


KZN Agriculture and Environmental Affairs

*uMnyango:
weZolimo neZemvelo*

ISIFUNDAZWE SAKWAZULU-NATALI

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Environmental Services
South Region
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Hilton
3245
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Ref: **EIA 7027**

21.1.12/2006

**ATTENTION: MR. L. HACKNEY
SHORTT'S ESTATE (PTY) LTD
P O Box 1117
PIETERMARITZBURG
3200**

Tel: 033 – 345 1671
Fax: 033 – 345 1681

Re: Authorisation and Record of Decision

The KwaZulu Natal Department of Agriculture and Environmental Affairs hereby **authorises**, by virtue of powers delegated by the National Minister of Environmental Affairs and Tourism and in terms of Section 22 of the Environment Conservation Act, Act No. 73 of 1989, the project:

EIA 7027: The Re-zoning of Erf 557 (of 556) Shortt's Retreat, in Mkhondeni from an undetermined zonation to approximately 28ha for General Industrial use and approximately 22Ha for Conservation use. adjacent to Shortts Retreat Road.


JA

This authorisation is subject to the conditions contained within the attached Record of Decision.

The duration of the authorisation is **18 (eighteen) months**. ie. if the re-zoning has not been completed within this period, a new application will need to be submitted to this Department.

An appeal against the authorisation or condition/s of authorisation can be directed to MEC of Agriculture and Environmental Affairs, Mr. M. Mthimkhulu, Ministry of Agriculture & Environmental Affairs, P O Box 2132, DURBAN, 4000, within **30 calendar days** of authorisation, setting out the grounds of appeal and including all relevant documentation, in accordance with the provisions of Section 35 of the Environment Conservation Act, 1989, and Regulation 11 of the GN No. R1183 of 5 September 1997, as amended.

Yours sincerely


Head of Department



21.1.2006

RECORD OF DECISION

Herewith the Record of Decision made in terms of section 22(3) of the Environment Conservation Act, 1989, and as required by Regulation 10 of GN No. R1183 of 5 September 1997 as amended by GN No. R672 of 10 May 2002, with regard to the undertaking of the activity described below.

1) Description of activity

The proposal is for the Re-zoning of Erf 557 (of 556) Shortt's Retreat, in Mkhondeni from an undetermined zonation to approximately 28ha for General Industrial use and approximately 22Ha for Conservation use. *The property is adjacent to Shortts Retreat Road & opposite existing industrial activities.*

2) Location

Province : KwaZulu-Natal
Magisterial District : PIETERMARITZBURG
Name of property : Erf 557 (of 556) Shortt's Retreat
Extent of property : Approx. 50.3Ha
Extent of development : Approx. 50.3Ha
1:50 000 map : 2930CB Pietermaritzburg
Co-ordinates : 30° 25' 40"S ; 29° 39' 45" E

3) Applicant

Name : SHORTT'S ESTATE (PTY) LTD
Address : P O Box 1117
PIETERMARITZBURG
3200

Contact Person : MR. LANCE HACKNEY
Telephone : 033 – 345 1671
Facsimile : 033 – 345 1681
Cellular phone : 082 573 0414
e-mail : lhackney@pfserv.co.za

4) Consultant

Name : MR. N.P. LE ROUX
Address : 5 Spearman Road
HAYFIELDS
3201

Contact Person : MR. PETER LE ROUX
Telephone : 033 – 386 3046
Facsimile : 082 331 5950
Cellular phone : n/a
e-mail : mwpler@mweb.co.za

5) Site visits

Date : 02 February 2006
Persons present : Mr. P. Le Roux Consultant
Ms. E. Becker Amafa aKwaZulu-Natali
Mr. I. Felton DAEA

