



environment & tourism

Department:
Environmental Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Private Bag X447, Pretoria, 0001 • Federe Building, 315 Pretorius Street, Pretoria, 0002. Tel: (+27 12) 310 3911 Fax: (+27 12) 322 2882

Reference: 12/12/20/1214

Enquiries: Mr Lerato Mokoena

Telephone: (012) 310 3137 Fax: (012) 320 7539 E-mail: LMokoena@deat.gov.za

Ashley Netshidzati

South African National Roads Agency Limited

P.O Box 100410

Scottsville

3209

Fax : (033) 386-3365

PER FACSIMILE / MAIL

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION: FOR THE PROPOSED UPGRADE OF THE N3 EPWORTH INTERCHANGE, UMSUNDUZI LOCAL MUNICIPALITY, KWA ZULU NATAL PROVINCE

With reference to the abovementioned application, please be advised that the Department has decided to grant authorisation. The environmental authorisation and reasons for the decision are attached herewith.

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2006, you are instructed to notify all registered interested and affected parties, in writing and within ten (10) calendar days of the date of this letter, of the Department's decision in respect of your application as well as the provisions regarding the making of appeals that are provided for in the regulations.

Your attention is drawn to Chapter 7 of the Regulations which regulates appeal procedures. Attached please find a simplified copy of the appeals procedure to be followed. Kindly include a copy of this procedure with the letter of notification to I&AP's.

Muhasho wa zwa Vhupo na Vhuendelameshango • LiTiko le Tesimondzawo natekuVakasha • Isebe lemiCimbi yokusiNgaongileyo noKhanketho Ndzwawulo ya Tinhaka & Mbango • Department: Omgawingsaka en Toarlama • Lefapha la Tikoloho le Bohankhlaudi • Lefapha la Bojanata Kgoro ya Tikoloho le Bosti • UmiNyango wezeBhuduluko nokuVakasha • Umnyango Wezemvelo Nokuvakaha

A copy of the official appeal form can be obtained from:

Mr PKM Retief, Appeals Administrator, Tel: 012 310 3705, pretief@deat.gov.za ; or

Mr H Grové, Appeals Administrator, Tel: 012 310 3070, hgrove@deat.gov.za, at the Department.

Should you wish to appeal any aspect of the decision, you must, *inter alia*, lodge a notice of intention to appeal with the Minister, within 10 days of receiving notice of the decision, by means of one of the following methods:

By facsimile: (012) 320 7561;

By post: Private Bag X447, Pretoria, 0001; or

By hand: 2nd Floor, Fedsure Form Building, North Tower, corner Van der Walt and Pretorius Streets, Pretoria.

Should the applicant decide to appeal, the applicant must serve a copy of its notice of intention to appeal on all registered I&AP's as well as a notice indicating where, and for what period, the appeal submission will be available for inspection.

Please include the Department, attention of the Director: Environmental Impact Evaluation, in the list of I&AP's, notified through your notification letter of the decision, for record purposes.

The authorised activity/activities may not commence within thirty (30) days of the date of signature of the authorisation. Please further note that the Minister may, on receipt of appeals against the authorisations or conditions thereof suspend the authorisation pending the outcome of the appeals procedure.

Yours faithfully



Ms Nosipho Ngcaba

Director – General

Department of Environmental Affairs and Tourism

Letter signed by: Ms. Lize McCourt

Designation: Chief Director: Environmental Impact Management

Date: 28/10/2008

Cc:

Mr. Stuart Gower-Jackson

Teratest (Pty) Ltd

Fax: (033) 347-3960

**APPEALS PROCEDURE IN TERMS OF CHAPTER 7 OF R. 385 OF 2006 TO BE FOLLOWED BY
THE APPLICANT AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF
NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION**

