

	<b>KZN AGRICULTURE AND ENVIRONMENTAL AFFAIRS</b>  <b>uMnyango: weZolimo neZemvelo ISIFUNDAZWE SAKWAZULU-NATALI</b>	<b>Directorate: Environmental Services: South Region Private Bag X6005, Hilton 3245</b>  <b>Tel: 033 – 3438 428 Fax: 033 – 3438 470</b>
<b>FAX TO/FAKS AAN/ISIKHANHLAMEZI SIYAKU:</b> Mr Rory Wilkinson 086 - 681 9207 Mr Guy Betler 086 - 6141572 Amafa – Weziwe 033 – 342 6097 Dominic 033 - 8451499	<b>FAX NO/FAKS NO/INOMBOLO YESIKHAHLAEZI:</b> DATE/DATUM/USUKU: 26/03/09  <b>TIME / TYD / ISIKHATHI:</b>	
<b>ATTENTION/AANDAG/IYA KU:</b> Please find attached Environ. Authoriz.		
<b>Name of sender / Naam van sender / Umthumelo Ngu:</b> M. Padayachee	<b>Sender's Details:</b> Fax No: 033 – 343 8470 Inombolo:	
<b>Sender's Ref. / Sender se verw. / Yesikha alamazi silka:</b> EIA/5809	Tel No: 033 – 343 8428 Inombolo:  Cell No: Inombolo:	


**KZN Agriculture and Environmental Affairs**

*uMnyango:  
weZolimo neZemvelo*

**ISIFUNDAZWE SAKWAZULU-NATALI**

Chief Directorate/ Directorate:  
Environmental Management  
Address:  
Private Bag X6005  
Hilton  
3245  
Enquiries: Ms S.J. Allan

Tel: 033 - 343 8300  
Fax: 033 - 343 8470  
Ref: EIA/5809

Date: 26/03/2009

Tongaat Hulett Developments (Pty) Ltd (THDEV, formerly known as Morelands)  
P O Box 22319  
Glenashley  
4022

Attention : Mr. Rory Wilkinson  
Tel : 031 560 1900  
Fax : 086 681 9207

cc. Mr. Guy Butler/Ms. Debbie Donkin, GAEA Projects, Fax: 086 614 1572

**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 development of Nodes 1 and 5 of the Sibaya Precinct between Umdloti and Umhlanga Rocks, within the eThekweni Municipality, as described in the attached Record of Decision.**

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

**Validity:**

**The following validity periods shall apply:**

1. The duration of authorisation to commence with this project is **48 (forty-eight) months** from the date of issue of this Record of Decision.
2. If this project has not commenced within this period this authorisation is deemed to have lapsed and is no longer valid.
3. Conditions pertaining to the operation of the development remain valid for the lifetime of the development.

*[Signature]*  
26/03/09

**Appeal:**

In accordance with the provisions of subregulation 62(1) of the EIA Regulations, 2006, a notice of intention to appeal must be lodged with **Mr. M.E Mthimkhulu, the MEC for the KwaZulu-Natal Department of Agriculture and Environmental Affairs**, on the form attached within **10 calendar days** of receipt of this decision by means of the following methods:

**POSTAL:**  
Private Bag X9059  
PIETERMARITZBURG  
3200

**PHYSICAL:**  
No. 1 Cedara  
Executive Building  
Cedara College  
PIETERMARITZBURG  
3201

**SATELLITE OFFICE**

**POSTAL:**  
PO Box 2132  
DURBAN  
4000

**PHYSICAL:**  
8<sup>th</sup> Floor, Truro House  
17 Margaret Mncadi Blvd (Victoria Embankment)  
Durban  
4001

**TEL:** 033 343 8240  
**FAX:** 033 343 8255

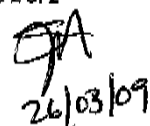
Before lodging the notice of intention to appeal, a copy of the notice of intention to appeal must be served by the appellant on all registered interested and affected parties, as well as a notice indicating where, and for what period the appeal submission will be available for inspection.

**Yours faithfully**



for: **Acting Head of Department**

S.S. ALLAN  
26/03/2009



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26/03/09



## KZN Agriculture and Environmental Affairs

*Mnyango:  
eZolimo neZemvelo*

### SIFUNDAZWE SAKWAZULU-NATALI

Directorate: Environmental  
Management

Enquiries: Mrs S.J Allan

Reference No: EIA/5809

Private Bag X 6005  
Hilton  
3245

Tel: 033 343 8330

Fax: 033 343 8470

Date: 26/03/2009

## RECORD OF DECISION

Herewith the Record of Decision in terms of regulation 10 of Government Notice No. R. 1183 of 05 September 1997 (as amended) and section 22(3) of the Environment Conservation Act, (Act No. 73 of 1989) with regard to the undertaking of the activity described below. This Record of Decision must be made available by the applicant or appointed consultant to interested and affected parties on request.

### 1. Description of the Activity

#### Background

The applicant, Tongaat Hulett Developments (Pty) Ltd (THDEV, formerly known as Morelands) proposes the development of the Sibaya Precinct (Nodes 1 and 5 only) on Rem of Portion 42 of Lot 31 No. 1560 and Rem of Portion 615 of the Farm Cottonlands No. 1575.

The Sibaya Precinct (in its entirety) includes the land surrounding the Sibaya Casino, and is located between the N2 in the west and the Indian Ocean in the east, between the Hawaan Forest in the south and the Main Road (MR 96) into Umdloti in the north. Kindly refer to Appendix 1, confirming the locality of the site.

The Sibaya Precinct has been divided into 5 development nodes (as depicted in Appendix 2 attached). Node 1 comprises the development area to the east of the M4 above the southern portion of Umdloti, whilst Node 2 comprises the area south and south west of the Sibaya Casino. Node 3 comprises the area to the east of Node 2 and bordered by Forest 31 in the east. Node 4 comprises the north western section of the Precinct bordered by the MR 96 in the north, the N2 in the west, the M4 in the east and the Sibaya Casino in the south. Node 5 comprises the hill behind Umdloti, and constitutes the north east corner of the Precinct.

For the purposes of this authorisation, the applicant seeks authorisation for Nodes 1 and 5 only. Nodes 1 and 5, approximately 125Ha (nett) in extent, are key components of the Sibaya Precinct which is being planned on 850 hectares.

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### Details of Activity

The development of nodes 1 and 5, subject to such approvals by the eThekweni Municipality as may be necessary, include the following (as depicted in Appendices 2 and 3 attached):

<b>Phase 1 - Node 1</b>		<b>Phase 2 - Node 5</b>	
No. of Units	1140	No. of Units	1185 units
Hotel Rooms	130	Hotel Rooms	490
Commercial	65 800m <sup>2</sup>	Commercial	37 900m <sup>2</sup>
<p><b>Roads</b></p> <ul style="list-style-type: none"> <li>• Access provision from M4 at Sibaya Casino circle.</li> </ul> <p><b>Sewer</b></p> <ul style="list-style-type: none"> <li>• Temporary pump station at bottom of Node 1 + temporary rising main to new Gravity Trunk running from top of Node 1, across M4, below Sibaya Casino and linking to the Sibaya Trunk.</li> <li>• The pump station will be removed and relocated once Node 5 is developed and the rising main converted into a gravity trunk.</li> </ul> <p><b>Electricity and Water</b> No bulks required, only reticulation within Node 1</p>		<p><b>Roads</b></p> <ul style="list-style-type: none"> <li>• New signalised access off M27 and link to M4 Sibaya Casino circle;</li> <li>• Upgrade of M27 to 4 lanes and turning lanes.</li> </ul> <p><b>Sewer</b></p> <ul style="list-style-type: none"> <li>• Temporary pump station relocated to adjacent to Umdloti access road and new rising main (south-west direction) across the M4 through Node 4 and gravity main running parallel to N2 linking into Sibaya Trunk, and</li> <li>• the long-term ultimate solution will be a gravity trunk that runs northwards eventually to a new treatment works on the Mdloti River.</li> </ul> <p><b>Electricity and Water</b> No bulks required, only reticulation within Node 5</p>	

The concept for Nodes 1 and 5 is to create an "urban centre", at an appropriate density and scale, which maximizes the physical attributes and creates opportunities for a wide mix of uses, including residential apartments, resort hotels, commercial and leisure and recreational activities.

From a height perspective, the development proposal is based upon a gradation of heights from the lower slopes to the hilltops with 2 Storey heights on the lower slopes extending to 4-6 Storeys on the hilltops with single iconic/landmark buildings (up to a maximum of 15 Storeys) in each node.

