



**REFERENCE:** 16/3/3/6/1/B3/28/1149/20

**DATE:** 17/09/2020

The Board of Directors  
Boschendal (Pty) Ltd  
P. O. Box 35

**PNIEL**  
7681

**Attention: Mr. S. Groenewald**

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Dear Sir

**RE: APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED), WITH RESPECT TO THE DEVELOPMENT OF A TENTED CAMP ON FOUNDER'S ESTATE PORTION 5 OF FARM NO. 1685, AND BOARDWALK ALONG THE DAM ON PORTION 16 OF FARM NO. 1685, PNIEL**

1. The correspondence dated 3 August 2020, as received by this Department on 14 August 2020, refers.
2. Following the review of the abovementioned correspondence, this Department draws your attention to the following:

2.1 Mountain Villa and boardwalk on Portion 16 of Farm No. 1685:

- 2.1.1 The construction of the Mountain Villa and the boardwalk nearby took place in late 2012/ early 2013.
- 2.1.2 Small sections of land have been cleared and excavated for the installation of the poles. There may have been some minor clearing of vegetation within the footprint of the boardwalk (noting that the boardwalk is raised so much vegetation exists underneath it in present day). The boardwalk is located along the banks of the dam and within the riparian area of Stream 5, which has a cobble bed, with what appears to be perennial surface flow.
- 2.1.3 There would also have been land clearing, excavation, and levelling for the development of the house (i.e. Mountain Villa).
- 2.1.4 A road network traversing the centre of the site, next to and within the original wetland area.

**2.2 Please note the following with respect to the Mountain Villa and boardwalk on Portion 16 of Farm No. 1685:**

- 2.2.1 According to the Department's database, no previous correspondence was issued by the Department with respect to the Mountain Villa.

2.2.2 A section of the Mountain Villa, boardwalk, jetty and the aviary, are structures located within 32m of a watercourse that exceeds 100m<sup>2</sup>. At the time of construction of the structures, the following listed activities in terms of the NEMA EIA Amendment Regulations, 2010 would have been applicable. Find below a description of the listed activity and its similarly listed activity in terms of the NEMA EIA Regulations, 2014 (as amended):

**Table 1: Listed activities applicable to the Mountain Villa and boardwalk**

<b>Listing Notice 1 of the EIA Amendment Regulations of June 2010:</b>	<b>Listing Notice 1 of the EIA Regulations 2014 (as amended):</b>
<p>Activity Number 11: The construction of:</p> <ul style="list-style-type: none"> <li>(i) canals;</li> <li>(ii) channels;</li> <li>(iii) bridges;</li> <li>(iv) dams;</li> <li>(v) weirs;</li> <li>(vi) bulk storm water outlet structures;</li> <li>(vii) marinas;</li> <li>(viii) jetties exceeding 50 square metres in size;</li> <li>(ix) slipways exceeding 50 square metres in size;</li> <li>(x) buildings exceeding 50 square metres in size; or</li> <li>(xi) infrastructure or structures covering 50 square metres or more</li> </ul> <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>Activity Number 12: The development of—</p> <ul style="list-style-type: none"> <li>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</li> <li>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</li> </ul> <p>where such development occurs—</p> <ul style="list-style-type: none"> <li>(a) within a watercourse;</li> <li>(b) in front of a development setback; or</li> <li>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</li> </ul> <p>excluding—</p> <ul style="list-style-type: none"> <li>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</li> <li>(dd) where such development occurs within an urban area;</li> <li>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</li> <li>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the</li> </ul>

	commencement of development and where indigenous vegetation will not be cleared.
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The abovementioned is based on:

- A section of the Mountain Villa, boardwalk, jetty and the aviary, are structures located within 32m of a watercourse that exceeds 100m<sup>2</sup>.

### 2.3 Tented camp on Portion 5 of Farm No. 1685:

2.3.1 A larger tent and platform near the dam which would be used as a restaurant.

2.3.2 A tent and platform that would be used as a kitchen.

2.3.3 A tent and platform that would be used as an office/staff facility.

2.3.4 The seven accommodation tents are tucked into a patch of vegetation which comprises a combination of alien and indigenous species. Each tent can sleep two guests. Each structure comprises a wooden deck/ platform which rests on a steel frame supported by steel legs that are individually cemented into the ground for support. The top structures comprise of compressed wood walling covered by canvas with a stretch “gazebo-type” roof which pin to the ground around the platform. It is noted in Figure 36 that the inside of the accommodation tent has a double bed and what appears to a single fold up bed/stretcher on the left side.

2.3.5 Four small bio septic tanks.

2.3.6 A 116m<sup>3</sup> water tank/reservoir.

**Table 2: Listed activities applicable to the tented camp area:**

<b>Listing Notice 1 of the EIA Regulations 2014 (as amended):</b>	<b>Listing Notice 3 of the EIA Regulations 2014 (as amended):</b>
<p>Activity Number 12: The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</p> <p>(j) infrastructure or structures with a physical footprint of 100 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</p> <p>excluding—</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in</p>	<p>Activity Number 4: The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p><b>i. Western Cape</b></p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. Areas outside urban areas;</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use; or</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p>

<p>Listing Notice 2 of 2014 applies;</p> <p>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p>	
<b>Possibly listed activity</b>	
	<b>Listing Notice 3 of the EIA Regulations 2014 (as amended):</b>
	<p>Activity Number 6: The development of resorts, lodges, hotels, tourism or hospitality facilities that sleeps 15 people or more.</p> <p><b>i. Western Cape</b></p> <p>i. Inside a protected area identified in terms of NEMPAA;</p> <p>ii. Outside urban areas;</p> <p>(aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</p> <p>(bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; -</p> <p>excluding the conversion of existing buildings where the development footprint will not be increased.</p>

The abovementioned is based on:

- The structures (restaurant tent, office, kitchen etc.) within 32m of the watercourse exceeds the 100m<sup>2</sup> threshold.
- Access roads (ranging in width from approximately 3.7m to approximately 5m) between the accommodation tents were constructed in an area containing indigenous vegetation.
- Confirmation of whether the tents are able to accommodate more than 2 people must be provided because it will determine whether Activity 6 of LN 3 is applicable or not.

**2.4 Since the abovementioned activities has been commenced with, without obtaining the required Environmental Authorisation. Section 24G process must be followed to rectify the unlawful commencement of listed activities in terms of the NEMA EIA Regulations 2014 (as amended).**

3. Please note that the applicant must comply with any other statutory requirements that may be applicable to the undertaking of the activity.
4. Kindly quote the abovementioned reference number in any future correspondence concerning the proposed development.
5. This Department reserves the right to revise or withdraw its comments and request further information based on any information received.

Yours faithfully



**HEAD OF COMPONENT  
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

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