



**Department of Agriculture,
 Conservation, Environment and Tourism**



OFFICE OF THE DEPUTY DIRECTOR GENERAL

My Ref : EIA 08/2004 NW
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ZELPHY 2075 (Pty) Ltd.
 P.O. Box 1061
 KYALAMI
 1684

Tel: 011 468 3144
 Fax: 011 468 3140

Dear Mr P Smith

RE: AUTHORISATION FOR THE ESTABLISHMENT OF "THE BAY GOLF ESTATE" ON PORTIONS 164, 165 AND REMAINDER 2 OF THE FARM DE RUST 478 JQ, HARTEBEEPOORT DAM, MADIBENG LOCAL MUNICIPALITY, NORTH WEST PROVINCE

Your application dated April 2004 and submitted for authorisation, in terms of section 22 of Environment Conservation act, 1989 (Act No. 73 of 1989) in respect of the change of land use from agriculture or undetermined use to any other land use (listed activity 2[c] in schedule 1 of GN. R. 1182 of 5 September 1997), as amended, in terms of section 21 of the said Act refers.

This Department has evaluated the Scoping Report received in May 2004 and other related documents received later, and have considered your application.

By virtue of power delegated to me in terms of section 33(1) of the Environment Conservation Act, 1989 (Act 73 of 1989), I hereby in terms of section 22(3) of the said Act, authorise:

The change of land use from agricultural or zoning undetermined use or equivalent zoning, to any other land use (listed activity 2[c] in schedule 1 of GN. R. 1182 of 5 September 1997), as amended, in terms of section 21 of the said Act refers to the establishment of a township known as "The Bay Golf Estate" on Portion 164, 165 and Remainder 2 of the Farm De Rust 478-JQ in the North West Province.



Enclosed please find the Record of Decision and the conditions under which your application is authorised.

In terms of section 35 of Environment Conservation Act, 1989 (Act No.73 of 1989), formal appeals on the Record of Decision can be lodged to the Member of the Executive Council, Department of Agriculture, Conservation, Environment and Tourism as prescribed in regulation 10(1).

Yours faithfully,



Basadi Mosekgoro
Acting Senior Manager: Environmental Management Services

Date:

*Cc: Bokamoso Landscape Architects and Environmental Consultants.
Lizelle Gregory
Tel: 012 348 1914
Fax: 012 348 2365*

*Madibeng Local Municipality
Municipal Manager: Mr S.T.M. Ntlatleng
Tel: (012) 318-9190
Fax: (012) 318-9203*

*Department of Water Affairs and Forestry
Mr C.M. Lobakeng: Regional Director-North West
Tel: (018) 384 3270
Fax: (018) 384 0913/392 2998*

RECORD OF DECISION

DECISION IN TERMS OF SECTION 22(3) OF THE ENVIRONMENT CONSERVATION ACT, 1989 WITH REGARD TO THE UNDERTAKING OF THE ACTIVITY DESCRIBED BELOW AS REQUIRED BY GOVERNMENT NOTICE NO. R 1183 OF 5 SEPTEMBER 1997, AS AMENDED.

1. REFERENCE NUMBER: EIA 08/2004 NW

2. BRIEF DESCRIPTION OF ACTIVITY:

The proposed activity is the establishment of a township development known as The Golf Bay Estate situated on Portion 164, 165 and Remainder 2 of the Farm De Rust 478-JQ, which is situated to the south of the Hartbeespoort Dam. The size of the entire study area is approximately 268 ha in extent. The development will consist of the following:

- 1200 Residential Units, individual even with an average size of 1000 m²,
- Hotel,
- Retail,
- Restaurant/Shops,
- Golf Course,
- Sewer works,
- Private Roads,
- Private Parks,
- Clubhouse,
- Boathouses,
- Store room, and
- Housing for maintenance workers such as clubhouse staff, golf course staff, restaurant staff, security staff, school workers staff and etc.

An area zoned special for staff housing will have stands of 25 000 m². The total number of units proposed is 150 and each unit will be between 30m² and 40m². The entire development will also give provision for children's playground and crèche.

3. LOCATION:

The site is located within the jurisdiction area of the Madibeng Local Municipality. The area designated for development is bordered to the south by the Hartbeespoort Dam, Road P31-1 to the north and Pecanwood Golf Estate to the west on Portion 164, 165 and Remainder 2 of the farm De Rust 478-JQ, North West Province.