This project is described under items 1©, 1(n), 2© and 7 in Schedule 1 of Government Notice No. R. 1182 of 05 September 1997 (as amended), which state:

"1c(ii) temporary storage of diesel".

"1(d) The construction or upgrading of roads".

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- "1(m) *The construction, erection or upgrading of private resorts and associated infrastructure*".
- "1(n) *The construction, erection or upgrading of sewage treatment plants and associated infrastructure*".
- "2c *The change of land use from agriculture or undetermined use to any other land use*".
- "7 *The reclamation of land, including wetlands, below the high-water mark of the sea, and inland waters*".
- "10 *The development of virgin ground*".

Note: Review and evaluation of this application for environmental authorization by the Department has also considered activities listed in terms of the 2006 EIA Regulations promulgated under section 24 of the National Environmental Management Act, 1998.

## 2. Location

**Province** : KwaZulu-Natal  
**Magisterial District** : eThekweni  
**Name of Property** : Rem of Portion 42 of Lot 31 No. 1560 and  
 Rem of Portion 615 of the Farm Cottonlands  
 No. 1575.  
**Footprint of development:** 125 ha

## 3. Applicant

**Name** : Tongaat Hulett Developments (Pty) Ltd  
 (THDEV, formerly known as Morelands)  
**Address** : P O Box 22319  
 Glenashley  
 4022  
**Contact person** : Mr. Rory Wilkinson  
**Tel** : (031) 560 1900  
**Fax** : 086 681 9207  
**Cell phone** : 083 278 4299  
**E-mail** : [Rory.Wilkinson@thdev.co.za](mailto:Rory.Wilkinson@thdev.co.za)

## 4. Consultant

**Name** : GAEA Projects  
**Address** : PO Box 30258  
 Mayville  
 4058

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**Contact person** : Mr. Guy Butler/Ms. Debbie Donkin  
**Tel** : 031 566 3817  
**Fax** : 086 614 1572  
**Cell** : 083 556 4087  
**E-mail** : [debbiedonkin@iafrica.com](mailto:debbiedonkin@iafrica.com)

## 5. Site visit

Date	Persons Present	Organization
14 May 2007	Mr. Malcolm Moses	DAEA
	Ms. Vanessa Maclou	DAEA
	Mr. Guy Butler	GAEA Projects
	Mr. Rory Wilkinson	THDEV
	Mr. John Cook	THDEV

## 6. Documentation assessed:

Date	Description
04 March 2005	Submission: Application for authorisation
10 March 2005	Acknowledgement of application by DAEA
July 2005	Amended Plan Of Study for Scoping
November 2006	Draft Plan of Study (POS) for EIA
December 2005	Addendum Scoping Report
08 December 2006	Final Scoping Report and Final POS for EIA
13 April 2007	Draft Environmental Impact Report
11 June 2008	Final Environmental Impact Report
08 September 2008	Final Framework Plan and the Services Plan for Sibaya
13 October 2008	eThekwini Municipality comments
various	Numerous other correspondences from other authorities, Interested & Affected Parties, THDev, and this Department

## 7. Decision

**Authorisation is granted** by the KwaZulu-Natal Department of Agriculture & Environmental Affairs in terms of the provisions of section 22(3) of the Environment Conservation Act, (Act No. 73 of 1989) to develop Nodes 1 and 5 of the Sibaya Precinct on Rem of Portion 42 of Lot 31 No. 1560 and Rem of Portion 615 of the Farm Cottonlands No. 1575 as described in section 1 of this Record of Decision (ROD) and subject to the conditions stipulated in Section 9 of this ROD.

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## 8. Key Decision Factors

### 8.1 Need and Desirability

- a) The Sibaya Precinct is strategically located along KZN's north coast within the province's Primary Corridor only 5 minutes from the new King Shaka International Airport and the Dube Trade Port and in the middle of two of Durban's major tourism nodes namely; Umhlanga and Umhloti. Irrespective of the current economic slide, the strategic location of the site warrants the need for the development.
- b) The Sibaya Casino and Entertainment World is well established and located at the heart of the Sibaya Precinct midway between the N2 and M4 which provides good accessibility from both roads. In addition, a significant amount of infrastructure has already been invested with the development of the casino including new bulk water, electricity and sewer systems as well as two accesses off regional routes.
- c) The physical attributes of the land includes easy accessibility, high visibility, prime sea views and the interface with a unique natural environment that includes river, estuary, wetlands and coastal forests.
- d) The ecological potential is therefore equally significant but whilst the natural environment exists and its importance acknowledged, unless there is associated development, the potential and opportunity to conserve and manage this ecological asset is extremely difficult and limited.
- e) These natural habitats are constantly under threat from a variety of illegal activities such as dumping, poaching and illegal settlement (to name a few). Therefore there is a need to implement formal viable and sustainable management interventions that will result in the conservation and appropriate utilization of these resources. The development of the Sibaya Precinct, of which the natural habitat is an integral component, will enable this to occur.

### 8.2 Public Participation

- a) An Application Form was lodged in February 2005 with the Department.
- b) Advertisements were placed in the following newspapers, to inform all interested and affected parties (I&APs) of the proposed development:
  - The Mercury on 02 March 2005;
  - The North Glen News on 11 March 2005; and
  - The Isolezwe on 1 March 2005.
- c) In response to the adverts and notification of a pre-identified list of I&APs, a public meeting was held on 17 March 2005 at the Sharks Board located in Umhlanga Rocks. All issues were tabled.
- d) A new vision/alternative development concept which resulted in an amendment to the Plan of Study for Scoping.


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- e) Another public meeting was held on 07 June 2006 at the Sharks Board, informing I&APs of the latest developments of the application.
- f) A Draft Scoping Report was available to I&APs for comment at the end of August 2006, with the Final Scoping Report submitted to the Department on 8 December 2006.
- g) The Plan of Study for EIA was also submitted to DAEA on 8 December 2006 with the Terms of Reference for the specialist studies and circulated to key stakeholders and I&APs in January 2007.
- h) A public meeting was held on 8 February 2007 at the Sharks Board, Umhlanga Rocks Drive, Umhlanga Rocks, in order to present the findings of the specialist studies.
- i) The draft environmental impact report (EIR) was compiled and distributed to key stakeholders and I&APs for comment on 20 June 2007.
- j) Correspondences were received on the first draft EIR and these were subsequently responded to. As a result of the response, revisions were made to the proposed development.
- k) In essence, the draft Environmental Impact Report (EIR) for EIA/5809, the Sibaya Precinct, circulated in June 2007, recommended that the development of the Sibaya Precinct should be allowed to proceed based on the revised alternative development concept and framework plan (for Nodes 1 and 5). A number of recommendations were provided to ensure the sustainability of the development and the protection of the sensitive ecosystems forming part of the Precinct.
- l) A revised draft EIR (second draft) was distributed for comment in February 2008 that dealt with the above issues as well as a number of additional issues including the implementation of a conservation servitude over the forest portions of the Sibaya Precinct. These changes resulted in changes to the draft EIR and therefore resulted in the need to re-circulate the report prior to final submission for the Department's consideration.
- m) Comments were also received on the second draft EIR. The primary comments relating to the second draft EIR related to the uncertainties with regards to the sewerage of Nodes 2, 3 and 4, the M4 realignment proposed by the eThekweni Municipality, the extent and detail of the conservation servitude, assessment of sewer pump stations, stormwater attenuation details, wetland buffer and intrusions, traffic detail as well as the phasing of the development.
- n) Following receipt of the comments, further engagement with the eThekweni Municipality took place and a number of specialist reports were updated which resulted in the final EIR.
- o) This final EIR includes the Final Development Concept and Development Framework including a proposal for a conservation servitude to be registered over the entire Conservation Trust area which includes the Mhlanga

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
Forest, Forest 31, Hawaan Forest and the Ohlanga River and associated wetlands.

