



**To:** Messrs AKR Development (Pty) Ltd

**Att:** Mr. Rabindra Dukhi  
**Tel:** 031 5077178  
**Email:** [accounts@akrgroup.co.za](mailto:accounts@akrgroup.co.za)

Dear Sir

**RE: WARNING LETTER IN RESPECT OF THE UNLAWFUL CONSTRUCTION OF A MULTI-STOREY RESIDENTIAL DWELLING, SITUATED AT 56 OCEAN TERRACE, ISIPINGO LOCATED WITHIN THE ETHEKWINI MUNICIPALITY**

**1 Background**

- 1.1 The KZN Department of Economic Development, Tourism and Environmental Affairs (EDTEA) was informed on 18 May 2017 regarding the construction of a multi-storey residential dwelling, located at 56 Ocean Terrace within the eThekweni Municipality.
- 1.2 On 18 May 2017, an email was received by the Department from the eThekweni Municipality confirming that the entire site is located within 100 metres (m) of the high water mark (HWM) of the sea.
- 1.3 On 18 July 2017, a site visit was conducted by the officials of the Department, eThekweni District office to verify the activities taking place on site.

**2 Findings from the site visit (Photographic evidence attached as Annexure A)**

- 2.1 Construction activities have already commenced on site.
- 2.2 Two levels of the multi-storey residential dwelling were already under construction.
- 2.3 The surrounding land uses contained other residential dwellings.

**3 The Department hereby wishes to address the following concerns:**

- 3.1 The National Environmental Management Act (NEMA): Environmental Impact Assessment Regulations (EIA) dated December 2014, as amended states:

**Activity 19A** of the EIA Regulations which reads: *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; -

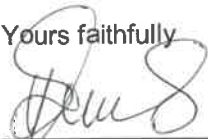
*But excluding where such infilling, depositing, dredging, excavation, removal or moving-*

- (f) will occur behind a development setback;
- (g) is for maintenance purposes undertaken in accordance with a maintenance management plan; or
- (h) falls within the ambit of activity 21 in this Notice, in which case that activity 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.

- 3.2 You have commenced with construction of the multi-storey residential dwelling without obtaining the relevant environmental authorisation from the Department.

- 3.3 Therefore the commencement of construction triggers the above-mentioned listed activity which required an environmental authorisation in terms of section 24 of the NEMA, Act 107 of 1998, as amended.
- 3.4 Based on the information gathered, as stated in point 1 above, the construction of the multi-storey residential dwelling is therefore in contravention with the NEMA EIA Regulations, dated December 2014, as amended.
- 3.5 In terms of section 24F, it is an offence to commence with a listed activity without an environmental authorisation. Upon conviction for such an offence, a person is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment .
- 3.6 You are reminded of:
- 3.6.1 Section 49A (1) of NEMA which states that: "*A person is guilty of an offence if that person-*  
*(a) Commences with an activity in contravention of section 24F(1)*"
- 3.6.2 Section 49B (1) of the NEMA which states that: "*A person convicted of an offence in terms of section 49A(1)(a), (b), (c), (d), (e), (f) or (g) is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment*".
- 4 The Department would like to inform you that this matter can be resolved by means of retrospectively authorising the construction of the multi-story residential dwelling via the NEMA section 24G process, *Rectification of the unlawful commencement of activity*.
- 5 Should you decide not to rectify the unlawful activity, the development will remain unlawful and the Department reserves the right to take further enforcement action.
- 6 Kindly submit all correspondence to: Ms Nasreen Asmal, Grade 2 EMI, 031 366 7319 [nasreen.asmal@kznedtea.gov.za](mailto:nasreen.asmal@kznedtea.gov.za) 17th Floor, Commercial City Building, 40 AB Xuma Street, eThekweni District, 4001.

Yours faithfully



Ms. Yugesni Govender  
Grade 2 Environmental Management Inspector (EMI)  
Kwazulu Natal Department of Economic Development, Tourism and Environmental Affairs

Date: 11/09/2017

## Index to Annexure A

Photograph A1 – commencement of the construction of the multi-storey residential dwelling

Photograph A2 – The development in relation to the sea

**ANNEXURE A**

**Photographic Evidence taken on 18 July 2017 located at 56 Ocean Terrace, Isipingo within the eThekweni Municipality**



**A1**



**A2**

**Acknowledgement of Receipt in lieu of the following:**

**Attention** : Ms Nasreen Asmal, Grade 2 EMI, eThekweni District  
**Fax** : 031 366 7350  
**E-mail** : Nasreen.asmal@kznedtea.gov.za

**RE:**

Received by Mr. /Mrs/Ms. \_\_\_\_\_

On behalf of the company \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 2017 , at \_\_\_\_\_

Signature: \_\_\_\_\_

