

Meeting Minutes

Project number	1001556	Meeting date	2022-08-24
		Meeting Time	09h30 – 11h00
Project name	Cato Ridge Land Release EIA	Drafted by	J Wiese
Meeting/Subject	EDTEA Pre-Application Meeting #3	Total pages	8

AGENDA

Item	Topic
1	Welcome and attendance
2	Apologies
3	Comments on Draft Scoping Report
4	Applicability of “Urban Area”
5	Applicability of Critical Biodiversity Area and Conservation Zone Listed Activities
6	Locality/Site Alternatives
7	Layout Alternatives
8	Provision of Bulk Services Infrastructure
9	Biodiversity Offsets
10	General

Attendees

Name	Organisation	Telephone	Email
Nombulelo Zungu	EDTEA eThekwini District: EIA Component		Nombulelo.Zungu@kznedtea.gov.za
Asia Khan (AK)	EDTEA eThekwini District: EIA Component		Asia.Khan@kznedtea.gov.za
Nasreen Asmal (NA)	EDTEA eThekwini District: EIA Component		Nasreen.Asmal@kznedtea.gov.za
Ian Felton (IF)	EDTEA: Head Office: Integrated Environmental Management (IEM) Tools		Ian.Felton@kznedtea.gov.za
Werner Botha (WB)	Cato Ridge Development Company (CRDC)/ Assmang	082 411 1656	wernerb@feralloys.co.za
Carlos Magalhaes (CM)	Cato Ridge Development Company (CRDC)/ Assmang	063 524 3284	carlosmagalhaes@assore.com
Mel Pillay (MP)	Zutari	073 0334306	mel.pillay@zutari.com
Jeanne-Louise Wiese (JLW)	Zutari	073 163 6409	jeanne-louise.wiese@zutari.com
Natalie Way-Jones (NWJ)	Zutari	083 254 6602	natalie.way-jones@zutari.com

Apologies

Natasha Brijlal and Kacy Rengasamy from EDTEA eThekwini District: EIA Component and Patrick Killick from Zutari.

Meeting Minutes

Item	Topic Discussion	Action	Responsibility
1.	Welcome and Attendance Jeanne-Louise Wiese (JW) from Zutari welcomed all attendees. Nasreen Asmal (NA) indicated that she is standing in for Natasha Brijlal (NB) who is off sick.		
2.	Apologies Apologies were recorded from Natasha Brijlal and Kacy Rengasamy from EDTEA and Patrick Killick (PK) from Zutari.		
3.	Comments on Draft Scoping Report JL requested Ian Felton (IF) to provide feedback on the Draft Scoping Report from his side. IF indicated that he has not had time to work in detail through all the specialist studies but that he would focus on critical issues. He indicated he had several comments.	activities	
4.	Applicability of "Urban Area" The first issue is the reference to an " <i>urban area</i> " and there is confusion in terms of the urban area which influences the listed activities. IF stated that the Urban Development Line (UDL) from the Municipality does not align with the definition of "urban" from the legislation. No urban edge has been adopted by EDTEA, so the definition applies to <i>built-up</i> areas. IF stated that most of the property is outside of what is considered built-up. He stated that the applicability of listed activities in urban areas should be clarified.	To clarify the applicability of the "urban" listed activities. To correct the reference to the UDL in the Draft Scoping Report (DSR).	Zutari
5.	Applicability of Critical Biodiversity Area and Conservation Zone Listed Activities IF stated that no Critical Biodiversity Areas (CBA) in terms of Activities 4 and 12 of Listing Notice 3 have been adopted by EDTEA within KwaZulu-Natal. Areas zoned for conservation within the land use scheme may trigger these activities, but the eThekweni Municipal Spatial Development Framework (SDF) has also not been adopted by EDTEA. Thus, Zutari should clarify the applicability of the CBA and conservation zone listed activities during the drafting of the application form. MP acknowledged that all listed activities will be interrogated and finalised before the application goes to EDTEA.	To clarify the applicability of the CBA and conservation zone listed activities during the drafting of the application form.	Zutari
6.	Locality/Site Alternatives IF further added that before assessing potential offsets, sufficient socio-economic justification for the impact on that threatened ecosystem should be established i.e. the need and desirability, socio-economic gain and whether there are viable alternatives that meet the same objective. Further detail is required in the DSR on the desirability as EDTEA understands the need to develop the area, in particular, the desirability based on the location and looking at other alternatives that meet the same objective. The report lacks detail on potential alternative locations beyond the topographic and access to the railway siding. IF stated that there needs to be a detailed assessment of alternative locations, including Camperdown. The assessment should include suitability for this type of development, to assess whether there is a viable alternative before offsetting the impact on this site. EDTEA acknowledges that an extensive assessment of alternative locations may have been undertaken, but that needs to be very clear in the report to justify the need for offsets.	Update the DSR to include a desktop assessment of alternative sites/locations (including neighbouring municipalities) and the socio-economic justification of the preferred site/location.	Zutari