- p) Any future activities in the conservation servitude area would depend on the terms of the servitude, but in any event would only take place in those portions that are already degraded, and would be of a low impact. The registration of the conservation servitude implies that any future activities proposed therein will be the subject to a separate EIA. A condition to this effect has been included in the conditions of authorisation herewith.
- q) Additional specific engagement subsequently occurred with the eThekweni Municipality in regard to the development proposal and their concerns. This engagement, together with the concerns and comments from other I&APs has resulted in a Final Development Framework Plan and recommendation for the approval of Nodes 1 and 5 only at this time.
- r) In general, during the EIA process, numerous I&APs raised their concerns on the proposed development. This included key I&APs such as the Umdloti Rate Payers Association, WESSA, the eThekweni Municipality and EKZNW. Their key concerns related to:
- Storm water and associated impacts;
  - “Back of Beach” impacts;
  - The noise impacts associated with the King Shaka International Airport;
  - Traffic Impacts;
  - Visual Impacts;
  - Impacts associated with bulk infrastructure;
  - Issues relating to security in general;
  - and the management of the conservation area.
- s) This authorisation is strictly for the development of Nodes 1 and 5. Whilst the final approval for Nodes 2, 3 and 4 has been excluded in this decision, the Department notes that an overall Development Framework plan that includes all nodes was included in the Final EIR report to ensure that the potential cumulative effect of the development is assessed to an extent that the Department is able to reach an informed decision on Nodes 1 and 5 only.
- t) Nodes 2, 3 and 4 were excluded from the decision as there were numerous issues related to those nodes that could not be adequately addressed at the time of preparation of the final EIR, and in all likelihood would take considerable time to resolve. Development of Nodes 2, 3 and 4 will, therefore, be subject to separate EIA processes with the existing Development Framework Plan used as a decision support tool to assess the development of Nodes 2, 3 and 4 when the respective application/s are submitted to the Department for assessment/consideration.

### 8.3 Motivation for Nodes 1 and 5

- a) Nodes 1 and 5 are located between the existing Sibaya Casino and the village of Umdloti and can be seen as an extension to Umdloti whilst creating a link to the Sibaya Casino.

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- b) The development of Nodes 1 and 5 will enable the constrained village of Umdloti to be enhanced and expanded in an appropriate area, and in a manner that can accommodate the increased traffic and commercial demand.
- c) The development of Node 5 will specifically include recreational facilities and activities that aim to create a 'back of beach' and 'beach alternative' attraction that not only takes pressure off the beach but enables a broader and more inclusive tourist and resident attraction.
- d) The applicant avers that the physical attributes of Nodes 1 and 5 are spectacular and is considered as prime real estate land with two 'hilltops' that provide for incredible views as well as an area between the two hilltops that lends itself to a potential community oriented leisure and recreational space.
- e) In addition, a significant amount of infrastructure has already been invested with the development of the casino including new bulk water, electricity and sewer systems as well as two accesses off regional routes thereby prompting the development of Nodes 1 and 5 only.

#### 8.4 Future Iconic Identity

- a) The vision of the Precinct is to create a complex, resort-residential focused development which integrates the urban environment with the natural environment in a manner that not only enables an efficient, compact urban form but also the sustainable conservation and management of the unique environment for the benefit of the greater community.
- b) A concept of clustered hilltops will be used to achieve these objectives which will result in intensive urban environments which aim to generate diverse opportunities by creating thresholds to support a wider range of activities. This concept will therefore result in a reduction of the overall physical footprint of the development, thereby enabling a most intense urban hilltop environment whilst simultaneously enabling a very generous and functioning open space system.

#### 8.5 Shadow and Visual Impact

- a) One of the key issues raised by I&AP's related to visual impacts as a result of the development. In response to this issue a Visual Impact Assessment (VIA) was undertaken by SRK Consulting dated March 2007.
- b) The findings of the study can be summarised as follows:
  - The people that would be most affected by the development, from a visual perspective, would be residents of Umdloti traveling in and out of the area and people traveling on the M4.
  - The buildings, including iconic structures will be marginally visible from certain areas in Umdloti such as the turning circle and the southern beach.
  - Some structures comprising the Precinct would be visible on the skyline from Umhlanga.

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- Based on the current development plan and a brief assessment, shadows will not reach any residential houses in Umdloti or the forest buffer strip between Umdloti and the proposed precinct.
  - The visual exposure is further than 3km, however, the visibility from residential areas is reduced by the undulating topography of the area as well as natural features such as the forests and dunes.
  - Visual absorption will be provided by the development as it will be following the natural topography and become less dense to the lower areas i.e. become absorbed by the surrounding vegetation. Hilltop development ensures flowing green corridors, which enhance the natural features of the development.
  - Most residents or "receptors" will be screened from the visual impact of the proposed Precinct or will only experience transient visual impacts.
  - Although not analysed specifically, the cumulative visual impact of the Precinct is likely to contribute further to the new character of the Umhlanga-Ballito area.
  - The visual impact at the site is regarded as being acceptable within the context of other development such as the King Shaka International Airport and Dube Trade Port in the area.
- c) Based on the findings of the VIA, the Department acknowledges that there would be negative impacts associated with the development in terms of densely developed hilltops and intrusion into the skyline. However, to ensure the conservation of biodiversity on site, the concept of clustered hilltops cannot be avoided.
- d) Mitigation by means of an architectural code/design, an urban development layout and a landscape strategy (intensive landscaping/screening) as prepared by Geoff Nichols and the Landscape Studio will be implemented to enhance the visual character, quality and sense of place of the area.

## 8.6 Traffic Impact Assessment

- a) A Traffic Impact Assessment (TIA) specifically for Nodes 1 and 5 was undertaken by David McFarlane and Associates, dated May 2008 (Revision3). The TIA confirmed that the proposed land uses for the Sibaya Precinct have taken cognisance of both the environmentally sensitive areas within the precinct and have balanced and positioned the larger traffic generators to minimise the need for high capacity road infrastructure. This has resulted in a reduction in traffic generation for the area as compared to the potential from such a large land area.
- b) The development is in an area that is currently very underdeveloped, but this is expected to change radically in the near future with the new King Shaka International Airport / Dube Trade Port and other potential developments in the region that are likely to follow.
- c) For Nodes 1 and 5 in isolation, the upgrading of the M27 from west of the N2 to the access point into the development off the M27 to the west of the M4 will be required to the same layout as is required for the full Sibaya development.

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## 8.5 Biodiversity/Ecological impacts

An Ecological Assessment for the Sibaya Precinct was undertaken by Strategic Environmental Focus (SEF) Pty Ltd, dated June 2005. The study confirmed that the site consisted of assemblages similar to proper coastal dune forest, coastal scrub and secondary grassland. In addition, wetland associated vegetation is also found on site.

As part of the EIA process all biophysical impacts were fully assessed and all sensitive environments were identified, with an appropriate buffer assigned to ensure adequate protection is afforded to the environment to maintain or enhance its functionality.

- **Impacts on the Mhlanga Estuary**

In a formal statement (undated) regarding the impacts of the proposed Sibaya Node development on the Mhlanga estuary, Mr. Kevin Weerts concluded that *"the successful implementation of the stormwater management plan would successfully mitigate against any impact of surface water runoff from the development impacting on the estuary"*. This matter has been addressed in the Conditions of Authorisation.

- **Wetlands**

The wetlands on site have been delineated and a functional was undertaken by Land Resources Institute, dated May 2008. The assessment confirmed that a total of **fourteen (14)** hydrogeomorphic units were identified within the project area. The proposed development layout further confirmed that all fourteen hydrogeomorphic units will be maintained as potentially functioning entities within the post development landscape. Net gain will be achieved as a result of the implementation of a Wetland Rehabilitation Plan and the ongoing management of the wetlands.

- **Forests**

The applicant has agreed to the imposition of a Conservation Servitude in favour of the eThekweni Municipality (Municipality) over the entire Conservation Trust area. The primary intent of the conservation servitude is to ensure the protection of the environmental qualities of the properties for the sustained supply of environmental goods and services to the city as a whole.

The Mhlanga Forest (and remainder of the Conservation Trust area) will be protected through the registration of a conservation servitude which will allow for the formal protection of the Trust area while still allowing for limited, low impact activities to be undertaken (subject to the necessary approvals). Any future activities in the conservation servitude area would depend on the terms/provisions of the servitude, but in any event would only take place in those portions of the servitude area that are already degraded and would have a low impact.

The ownership of the properties will not be affected. The Havaan Conservation Trust will however be the body responsible for the formal management, conservation and maintenance of the Conservation Trust area including the Servitude Area. This will be done by way of a Conservation Management Plan that will be approved by the eThekweni Municipality and Ezemvelo KZN Wildlife.

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It is noted that the conservation servitude area includes natural coastal forests, estuary and wetlands and that each component will be subject to different requirements and management options. The conservation servitude therefore provides an additional level of protection for the core conservation area and hence the required degree of comfort for the Municipality.

In terms of the forest and estuary components of the conservation servitude area, the primary use and activities that will be permitted will include passive environmental activities such as walking, bird watching, botanising, and picnicking, provided that this does not have a negative impact on the servitude area and its primary purpose of environmental protection.

