

Drive to fight Chappies toll plaza in court

Association claims it is unlawful

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Staff Reporter

THE RESIDENTS' Association of Hout Bay plans to take legal action to stop the construction of a multimillion-rand toll plaza in Chapman's Peak Drive.

Steven Otter, spokesman for Transport MEC Robin Carlisle, confirmed yesterday that construction of the R53 million Chapman's Peak toll plaza would go ahead, but could not give an exact date.

In a letter to the provincial department of transport in September, SA National Parks (SANParks) – which manages the Table Mountain National Park (TMNP) on whose land part of the proposed toll plaza will be built – and the operator, Entilini, the residents' association said the development was unlawful and demanded that plans be revised.

This month, it also wrote to national Minister of Water and Environmental Affairs Edna Molewa and to the Office of Premier asking them to intervene.

The Office of the Premier replied, giving an undertaking that it would not issue the required 30 days' notice of construction within the TMNP, before January 9.

Otter said that although the national Department of Transport had halted plans for toll roads, this did not affect existing ones like the Chapman's



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Peak toll or the Huguenot toll plaza.

He said the construction of the Chapman's Peak plaza was "strictly in line with the law and strictly in line with the environmental impact assessment".

The association, however, argues that a portion of the development will be constructed on land that falls within the TMNP and will contravene the National Environmental Management: Protected Areas Act, 57 of 2003 (NEMPAA).

In the act, section 50(5) states that no development, construction or farming may be permitted in a national park without the prior written approval of the management authority.

"To the best of our knowledge, the management authority, as defined in the NEMPAA, has not granted such written approval," the association says in its letter.

"Even if such approval has been granted, whatever the nature of the purported agreement between South African National Parks and the developers in this regard, SANParks does not have the authority to

approve the use of Table Mountain National Park land for the development and therefore any approval that has been given is invalid."

The association said that SANParks's mandate in managing the TMNP was limited by the NEMPAA.

This act provided that SANParks must manage the park exclusively for the purpose for which it was declared.

"The proposed development is not consistent with any of the purposes for which the TMNP was declared and SANParks therefore has no power to authorise it."

The residents' association pointed out that the building plans showed that a two-storey office building accommodating about 60 people was also planned for the site and it felt this was not necessary for the tolling of Chapman's Peak Drive.

The association demanded to see the approval granted to the developers.

Gregory Daniels, SANParks's general manager of legal services, responded that they were still looking at the issues raised by the residents' association.

He said the "key people" involved in the matter were on leave (and out of the country) until mid-January 2012, and they would only be able to respond when they returned.

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