



REFERENCE: 16/3/3/6/3/B3/28/1044/23

DATE: 13 SEPTEMBER 2023

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

PNIEL

7681

Attention: Mr. W. George

Cell: 082 559 9100

Email: specialproject1@boschendal.co.za

Dear Sir

ADOPTION OF THE MAINTENANCE MANAGEMENT PLAN IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS (GN NO. 326 OF 7 APRIL 2017) FOR THE PROPOSED MAINTENANCE ON ALL WATERCOURSES ON BOSCHENDAL ESTATE LOCATED IN PNIEL, PAARL

1. The final Maintenance Management Plan ("MMP") dated 8 August 2023, received by this Department on 11 August 2023, refers.
2. In terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), viz, the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the competent authority hereby adopts the MMP, dated 8 August 2023, for all watercourses located within the boundaries of Boschendal Estate.
3. Please note that:
 - 3.1 The adoption of the MMP only relates to the following listed activities and to the determination of whether or not environmental authorisation in terms of NEMA is required before undertaking the tasks stipulated in the MMP.

Listing Notice 1:

Activity Number: 19

The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

(a) will occur behind a development setback;

- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.

Activity Number: 27

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

Listing Notice 2:

Activity Number: 15

The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

Listing Notice 3:

Activity Number: 12

The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

(i) Western Cape:

- i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
- ii. Within critical biodiversity areas identified in bioregional plans;
- iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;
- iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or
- v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.

- 3.2 Although the abovementioned activities are applicable, the proposed maintenance activities within the tributaries of the Dwars and Berg Rivers that cross Boschendal Estate will be undertaken in accordance with the adopted MMP and do not require an environmental authorisation in terms of NEMA.

3.3 Any other statutory requirements that may be applicable to the undertaking of the development must be adhered to.

3.4 The fact that the MMP for the tributaries of the Dwars and Berg Rivers that cross Boschendal Estate is adopted by the competent authority does not absolve you from your general "Duty of Care" set out in Section 28(1) of the NEMA which states that:

"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment." (Note: When interpreting their "duty of care" responsibility, cognisance must be taken of the principles of sustainability contained in Section 2 of NEMA).

3.5 It is, however, reiterated that the MMP only relates to the listed activities mentioned above. If any of the other listed activities are triggered, then environmental authorisation will have to be obtained in terms of NEMA. If the maintenance work is in any way amended, additional listed activities might become applicable. It remains the responsibility of the proponent to determine if listed activities are triggered and to ensure that the necessary environmental authorisation is obtained.

4. Please note that Interested and Affected Parties ("I&APs") that registered during the Public Participation Process must be informed of this decision and to the fact that an appeal may be lodged against the decision in terms of National Appeal Regulations, 2014 (as amended) as detailed hereunder.

5. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations, 2014 (as amended) and be read together with Regulation 43 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

5.1. An appellant must –

5.1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and

5.1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.

5.2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–

5.2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and

5.2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.

5.3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

5.4. The appeal form/s must be submitted by means of one of the following methods:

By post: Attention: Marius Venter

Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr. M. Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

5.5. The prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail **DEADP.Appeals@westerncape.gov.za** or URL <http://www.westerncape.gov.za/eadp>.

6. If there is a material non-compliance by the applicant with this MMP, this Department shall issue a written notice to the applicant. The notice shall specify any acts and omissions constituting the breach, and that the Department shall withdraw its adoption of the MMP if the breach is not remedied within ten days of receiving the notice. The effect of this will be that environmental authorisation in terms of NEMA shall be required before undertaking the activities stipulated in the MMP.
7. This Department will not be held liable for any loss or damage to property or person as a consequence of the activities to be undertaken in accordance with the adopted MMP.
8. This Department reserves the right to revise or withdraw comments or request further information from you based on the information received.

Yours faithfully

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Cc to: (1) Ms. M. Lee (Chand Environmental Consultants)
(2) Mr. S. van der Merwe (Stellenbosch Municipality)

Email: michelle@chand.co.za
Email: schalk.vandermere@stellenbosch.gov.za