In terms of the wetland components of the conservation servitude area, the primary use and activities that will be permitted will include passive environmental activities such as walking, cycling, horse riding, bird watching, and botanising, provided that this does not have a negative impact on the servitude area and its primary purpose of environmental protection.

Funding for the Trust will be raised via the Sibaya Management Association levies and contributions by the other Trustees on an agreed Business Plan basis as well as any other future activity that could provide an income stream. THDEV will be responsible for providing the initial capital requirements for the establishment of the Trust and will, once approval has been received for the Sibaya Precinct development as proposed, formalise the establishment of the Trust.

## 8.6 Bulk Infrastructure

It is noted that development proposals such as the Sibaya Precinct rely heavily upon the Local Authority to provide the bulk infrastructural requirements for the ultimate development and hence it is not possible to deal with the ultimate infrastructural requirements. It is therefore necessary to focus upon a phased approach in order to ensure that available infrastructural capacities are not exceeded and in that way sustainably implemented.

- a) From an infrastructural perspective it is noted that there is road, bulk electricity and water infrastructure in place to service at least a vast portion of the development with a new water reservoir required to accommodate the full, ultimate development.
- b) From a wastewater perspective, more than half of Node 1 is situated within the Ohlanga catchment, with the remainder of Node 1 and Node 5 located in the Mdloti catchment. In terms of the portions in the Mdloti catchment, the natural solution would be to service these to the existing Mdloti wastewater treatment works (limited capacity), or to a new treatment works on the Mdloti River. These options are not possible in the short-term and consequently alternative solutions were sought.
- c) There is however a relatively easy solution that can deal with the interim period until a new works on the Mdloti River is commissioned. A new temporary pump station can be constructed in the short term between Nodes 1 and 5 and, should the new works still not have materialized, the pump station could be relocated to just below Node 5 to deal with both nodes.

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- d) In their letter dated 08 May 2008, VelaVKE Engineers confirmed that the Sibaya sewerage pump station has sufficient capacity to accommodate the sewage contributions from the Sibaya Casino in addition to that of Nodes 1 and 5.
- e) It is anticipated that construction and operational activities could potentially result in negative impacts on the receiving environment through uncontrolled runoff from storm or rain events. As a result, a Stormwater Management Plan for both the construction and operational phases of the development has been drafted and will be submitted to the eThekweni Municipality: Coastal and Drainage Division and the Department of Water Affairs and Forestry for their approval. Construction will only commence once the Stormwater Management Plan has been approved by the aforementioned authorities.
- f) The Sibaya Precinct is to be developed on a phased basis in order to ensure both market and infrastructural sustainability. With a development of the size and nature of Sibaya Precinct it is not possible to finalise the exact timing and detail for the entire development specifically as it will be constructed and implemented over more than 10 years. The benefit of assessing the entire development has however enabled a complete and thorough understanding of all the impacts and implications of the ultimate development, specifically from an infrastructural perspective.

### 8.7 Alternatives

Prior to the finalization of the layout presented in Appendix 2, a number of other alternatives were identified by I&APs during the public participation process as well as by the applicant's professional team.

The initial/ original development framework (dated 2004, Figure 11 of the Scoping Report) proposed raised many concerns relating to the layout, the land uses and the need for more connected "green" corridors leading to a less fragmented ecological environment. Following the Scoping Process which was initiated in February 2005, and as a result of the concerns and issues raised, THDEV took a decision to review the initial concept plan through a 'charrette' process and to produce a new vision and development framework which was more appropriate and sympathetic to the site and the concerns raised (December 2005).

As with the original concept and framework, the alternative development concept and framework was also subject to a public participation process. Upon review of, and comment on, the draft EIR by key stakeholders and I&APs, THDEV decided to withdraw the following components from this application:

- beach groyne;
- dune boardwalk;
- niche spa / resort for the Mhlanga Forest;
- aerial gondola;
- funicular;
- canopy boardwalks; and
- river boardwalks

The process followed thus looked at the withdrawal of activities, the addition of a conservation servitude over the forest components and an alternative framework and

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concept plan which considered issues and concerns comprehensively. Section 7 of the Final EIR provides a more detailed analysis of alternatives considered.

### 8.8 Densities and Height

Various I&APs have made reference to the density of the development proposal. Iyer Rothaug Collaborative was tasked at looking at the issues of density and height.

The report indicates that a key driver for the Sibaya Precinct is the clustering of development on certain hilltops to reduce the overall physical footprint to enable a more urban hilltop development, which is played against a more generous open space system. Further, the report concluded the following:

- Clustering of development on hilltops together with limited, appropriately located landmarks, will create a more legible visually stimulating and diverse environment, as opposed to the perpetual sameness of suburbia.
- Higher densities encourage greater efficiencies in terms of infrastructure and provide an important basis to sustain a diverse offering in terms of services, facilities and economic activity.
- Compact and clustered development also reduces the spatial footprint and therefore, if properly managed, reduces the impact on the environment.

From a height perspective, the development proposal is based upon a gradation of heights from the lower slopes to the hilltops with 2 Storey heights on the lower slopes extending to 4-6 Storeys on the hilltops with single iconic/landmark buildings up to a maximum of 15 Storeys in each node. The Iyer Rothaug report provides an indication of the implications of the height proposals as does the visual impact assessment. In essence the impacts associated with visual impacts and that of heights and densities is of low significance with the protection of the biophysical environment in mind.

## 9. Conditions of authorisation Standard Conditions

- 9.1 This authorisation refers only to the activity as specified and described in Section 1. Any substantial changes to, or deviations from, the project description set out in this authorisation must be approved in writing by this Department before such changes or deviations may be effected.
- 9.2 In assessing whether to grant such approval or not, this 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 NEMA EIA Regulations, 2006.
- 9.3 **Tongaat Hulett Developments (Pty) Ltd** is responsible for compliance with the provisions for *Duty of care and remediation of environmental damage* in accordance with section 28 of the National Environmental Management Act, Act 107 of 1998 and its obligations regarding the control of emergency incidents in terms of section 30 of this Act. Accordingly, this Department must immediately be notified of an incident as defined in subsection 30(1)(a) of the National Environmental Management Act (Act 107 of 1998).

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- 9.4 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, contractor, sub-contractor, employee or person rendering a service to the holder of the authorisation.
- 9.5 In all relevant contracts entered into by the applicant, the contractor(s) shall be compelled to comply with the terms of authorisation. In the event of non-compliance by any contractor implicated in this activity, the applicant and/or his successor/s in title will be held liable.
- 9.6 This Department retains the right to inspect the proposed project during both construction and operational phases.
- 9.7 **Tongaat Hulett Developments (Pty) Ltd** must inform all registered interested and affected parties of this Record of Decision within **7 calendar days** of its receipt by letter, facsimile or e-mail and explain their right to appeal utilizing the provisions of the 2006 EIA Regulations.
- 9.8 This Department reserves its right to review any condition contained in this authorisation, and if deemed necessary, delete or amend such condition, or at its discretion, determine new conditions, in such a manner that it is lawful, reasonable and procedurally fair.
- 9.9 Records relating to the compliance/non-compliance with the conditions of authorisation must be kept in good order. Such records shall be made available to this Department within seven (7) calendar days of receipt of a written request by this Department for such records.
- 9.10 Failure to comply with the conditions of this authorisation will be dealt with in terms of the relevant sections of the Environment Conservation Act (No. 73 of 1989) as amended, the National Environmental Management Act (Act No. 107 of 1998) and any other appropriate legal legislation.
- 9.11 This Department must be notified within thirty (30) days thereof, of any change of ownership and/or project manager of the entire property. Conditions imposed in this Record of Decision must be made known to the new owner/s and/or developer/s and are binding on the new owner/s and or developer/s.

### Specific Conditions

- 9.13 The development must comply substantially with that depicted in the Final Development Concept Framework (for Nodes 1 and 5 only), as attached as Appendix 2 and the Services Layout attached as Appendix 3.
- 9.14 The final development numbers in each Node to be as per **Table 1** of this authorisation but with formal allowance being provided for flexibility and adjustments to numbers, subject to approval by the eThekweni Municipality provided no additional impacts on infrastructure and services.