6) Documentation assessed

<u>Document</u>	<u>Compiled by</u>	<u>Date</u>
Plan of Study for Scoping	N.P. Le Roux	Jan 2006
Draft Environmental Scoping Report: Application to zone Erf 557 (of 556) Shortt's Retreat for General Industrial and Conservation purposes	N.P. Le Roux	17 Jul 2006
Final Environmental Scoping Report: Application to zone Erf 557 (of 556) Shortt's Retreat for General Industrial and Conservation purposes	N.P. Le Roux	Sep 2006
Draft Strategic Environmental Management Plan: Mkhondeni Stream Catchment Area	Guy Nicolson Consulting	6 Dec 2006

7) Report

Applicant's motivation of need & desirability

The applicant motivates that there is a strong demand for secure and well located industrial land within Pietermaritzburg. The site directly adjoins the existing Mkhondeni industrial area and is seen as a natural extension to the industrial uses on the adjoining properties. The development is proposed to include a sizable conservation area to be incorporated into the larger open space and conservation system within the Mkhondeni catchment.

Receiving environment

The site covers an area of approximately 50,3 Ha directly adjoining the Mkhondeni industrial area. The area is not currently zoned for any use, however the site was considered for residential development at one stage. The area is comprised of an upper plateau grassland and a lower valley woodland area. Extensive illegal dumping of spoil material and waste has occurred on the upper plateau area. The woodland area is contiguous with the woodlands and riparian areas within the Mkhondeni catchment and it is proposed that this area will form part of a larger open space and conservation network system.

Public participation

An authority consultation and public participation process was undertaken as part of the environmental scoping process.

Broad environmental concerns identified in the public participation process include the following:

- Compatibility with surrounding landuses;
- Impacts on water quality, stormwater management and sewerage disposal;
- Pollution and waste management issues;
- Environmental & conservation management of the site and conservation area; and
- Impacts on aesthetics.

The environmental issues identified have resulted in the alteration of the proposed layouts and designs and concerns have been addressed through the specific conditions of this authorization.

Surface water and storm water management

A stormwater management plan will be prepared to ensure that stormwater designs for the development will be in accordance with the "Red Book – Guidelines for human settlement planning and design", and will meet the requirements of the National Water Act (Act No. 36 of 1998) and all relevant Municipal By-laws.

Draft Mkhondeni Strategic Environmental Assessment

The site falls within the study area for the Strategic Environmental Assessment [SEA] being undertaken in the Mkhondeni Catchment to the south east of Pietermaritzburg. This initiative was commissioned to consider the potential cumulative impacts of a number of large scale developments proposed within the Mkhondeni catchment. Although the SEA process has not been completed, this application precedes the SEA process and from a legal perspective this Department is obliged to make a decision based on the current information available. The proposed re-zonation of the site into General industrial and Conservation uses does not conflict with the land use options proposed in the draft SEA, and from the consideration of the potential cumulative and secondary impacts, this proposal is considered to be in line with the suggested landuses indicated in the Draft SEA.

Design criteria and mitigatory measures

The conservation area will be suitably fenced off from the General Industrial area, prior to any development on the industrial site commencing. The long term management of the conservation area should be undertaken in conjunction with, and in accordance with the requirements of the Parks & Recreation component of the Msunduzi Municipality.

The types and nature of developments within the site will be controlled in terms of the Pietermaritzburg Town Planning Scheme clauses.

Management and operation

Construction phase and Operational phase Environmental Management Plan's [EMP's] will be developed and implemented to ensure that environmental impacts of the development are managed and mitigated for during the construction and operational phases of the development.

8) Decision

That authorisation be granted to the applicant for:

The Re-zoning of Erf 557 (of 556) Shortt's Retreat, in Mkhondeni from an undetermined zonation to approximately 28ha for General Industrial use and approximately 22Ha for Conservation use, in accordance with conditions contained in Section 10 below.

