



14/3/7/A3/20/0347/18

Mr W.H.F.M van Nunen
14a, Anchor Bay
40 Miller Road
GORDON'S BAY
7140

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Dear Mr van Nunen

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE DEFINITION/ADOPTION OF AN AD HOC DEVELOPMENT SETBACK LINE IN TERMS OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED MIXED-USE DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE ON ERF 6740, GORDON'S BAY

Your appeal lodged against the decision in the above regard, refers.

After careful consideration of the appeals, as well as supporting documentation received, I have decided in terms of section 43 (6) of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA"), to confirm the abovementioned decision of the competent authority and to dismiss the appeal.

REASONS FOR THE DECISION:

The following are the reasons for dismissing your appeal and confirming the decision of the Delegated Authority:

- (i) Provision is made in NEMA for the adoption of an *ad hoc* setback line. The EIA Regulations, 2014 published in *Government Notice No. 327 of April 2017*, defines "development setback" as "means a setback line defined or adopted by the competent authority". The decision to adopt the setback line was based on environmental considerations.
- (ii) The area in question hosts a number of similar business, being coffee shops, cafes and eateries. There is currently a business operating from the property and the proposed mixed development will extend the footprint and the services being offered. The traffic impact is

not expected to increase significantly during the operational phase as the property is currently being utilised for a similar Business 2 land use. The parking area with vehicular access off Miller Road will offer only 19 public parking bays and will thus not result in a significant increase in traffic volumes.

- (iii) As a similar business is already being operated from the property, a significant increase in noise emanating from the premises, is not expected.
- (iv) Though the views enjoyed by surrounding residents may be impacted, the interruption is not significant enough to cause loss of a sense of place. The proposed mixed development does not mean that the entire area and its surroundings will be changed, thereby resulting in a negative impact on the enjoyment of the scenery for both residents and tourists. Additionally, South African law does not recognise an inherent right to an existing view from a property.
- (v) The Gordon's Bay area is frequented by both locals and tourists and in order to address the needs of those visiting the area, changes will occur. The area plays host to restaurants and other businesses whose owners have also invested in their businesses to attract and meet the needs of tourists and locals alike.
- (vi) Improvement of existing amenities are unlikely to negatively impact on property values.
- (vii) The proposed mixed use development is within the parameters of the property zoning and will have minimal impact on the receiving environment.

Your interest in the future of our environment is appreciated.

Yours faithfully



ANTON BREDELL
PROVINCIAL MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 5/2/2019

cc. Mr Z Toefy (DEADP) Sub-Directorate: Development Management
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