilitation of areas and alien invasive vegetation management must be included.
- Provide Locality Map (at a Regional Scale), Google Earth Image showing site in context of surrounding areas and a Layout Plan/s for listed activities.
- Provide a clear hard copy with all annexures/appendices and electronic version of all reports submitted.
- Submission of Documents: EDTEA must be identified as an Organ of State to be consulted. Draft Report must be circulated for comment. The final BAR must have undergone a 30 day comment period after lodging of application for authorisation (Regulation 40 (3) of the 2014 EIA Regulations, as amended.).
- If Organs of State are applicants, they are automatically exempt from fees. However, if the applicant is not an organ of state, but state funding will be utilized then a motivation must be submitted to Registry.

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## **Appendix 3: Enquiry about applicability of triggering Listed Activities**

In the pre-application meeting, the Mr. Malcolm Moses (the case officer) requested that the EAP provides motivation as to whether the site falls within an urban area. This would assist in identifying and ruling out triggered listed activities. The EAP understands the distinguishing features of an urban locality to be:

- A distinct (separate) population cluster
- Inhabitants live in neighbouring quarters
- It has a name or a locally recognised status

Based on this understanding, it is the EAP’s understanding that the Hlomendlini community is an urban area. The NEMA defines urban areas as "areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas". Based on this definition, and the context in which the definition is sought, the EAP is not empowered to make the determination as to whether this is an urban area or not. Therefore, we seek confirmation from EDTEA in this regard.

**Table 1: Identified potential listed activities and EAP motivation on inapplicability**

No.	Activity description	EAPs motivation of inapplicability to proposed project
<b>NEMA EIA Listing Notice 1 (GN 327) – BA process required</b>		
12	The development of— <ul style="list-style-type: none"> <li>i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</li> <li>ii) <b>infrastructure or structures with a physical footprint of 100 square metres or more;</b></li> </ul> where such development occurs— <ul style="list-style-type: none"> <li>a) <b>within a watercourse.</b></li> <li>b) in front of a development setback; or</li> <li>c) <b>if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse: —</b></li> </ul> excluding— <ul style="list-style-type: none"> <li>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</li> <li>(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.</li> <li>(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.</li> <li><b>(dd) where such development occurs within an urban area;</b></li> <li>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</li> <li>(ff) the development of temporary infrastructure or structures where</li> </ul>	It is EAPs understanding that this listing activity is not applicable as the site areas falls within an urban area, as per exclusion (dd) of the activity. The EAP is awaiting confirmation from the EDTEA as to whether the site is within the urban area or outside. Furthermore, while parts of the sportsfield will cut into the wetland, a sportsfield is not a structure. The fence will cut into the wetland in parts but will not exceed 100 square metres.

	such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.	
27	The clearance of an area of 1 hectare 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.	It is SRK's opinion that this listed activity is applicable as the site comprises of mostly grassland.
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) (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	This activity does not apply as the proposed project is for a recreational facility and not any of the uses stipulated.
48	48 The expansion of— (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or (ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more; where such expansion occurs— <b>(a) within a watercourse;</b> (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;	Not applicable as this project isn't an expansion, it's the construction of infrastructure or structures.
54	The expansion of facilities— (i) in the sea. (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater; in respect of— (a) fixed or floating jetties and slipways; (b) tidal pools; (c) embankments; (d) rock revetments or stabilising structures including stabilising walls; or (e)	Not applicable as this project isn't an expansion, it's the construction of infrastructure or structures.

	<p><b>[(f)]</b> infrastructure or structures where the development footprint is expanded by 50 square metres or more, but excluding—</p> <p>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(bb) where such expansion occurs within an urban area.</p>	
<p><b>NEMA EIA Listing Notice 3 (GN 324) – BA process required</b></p>		
<p>12</p>	<p>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.</p> <p>d) KwaZulu-Natal</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>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.</li> <li>v. <b>Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</b></li> <li>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 erven in urban areas;</li> <li>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;</li> </ul>	<p>This listed activity is not triggered as the proposed development lies approximately 125m from a Critical Biodiversity Area. It does not fall within a CBA area and neither does it fall within any of other the KwaZulu Natal protected areas or stewardship programmes.</p>

	<ul style="list-style-type: none"> <li>viii. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ix. World Heritage Sites;</li> <li>x. Sites or areas identified in terms of an international convention;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>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</li> <li>xiii. In an estuarine functional zone.</li> </ul>	
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