9) Key Decision Factors

- 9.1 The site is ideally located adjacent to existing General industrial areas and main transportation routes, and is not perceived to conflict with surrounding land uses.
- 9.2 Large portions of the site have been used for illegal dumping of spoil material and waste and no significant detrimental biodiversity impacts have been identified with the development site.
- 9.3 The environmental issues identified in the public participation and authority consultation process have resulted in the alteration of the proposed layouts and designs, and have been addressed through the specific conditions of this authorization.
- 9.4 A stormwater management plan will be prepared to ensure that stormwater designs for the development will be in accordance with the "Red Book – Guidelines for human settlement planning and design", and will meet the requirements of the National Water Act (Act No. 36 of 1998) and all relevant Municipal By-laws.
- 9.5 The proposed re-zonation of the site into General industrial and Conservation uses does not conflict with the land use options proposed in the draft Strategic Environmental Assessment for the Mkhondeni Catchment.
- 9.6 Although the SEA process has not been completed, this application precedes the SEA process and from a legal perspective this Department is obliged to make a decision based on the current information available.
- 9.7 The proposed conservation area will be suitably fenced off from the General Industrial area and the management of the conservation area will be undertaken in accordance with the requirements of the Parks & Recreation component of the Msunduzi Municipality.
- 9.8 The conservation area will form part of an open space and conservation system for the entire Mkhondeni catchment area.
- 9.9 The types and nature of developments within the site will be controlled in terms of the Pietermaritzburg Town Planning Scheme clauses. Any activities proposed on the site, that are listed in terms of either GN No. R386 or R387 of 21 April 2006, will still require environmental approval to be granted in terms of the National Environmental Management Act (Act No. 107 of 1998), **prior** to these activities commencing.
- 9.10 Construction phase and Operational phase Environmental Management Plan's [EMP's] will be developed and implemented to ensure that environmental impacts of the development are managed and mitigated for during the construction and operational phases of the development.
- 9.11 The requirements of section 24(4) of the National Environmental Management Act, 1998 (as amended by the National Environmental Management Amendment Act 8 of 2004), have been met.

10) Conditions of authorisation

Approval is granted on condition that:

- 10.1 The Re-zoning must adhere substantially to the Layout Plan referenced as "*Proposed re-zoning to industrial of part of Erf 557 Shortts Retreat*" produced by Symington, Trench & Geysler dated April 2005, and attached to this authorization as Annexure 1.

- 10.2 Any activities proposed on the site, that are listed in terms of either GN No. R386 or R387 of 21 April 2006, will still require environmental approval to be granted in terms of the National Environmental Management Act (Act No. 107 of 1998), **prior** to these activities commencing.
- 10.3 Sewerage and wastewater may not be treated on site, and must be disposed of via the Msunduzi Municipality's sewerage reticulation system.
- 10.4 A stormwater management plan must be prepared to ensure that stormwater designs for the development will be in accordance with the "Red Book – Guidelines for human settlement planning and design", and that will meet the requirements of the National Water Act (Act No. 36 of 1998) and all relevant Municipal By-laws. The stormwater management plan must be submitted to the Msunduzi Municipality and the Department of Water Affairs & Forestry and must be approved by these authorities prior to construction commencing on the site.
- 10.5 All stormwater from paved areas susceptible to oil contamination must be drained to sediment / grease traps before discharge into the stormwater management system. The sediment/grease traps must be cleaned on a regular basis, with sludge being disposed of at a suitable hazardous waste site.
- 10.6 All general waste produced by any development on the site, must be suitably stored on site and must be removed on a regular basis to a registered and appropriate landfill site.
- 10.7 Any hazardous wastes produced by any development on the site, must be suitably stored on site, and removed on a regular basis to an appropriate and registered Hazardous waste landfill site.
- 10.8 Construction and Operational phase Environmental Management Plan's must be developed in conjunction with the Msunduzi Municipality, and must be submitted to and approved by this Department prior to development commencing.
- 10.9 An independent Environmental Control Officer [ECO] must be appointed for the duration of the construction phase to ensure that the conditions stipulated in this Record of Decision are complied with and that the Environmental Management Plan [EMP] is adhered to. The ECO must act as liaison with this Department and other relevant authorities, and must ensure communication with key stakeholders with respect to the monitoring of compliance with conditions of authorization and the EMP.
- 10.10 The Developer and/or Corporate Body responsible for the management of the site must ensure the implementation of and adherence to the approved conservation management plan and the approved Construction and Operational phase Environmental Management Plan's
- 10.11 Conservation area must be suitably fenced off from the General industrial area, to the satisfaction of the Parks and Recreation component of the Msunduzi Municipality, prior to any construction commencing on the site.
- 10.12 The availability of this Record of Decision must be advertised within the Witness newspaper, within 10 days of the issuing of this authorization.

