



REFERENCE NUMBER: 14/2/1/A3/20/Erf 525/526

ENQUIRIES: Jamie-Lee van Zyl

The Municipal Manager
City of Cape Town: Sports, Recreation and Amenities
PO Box 298
CAPE TOWN
8000

BY REGISTERED MAIL

Tel: (021) 400 4638

Fax: (021) 435 4705

Email: helen.jordaan@capetown.gov.za

Attention: Ms Helen Jordaan

Dear Madam

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE RECTIFICATION OF HENDON PARK BUILDING WORKS ON ERF 525/526, GORDON'S BAY

With reference to your application of November 2013 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") (GN No. R.326 of 7 April 2017), the competent authority herewith **grants environmental authorisation** to the applicant for the continuation, conducting or undertaking of the listed activities specified in Section C below in accordance with Alternative 1 as described in the Environmental Impact Report ("EIR") dated 27 January 2015.

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

City of Cape Town: Sports, Recreation and Amenities
 c/o Ms Helen Jordaan
 PO Box 298
 CAPE TOWN
 8000

Tel: (021) 400 4638
 Fax: (021) 435 4705
 Email: helen.jordaan@capetown.gov.za

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
Government Notice No. R544 of 18 June 2010 – Activity Number: 11 Activity Description: "The construction of: (i) canals; (ii) channels; (iii) bridges; (iv) dams; (v) weirs;"	The upgrading of existing facilities at Hendon Park Resort which include 54 chalets and 50 camping sites providing overnight accommodation to holiday makers. 90% of the chalets at Hendon Park, Gordon's Bay are located within 100m of the high-water mark of the sea.

<p>(vi) bulk storm water outlet structures; (vii) marinas; (viii) jetties exceeding 50 square metres in size; (ix) slipways exceeding 50 square metres in size; (x) buildings exceeding 50 square metres in size; or (xi) infrastructure or structures covering 50 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line."</p>	<p>Additions (upgrades) to the chalets were constructed between 2011 and 2012 and include stoeps, drying yards, carports and external paved areas resulted in the construction infrastructure 1459.24m²</p>
<p>Government Notice No. R544 of 18 June 2010 – Activity Number: 16 Activity Description: "Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater, in respect of – (i) fixed or floating jetties and slipways; (ii) tidal pools; (iii) embankments; (iv) rock revetments or stabilising structures including stabilising walls; (v) buildings of 50 square metres or more; or (vi) infrastructure covering 50 square metres or more – but excluding (a) if such construction or earth moving activities will occur behind a development setback line; or (b) where such construction or earth moving activities will occur within existing ports or harbours and the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbour; (c) where such construction or earth moving</p>	<p>As above.</p>

<p>activities is undertaken for purposes of maintenance of the facilities mentioned in (i)-(vi) above; or (d) where such construction or earth moving activities is related to the construction of a port or harbour, in which case activity 24 of Notice 545 of 2010 applies."</p>	
<p>Government Notice No. R544 of 18 June 2010 – Activity Number: 18 Activity Description: "The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock or more than 5 cubic metres from: (i) a watercourse; (ii) the sea; (iii) the seashore; (iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater- but excluding where such infilling, depositing, dredging, excavation, removal or moving; (a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or (b) occurs behind the development setback line."</p>	<p>As above.</p>
<p>Government Notice No. R546 of 18 June 2010 – Activity Number: 16 Activity Description: "The construction of: (i) jetties exceeding 10 square metres in size; (ii) slipways exceeding 10 square metres in size; (iii) buildings with a footprint exceeding 10 square metres in size; or (iv) infrastructure covering 10 square metres or more</p>	

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

In Western Cape:

iii. Inside urban areas:

(aa) Areas zoned for use as public open space;

(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;

(cc) Areas seawards of the development setback line or within 100 metres of the high water mark where no setback line."

As similarly listed in Government Notice No. 324 of 7 April 2017 -

Activity Number: 19A

Activity Description: "The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—

(i) the seashore;

(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or

(iii) the sea; —

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

(f) will occur behind a development setback;

(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;

(h) falls within the ambit of activity 21 in this Notice, in which case that activity

As above.

applies;
 (i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or 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."