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- 9.15 Further to the above, the Services Plan for Nodes 1 and 5 must comply substantially to that depicted in the Plan as attached as Appendix 3 herewith.
- 9.16 An Environmental Management Plan (EMP) for the construction and operational phases of the development must be drawn up and submitted to this Department and approved **prior** to construction (including site preparation) commencing. This EMP must:
- a) incorporate the conditions of authorisation given in this Record of Decision;
  - b) include the recommendations and mitigation measures provided in the specialist studies;
  - c) be included in all contract documentation for the construction phase of the development;
  - d) specify the persons responsible for ensuring that the individual conditions are carried out as stated in the EMP;
  - e) specify the working hours for the construction phase of the project;
  - f) include the location of construction camp/s and specify how these will be decommissioned and rehabilitated;
  - g) be drawn up by the appointed environmental consultant for the individual nodes to be developed as part of the Precinct. The EMP must be submitted to the Department, the eThekweni Municipality: Environmental Management Department and EKZNW for approval prior to the commencement of construction;
  - h) be implemented by the applicant during the construction and operational phases of the development; and
  - i) be submitted to the eThekweni Municipality: Environmental Management Department for comment. Any comments are to be provided to this Department prior to approval being given by this Department.
- 9.17 In addition to Condition 9.16 above:
- a) Developers of hotels, resorts and/or multiple residential developments must appoint their own Environmental Control Officers (ECO) who together with DAEA and eThekweni Municipality will be responsible for monitoring and auditing construction in accordance with the EMP for the specific Precinct.
  - b) In terms of condition 9.16 (d) above, the node specific EMP must be clear in this regard. Should there be any uncertainties regarding roles and responsibilities, THDEV will be held responsible for any non-compliance to the conditions of authorisation.**
- 9.18 Details of the ECO/s must be communicated to this Department upon appointment of the ECO/s.
- 9.19 The ECO/s must on a weekly basis monitor project compliance with conditions of this Record of Decision, environmental legislation and the EMP. Details regarding the frequency of site visits and responsibilities of the ECO/s must be included in the EMP.
- 9.20 Monthly audit reports for the construction phase of the development must be submitted to this Department. The details for the submission of the audit reports are as follows:

Assistant Manager: Compliance, Monitoring and Enforcement

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- 9.21 In terms of Monitoring, Recording and reporting to the Department, the development must be audited on an annual basis during the operational phase (i.e. post-construction phase) to measure compliance and the effectiveness of mitigation measures in the EMP. The audits must be done by an independent environmental auditor and the audit reports must be submitted to this Department at the address provided above.
- 9.22 THDEV as the applicant are responsible for adherence to the conditions laid out in the Record of Decision (RoD) until such time as the land is transferred to developers and/or private purchasers. The RoD will then become binding on the new landowner whom shall assume direct and full responsibility for adherence to the conditions of the RoD and monitoring thereof according to the RoD and EMP to the extent relevant.
- It is the responsibility of the applicant to ensure that the new landowner is made aware of the conditions of this authorisation prior to the signing of the necessary sale purchase agreements as well as the legal implications of contravening Conditions of this Authorisation applicable to them.
- 9.23 Ecological corridors are to be established, vegetated and maintained according to the approved development concept framework and the landscaping and rehabilitation plans with the involvement of Ezemvelo KZN Wildlife and the eThekweni Municipality: Environmental Management Department.
- 9.24 A Conservation Servitude in favour of the eThekweni Municipality must be registered over the Conservation Trust area, as depicted on the drawing prepared by IYER Urban Design Studio, ref 12/12/ver.03, dated 13 May 2008.
- 9.25 Regarding the management of the Conservation Servitude, the following conditions must be complied with:
- THDEV must establish a Conservation Management Trust for the Sibaya Conservation Trust Area (as per plan ref 12/12/ver.03) within 1 year of the date of the first transfer in the Sibaya Precinct from THDEV to a third party.
  - THDEV must ensure that a Conservation Management Plan (CMP) is prepared for the Conservation Trust Area. This plan must be prepared and approved by the eThekweni Municipality and Ezemvelo KZN Wildlife and must include the financial sustainability of the operation of the Trust and is to be in place prior to the establishment of the Trust.
  - THDEV must provide seed capital to enable the establishment of the Trust with a suitable window period for management of the Trust.
  - The CMP must detail all required activities over a phased period and provide details of associated costs, sources of funding and responsible parties for implementation of the plan. It must also indicate an "upfront payment" amount to be provided by THDEV.
  - At every sale within Sibaya (within Nodes 1-5), provision must be made for an appropriate conservation levy to be paid to the Trust on a monthly basis that will be utilised for the ongoing operation of the Trust. This amount must be determined when the CMP is developed and must be noted in the CMP.

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- f) THDEV must assume responsibility for the management of the Conservation Trust area should the Trust fail.
- 9.26 The relevant departments of the eThekweni Municipality must approve all finalised infrastructural service layouts and plans for sewer, water and electricity.
- 9.27 All proposed road upgrades and new road works must be approved in writing by the relevant transport authority (i.e. the Department of Transport, eThekweni Transport Authority and/or SANRAL) prior to commencement of the proposed works.
- 9.28 The following conditions apply to stormwater management on the site:
- a) Stormwater must be disposed of without causing soil saturation, erosion and sloughing.
  - b) A stormwater management plan (SMP) must be approved by the Department of Water Affairs and Forestry (DWAF) and the eThekweni Municipality prior to the commencement of construction.
  - c) The SMP must be implemented during both the construction and operational phases of the development of the Sibaya Precinct.
  - a) The SMP must be considered as an active document and is to be updated as and when required.
  - b) Where necessary, site-specific specifications must be included with the SMP. These specifications must be approved by the relevant authorities.
  - c) Stormwater management must take cognisance of the wetlands on site and must not lead to a decrease in the functionality thereof.
  - d) Stormwater management must take cognisance of the Ohlanga River and estuary, with post-development run-off into the estuary maintained at pre-development levels.
  - e) Within the jurisdiction of a site specifically and the Sibaya Precinct precincts in general, the proponent and his professional team, including the contractor, shall be responsible for ensuring that the requirements of this Stormwater Management Plan are met.
  - f) The proponent and his professional team shall be responsible for the performance of all stormwater control measures implemented on a site under their jurisdiction and the impact such works may have on downstream property within the Sibaya Precinct nodes.
  - g) Approval of any plan or document, whether verbally or in writing, by the eThekweni Municipality shall not be construed as absolving the owner or the professional team of this responsibility.
- 9.29 As proposed by THDEV, the Sibaya Management Association (a Section 21 Company) must be formed to manage development of the Sibaya Precinct.
- 9.30 The Sibaya Management Association must have an Operational Management Plan (OEMP) which details how potential impacts will be mitigated should they arise.
- 9.31 All development must adhere to the Architectural guidelines for the Sibaya Precinct. All architectural designs must be approved by the Design Review Committee (formed by the Boards of the Sibaya Management Association) prior to the submission of building plans to the eThekweni Municipality for approval and the commencement of construction.

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- 9.32 The landscape and rehabilitation plan must be included with the EMP as a legally binding document with which all developers, their contractors and the Management Associations must comply. Site-specific modifications to the landscape plan must be approved by the eThekweni Municipality and any other relevant authority prior to implementation.
- 9.33 Alien vegetation removal and control must form part of the construction and operational phase EMPs. This program not only relates to the removal of alien species but also to the rehabilitation and ongoing management of the area thereafter.
- 9.34 Rigorous planting of locally appropriate indigenous trees and vegetation along the M4 to screen the development must be undertaken during the development stage of the project.
- 9.35 A security management plan based on the principles noted in the Final EIR must be implemented during both the construction and operational phases of the development.
- 9.36 The Security detail for the forest edge dated 3<sup>rd</sup> September 2008 must be implemented.
- 9.37 All archaeological sites identified within the Sibaya Precinct must be treated according to the recommendations in the archaeological study produced by the Natal Museum (4 June 1997).
- 9.38 Developers/contractors must be sensitive to the occurrence of Heritage Resources in the area. If such a site is located during construction, Amafa must be contacted immediately and construction discontinued until resumption is authorized by Amafa.
- 9.39 Iconic buildings (such as the 15 Storey buildings) are to be limited to single buildings on the hilltops within each node, subject to approval of the eThekweni Municipality via the rezoning and Precinct plan processes.
- 9.40 The following conditions are applicable from a Visual Impact Assessment perspective and must be adhered to:
- As much of the natural vegetation as possible is to be retained and nursesey area/s to be provided for such material.
  - All berms and soil stockpiles must be vegetated immediately to reduce both visual impact and wind and water erosion.
  - A canopy cover must be established along the M4 to reduce the immediate visual impact of the Precinct and to keep the vista consistent with that when traveling next to the Mhlanga Forest and Forest 31.
  - The building colours shall be kept earthy and natural and be consistent with the architectural recommendations.
  - Anti-glare materials shall be used for buildings adjacent to the M27, M4 and N2.
  - Litter and dust management measures must be in place at all times;
  - Fires shall not be allowed on-site and burning of waste on site is prohibited.
  - The entire site is to be kept neat and tidy at all times.

