



**24G APPLICATION REFERENCE:** 14/2/4/2/2/E4/12/0019/19

**ENQUIRIES:** Ziyaad Allie

The Owner  
Blue Hippo Resort  
P.O. Box 7  
**GREYTON**  
7233

Tel: (028) 008 5053  
Email: [michaelbothma@gmail.com](mailto:michaelbothma@gmail.com)

For Attention: Michael Bothma

Dear Sir

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITIES: UNLAWFUL DEVELOPMENT AND EXPANSION OF A RESORT (BLUE HIPPO RESORT) ON FARM 1026, GREYTON)**

With reference to your application dated 02 October 2019 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

**ENVIRONMENTAL AUTHORISATION**

**A. DECISION**

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the implemented as described in the application and environmental assessment dated 02 October 2019.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

**B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION**

Mike Bothma  
P.O. Box 7  
GREYTON  
7233

Cell: 082 508-5839  
Email: [michaelbothma@gmail.com](mailto:michaelbothma@gmail.com)

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as “the holder”.

**C. LIST OF ACTIVITIES AUTHORISED**

Listed Activities	Activity/Project Description
<p><i>Government Notice No. R. 1182 of 1997 –  Activity Number: 1(m)  Activity Description:  “The construction of public and private resorts and associated infrastructure.”</i></p>	<p>The applicant commenced with the construction/erection of 7 tipi tents and a kitchen/ablution facility in 2005. The tipi tents are to be permanently removed.</p>
<p><i>Government Notice No. R. 1182 of 1997 –  Activity Number: 2(c)  Activity Description:  “The change of land use from agricultural or zoned undetermined use or an equivalent zoning, to any other land use.”</i></p>	<p>The property was previously used as agricultural lands. Thus, the land use has physically changed to resort type land use.</p>

<p>Government Notice No. R546 of 18 June 2010 –</p> <p>Activity Number: 18</p> <p>Activity Description:</p> <p><i>“The expansion of a resort, lodge, hotel and tourism or hospitality facilities where the development footprint will be expanded within 100m from the edge of a watercourse.”</i></p>	<p>The resort activities were expanded by the addition of 4 'hobbit houses' made of clay and natural material that were constructed, within 100m from the edge of the watercourse.</p> <p>A hall and Oak tree cabin were constructed in mid-2006.</p>
<p>As similarly listed in terms of GN No. R. 324 of 2014</p> <p>Activity Number: 17</p> <p>Activity Description:</p> <p><i>“The expansion of a resort or hospitality facilities where the development footprint will be expanded and the expanded facility can accommodate an additional 15 people or more inside CBA's as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans, or within 5 km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve.”</i></p>	<p>An additional 3 wendy houses were constructed by the end of 2018.</p> <p>The applicant commenced with the intention of constructing an additional 3, to the maximum of 5 wendy houses.</p>
<p>As similarly listed in terms of GN No. R. 324 of 2014</p> <p>Activity Number: 19</p> <p>Activity Description:</p> <p><i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling,</i></p>	<p>As above</p> <p>The tipi tents are to be permanently removed.</p>

<p><i>depositing, dredging, excavation, removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i></p> <p><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour;</i></p> <p><i>or</i></p> <p><i>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.”</i></p>	
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The abovementioned list is hereinafter referred to as “the listed activities/development”.

**D. PROPERTY DESCRIPTION AND LOCATION**

The listed activities commenced on Farm 1026, Caledon.

The SG digit code is: C01300000000102600000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 03' 20" South	19° 39' 06" East
2	34° 03' 32" South	19° 40' 17" East
3	34° 04' 36" South	19° 39' 10" East
4	34° 04' 07" South	19° 38' 31" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 04' 26.0" South	19° 38' 44.1" East
2	34° 04' 28.6" South	19° 38' 53.4" East
3	34° 04' 29.7" South	19° 38' 45.6" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Map.

Herein-after referred to as "the site".

#### **E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")**

Mark Berry Environmental Consultants cc

C/o Mr Mark Berry

14 Alvin Crescent

SOMERSET WEST

7130

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#### **F. DETAILS OF THE ACTIVITIES UNDERTAKEN**

The construction/development of a holiday resort. The construction/development entailed the following.

- 7 tipi tents and kitchen/ablution facility ( $\pm 6 \times 10 \text{m}$ ) were erected during 2005. The tents were moved several times and also replaced from time to time. The tipi tents are to be permanently removed.
- Hall ( $\pm 140 \text{m}^2$ ) and Oak tree Cabin ( $\pm 85 \text{m}^2$ ) were constructed in mid-2006.
- 4 clay and natural material 'hobbit houses' ( $\pm 16 \text{m}^2$  each) were constructed at the end of 2014.
- 3 timber Wendy houses ( $\pm 16 \text{m}^2$  each) were constructed at the end of 2018.
- The applicant commenced with the intention of adding an additional 3 to 5 Wendy houses in the future and they will be positioned on the tipi tent footprints furthest away from the river.