- 10.13 All registered interested and affected parties must be made aware, in writing, of the issuing of this Record of Decision, within 10 days of the issuing of this authorization, and of their right to lodge an appeal within 30 calendar days of the date of issue.
- 10.14 This Department reserves its right in terms of sub-regulation 9(3) of GN No. R1183 of 5 September 1997 as amended by GN No. R672 of 10 May 2002, to review any condition contained in this authorization, and if deemed necessary, delete or amend such condition, or at its discretion, determine new conditions, in such a manner that is lawful, reasonable and procedurally fair.
- 10.15 The applicant is responsible 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.
- 10.16 This Department retains the right to inspect the property at any time during its development and operational phases.
- 10.17 Failure to comply with these conditions of authorisation may result in this authorization being withdrawn and the applicant liable to legal action under Section 29 of the Environment Conservation Act, 1989.
- 10.18 The granting of this authorization, does not grant the applicant authorization or exemption from compliance with any other relevant and applicable legislation.

Validity

This authorization is valid for a period of **18(eighteen) months** from the date of issue, that is, if the re-zonation has not been completed within this period then this authorisation is deemed to have lapsed and is no longer valid.

Appeal

An appeal against this decision may be lodged in writing with the MEC for Agriculture and Environmental Affairs, Mr. M. Mthimkhulu, Ministry of Agriculture & Environmental Affairs, P O Box 2132, DURBAN, 4000. This appeal must be lodged within **30 calendar days** of the date of this decision, and must set out the grounds of appeal and include certified copies of any relevant documentation, in accordance with Section 35 of the Environment Conservation Act, Act 73 of 1989, and Regulation 11 of GN No. R1183 of 5 September 1997 (as amended).

Assessing officer

I hereby declare that this application was assessed to the best of my ability, based on the information provided to me by the applicant and or his consultant.


Signature

IAN ROLAND FELTON
Name

8/12/2006
Date

Authorizing Officer:

Comment:

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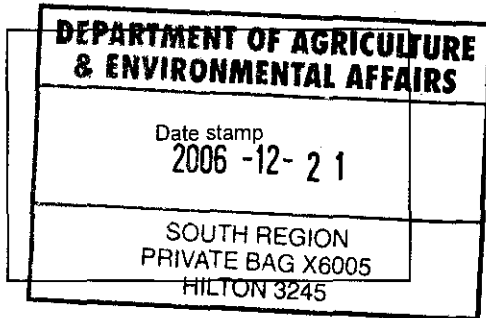
APPROVED / ~~NOT APPROVED~~