4. APPLICANT:

Zelphy 2075 (Pty) Ltd
P.O. Box 1061
KYALAMI
1684

Contact Person: Mr P. Smith
Tel: (011) 468 3144
Fax: (011) 468 3140

5. CONSULTANT:

Bokamoso Landscape Architects and Environmental Consultants (Pty) Ltd
P.O. Box 11375
MAROELANA
0161

Contact Person: L Gregory
Tel: (012) 348 1914
Fax: (012) 348 2365

6. DECISION:

Authorisation is granted in terms of section 22(3) of the Environment Conservation Act (Act No. 73 of 1989) for the change of land use from agriculture or undetermined use to any other land use (listed activity 2[c] in schedule 1 of GN. R. 1182 of 5 September 1997), as amended, in terms of section 21 of the said Act refers to the establishment of a township known as "The Bay Golf Estate" on Portion 164, 165 and Remainder 2 of the Farm De Rust 478-JQ in the Madibeng Local Municipality, North West Province.

This authorisation is granted subject to the following conditions:

6.1 GENERAL CONDITIONS:

- 6.1.1 This authorisation is granted only in terms of section 22 of the Environment Conservation Act, 1989 (Act 73 of 1989) and does not exempt the holder thereof from compliance with any other legislation.
- 6.1.2 This authorisation refers only to the activity as specified and described above. Any other activity listed under section 21 of the Environment Conservation Act, 1989 (Act 73 of 1989) which is not specified above, is not covered by this authorisation, and must therefore comply with the requirements of the Act, Government Notice R. 1183 and its amendments.

- 6.1.3 The conditions of this authorisation must be brought to the attention of all persons (employees, sub-contractors, contractors, etc) associated with the undertaking of this activity and the applicant must take necessary measures to bind such persons to this conditions. The applicant must carry out regular environmental audits to establish compliance with condition of this authorisation.
- 6.1.4 This authorisation is subject to the approval of the affected local authorities in terms of any legislation administered by them.
- 6.1.5 One week's notice, in writing, must be given to the Senior Manager: Environmental Management Services of this Department before commencement of the construction activities. Such notice shall make clear reference to the site location details and reference number given above.
- 6.1.6 The applicant must notify this Department, in writing, within 24 hours, if any condition of the conditions of this authorisation is not complied with.
- 6.1.7 Changes in the proposal resulting in significant environmental impacts are only permissible if approved in writing by the Senior Manager: Environmental Management Services of this Department.
- 6.1.8 The holder/applicant shall be responsible for compliance with duty of care remediation as contained in Section 28 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).
- 6.1.9 The applicant must within five calendar days of receipt of this record of decision:
- a) Inform all interested and affected parties registered during the EIA process of the outcome of this application and, if requested, provide copies of this Record of Decision, including all the conditions attached thereto.
 - b) Include in such information the explicit provisions of the regulation 11 of the Environmental Impact Assessment Regulations (Government Notice R 1183 of 5 September 1997) which reads as follows:

"An appeal to the Minister or provincial authority under section 35(3) of the Act must be done in writing within 30 calendar days from the date on which the Record of Decision was issued to the application in terms of regulation 10(1);

An appeal must set out all facts as well as the grounds of appeal, and must be accomplished by all relevant documents or copies of them which are certified as true by a commissioner of oaths".
 - c) Include the date on which the record of decision was issued to the applicant in terms of regulation 10(1).