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- i) Except for the required aviation lighting, outdoor lighting is to be focused towards the landscaping to detract the focus from the building structures;
- j) Where unavoidable, outdoor lighting must be as unobtrusive as possible. Reflectors must be used to avoid light spillage and low level lighting shall be used for footpaths and parking areas;
- k) External signage must be kept to a minimum and where possible attached to structures to avoid free-standing signs in the landscape.
- l) It is the responsibility of the proponent to ensure that no shadows reach the residential areas of Umdloti should the building types, layout or heights change.


9.41 The following conditions apply to the management of wetlands on site:

- a) The wetlands within the development site must be rehabilitated to restore the integrity of the hydrological and vegetative components of the systems by means of deactivation of the drainage network and the removal of sugar cane and alien invasive vegetation. Further, the recommendations provided by the wetland specialist and that of the landscape plan must be implemented in order to improve wetland functionality.
- b) There must be no development within the drainage lines, wetland areas or within the minimum delineated buffer zones other than the placement of bulk infrastructure or associated infrastructure where no alternatives exist, and such structures for the enhancement of passive recreational use of these areas as may be provided in the Conservation Management Plan.
- c) All wetlands within the site must be rehabilitated according to the wetland specialist and landscape plan in order to improve their functioning.
- d) The wetlands and their associated buffers as well as the open space/conservation servitude areas must be clearly marked and cordoned off by the land surveyor with assistance from the relevant specialist prior to the commencement of construction. These are to be no-go areas for the entire construction team, except for the installation of services or amenities referred to in (b) above where necessary and for rehabilitation purposes.
- e) Wetland and buffer zone management must be detailed in both the construction EMP as well as the Operational EMP.
- f) The stormwater structures within wetlands must be designed as 'dry ponds' in order to reduce the loss of wetland habitat upstream associated with flooding.
- g) The wetlands shall be protected through the adoption of a 20m buffer zone across the majority of the site as indicated by the wetland specialist.

9.42 The following conditions are applicable for road crossings of wetlands, drainage lines, streams or rivers:

- a) These crossings must be as narrow as feasibly possible to reduce the area of vegetation requiring removal.
- b) Pipe crossings for reticulation purposes (typically water and sewer) and other services such as communication and electrical must be ducted and designed within or attached to a required structure;
- c) All crossings are to be designed in order to ensure that they account for diffuse flow in areas associated with the flow characteristics of the rehabilitated tributaries;
- d) The crossing must be designed and assessed in consultation with an appropriate environmental expert to ensure that the functioning of the effected system is improved.

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- e) The relevant permit for the crossings must be obtained from the Department of Water Affairs and Forestry prior to the commencement of construction for such crossings.
- 9.43 Where development abuts a forest (Hawaan, Mhlanga, Forest 31), buffer zones of 40m must be established from the edge of the forest, which is defined as the drip-line of the trees. These buffer zones are to be maintained and the first 20m of these buffers are strictly areas of no development. The development of passive recreational activities such as cycling, anti-walking tracks and the placement of bulk infrastructure where no other alternative exists will be permissible in the second 20m section. In addition, this second 20m section is also to be used for the necessary security measures/installation.
- 9.44 The existing dirt road that runs along the Ohlanga River, must be maintained as a grassed road and not used by the general public. Further, the existing prism of the dirt road may not increase.
- 9.45 The road (within Unit D) proposed on the eastern side of the system must be aligned such that cut/fill operations do not encroach further than the existing road footprint with the lower reaches of this road being retained for management and recreational purposes and maintained as a grass track.
- 9.46 The road (within Unit G) on the south-eastern side of the system must be maintained for management and recreational purposes and maintained as a grass track rather than bare soil/quarry material.
- 9.47 The road (within Unit K) proposed on the eastern side of the system must be aligned to ensure that cut/fill operations do not encroach further than the existing road footprint.
- 9.48 The road (within Unit M) proposed on the eastern side of the system must be aligned to ensure that cut/fill operations do not encroach further than the existing road.
- 9.49 The Recommendations from the Hydrological Plan for stormwater planning must be adhered to.
- 9.50 The following conditions apply to noise, dust and blasting.
- Vehicles transporting sand or finer grained materials are to have covered loads to prevent dangers/nuisance to other road users (dust, falling sand/rocks).
  - Speed limits must be implemented in all areas of the site and adhered to.
  - Dust must be suppressed during dry periods by the regular application of water or a biodegradable soil stabilisation agent. Water (of suitable quality) used for this purpose must be used in quantities that will not result in runoff and erosion, or muddied areas.
  - Vehicle and plant tyres are to be washed prior to leaving the site, and prohibited from transporting excess mud onto roads.
  - Routes for temporary access and haul roads are to be located within the approved demarcated areas and vehicle movement is to be confined to these roads, unless otherwise approved by the project team.
  - Soil shall be exposed for the minimum time possible once cleared, such that

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the timing of clearance is coordinated with the onset of construction. This will prevent wind and water erosion.

- g) Construction activities in the vicinity of schools and other sensitive areas are to be scheduled during school holidays when road usage is reduced.
- h) All stockpiles are to be covered if the stockpile is to be exposed for an extended period of time.
- i) Blast events are to be controlled as required by the relevant legislation, and undertaken by a professional team. Blast mats are to be used to reduce fly-rock and subsequent dust in sections of the pipeline route that are in close proximity to other land uses.

#### 9.51 Nodes 1 & 5

- a) The development of Node 1 is hereby allowed to proceed based on the layout plan attached herewith, subject to the necessary planning approvals from the eThekweni Municipality.
- b) The development of Node 5 hereby allowed to proceed based on the layout plan attached herewith, subject to the necessary planning approvals from the eThekweni Municipality.
- c) Any material changes to the detailed layout plans of Nodes 1 & 5 must be submitted to DAEA, the eThekweni Municipality, Ezemvelo KZN Wildlife and DWAF for their approval, prior to implementation of the amendments.
- d) Nodes 1 and 5 shall, in the short term, be seweraged to the Ohlanga catchment and specifically to the Phoenix Treatment Works as recommended in the Sewer report. When a new wastewater treatment works is provided in the Umdloti catchment, these nodes will be seweraged to this new works. The mitigation measures included in the EIR shall be adhered to.
- e) The occupation of development phases within Nodes 1 and 5 will be subject to the approval of the respective eThekweni Municipality servicing departments depending upon available service and infrastructural capacities for each phase.
- f) The stormwater attenuation details shall be as per Appendix 25 of the EIR.

#### 9.52 The following conditions apply to the establishment of a shuttle service between the Sibaya Precinct (specifically Node 5) and Umdloti beach:

- a) A shuttle service between the Sibaya Precinct (specifically Node 5) and Umdloti beach must be established in order to reduce the impacts on the roads and limited facilities and infrastructure within Umdloti.
- b) The number and frequency of trips of this shuttle service will depend on the demand as the Sibaya Precinct develops.
- c) The drop off, collection points and operation of the service must be established in consultation with the Umdloti Ratepayers Association and the eThekweni Municipality.
- d) Should an alternate means of moving people between the Sibaya Precinct and Umdloti beach, the shuttle service may fall away, provided the alternate means is agreed upon by both the Umdloti Ratepayers Association and the eThekweni Municipality.

#### 9.53 In addition to condition 9.53 above, the establishment of pedestrian routes and possible pedestrian crossings from the Sibaya Precinct (specifically Nodes 5) to Umdloti beach and surrounding areas must be approved by the eThekweni Municipality prior to its implementation.

