

Judge rules for 'road' in legal clash with 'toads'

By [John Yeld](#)

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Noordhoek road link in Cape Town to go ahead.



The Western Cape High Court has dismissed an attempt by Noordhoek environmentalists to set aside approval for a road link in an area where the endangered Western Leopard Toad breeds. Archive photo: John Yeld / GroundUp

- Noordhoek conservationists have lost an application to review and rescind environmental approval for a new wetland road link.
- This means the City of Cape Town can now construct the road link, designed to ease intense traffic congestion around Masiphumelele in the southern Peninsula.
- The endangered Western Leopard Toad will lose part of its breeding habitat in the Noordhoek wetlands, but the court agreed with the City that the “impact can be mitigated”.

Environmental [approval](#) for a new road link skirting the Noordhoek wetlands in Cape Town has been confirmed by the Western Cape High Court after a long and heated debate over many years.

The City of Cape Town plans to construct this 1.2km section of road, known as Houmoed Avenue Extension 1, which is the first part of a 2.1km arterial road. The link is designed to alleviate chronic traffic congestion around the densely populated Masiphumelele township adjoining Sunnydale.

However, it will also affect some breeding sites of the endangered Western Leopard Toad.

The court has agreed with the City of Cape Town that mitigation measures can be applied to maintain an “adequate level” of long-term ecological viability for the local toad population. Such measures include “toad underpasses” in the form of dry culverts under roads and appropriate fencing in breeding areas.

On Tuesday 23 April, Acting Judge [Karrisha Pillay](#) dismissed a review application brought by the Noordhoek Environmental Action Group (NEAG) that challenged both the 2019 Environmental Authorisation issued for the Houmoed road link and the 2020 dismissal of their appeal against this authorisation.



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John Yeld 3 Mar 2020



The group also asked the High Court, among other things, to declare that the failure to commission an amphibian specialist or study into the impact of the proposed road on the Western Leopard Toad constituted a “fatal flaw” in the environmental authorisation.

The City was the first respondent in the case, and the second respondent was Western Cape environment MEC Anton Bredell, whose department had approved the environmental approval and who dismissed NEAG’s appeal.

Acting Judge Pillay said it was clear from documents submitted to the court that the impact of the proposed road on the Western Leopard Toad had been carefully considered and a range of mitigation measures had been proposed.

The judge concluded: “I am of the view that there is no merit to any of the grounds of challenge and that this application must fail.”

She ordered each party to pay its own costs.

NEAG chairperson Andrea Marais-Potgieter said the group respected the decision of the court and was studying the judgment before deciding whether or not to appeal.

GroundUp had not received a response to a request for comment from the City of Cape Town and MEC Bredell at the time of publication. Responses will be added when they are received.

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