- d) Should the applicant wish to appeal any aspect of this decision, the applicant must notify and furnish copies of the appeal, which will be submitted, to the MEC, to all registered interested and affected parties. Proof of such notification must be submitted to the MEC with the appeal. Failure to comply with this provision may result in the MEC refusing to consider the appeal.
- 6.1.10 A copy of this authorisation shall be available on site during construction and all staff, contractors and sub-contractors shall be familiar with or be made aware of the contents of this authorisation.
- 6.1.11 Records relating to compliance and non-compliance with the conditions of this authorisation must be kept in good order. Such records shall be made available to this Department within seven (7) calendar days of receipt of a written request by the department.
- 6.1.12 This Department may add to, change and/or amend any of the condition in this authorisation if, in the opinion of the department, the addition, change or amendment is environmentally justified.
- 6.1.13 This Department must be notified, within 30 calendar days thereof, of any change of ownership and/or project developer. Conditions stipulated in this record of decision must be known to the new owner and/or developer and are binding on the new owner and/or developer.
- 6.1.14 This Department must be notified for any change of the address of the applicant.
- 6.1.15 If any condition stipulated in terms of this authorisation is not being complied with, the authorisation may be withdrawn after 30 calendar day's written notice to the applicant in terms of section 22(4).
- 6.1.16 Failure to comply with any of these conditions shall be regarded as an offence and may be dealt with in terms of section 29, 30 and 31 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) as well as any other appropriate legal mechanisms.
- 6.1.17 The applicant shall be responsible for all costs necessary to comply with the above conditions unless otherwise specified.
- 6.1.18 The holder must in the event of non-compliance with any condition of this authorisation inform the Senior Manager, Environmental Management Services of this Department, in writing, within 48 hours.
- 6.1.19 The applicant is responsible for compliance with the provisions of the Duty of care and remediation of damage contained in section 28 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).



6.1.20 Provincial Government, Local Authority or Committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any damages or losses suffered by the developer or his successor in title in any instance where construction or operations subsequent to construction are to be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of approval as set out in this document or any other subsequent document emanating from these conditions of approval.

6.2 SPECIFIC CONDITIONS:

6.2.1 The mitigation measures and the recommendations contained in the Scoping Report dated May 2004 for this activity must be implemented.

6.2.2 Prior to commencement of this project, the Environmental Management Plan (EMP) must be submitted to this Department for approval, which must include the following:

- The allocation of responsibilities for all aspects of the Environmental Management Plan;
- Information on proposed approaches to managing and mitigating environmental impacts;
- Detailed description of activities, which will be covered by the Environmental Management Plan;
- A detailed description of the environment that will be affected by the activity;
- Management and mitigation responses to all issues and anticipated impacts, including:
 - i. Planning and design,
 - ii. Establishment on site and pre-implementation,
 - iii. Implementation,
 - iv. Rehabilitation, and
 - v. Operation
- Provisions for the periodic monitoring or auditing and reporting to this Department,
- Provision for an incident recording and reporting system; and
- Periodic review and updating of the Environmental Management Plan.

6.2.3 Mitigation measures, recommendations and EMP shall be legally binding component of any contract and should be legally enforceable.



- 6.2.4 The contents of the approved EMP must be made known to personnel, contractors and subcontractors associated with this project.
- 6.2.5 Any alternation to the EMP shall be subject to the approval by this Department.
- 6.2.6 Erosion must be controlled as specified in the Conservation of Agricultural Resources Act 1983 (Act No. 43 of 1983) and be mitigated in accordance to the approved EMP.
- 6.2.7 An **environmental manager/control officer** must be appointed to ensure that conditions stipulated in this Record of Decision and mitigation measures contained in the Scoping Report dated May 2004 are complied with. The name and contact details of such an officer/manager must be forwarded to this Department prior construction phase of the activity.
- 6.2.8 No construction camps, dumping and /or construction materials are allowed outside the construction servitude.
- 6.2.9 The contractor shall leave the construction site free from erosion, silt, pollution and / or unwanted material. The affected areas must be rehabilitated to the satisfaction of this Department.
- 6.2.10 Should any archaeological artefact be exposed during foundation excavation, the construction in the vicinity of the finding must be stopped. Under no circumstances shall any artefact be destroyed. Such an archaeological site must be marked and fenced off, and South African Heritage Resource Agency must be contacted as soon as possible.
- 6.2.11 All borrow pit applications must be forwarded to the Department of Minerals and Energy for approval before construction commence.
- 6.2.12 Refuse and waste generated during construction must be compacted and stored on site in appropriate container and regularly removed to a licensed refuse disposal facility of the Madibeng Local Municipality.
- 6.2.13 This development must comply with the requirements of the National Water Act (Act No.36 of 1998) as specified by the Department of Water Affairs and Forestry (DWAF).
- 6.2.14 The developer and/or the contractor must comply with all conditions and requirements stated on the letter dated 15 March 2005 from DWAF. Proof of listed concerns being addressed must be forwarded to this Department before commencement.
- 6.2.15 The sinking of boreholes to meet the demand for the development is not allowed unless the hydro-census of the area is undertaken by the applicant and the license is obtained from DWAF.