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- 9.54 The Developer must commit to a programme, which provides for the required connecting sewer to be completed by July 2011 (i.e. the EIA must be undertaken and approval sought for this installation).
- 9.55 The development of Nodes 2, 3 & 4 are subject to detailed Environmental Impact Assessment.
- 9.56 Any future significant environmental issues that arise during the lifetime of the proposed project must be incorporated in an updated Environmental Management Plan that is to be forwarded to this Department for approval.
- 9.57 Measures must be implemented such that erosion is minimised during and after construction. Suitable erosion control measures must be implemented in sensitive areas such as near water supply points and edges of slopes. These measures may include:
- The suitable use of sand bags or Hessian sheets.
  - The prompt rehabilitation of exposed soil areas with indigenous vegetation to ensure that soil is protected from the elements.
  - The removal of vegetation, only as it becomes necessary for work to proceed.
  - Prevent the unnecessary removal of vegetation especially on steep areas.
- 9.58 The infrastructural service layouts and plans for sewer, water and electricity are to be approved by the eThekweni Municipality prior to the commencement of construction.
- 9.59 All construction related work, including the storage of construction materials must take place within the construction camp/s which will be clearly demarcated. No storage of material will be permitted outside these areas unless agreed upon by the Environmental Control Officer, Engineer and this department.
- 9.60 Construction workers must be briefed on the sensitivity of the natural environment where this is applicable.
- 9.61 Should the temporary aboveground storage of fuel be required during any phase of the development, the following will apply:
- Relevant environmental legislation must be adhered to.
  - The aboveground storage tank must comply with relevant SANS Codes of Practice and local authority bylaws.
  - The aboveground storage tank must be fitted with an overfill protection device.
  - The tank must be located on an impervious surface and must be enclosed by a completely sealed bund wall, which must be able to contain 110% of the maximum volumes stored in the tank.
  - The tank and products lines must be pressure tested prior to commissioning.
  - The condition of the bund wall, tank and associated piping must be inspected on a regularly basis and be maintained accordingly.
  - A procedure for decommissioning of the tanks must be included in the EMP.
  - Spillages occurring at the dispensing area must be contained and cleaned up. Any water containing waste generated as a result of the spillage and associated clean up must be disposed of correctly and safely. Care must be

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taken not to allow any discharge into the storm-water system, sewer system or the environment.

- i) A spill contingency plan must be drawn-up and adhered to.
- 9.62 All significant spills must be reported to DWAF as well as the Environmental Section of the eThekweni Municipality.
- 9.63 All the necessary precautions shall be taken to prevent contamination of soil and water by fuel, oil and cement products during the construction phase.
- 9.64 A spill contingency plan is to be drawn up, in consultation with the Department of Water Affairs and Forestry (DWAF), and implemented. This plan must be completed before commencement of construction.
- 9.65 At the first sign of a leak, appropriate steps must be taken by the applicant to stop the leak and remediate any contamination. In the event of a spill exceeding 10 litres, this Department must be contacted immediately.
- 9.66 Any complaint from the public and interested and affected parties regarding this project must be attended by the holder of this authorisation as soon as possible to the satisfaction of the parties concerned.
- 9.67 All rubble and waste must be removed from the site and disposed of at a waste disposal site licensed in terms of section 20 of the Environment Conservation Act, (ECA) No. 73 of 1989. The contractor responsible for the removal of the rubble must supply the applicant with a certificate indicating safe disposal site. Within 14 days of its issue, a copy of the safe disposal certificates must be forwarded to:

The Assistant Manager: Compliance, Monitoring and Enforcement Component  
Private Bag X006  
Bishopsgate  
4008

#### 10. Validity Period

- 10.1 The duration of authorisation to commence with this project is **48 (forty-eight) months** from the date of issue of this Record of Decision.
- 10.2 If this project has not commenced within this period this authorisation is deemed to have lapsed and is no longer valid unless a written application for amendment is received at least 60 days prior to the expiry of this authorization.
- 10.3 Conditions pertaining to the operation of the development remain valid for the lifetime of the development.

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GA  
26/03/09

**11. Appeal**

In accordance with the provisions of subregulation 62(1) of the EIA Regulations, 2006, a notice of intention to appeal must be lodged with **Mr. M.E Mthimkhulu, the MEC for the KwaZulu-Natal Department of Agriculture and Environmental Affairs**, on the form attached within **10 calendar days** of receipt of this decision by means of the following methods:

**POSTAL:**  
Private Bag X9059  
PIETERMARITZBURG  
3200

**PHYSICAL:**  
No. 1 Cedara  
Executive Building  
Cedara College  
PIETERMARITZBURG  
3201

**SATELLITE OFFICE**

**POSTAL:**  
PO Box 2132  
DURBAN  
4001

**PHYSICAL:**  
8<sup>th</sup> Floor, Truro House  
17 Margaret Mncadi Blvd (Victoria  
Embankment)

**TEL:** 033 343 8240  
**FAX:** 033 343 8255

Before lodging the notice of intention to appeal, a copy of the notice of intention to appeal must be served by the appellant on all registered interested and affected parties, as well as a notice indicating where, and for what period the appeal submission will be available for inspection.


**12. Authorizing Officer  
Comments:**

.....  
.....

