

ROODEFONTEIN: CAN WE USE THIS CONFLICT TO FORMULATE SOLUTIONS

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ABSTRACT:

Over the past few months, WESSA has once again signalled that it will remain committed to good environmental governance, even if this means challenging unwise decisions in the courts. There has been much media coverage of the approval of a proposed 400 housing unit golf course and equestrian estate at Roodefontein, on the Piesangs River near Plettenberg Bay.

Approval for the development was granted by the then Western Cape MEC for Environmental Affairs and Development Planning, Mr David Malatsi, shortly after he had removed his delegated decision-making powers from a senior official, Ms Ingrid Coetzee, apparently because of her refusal to approve the development. The decision was fraught with controversy that included an inadequate public process and, WESSA believes, an incomplete and shoddy Environmental Impact Assessment (EIA) that had been severely criticised by at least three independent reviewers.

Both WESSA and the developer appealed Mr Malatsi's decision. WESSA's formulation of its appeal was made extremely difficult by the Department declining requests to release critical information. After the appeal hearings, Mr Malatsi issued a new Record of Decision, which gave the development the go-ahead with even fewer conditions attached, and which effectively upheld the developer's appeal and overturned WESSA's.

After obtaining legal advice, WESSA concluded that there were strong prima facie grounds for a review decision. These grounds included the failure to assess properly the impact of using water from the Keurbooms River to supply the needs of a development in the Piesangs River Basin, the environmental impacts to an endangered veld type through using treated sewage water to irrigate the golf course and WESSA's belief that Mr Malatsi had displayed a clear predisposition to approving the development.

Mr Malatsi vacated his Provincial position to assume a senior position in National Government. The Province announced its decision to take the Roodefontein decision on review itself and allegations of corruption surfaced. In the end the approvals were set aside by an order of the court after the parties had reached an agreement.

The Roodefontein debacle has served to erode further the public's faith in democracy and fair application of the law. It has called into question the effectiveness of the EIA process and the integrity of "independent" consultants. It has also highlighted the urgent need for environmental consultants to have a regulatory body, with a strict code of ethics, to prevent them all from being tarred with the same brush.

The lessons of Roodefontein may be used to find solutions that lead to sound co-operative governance. These would include minimum requirements for an EIA

process, an adequate and clearly understood public participation process, mechanisms that safeguard the independence of consultants and a decision-making process that is free from political interference.

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