APPLICANT	INTERESTED AND AFFECTED PARTIES (IAPs)
1. Receive notice of Environmental Authorisation from the relevant Competent Authority	1. Receive notice of Environmental Authorisation from Applicant/Consultant
2. Within 10 days of receipt of notification, notify the relevant Competent Authority and all IAPs of intention to appeal	2. Within 10 days of receipt of notification, notify the relevant Competent Authority of intention to appeal
3. Notification served by the Applicant must include: 3.1. A copy of the notice of intention to appeal; and 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by all IAPs	3. Appellant must serve on the Applicant 3.1. A copy of the notice of intention to appeal 3.2. A notice indicating where and for what period the appeal submission will be available for inspection by the applicant
4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal	4. The appeal must be submitted to the relevant Competent Authority or delegated organ of State within 30 days of lodging of the notice of intention to appeal
5. A person or organ of state that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of state within 30 days from the date that the appeal submission was made available for inspection by the appellant	5. An Applicant that receives notice of an appeal may submit a responding statement to the relevant Competent Authority or delegated organ of State within 30 days from the date the appeal submission was made available for inspection by the appellant

NOTES:

1. An appeal against a decision must be lodged with:-

- a) the Minister if the decision was issued by the Director- General (or another official) acting in his/ her capacity as the delegated Competent Authority
- b) the MEC if the decision was issued by the Head of Department (or another official) acting in his/ her capacity as the delegated Competent Authority
- c) the delegated organ of state where relevant.

2. An appeal lodged with:-

- a) the Minister must be submitted to the Department of Environmental Affairs and Tourism
- b) the MEC must be submitted to the provincial department responsible for environmental affairs
- c) the delegated organ of state, where relevant, must be submitted to the delegated organ of state

3. An appeal must be:-

- a) on an official form obtainable or published by the relevant department
- b) accompanied by:
 - a statement setting out the grounds of appeal
 - supporting documentation which is referred to in the appeal and is not available to the relevant Competent Authority
 - a statement that the appellant has complied with regulation 62 (2) or (3) together with copies of the notices referred to in regulation 62
 - the prescribed appeal fee, if any.

4. A copy of the official appeal form can be obtained from:

Mr PKM Retief, Appeals Administrator, Tel: 012 310 3705, pretief@deat.gov.za ; or

Mr H Grové, Appeals Administrator, Tel: 012 310 3070, hgrove@deat.gov.za, at the Department.

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environment & tourism

Department:
Environmental Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

Authorisation register number: 12/12/20/1214

Last amended:

Holder of authorisation: South African National Roads Agency

Location of activity: Umsunduzi Local Municipality

JF
28/10/2008

Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation, that the applicant should be authorised to undertake the activity specified below.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006, the Department hereby authorises –

South African National Roads Agency Limited

With the following contact details –

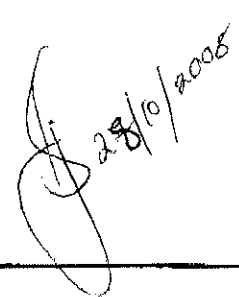
Ashley Netshidzati
South African National Roads Agency Limited
P.O Box 100410
Scottsville
3209

Fax :(033) 386-3365

To undertake the following activities –

GN R.386 activity 1(m): The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including -

- i. canals;
- ii. channels;
- iii. bridges;
- iv. dams; and
- v. weirs



A handwritten signature in black ink, followed by the date '28/10/2008' written vertically.

GN R.386 activity 15: The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres.

GN 386 activity 20: The transformation of an area zoned for use as public open space or for conservation purposes to another use.

The proposed scope of activities will in general cover the following:

Phase 1

- The construction of a new bridge over the Alan Paton Road on ramp, on the eastern side of the existing Epworth interchange.
- Realignment of the northbound carriageway over the new bridge as an interim measure for construction purposes.
- Demolition of the existing bridge.
- Construction of a minor realignment of the Alan Paton Road on the ramp under the new bridge along the future alignment.


Phase 2

- The construction of a second bridge over Alan Paton Road on the ramp at the position of the demolished existing structure.
- Realignment of the northbound carriageway onto this new structure.
- Realignment of the southbound carriageway onto the constructed eastern bridge structure.
- Realignment of the Alan Paton Road on the ramp to merge on the left with the new southbound carriageway.

Phase 3

- The construction of a new southbound carriageway off ramp to Market Road Interchange along the alignment of the existing southbound carriageway.
- Rerouting the southbound traffic from the southbound carriageway off ramp to Market Road Interchange.

The study area falls within the jurisdiction of the Msunduzi Local Municipality, hereafter referred to as "the properties"

 25/10/2008

The granting of this environmental authorisation is subject to the conditions set out below.