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

26/03/2009  
**Date**

Date stamp

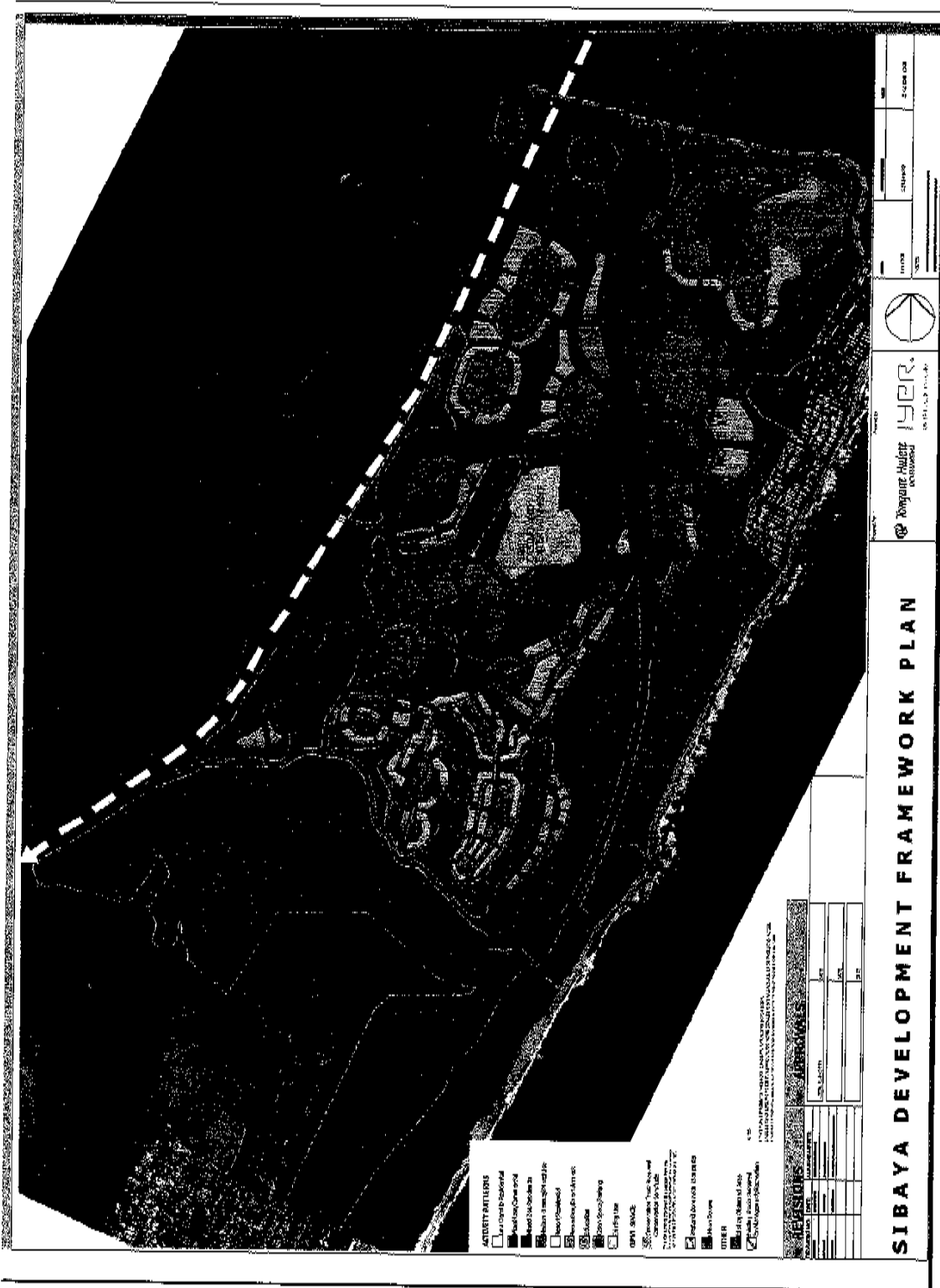
  
26/03/09

### Appendix 1: Locality Map



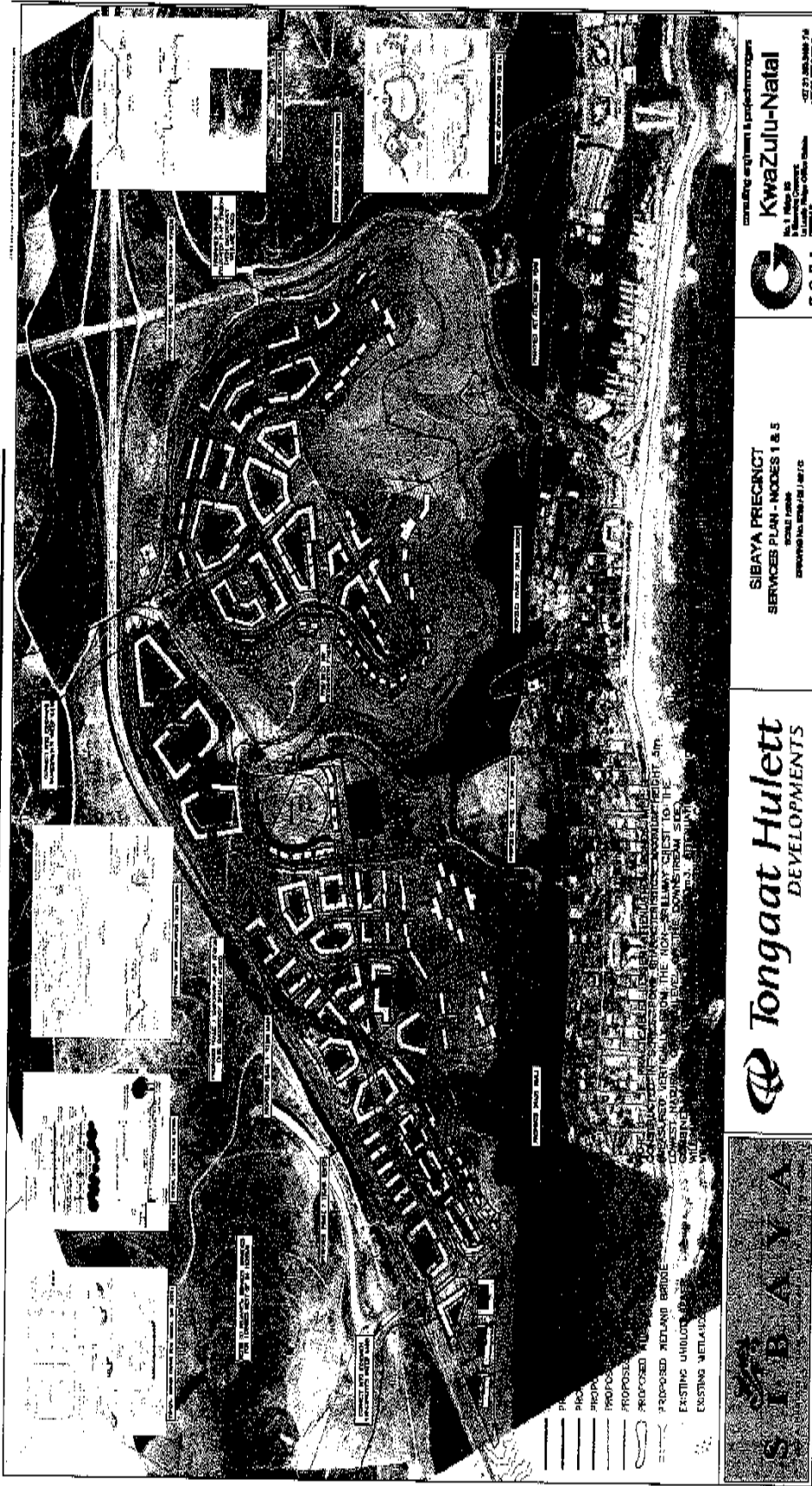
*PA*  
26/03/09

**Appendix 2: Sibaya Development Framework Plan (Applicable for Nodes 1 and 5 only)**



Handwritten signature and date: *SA*  
26/03/09

**Appendix 3: Services Plan for Nodes 1 and 5**



*SA*  
26/03/07

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**KZN Agriculture and Environmental Affairs**  
*Mnyango: eZolimo neZemvelo*  
**SIFUNDAZWE SAKWAZULU-NATALI**

**Notice of intention to appeal to the  
 KwaZulu-Natal MEC for Agriculture and  
 Environmental Affairs**

**Notice in accordance with the requirements of the Environmental  
 Impact Assessment Regulations, 2006**

**Kindly note that:**

1. It is the responsibility of the appellant to ascertain whether subsequent versions of the form have been published or produced by the competent authority.
2. This notice must be hand delivered or posted to the office of the KwaZulu-Natal MEC for Agriculture and Environmental Affairs **within 10 days** after the notification of a decision. No faxed or e-mailed notices will be accepted.
3. If the appellant is the applicant, the appellant must, in accordance with the requirements of sub-regulation 62(2) of the Environmental Impact Assessment (EIA) Regulations 2006 serve this notice on each person and organ of state which was a registered interested and affected party. If the appellant is not the applicant, the appellant must, in accordance with the requirements of sub-regulation 62(3) of the EIA Regulations 2006 serve a copy of this notice on the applicant.
4. The appellant must submit an appeal to the office of the KwaZulu-Natal MEC for Agriculture and Environmental Affairs on the prescribed form (obtainable from the Department) **within 30 days** of the lodging of this notice.

**DETAILS OF THE KWAZULU-NATAL MEC FOR AGRICULTURE AND ENVIRONMENTAL AFFAIRS:**

This notice must be posted or delivered to:

The KwaZulu-Natal MEC for Agriculture and Environmental Affairs

8<sup>th</sup> Floor, Truro House  
 17 Victoria Embankment  
 Durban  
 PO Box 2132  
 DURBAN, 4000

OR

No 1 Cedara  
 Executive Building  
 HILTON  
 Private Bag X9059  
 Pietermaritzburg, 3200

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**1. DETAILS OF PROJECT**

<b>EIA Reference No:</b>	
<b>Project description:</b>	

**2. AVAILABILITY OF APPEAL SUBMISSION FOR INSPECTION**

<b>Where the appeal submission will be available for inspection:</b>	
<b>Period that the appeal submission will be available for inspection:</b>	<b>From:</b>
	<b>To:</b>

**3. BRIEF DETAILS OF THE GROUND/S OF APPEAL**

1.	
2.	
3.	
4.	

**4. DISCLOSURE OF APPELLANT'S INTEREST IN THE PROPOSED PROJECT**

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(For official use only)

<b>EIA Reference Number:</b>	
<b>Date Received:</b>	



### 5. DETAILS OF PARTIES ON WHOM THIS NOTICE HAS BEEN SERVED

Name	Contact details

### 6. DETAILS OF APPELLANT

Is the appellant the applicant for this project?	YES	NO
--------------------------------------------------	-----	----

Full names of Appellant

Address

Telephone number

Fax number

Cellphone number

E-mail details

Signature of appellant

Date

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**KZN Agriculture and Environmental Affairs**  
*Mnyango: eZolimo neZemvelo*  
**SIFUNDAZWE SAKWAZULU-NATALI**

**Appeal to the  
 KwaZulu-Natal MEC for Agriculture and  
 Environmental Affairs**

**Appeal in terms of the provisions of section 43 of the National  
 Environmental Management Act, Act 107 of 1998, (as amended)  
 and the Environmental Impact Assessment Regulations, 2006**

**Kindly note that:**

1. This form complies with the requirements of sub-regulation 63(2)(a) of the Environmental Impact Assessment Regulations, 2006.
2. It is the responsibility of the appellant to ascertain whether subsequent versions of the form have been published or produced by the competent authority.
3. Appeals must be hand delivered or posted to the office of the KwaZulu-Natal MEC for Agriculture and Environmental Affairs **within 30 days** of the lodging of a Notice of intention to Appeal. No faxed or e-mailed appeals will be accepted.
4. Responding statements may be submitted to the office of the KwaZulu-Natal MEC for Agriculture and Environmental Affairs **within 30 days** of the lodging of this appeal.

**DETAILS OF THE KWAZULU-NATAL MEC FOR AGRICULTURE AND ENVIRONMENTAL AFFAIRS:**

This appeal must be posted or delivered to:

The KwaZulu-Natal MEC for Agriculture and Environmental Affairs 8 <sup>TH</sup> Floor, Truro House 17 Victoria Embankment Durban PO Box 2132 DURBAN, 4000	OR	No 1 Cedara Executive Building HILTON Private Bag X9059 PIETERMARITZBURG, 3200
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(For official use only)

**EIA Reference Number:**

**Date Received:**

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