



MINDE SCHAPIRO & SMITH

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Our Ref: DEM16/0759/ELZANNE JONKER/ks | Your Ref: | Date: 15 December 2020

## **PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**

Per email: Robert@presidency.gov.za

## **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Per email: MathoM@cogta.gov.za ; CarolineM@cogta.gov.za; MandisaMB@cogta.gov.za

Dear President Ramaphosa and Minister Dlamini-Zuma,

### **CLOSURE OF BEACHES IN GARDEN ROUTE DISTRICT**

1. I act for the Democratic Alliance.
2. In terms of the Amended Regulations published this morning in the Government Gazette (No 1346 in GG 43997), pursuant to section 27(2) of the Disaster Management Act 57 of 2002, various beaches around the country have been closed either for the entire period of the festive season or for a limited number of days on which, traditionally, many people visit the beach. Beaches in the Garden Route District in the Western Cape are closed to the public from 16 December 2020 until 3 January 2021 (Regulations 69(12)(b), 84(12)(b) and amended Table 4), whereas beaches in KwaZulu-Natal are closed to the public only on 16, 25, 26 and 31 December 2020 and 1, 2 and 3 January 2021 (Regulations 69(12)(c), 84(12)(c) and amended Table 4).
3. I am instructed that the current Covid-19 statistics for KwaZulu-Natal and the Garden Route are similar. Notwithstanding the similarity in the statistics, the closure of beaches in KwaZulu-Natal is far more limited, and provincial and local government officials have been entrusted to exercise their powers to close various beaches if large crowds gather without following social distancing rules. By contrast, beaches along the entire Garden Route district are closed for the full period.

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Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1926 | Registration number 2010/025182/21

**Directors:** Heinrich Crous BA LLB | Elzanne Jonker BA LLB | \*Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB

**Senior Associates:** Gerhard Lourens FPSA® BA LLB | Andre van Breda B Comm LLB

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**Consultants:** Gerhard van Reenen | Louis Meyer B Juris LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB

**Vat registration number:** 4580257428 | \*At Greenacres, Port Elizabeth

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4. I am instructed urgently to request the reasons underlying your decision to impose a blanket closure of the beaches in the Garden Route district during the festive period, as opposed to the more nuanced approach adopted in KwaZulu-Natal.
5. My client is of the view that the decision to impose a blanket closure of beaches in the Garden Route for a period of two-and-a-half weeks and for the entire district (as opposed to a more nuanced approach where beaches are closed only on certain days):
  - 5.1 violates the right to freedom of movement, is irrational and otherwise unconstitutional;
  - 5.2 will have a detrimental impact on many businesses in the Garden Route; and
  - 5.3 interferes with the constitutional authority and right of the affected local governments to regulate the use of beaches and public spaces within their area of jurisdiction in terms of section 156(1) read with Part B of Schedule 5 of the Constitution.
6. I also record that it has been reported that the Government's scientific advisors do not support the closure of beaches. Furthermore, it is also generally accepted that being in the sun and outside, is less risky than being in confined places, at alternative places of recreation which have not been shuttered.
7. My client acknowledges the need to take appropriate measures to reduce the risk of the spread of the virus – a more nuanced approach will also achieve that goal, but not breach constitutional rights and not cause further harm to businesses.
8. Please provide the reasons for your decision, by no later than **17h00 on Wednesday 16 December 2020**, failing which my client will consider approaching a court urgently for appropriate relief.

Yours faithfully

**MINDE SCHAPIRO & SMITH INC.**

per: 

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