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	MP expressed concern about the need to assess further location alternatives, as the project is focused on the 2000ha of land owned by Assmang. He stated that the proposed development is aligned with the Municipal and Provincial policy and planning documents. MP expressed concern regarding the time and cost for further studies to interrogate locality alternatives given that the investigations had started in 2018 and had taken 4 years to complete. Carlos Magalhaes (CM) thanked IF and MP for providing their input. CM indicated that Assmang and CRDC have embarked on this project strictly in line with the approved Cato Ridge Local Area Plan (LAP), not thinking there would be such severe consequences. CM stated that he had not anticipated that EDTEA would require an assessment of further alternatives outside of the Cato Ridge LAP. IF noted that site alternatives could be assessed on a desktop basis including neighbouring municipalities. IF stated that the site alternatives section in the DSR needs to be expanded with a few paragraphs including recent studies / planning documents for other areas and reasons for selecting Cato Ridge as the preferred area, such as the availability of road and rail infrastructure.		
7.	Layout Alternatives IF further added that, in the full EIA process, EDTEA require a comparative assessment of layout alternatives i.e., the pros and cons of the various aspects linked to these alternatives. EDTEA may approve all alternatives, some of them or even portions of them. The current scoping process has identified various limitations and proposed a preferred alternative but lacks an assessment of layout alternatives. The vegetation specialist has made suggestions to avoid certain areas and it is not clear if there is a layout alternative that takes this into account to inform decision-making. A meeting may be required with EDTEA and the vegetation specialist to investigate alternatives taking into account the sensitivities for EDTEA to evaluate and consider the viability in comparison to the socio-economic impacts. In the Final EIA Report, EDTEA requires a comparative assessment of all alternatives showing the costs, benefits, and environmental impacts. MP stated that Zutari would assess the socio-economic considerations for needs and desirability and consider the recommendations from the specialists.	In the Draft Environmental Impact Assessment Report (DEIAR), to provide a comparative assessment of layout alternatives. Facilitate a meeting with EcoPulse, David Styles and EDTEA to discuss alternative layouts.	Zutari Zutari/ EcoPulse
8.	Provision of Bulk Services Infrastructure IF stated that EDTEA needs a detailed assessment of services infrastructure upgrades required to support the development, before development, and how the release of parcels of land could be phased in line with the infrastructure upgrades. EDTEA require information on the constraints for infrastructure provision. It is recognised that there may be a need for the development without the required commitment from the municipality on service provision. Municipal service level agreements should align with the proposed land release. MP stated that, in connection with the bulk engineering studies, the applicant will be looking at phasing the development based on the bulk services requirements. The project team are also engaging with eThekweni and Eskom on services, as well as undertaking a traffic assessment to determine the current status quo and how long these capacities can service the development and the upgrades that would be required to unlock the full development. MP stated that the eThekweni Municipality could not assist with the bulk services and a more detailed engineering study by Kantey and Templar had been commissioned. The study is being finalised including the	To provide further details in the DSR on services infrastructure upgrades required to support the development, proposed phasing of land release, and Municipal service level agreements. Include bulk engineering study findings into the DSR.	Zutari/ Assmang / CRDC Zutari

