



APPEAL FORM
In terms of the National Appeal Regulations

April 2019

Form Number: 2019

Note that:

1. This appeal must be submitted within **20 days** of being notified of the decision.
 2. This form is current as of **April 2019**. It is the responsibility of the Appellant to ascertain whether subsequent versions of the form have been released by the Appeal Administrator.
 3. This form must be used for appeals submitted in terms of National Appeal Regulations, 2014 in so far as it relates to decisions in terms of the:
 - a. Environment Conservation Act, 1989 (Act No. 73 of 1989);
 - b. National Environmental Management Act, 1998 (Act No. 107 of 1998);
 - c. National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
 - d. National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
 - e. National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and subordinate legislation made in terms of these laws.
 4. The required information must be inserted within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The spaces may be expanded where necessary.
 5. Unless protected by law, all information contained in, and attached to this application, will become public information on receipt by the Department.
 6. A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/dept/eadp>.
 7. Please consult the National Appeal Regulations (dated 8 December 2014) and the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations (dated 9 December 2014), and any other relevant regulations.
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A. DECISION BEING APPEALED

1. Reference Number of the Decision being appealed:

DEA&DP Reference Number: 16/3/3/1/A7/17/3001/20

2. Type of Decision being appealed (please circle the appropriate option):

Environmental Authorisation	24G Administrative Fine	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Waste Management Licence	Atmospheric Emission Licence	Exemption Notice
Permit in terms of NEM: BA	Administrative Notice/Directive	ECA: OSCA Permit	Other			

3. Brief Description of the Decision:

Environmental Authorisation for the re-development of the River Club, Observatory for a Mixed Use development and associated infrastructure on the remainder of Erf 15326 and Erven 26169-26175, 26426-26427, 108936 and 151832, Observatory

4. Date of the decision being appealed (i.e. date on which the decision was made):

Date of the Decision: 20th August 2020

Date on which Interested and Affected Parties were informed: 21st August 2020

B. APPELLANT'S INFORMATION

5. Please circle the appropriate option

Applicant	State Department / Organ of State	Interested and Affected Party
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6. Appellant's information:

Name: *Tauriq Jenkins on behalf of the Goringhaicona Khoi Khoin Traditional Council*

Address: *2 Birdwood Street, PO BOX 345 Athlone 7760*

Tel: _____ Cell: *0647342569*

Fax: _____ Email: *tauriqishere@gmail.com*

C. APPEAL INFORMATION

7. Did you lodge an Appeal submission within 20 days of the notification of the decision being sent to you?

Yes / No (Circle the appropriate response). If "Yes", attach a copy herewith.

[Attached condonation letter request.](#)

8. The following documents must accompany the appeal submission, kindly indicate if they have been attached to the submission:

8.1 a statement setting out the grounds of appeal?;

Yes / No (Circle the appropriate response)

8.2 supporting documentation which is referred to in the appeal submission?;

Yes / No (Circle the appropriate response)

8.3 a statement, including supporting documentation, by the appellant that a copy of the appeal was submitted to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from:

8.3.1 the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

Yes / No (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was **sent**.

21 August 2020

OR

8.3.2 the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority.

Yes / No (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent.

D. GROUNDS OF APPEAL

9. Set out the ground/s of your appeal: Clearly list your appeal issues and provide an explanation of why you list each issue.

[See attached Appeal document.](#)

9.1 Is your appeal based on factors associated with the process that was followed by the applicant/Environmental Assessment Practitioner/Competent Authority in reaching the decision?

Yes / **No** (Circle the appropriate response). Please provide details.

[Detailed in the attached Appeal document.](#)

9.2 Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the Competent Authority?

Yes / **No** (Circle the appropriate response). Please provide details.

[Detailed in the attached Appeal document.](#)

[In particular: NON-COMPLIANCE WITH S38\(8\) OF THE NATIONAL HERITAGE RESOURCES ACT, 1999 \(ACT 25 OF 1999\) \(THE NHRA\) IN THAT THE CONSENTING AUTHORITY HAS NOT ENSURED THAT THE HIA HAS FULFILLED THE REQUIREMENTS OF THE HERITAGE RESOURCES AUTHORITY.](#)

9.3 Have your appeal issues been raised previously in the public participation process?

Yes

/

No

(Circle the appropriate response). Please provide details.

See attached Appeal Document.

9.4 Are you fundamentally opposed to the decision (e.g. to any development activity on the site)?

Yes

/

No

Not applicable (Circle the appropriate response). Please provide details.

It threatens the tangible and intangible heritage of the First Indigenous Peoples of this country and the world. It's a site of global significance to First Indigeneity and has local and global impacts. A world heritage site is the only feasible, signifiable solution. The developer has conceded that the proposed development in its current form is the only profitable option for him, we therefore have no alternative but to overturn and deny the awarded Environmental authorisation for this development.

9.5 Are you in favour of the decision if your concerns can be remedied by rectifying the process or by mitigating or eliminating an impact/s of the activity/ies?

Yes

/

No

Not applicable (Circle the appropriate response). Please provide details.

The real and imminent threat to the heritage resources (of which environmental is a part ie. Sacred Liesbeek River) of the site is of such a significant nature that no rectification other than the immediate withdrawal of the Environmental Authorisation will be deemed acceptable.

9.6 Please indicate what measures you propose to have your concerns remedied.

1. Withdraw the environmental authorisation;
2. DEADP to meet and engage with HWC ;
3. River club to be graded for heritage;
4. Towards national recognition and world heritage site for TRUP.

9.7 Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) / or registered I&APs/ or the competent authority prior to the decision?

Yes

/

No

(Circle the appropriate response). If the answer above is "Yes" please explain what this information is and why it should be considered by the Appeal Authority and why it was not made available to the EAP/ or I&AP/ or the competent authority prior to the decision. (Please ensure that the new information is attached hereto.)

New Information: Ref. statement on the virtual cabinet meeting on June 10, 2020. Where cabinet approved implementation of the National Khoi and San Heritage Route (includes TRUP), which is a national legacy project. Also gives effect to the Traditional and Khoi-San Leadership Act 2019, (Act 3 of 2019, which legislates the recognition of Traditional Khoi and San Leaders).

E. SUBMISSION ADDRESS

This appeal must be submitted to the Appeal Administrator at the address listed below within 20 days of being notified of the decision:

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

By e-mail: DEADP.Appeals@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.



Tauriq Jenkins, High Commissioner

Appellant's signature

10 SEPTEMBER 2020

Date