

14/3/1/A6/36/0296/17

Mr P Chilton
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Dear Mr Chilton

APPEALS LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE PROPOSED DEVELOPMENT OF SIX RESIDENTIAL UNITS AND ASSOCIATED INFRASTRUCTURE ON ERF 1556, HOUT BAY

The appeals lodged against the Environmental Authorisation ("EA") for the proposed development of six residential units and associated infrastructure on Erf 1556, Hout Bay ("the property") refer.

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 ("NEMA") and the National Appeal Regulations, 2014, as amended, to confirm the abovementioned decision of the competent authority and dismissed the appeals. The abovementioned EA which is confirmed in this appeal decision and the conditions under which the authorisation is granted must be complied with, however Condition E10 and section G are excluded from this authorisation. Conditions E3 and E8 are substituted to read as follows:-

Condition E3

This Environmental Authorisation is granted for-

- 3.1. A period of five (5) years, from the date of this appeal decision, during which period the holder must commence with the authorised listed activities; and
- 3.2. A period of ten (10) years, from the date the holder commenced with the authorised listed

activities, during which period the authorised listed activities for the development phase, must be concluded.

Condition E8

"The holder of the appeal environmental authorisation must in writing, within 14 (fourteen) calendar days of the date of the appeal decision notify all registered Interested and Affected Parties ("I&AP's") of –

- 8.1 the outcome of the appeal;*
- 8.2 the reasons for the appeal decision;*
- 8.3 and the date of the decision."*

1. REASONS FOR THE DECISION

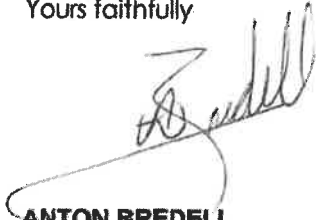
The following are reasons to confirm the EA issued by the Delegated Competent Authority:

- (i) The granting of an EA outside of the urban edge should not be viewed as precedent setting as all applications for environmental authorisation are considered on the merits and not precedent.
 - (ii) The site of the proposed development has existing development rights in terms of the agricultural zoning, which may be exercised by the property owner. Having considered both the environmental and planning context in terms of the existing land use rights, granting the EA was determined to be the Best Practicable Environmental Alternative, despite the property being outside the urban edge. By granting the EA, conditions are imposed to limit the impacts on the receiving environment and allows the Department to monitor and enforce compliance with such conditions.
 - (iii) The Department applied the triple bottom line test of sustainability as prescribed in NEMA, and concluded that all identified impacts and cumulative impacts, have been found to be capable of adequate mitigation and to have adequate regard to the significant socio-economic and environmental benefits.
 - (iv) The visual impact of two triple storey buildings will be considerably higher than 6 single storey units as per the approved alternative. Development in terms of the existing development rights, no-go option, would have the highest visual impact overall as no mitigation would be required.
 - (v) The adjacent developments and established trees on site are considered visually absorptive factors.
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- (vi) The proposed development falls within an existing residential neighbourhood.
 - (vii) The scale of the residential dwellings are in keeping with the surrounding residential areas and densities are slightly lower than the surrounding areas. The proposed building size in terms of its height and footprint is in keeping with the surrounding buildings.
 - (viii) Even before mitigation, the visual impact significance ranges from very low-low to medium and after mitigation from very low-low to low-medium.
 - (ix) The Traffic Impact Assessment indicates the potential danger of a vehicle losing control or traction while negotiating the steep sections or turning on the sharp curves. With the steep access road to Erf 1556, the loss of control or traction could result in serious damage to property and injury to the public as well as delays to other vehicles due to clean up and the towing away of vehicles. The implementation of the Traffic Impact recommendations contained in the '*Subdivision and Development of Erf 1556, Hout Bay*' compiled by RLH Consulting Engineers (Pty) Ltd which includes restricting delivery times will reduce the construction and final phase impacts to low intensity, with low significance. There are a few remaining vacant erven along Marais Road, the development of which will pose the same risks during the construction phase in terms of damage to the road which is already in a poor condition and property but will not preclude the development of these vacant sites.
 - (x) The site is covered largely by alien vegetation, with approximately 0.8ha of partly natural vegetation being lost. The removal of indigenous vegetation for the development of the site will be accompanied by rehabilitation. Additionally, landscaping will be undertaken utilising indigenous vegetation. Alien vegetation will be removed for the purpose of development. It is however noted that there is an obligation on every property owner in terms of the *Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983)* to remove invasive species from their land.
 - (xi) The City of Cape Town has confirmed sufficient unallocated capacity to supply the proposed development with water, wastewater treatment and refuse removal services.
 - (xii) The proposed landscaped access for tourists to the Table Mountain National Park will provide an improved access and experience to tourists.
 - (xiii) A formal road access for fire trucks requiring access will assist the fire fighters in the event of a fire in or approaching the Table Mountain National Park.
 - (xiv) The proposed development will create temporary employment opportunities during the development and operational phase.
 - (xv) The reasons as set out in the EA dated 12 September 2017.
 - (xvi) Kindly note, concerns around the rezoning, subdivision and removal of title deed restrictions have not been dealt with in this appeal as it falls outside the purview of this Department, and within the municipal mandate. The property owner is required to obtain all relevant
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authorisations from the responsible departments, these include land use planning authorisations from the City of Cape Town.

Yours faithfully



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

DATE: 5/7/2018

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