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	assessment of appropriate service level agreements. This would be reflected in the EIA.		
9.	Biodiversity Offsets IF stated that, in terms of the biodiversity offsets, the Plan of Study for Environmental Impact Assessment (EIA) should include the metrics for each alternative, such as the impacts on vegetation or wetlands and the offset obligations. This would allow for comparison of the alternatives and assessment of viability. Offset obligations could be sourced externally or from a landbank. Further discussion with Doug MacFarlane or David Styles may be required in terms of the biodiversity offset requirement. EDTEA would require surety or understanding of the viability and achievability of the offset to support decision-making. This may be in the form of an agreement indicating that the land is available, that there is a low risk of not achieving it, and that there is an agreed offset date. EDTEA requires socio-economic justification for the offset and evidence to support the viability of the offset to support decision-making. MP stated an affordability analysis was being undertaken linking to a development scenario including the offset requirements. MP stated that demonstrating the viability of landowner agreements is a lengthy process which may not be achieved as part of the EIA process. MP requested further discussion on alternatives to landowner agreements to support the viability of biodiversity offsets. CM supported further discussion with EDTEA around the alternatives to landowner agreements for offsets as Assmang has undertaken thorough investigations into biodiversity offsets which are associated with high costs and lengthy delays. CM added that Assmang is aware that there is insufficient KZN Sandstone Sourveld (KZNSS) for suitable offsets. He added that there are multiple farmers to negotiate with, and the time and cost to secure contracts/agreements are too great to incorporate into the EIA process. CM queried whether there was an alternative to a conservation fund or landbank. He added that Assmang has investigated the option of a landbank which costs hundreds of millions of rands before the land acquisition and conservation management costs. CM stated that the team would need to try and find a way around this and Assmang strongly supports a phased approach allowing Assmang to contribute more towards further offset proposals as the development becomes profitable. IF added that he has been involved with several large developments across KZN where the issue of biodiversity offset viability was addressed. He stated that the viability of biodiversity offsets hinges on the risk associated with the offset. If there is a very high risk of not achieving the offset, then EDTEA could not authorise the proposed development. He stated that EDTEA is aware of the delays in obtaining landowner consent, one example being the construction of a dam which started in 2017 and where biodiversity agreements are still in progress. He explained that EDTEA, as the decision-makers, would need to understand the risk of achieving the offset. In the absence of a landowner consent or landbank, there would be various levels of confidence to achieve potentially viable land for offset areas. IF stated that there have been some previous discussions around the risks of communal land versus privately owned land and that the risk is higher where there is more than one landowner. IF stated that the team could be guided by the approach for the Smithfield dam on the Umkomaas river where the offset requirements were met by a combination of communal land, properties owned by resettlement plans, and private land. A risk matrix was developed based on land ownership. This approach could be used for Cato Ridge to show the level of confidence to achieve a specific offset. EDTEA would weigh up the risks against the economic benefit. IF stated that the biodiversity offset process must align with the draft National Biodiversity Offset Guideline in terms of Section 24J of the National Environmental Management Act (NEMA) out for public comment which is to be adopted soon. The guideline points	Plan of Study for EIA to include comparative assessment of alternatives, including impact on vegetation and wetlands and biodiversity offset requirements. Facilitate a meeting with EcoPulse, David Styles and EDTEA to discuss biodiversity offset requirements and alternatives to conservation funds or landbanks. To confirm the viability and achievability of biodiversity offsets to support decision-making. Apply the Smithfield Dam risk matrix to compare biodiversity offsets. The biodiversity offset process to align with the	Zutari Zutari/ EcoPulse Zutari/ EcoPulse/ Assmang/ CRDC Zutari/ EcoPulse Zutari/ EcoPulse

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	towards having a biodiversity management offset plan that gives the steps required to achieve the offset. The guideline does not require the establishment of a landbank or landowner consent but provides the method to achieve those. EDTEA would need to look at the risk of achieving the outcomes of the biodiversity management offset plan versus not achieving the objective. CM thanked IF for the information provided. CM indicated that one of the studies on the availability and affordability of land for conservation showed that land outside of the eThekweni Municipality is considerably cheaper by almost a factor of 5 or 10. CM questioned whether land outside of the Municipality could be considered for offsets. IF indicated that the eThekweni Environmental Planning and Climate Protection Department (EPCPD) had previously indicated that the biodiversity offset study should only assess sites within the Municipality. He stated that he did not agree with this approach as EDTEA considers provincial conservation targets. IF added that, although areas inside the Municipality could be prioritised, assessment of sites outside the Municipality could be included in the risk assessment. EDTEA would assess the most efficient and effective way of achieving the objective. If the costs are lower outside the Municipality, then that should be highlighted and considered. For instance, outside the Municipality, one could achieve larger conservation areas at lower costs, which would lower the risk and improve the feasibility and viability. CM thanked IF for his response. CM queried whether communal land was considered in the Smithfield dam biodiversity offset process. IF confirmed that communal-owned land was considered. CM indicated that some investigations have been made into communal land within the Cato Ridge area and there are areas of KZNSS available for offsets. However, he stated that there seems to be a disconnect between the Ingonyama Trust Board (ITB) and the Chiefs. CM queried whether this could be listed as a risk or whether EDTEA would recommend avoiding tribal land. IF indicated that communal land could be considered although the negotiation process could be longer as there are several role players and complex politics which may also increase the risk. Biodiversity offsets on communal land could be proposed to generate an economic return for the communities that may never directly benefit from the Cato Ridge development. EDTEA recognises that the risks of achieving biodiversity offsets on tribal land are higher than on private land. IF stated that there may be delays in obtaining buy-in from all trustees where a Trust owns the land, increasing the risk. IF stated that EDTEA aspires towards the development of biodiversity banks in KZN for the banking of credits that could be purchased by developers, avoiding the need for lengthy negotiations. He stated that a framework for biodiversity banks still needs to be put in place. CM added that if a land banking option can be secured, communities would recognise the benefit of biodiversity offsets. IF stated that the concept of land banking is new and needs to be promoted. MP also added that three tribal biodiversity offset areas had been identified and introductions had been held with the chief. He stated that some of the head men are in support of the idea and are trying to work with eThekweni to explore the potential for conservation areas on tribal land. MP stated that there would be delays in obtaining approval from the chief on ITB land. He added that the chief and/or the communities, unfortunately, do not always acknowledge the ITB as an authority and would not support agreements between Assmang and ITB. Therefore, the communities may support biodiversity offsets directly but not through	draft National Biodiversity Offset Guideline. Assess biodiversity offset sites outside the Municipality. To assess the risks of possible biodiversity offset sites on ITB-owned land.	Zutari/ EcoPulse Zutari/ EcoPulse