^ **Head of Department**
Department of Agriculture & Environmental Affairs

21/12/2006

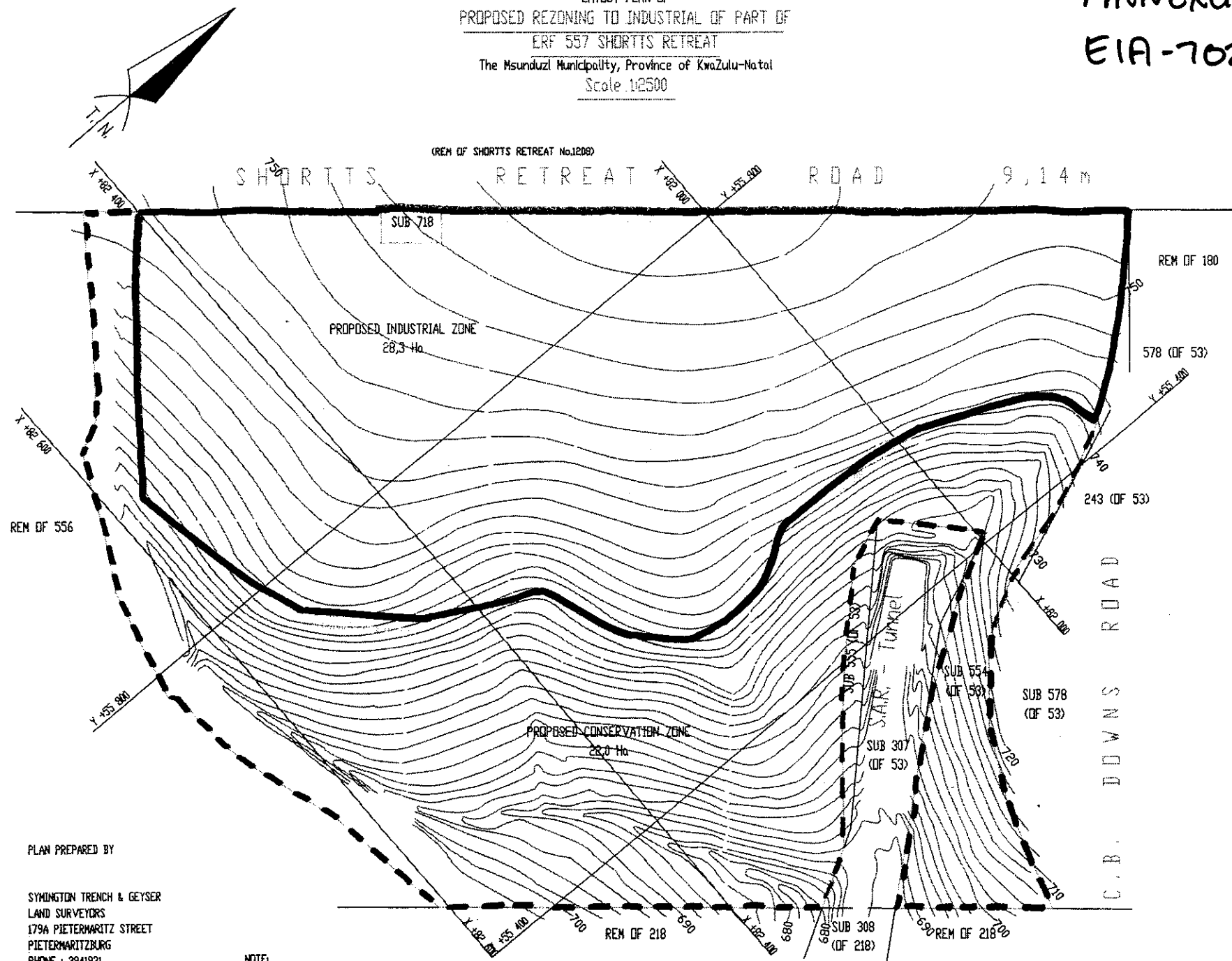
Date



ANNEXURE 1

EIA-7027-ROD

LAYOUT PLAN OF
 PROPOSED REZONING TO INDUSTRIAL OF PART OF
 ERF 557 SHORTTS RETREAT
 The Msunduzi Municipality, Province of KwaZulu-Natal
 Scale 1:2500



PLAN PREPARED BY
 SYMINGTON TRENCH & GEYSER
 LAND SURVEYORS
 179A PIETERMARITZ STREET
 PIETERMARITZBURG
 PHONE : 3941931
 FAX : 3941933
 APRIL 2005

NOTE:
 Areas and Dimensions are approximate
 and subject to actual survey.

S2212