The abovementioned list is hereinafter referred to as "the listed activities".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Erf 525/526, Hendon Park, Faure Marine Drive, Gordon's Bay.

The SG digit codes are: C06700100000052500000
 C06700100000052600000

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 09' 05.0" South	18° 51' 44.0" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.
 Herein-after referred to as "the site".

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

Miradi Architects
 c/o Mr Jacob Motanya
 P.O. Box 1832
 MILNERTON
 7435

Tel: (021) 552 9505
 Fax: (086) 635 9509
 Email: jmotanya@miradi.co.za

F. DETAILS OF THE ACTIVITY OR ACTIVITIES UNDERTAKEN

The resort facilities at Hendon Park, Gordon's Bay include 54 chalets and 50 camping sites that provide overnight accommodation to holiday makers. The resort was constructed in the 1970s and about 90% of the chalets are located within 100 meters of the high-water mark from Gordon's Bay beach.

The activity undertaken involves the construction of stoeps, drying yards, carports and external paved areas to existing chalets. The activities were undertaken between 2011 and 2012 and are completed. The footprint of the activity is 1459m².

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 continuation of the listed activities specified in Section C above in accordance with and restricted to Alternative 1 described in the EIR dated 27 January 2015 on the site as described in Section D above.
2. The holder shall be responsible for ensuring compliance with the conditions by any person acting on her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
3. 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 in order 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

Notification and administration of an appeal

4. The holder must in writing, within 14 (fourteen) days of the date of this decision—
 - 4.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 4.1.1 the outcome of the application;
 - 4.1.2 the reasons for the decision as included in Annexure 3;
 - 4.1.3 the date of the decision; and
 - 4.1.4 the date when the decision was issued.
 - 4.2 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.
 - 4.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
 - 4.4 provide the registered I&APs with:
 - 4.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 4.4.2 name of the responsible person for this Environmental Authorisation;
 - 4.4.3 postal address of the holder;
 - 4.4.4 telephonic and fax details of the holder;
 - 4.4.5 e-mail address, if any, of the holder; and
 - 4.4.6 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*.

PART III

Management of the activity/development

5. The draft Environmental Management Programme ("EMPr") compiled by Miradi Architects of August 2015 and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

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

PART IV

Monitoring

7. The holder must appoint a suitably experienced Environmental Officer to ensure compliance with the EMPr and the conditions contained herein.
8. 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, including a publicly accessible website (if applicable).
9. 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 V

Auditing

10. 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. You are hereby requested to submit Environmental Audit Reports upon receiving such a 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 VI

Activity/ Development specific conditions

11. 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; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

12. 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.

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. 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.

4. 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. Should an appeal be lodged with the appeal administrator against the Environmental Authorisation, you are hereby advised of the following:
 - 1.1. An appellant (if the applicant) must –
 - 1.1.1. submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator and a copy of the appeal to the decision maker, any registered I&APs and any organ of state with interest in the matter within 20 (twenty) days from the date that the notification of the decision was sent to the applicant by the competent authority.
 - 1.2. An appellant (if NOT the applicant) must –
 - 1.2.1 submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator, and a copy of the appeal to the applicant, 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 that the notification of the decision was sent to the registered interested and affected parties by the applicant.
2. The applicant (if not the appellant), the decision-maker, I&APs and organs of state must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) days from the date of receipt of the appeal submission.
3. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Jaap de Villiers
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 Jaap de Villiers (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: Jaap.DeVilliers@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 Jaap.DeVilliers@westerncape.gov.za.

4. 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 Jaap.DeVilliers@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, the Municipality, committees or any other public authority or organisation 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



A handwritten signature in black ink, appearing to read 'Mare', is written over a horizontal line.

ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 20 December 2018

Copied to:

(1) Jacob Motanya (Miradi Architects)

(2) Dale Wakefield (DEA&DP: Environmental Law Enforcement)

Fax: (086) 635 9509

Email: Dale.Wakefield@westerncape.gov.za