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	ITB. MP queried whether in principal support from the chief/communities would be acceptable to EDTEA. CM reiterated that IF had indicated that securing agreements is a lengthy process and might not be needed. CM queried whether the risk of securing the land is related to the relationship between ITB and the communities. IF agreed and added that the risks must be identified and assessed. EDTEA would determine whether the development could be authorised given the identified risks, whether the issues could be resolved and whether the offset is considered feasible or viable. CM queried how the credit system could work in the absence of current land banks. He stated that Assmang has explored starting a bank which costs upwards of R150 million which would undermine the viability of the project. IF added that he is currently working on a guideline and approach for KZN. He stated that EDTEA would be the regulator of the bank, controlling and registering credits to be sold on to a developer to meet their objectives. Any private landowner or non-governmental organisation (NGO) could create a bank. For example, Conservation Outcomes could approach communities and do the negotiations, and obtain an agreement to establish a conservation area. Once the land is secured, that conservation area could be brought to EDTEA which would allocate them with a credit on a free market basis. A developer could acquire credits and negotiate payment with the landowner and submit their proposal to meet their offset objective during the EIA process. As such, the developer will not be responsible for ongoing negotiations or management of the land. The developer would pay a lump sum to purchase the credits or a lumpsum with annual payments for an agreed period agreed. He also added that a developer could create a bank and surplus credits could be sold to other developers. CM thanked IF for the explanation and requested a follow-up meeting to clarify the land bank option. IF indicated that a follow-up meeting could take place. IF added that he was intending to set up a workshop with specialists to set up a framework in KZN. He explained that land banking could allow landowners to generate income and streamline the offset process. NA queried whether the land banking option would be feasible considering that the application is in the draft scoping phase of the project. IF indicated that before a framework for biodiversity offsetting can be established for KZN, the national guideline for biodiversity offsets would need to be adopted and gazetted. This is expected to happen before the end of 2022, but in the interim, the biodiversity banking option was being investigated. Landowners could establish land banks for developers. IF stated that EDTEA is aiming to establish a regulatory process to control the use of credits and to track offsets and credits. IF added that these processes may not be in place to support decision-making on this application, but it depends on the timing of the project and the gazetting of the guideline document. NA supported the establishment of the KZN framework to expand opportunities available for developers for offsetting biodiversity loss.	The relationship between ITB and communities is to be considered in the risk matrix. To facilitate a follow-up meeting between Assmang and EDTEA to clarify the land bank option.	Zutari/ EcoPulse Zutari

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10.	General NZ indicated that IF covered everything from the biodiversity side and that her role would be towards the end of the process in terms of legal compliance and what EDTEA would need to make a decision. NZ indicated that she appreciates the presentation given on 17 August and that her comments remain the same as recorded in those minutes. She also added that the offsets and alternatives are important and that the bulk services engineering report would be valuable. She also noted that specialist studies should be compliant with the protocols in terms of minimum information requirements. JW confirmed that the comments do not have to be repeated but emphasized that the records from the previous minutes would have to be confirmed by all attendees to finalise the minutes which will then be kept as the formal record of what was discussed. NA indicated that she has no feedback as no comments were forwarded from NB. JW thanked everyone for their comments and asked if there were any other comments. She also reminded everyone to please send through comments on the previous minutes and that the minutes of this meeting would be distributed for review in due course.	Specialist studies to comply with the protocols. To review and confirm previous minutes.	Zutari EDTEA/ Assmang/ CRDC