Conditions

Scope of authorisation

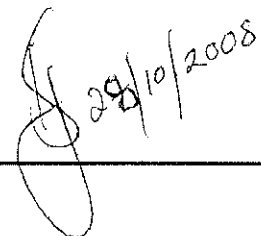
- 1.1 Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
- 1.2 The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the holder of the authorisation.
- 1.3 The activity authorised may only be carried out on the area as shown on the site maps/plans (attached as Appendix A), of the Basic Assessment Report, dated 31 July 2008, as compiled by Terratest (Pty) Ltd.
- 1.4 Any changes to, or deviations from, the project description set out in the Basic Assessment Report, dated 31 July 2008 as compiled by Terratest (Pty) Ltd, and authorised under this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
- 1.5 This activity must commence within a period of five (5) years from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.
- 1.6 This authorisation does not negate the holder of the authorisation responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.
- 1.7 The holder of the authorisation must notify every registered interested and affected party, in writing and within ten (10) calendar days, of receiving notice of the Department's decision to authorise the activity

The granting of this environmental authorisation is subject to the conditions set out below.

Conditions

Scope of authorisation

- 1.1 Authorisation of the activity is subject to the conditions contained in this authorisation, which form part of the environmental authorisation and are binding on the holder of the authorisation.
- 1.2 The holder of the authorisation must be responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the holder of the authorisation.
- 1.3 The activity authorised may only be carried out on the area as shown on the site maps/plans (attached as Appendix A), of the Basic Assessment Report, dated 31 July 2008, as compiled by Terratest (Pty) Ltd.
- 1.4 Any changes to, or deviations from, the project description set out in the Basic Assessment Report, dated 31 July 2008 as compiled by Terratest (Pty) Ltd, and authorised under this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
- 1.5 This activity must commence within a period of five (5) years from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.
- 1.6 This authorisation does not negate the holder of the authorisation responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.
- 1.7 The holder of the authorisation must notify every registered interested and affected party, in writing and within ten (10) calendar days, of receiving notice of the Department's decision to authorise the activity

 29/10/2008

1.8 Relevant legislation that must be complied with by the holder of this authorisation include but is not limited to:

- Compliance with the requirements of Section 38 of the National Heritage Resources Act, Act 25 of 1999, including comments and recommendations of the relevant heritage resources authority responsible for the area in which the development is proposed.
- Provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).
- Provisions of the National Water Act, Act 36 of 1998.
- Relevant local authority bylaws and regulations.

Appeal of authorisation

1.9 The notification referred to in 1.7 must –

- 1.9.1 Specify the date on which the authorisation was issued;
- 1.9.2 Inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the regulations; and
- 1.9.3 Advise the interested and affected party that a copy of the authorisation and reasons for the decision will be furnished on request.

Management of the activity

1.10 A site specific Environmental Management Plan ("EMP") for construction which fulfils the requirements of this authorisation must be compiled and submitted to the Department for approval before the construction process commence. The EMP must comply with regulation 34 of the EIA regulations, 2006 and must include, but not limited to the following:

- A site specific plan for erosion and sedimentation control during construction, maintenance and operational phases of the project.
- A plan for rehabilitation of all areas to be disturbed during the construction phase of the project. Only indigenous plants may be utilised for rehabilitation.
- The EMP must form part of the contractor's tender documentation for all contractors working on the project and must be endorsed contractually.

1.11 The applicant must appoint an Environmental Control Officer (ECO) that will have the responsibility of implementing the EMP.

- The ECO must be appointed one month before the start of construction.
- The ECO must maintain the following on site:
 - A site diary
 - A schedule of current site activities including the monitoring of such activities
 - A complaints register of all public complaints and the remedies applied to such complaints.
- The ECO must remain employed until all rehabilitation measures, as required due to construction damage, are completed.

Commencement of the activity

- 1.12 The authorised activity/activities may not commence within thirty (30) days of the date of signature of the authorisation.
- 1.13 Should you be notified by the minister of a suspension of the authorisation pending appeal procedures, you may not commence with the activity/activities unless authorised by the minister in writing.
- 1.14 Thirty (30) days written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence.

Site Closure

- 1.15 Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.


