



Enquiries: Bernadet Pawandiwa
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CaseID: 12212

Date: Tuesday August 21, 2018

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Final Comment

In terms of Section 38(8) of the National Heritage Resources Act (Act 25 of 1999) and the KwaZulu-Natal Heritage Act (Act 4 of 2008)

Attention: Mrs Fatima Peer
1World Consultants (Pty) Ltd
181 Winchester Drive,
Reservoir Hills,
Durban,
4091

1World Consultants (Pty) Ltd have been appointed by AKR Property Development (Pty) Ltd to undertake the required environmental services for the rectification of the unlawful commencement and continuation of a listed activity for AKR Property Development (Pty) Ltd situated at 56 Ocean Terrace, Isipingo Beach located within eThekweni Municipality. AKR Property Development (Pty) Ltd has commenced with the afore-mentioned activity, which was, at all relevant times, listed pursuant to section 24(2) of NEMA as an activity that requires environmental authorisation prior to commencement. The construction of the multi-storey residential complex necessitated excavation of soils within 100m of the High-Water mark of the sea. 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 complex located at 56 Ocean Terrace, Isipingo Beach. A site visit was conducted on 18 July 2017 by the department officials to verify the activities on site. It was then noted and confirmed by the department that the property was located within 100m from the High-Water Mark of the sea triggering listed activities as per EIA Regulations. Additionally, it was observed that construction activities had already commenced, and two levels of the multi-storey complex was already under construction. A warning letter was issued to the client on 11 September 2017 and the department had advised that the matter can be resolved by means of retrospectively authorising the construction of the multi-storey residential complex via the NEMA section 24G process, Rectification of the unlawful commencement of activity. An S24G application was submitted to the department on 31 October 2017 and a site visit followed on 12 December 2017 with the EAP and officials of the Compliance Monitoring and Enforcement Unit of the Department. It was observed that the construction is near completion and would be ready to be sold from February 2018. A Directive was issued to the client and EAP in terms of section 24G of NEMA 1998 (Act No. 107 of 1998) following an application for the rectification of the unlawful commencement and continuation of a listed activity for AKR Property Development (Pty) Ltd situated at 56 Ocean Terrace. A Section 24G application will be lodged with the department for review and consideration. AKR Property Development (Pty) Ltd has commenced with the unlawful construction of a multi-storey residential complex, which necessitated excavation of soils within 100m of the High-Water mark of the sea. The subject site is located at 56 Ocean Terrace, Isipingo, on the South Coast of the eThekweni Municipality. Map 2 above is a zoomed in image providing an indication of the general locality of the development site and the distance from the HWM of the sea. The development is limited to the site Erf 986 Isipingo. The site extent is 1921m² and the development covers approximately 83% of the site. The height is within the town planning allowances



**Amafa AkwaZulu-Natali
Heritage KwaZulu-Natal
Erfenis KwaZulu-Natal**

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of three storeys. The development includes: • New Entrance Driveway (via Delta Road) • New Boundary Wall • Basement and Upper Floor • Ground Floor (Parking Deck) • Third Floor (Additional 3 units) The development has two lower levels and three upper levels, comprising a parking level and 18 apartments in total. A traffic impact assessment was completed, and the parking area in terms of capacity was designed accordingly. The plumbing and electrical design of the development also aligns to the proposed development capacity in terms of residential usage. The design of the house does take into consideration the risks that are posed by rise in sea levels. However, the distance from the HWM of the sea to the boundary of the property is 57.9m. The new boundary wall will be maintained at a height of 2m. All of the boundary's walls will be within the site boundary of Erf 986. The property itself is situated above road level. The building will also be situated at least 3m above sea level reducing the risk of being affected by rise in sea level. The nature of the material which will be removed during the rehabilitation phase will be of the building and construction material such as concrete, bricks, timber etc. and most of the infill will be consisted from the existing original natural site material by means of reusing any excavated material, that may have occurred from the preparation work for the new structure.

The application in terms of Section 24G (NEMA) has been considered and Amafa would like to draw your attention to the fact that your failure to obtain a permit prior to the commencement of the work, is in contravention of the provisions of both the National Heritage Resources Act (Act 25 of 1999) and the KwaZulu-Natal Heritage Act (4 of 2008), and as such is a criminal offence for which you may be prosecuted. It is noted that no assessment of heritage resources was completed prior to the development in question. As such, it is impossible to determine whether significant heritage resources were impacted by the illegal development as required by the act since the site has been compromised by development activities. Heritage resources are finite and non-renewable. The loss of significant heritage resources resulting from illegal work has significant implications for scientific study as well as the national identity of South Africa and cannot be condoned.

Amafa has accepted the application to regularize the illegal commencement of the development . No legal action will be instituted for this particular case and phase as outlined in the documents submitted by 1World Consultants but any future development on any section of the site regardless of size will automatically trigger a heritage impact assessment.

Amafa has no further comment as the development is complete but reserves the right to conduct inspection on the site without prior notice anytime.

You are also required to adhere to the below-mentioned standard conditions:

Conditions:

1. Amafa should be contacted if any heritage objects are identified during earthmoving activities and all development should cease until further notice.
2. No structures older than sixty years or parts thereof are allowed to be demolished altered or extended without a permit from Amafa.
3. Under no circumstances may any heritage material be destroyed or removed from site unless under





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direction of Amafa and a heritage specialist.

4. Should any remains be found on site that is potentially human remains, the South African Police Service (SAPS) should also be contacted. No SAPS official may disturb or exhume such remains, whether of recent origin or not, without the necessary permission from Amafa.
5. No activities are allowed within 50m of a site, which contains rock art.
6. Sources of all natural materials (including topsoil, sands, natural gravels, crushed stone, asphalt, etc.) must be obtained in a sustainable manner and in compliance with the heritage legislation.

Failure to comply with the requirements of the National Heritage Resources Act and the KwaZulu Natal Heritage Resources Act could lead to legal action being instituted against the applicant.

Should you have any further queries, please contact the designated official using the case number quoted above in the case header.

Yours faithfully

Bernadet Pawandiwa
Senior Heritage Officer
Amafa/Heritage KwaZulu Natal

James van Vuuren
Deputy Director: Support Services, Technical
Amafa/Heritage KwaZulu Natal

ADMIN:

Direct URL to case: <http://www.sahra.org.za/node/488275>
(, Ref:)

Terms & Conditions:

1. This approval does not exonerate the applicant from obtaining local authority approval or any other necessary approval for proposed work.
2. If any heritage resources, including graves or human remains, are encountered they must be reported to Amafa immediately.



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S24G Application for the rectification of the unlawful commencement and continuation of the development situated at 56 Ocean Terrace, Isipingo Beach
Our Ref: SAH18/12212



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3. Amafa reserves the right to request additional information as required.



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