- 6.2.16 Storm water management measures should be put in place, to mitigate the possible presence of a shallow fluctuating or seasonal perched water table.
- 6.2.17 Storm water management system must be designed as per DWAF recommendations.
- 6.2.18 Prevention measures for sewer disposal must be done according to DWAF requirements.
- 6.2.19 A fire-combating program should be prepared and should adhere to the by-laws of the Madibeng Local Municipality.
- 6.2.20 Clearing of natural vegetation must be restricted, particularly on areas prone to erosion.
- 6.2.21 Plants that are protected in terms of legislation, for instance the Transvaal Nature Conservation Ordinance, No. 12 of 1983, must not be removed unless authorised by the Directorate: Nature Conservation Services of this Department.
- 6.2.22 Mobile chemical toilets must be supplied for the construction workers during the construction phase of the project.
- 6.2.23 During the construction phase, the operation of machinery / equipment/ vehicles must be kept to normal working hours (Summer 07H00-17H00 & Winter 07H30-17H00) to prevent unwanted high noise levels at night.
- 6.2.24 As far as possible, employment opportunities should be given to the local skilled, semi-skilled and unskilled labour force during construction and during operation to stimulate the local and regional economy.
- 6.2.25 The stockpiling of the construction materials should, as far as possible, be confined to a dedicated site and the excess materials thereof must be limited to the disturbed areas.
- 6.2.26 Construction during peak rainfall season must be avoided.
- 6.2.27 Any complaint from the public during the construction and operation of this project must be attended to by the holder of this authorisation as soon as possible to the satisfaction of the parties concerned. A complaint register must be kept up to date and shall be forwarded to this Department.
- 6.2.28 All road constructions should comply with the requirements and specifications of the Department of Transport and Roads.
- 6.2.29 The railway line parallel Road P31-1 at the Bay must be dealt with as specified and required by Spoornet.
- 6.2.30 The authorised activity, including site preparation may not commence before the statutory 30 calendar days of an appeal period has expired.

A handwritten signature in black ink, appearing to be a stylized name, located at the bottom right of the page.

7 KEY FACTORS FOR DECISION:

- 7.1 The department's authorisation is based upon a review of the Scoping Report dated May 2004.
- 7.2 The project was advertised in the Kosmotant Newspaper on July 2004.
- 7.3 Assessment of feasible alternatives as required by the EIA process was undertaken.
- 7.4 It is envisaged that should the conditions as stipulated in this record of decision be complied with, the negative environment impact of this activity will be minimised.
- 7.5 It is envisaged that all aspects of the management of the authorised activities will be managed by a Section 21 Company.
- 7.6 The development will contribute to the economic growth of Mafikeng Local Municipality and the North West Province, and to also increase tourism rate in the Province.
- 7.7 The public participation process undertaken is considered adequate.
- 7.8 The Environmental Management Principles in Section 2 of the National Environmental Management Act (Act No. 107 of 1998) were adhered to.

8. SITE VISIT:

26 January 2005 - Attended by the following:

Ms G. Hlongwane	(NWDACET)
Mr S. Mbanjwa	(NWDACET)
Mrs L. Gregory	(Bokamoso Environmental Consulting [Pty] Ltd.)
Mr P. Smith	(Zelphy 2075 [Pty] Ltd. [Applicant])

9. DURATION AND DATE OF EXPIRY:

If the construction does not commence within a period of two years from the date of this authorisation, it will lapse, and should the applicant intend to invoke the project, the application procedure as detailed in G.N.R 1183, as amended, must be followed.

10. APPEAL:


Formal appeals on the record of decision must be lodged within 30 days from the date of this authorisation, with:

The Member of the Executive Council
Department of Agriculture, Conservation, Environment and Tourism
Private Bag X 2039
MMABATHO
2735

Tel (018) 389 5111
Fax (018) 384 2679

11. ISSUED BY:

Mrs Basadi Moselakomo
Acting Senior Manager: Environmental Management Services
North West Department of Agriculture, Conservation, Environment and Tourism

Signature  Date 08/06/2005