Specific Conditions

- 1.16 The rehabilitation of all areas to be disturbed during the construction phase of the project should be undertaken with the use of indigenous plants.
- 1.17 No construction activities must be undertaken within the conservation area as identified by the Umsunduzi Local Municipality.
- 1.18 No construction activities, including camps, vegetation clearing, material storage and soil/sand stock piling may occur within 32m of the Blackburrow Spruit.

- 1.19 No surface or ground water may be polluted due to any activity on the site.
- 1.20 Hazardous substances must be stored and used in compliance with the applicable regulations and safety instructions.
- 1.21 The applicant must implement dust abatement measures, such as the wetting of active construction areas.
- 1.22 Should any heritage resources be exposed during the excavation for the purpose of construction, construction in the vicinity of the finding must be stopped. A registered heritage specialist must be called to the site for inspection. Under no circumstances shall any heritage material be destroyed or removed from the site. The relevant heritage resource agency must be informed about the finding.

General Conditions

- 1.23 A copy of this authorisation must be kept at the property where the activity will be undertaken. The authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.
- 1.24 Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/ or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.
- 1.25 The holder of the authorisation must notify the Department, in writing and within 24 (twenty four) hours, if conditions of this authorisation are not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance.
- 1.26 Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the regulations.
- 1.27 All correspondence with regard to this project must be forwarded for the attention to The Director of Environmental Impact Evaluation within this Department.


28/10/2008

1.28 National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the applicant or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non compliance by the applicant with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of environmental authorisation: 28 October 2008



Ms. Lesipho Ngcaba

Director-General

Department of Environmental Affairs and Tourism

Letter signed by: Ms. Lize McCourt

Designation: Chief Director: Environmental Impact Management

Annexure 1: Reasons for Decision

1. Background

The applicant, South African National Roads Agency Limited applied for authorisation to carry out the following activities –

GN R.386 activity 1(m): The construction of facilities or infrastructure, including associated structures or infrastructure, for any purpose in the one in ten year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including -

- i. canals;
- ii. channels;
- iii. bridges;
- iv. dams; and
- v. weirs

GN R.386 activity 15: The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres.

GN 386 activity 20: The transformation of an area zoned for use as public open space or for conservation purposes to another use.

The study area falls within the jurisdiction of the Umsunduzi Local Municipality, hereafter referred to as "the properties"

The applicant appointed Terratest (Pty) Ltd to undertake a Basic Assessment process as required by the EIA regulations, 2006.

2. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the Basic Assessment Report dated 31 July 2008 and associated specialist reports.

- b) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).
- c) Comments from the Interested and Affected Parties.

3. Key factors considered in making the decision

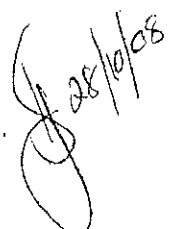
All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

- a) The applicant has met the requirements of the Basic Assessment Report as per the EIA regulations, 2006.
- b) A detailed public participation process was undertaken and the consultant has satisfied the minimum requirements as prescribed in the EIA regulations, 2006 for public involvement.
- c) Comments received from the Interested and Affected Parties were adequately addressed.
- d) The need and desirability of the activity.
- e) The proposed project will have minimal impacts on the environment.

4. Findings


After consideration of the information and factors listed above, the Department made the following findings –

- a) The vegetation in the area was found to be suitable for the upgrade as it was already degraded by road construction and had no sensitive vegetation or red data species. The vegetation in the conservation will not be affected by the construction activities.
- b) From a heritage point of view it is anticipated that the impacts will be minimum as the area is degraded by previous road construction and township development.
- c) The impact on the Blackburrow Spruit will be minimal as activities within its banks will be limited. The EMP will include further measures to protect the river from impacts associated with road construction.
- d) The need for the proposed upgrade of the Epworth Interchange has been clearly demonstrated.
- e) The procedure followed for the impact assessment has been adequate for the decision-making process.
- f) All legal and procedural requirements have been met.
- g) There has been sufficient consultation with I&AP's.
- h) Adequate assessment of the main identified issues and impacts has been done.

 28/10/08

- i) The proposed road upgrade is compatible with the proposed site (road reserve) for the development.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. Authorisation is accordingly granted.

 25/10/08