## **G. CONDITIONS OF AUTHORISATION**

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

### **PART I**

#### **Scope of authorisation**

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the implemented Alternative described in the application and assessment report dated 02 October 2019 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of five years from the date of the decision (as related to the construction activities of the Wendy houses to be completed).
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

### **PART II**

#### **Written notice to the competent authority**

5. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of activities.
  - 5.1 The notice must make clear reference to the site details and 24G Reference number given above.
  - 5.2 Such notice must include proof of compliance with condition 6, 8 and 9.

### **PART III**

#### **Notification and administration of an appeal**

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 6.1 notify all registered Interested and Affected Parties (“I&APs”) of –
    - 6.1.1 the outcome of the application;
    - 6.1.2 the reasons for the decision as included in Annexure 3;
    - 6.1.3 the date of the decision; and
    - 6.1.4 the date when the decision was issued.
  - 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.
  - 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
  - 6.4 provide the registered I&APs with:
    - 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 6.4.2 name of the responsible person for this Environmental Authorisation;
    - 6.4.3 postal address of the holder;
    - 6.4.4 telephonic and fax details of the holder;
    - 6.4.5 e-mail address, if any, of the holder; and
    - 6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.
7. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

### **PART IV**

#### **Management of the activity/development**

8. The draft Environmental Management Programme (“EMPr”) of June 2019 compiled by Mark Berry Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

9. The EMPr must be included in all contract documentation for all phases of implementation.

## **PART V**

### **Monitoring**

10. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before continuation of commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
11. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and must be made available to anyone on request.
12. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

## **PART VI**

### **Auditing**

13. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

## **PART VII**

### **Activity/ Development Specific Conditions**

14. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.



Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

15. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
16. A site development plan must be submitted to this Department at least two months prior to the continuation of commencement of the wendy house construction activities.
17. As specified in the application, the additional wendy houses are to be located furthest away from the watercourse and as far as possible on the existing footprint of the tipi tents that are furthest away from the watercourse.
18. Invasive alien vegetation species that germinate must be removed and growth of indigenous riparian vegetation along the riverbanks is to be encouraged to ensure bank stabilisation.

## **H. GENERAL MATTERS**

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.

3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

4. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

## I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. This appeal and responding statement must be submitted to the address listed below -

By post:                   Attention: Marius Venter  
Western Cape Ministry of Local Government, Environmental Affairs &  
Development Planning  
Private Bag X9186, Cape Town, 8000; or

By facsimile:           (021) 483 4174; or

By hand:                   Attention: Mr Marius Venter (Tel: 021-483 3721)  
Room 809, 8th floor Utilitas Building  
1 Dorp Street, Cape Town, 8000; or

By e-mail:                [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

## **J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS**

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

## **K. DISCLAIMER**

The Western Cape Government, appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully

**Adv Charmaine Mare** Digitally signed by Adv Charmaine Mare  
Date: 2021.03.24 12:55:38 +02'00'

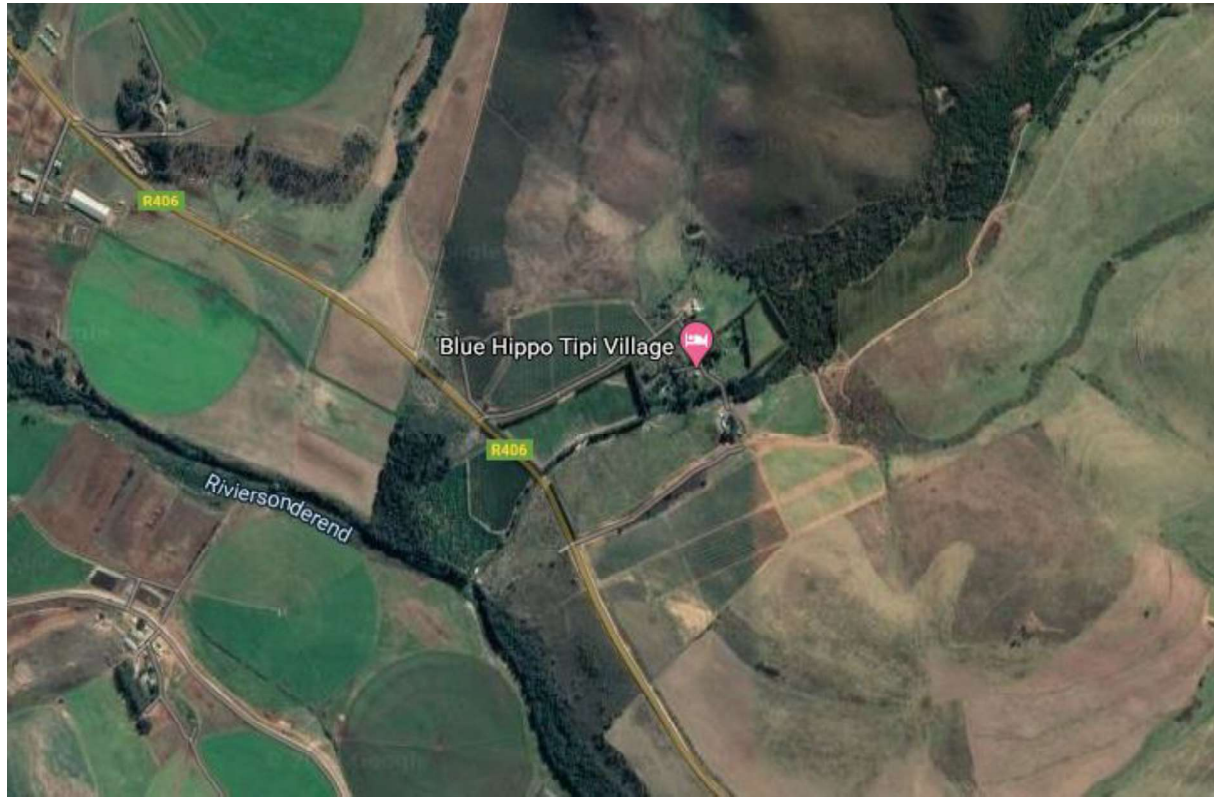
**ADV. CHARMAINE MARÉ**

**DIRECTOR: ENVIRONMENTAL GOVERNANCE**

Copied to: (1) Mark Berry Environmental Consultants cc

Email: [markberry@webafrica.org.za](mailto:markberry@webafrica.org.za)

**ANNEXURE 1: LOCALITY MAP**



The site is located 4 km southeast of Greyton off the R406.

## ANNEXURE 2: AERIAL IMAGE (“SITE MAP”)



### **ANNEXURE 3: REASONS FOR THE DECISION**

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R10 000 (Ten thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 02 October 2019 and the Comments and Responses report received by the competent authority on 02 December 2020, the Environmental Management Programme ("EMPr") of June 2019 submitted together with the application.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on

Date/s: 09 December 2020

Attended by: Officials from the Rectification sub-directorate.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.



## 1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- A site notice was erected;
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 16 October 2020; and
- I&APs were afforded the opportunity to provide comments on the application.

### 1.1 Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- Breede Gouritz Catchment Management Agency ("BGCMA")
- CapeNature ("CN")
- Department of Agriculture ("DoA")
- Theewaterskloof Municipality ("TWKM")

A summary of the substantive comments received follows below.

#### CapeNature

CapeNature stated that the footprint within which the resort was developed consists of Ecological Support Area 2 ("ESA"), and the natural vegetation that would have occurred is Greyton Shale Fynbos. There is a seasonal tributary of the Sonderend River located along the southern boundary of the site. CapeNature agreed that there was no natural vegetation removed for the development. The resort is a low impact development with small footprints and minimal surfaced areas and therefore can be considered compatible with ESA 2 as it does not compromise the ecological support function. CapeNature does not object to the completion of the proposal or recommend any additional remedial action. In conclusion, CapeNature recommend that any alien invasive species that germinate must be removed and growth of indigenous riparian vegetation along the riverbanks should be encouraged to ensure bank stabilisation.

The comments received from BGCMA stated that the development must not have any detrimental impact on water resources, both surface and groundwater resources. Polluted stormwater should be contained and managed in such a way that it does



not pose an additional threat to surface and groundwater resources. Further comments received from DoA and TWKM were generically related to their specific legislative mandates.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

## **2. Alternatives**

### 2.1 Activity Alternatives

#### Alternative 1 (Herewith authorised)

This entails the construction of:

- Ablution facility ( $\pm 6 \times 10$  m) which was constructed during 2005;
- Hall ( $\pm 140\text{m}^2$ ) and Oak tree Cabin ( $\pm 85\text{m}^2$ ) which were constructed in mid-2006;
- 4 (four) clay and natural material 'hobbit houses' ( $\pm 16\text{m}^2$  each) were constructed at the end of 2014.
- 3 (three) timber Wendy houses ( $\pm 16\text{m}^2$  each) which were constructed at the end of 2018.
- The holder intends to add between 3 and 5 Wendy houses in the future. They will be positioned on the tipi tent footprints furthest away from the river.

The resort was established on an existing disturbed area that was transformed due to historical agricultural activities, adjacent to the watercourse. No other alternatives were considered for the resort development.

## **3. Environmental Impact Assessment (EIA) and Mitigation Measures**

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

### 3.1. Activity Need and Desirability

The resort, which was established in 2005, is utilised for functions (e.g. weddings), school camps, yoga retreats and general weekend accommodation. Among other, leadership training is provided to previously disadvantaged schools.

### 3.2. Regional/ Planning Context

The site requires rezoning approval by means of a (spot) rezoning of the resort area from Agriculture to Resort Zone, with a consent use for certain tourist activities.

### 3.3. Services/ Bulk Infrastructure

Water is supplied by an irrigation dam. Electricity is supplied by Eskom, with a transformer box opposite the main house. Wastewater runs into conservancy tanks, which is serviced by the municipality by honey-sucker truck on a regular basis.

### 3.4. Biophysical and Biodiversity Impacts

The impact on both the physical and biological aspects of the site is considered to be of low significance due to the transformed state of the site prior to the establishment of the resort.

## 4. **NEMA Principles**

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;

- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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