



**REFERENCE:** 16/3/3/6/F2/3/2019/22

**DATE OF ISSUE:** 10 March 2022

The Municipal Manager  
Cederberg Municipality  
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**CLANWILLIAM**  
8135

**Attention: Mr. A Neethling**

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Dear Sir

**APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) WITH RESPECT TO THE APPLICATION FOR REZONING: THE PROPOSED ESTABLISHMENT OF A CEMETERY AND ASSOCIATED INFRASTRUCTURE ON PORTION 103 OF THE FARM GROOT VALLEY NO. 451, DIVISION CLANWILLIAM.**

1. The planning application and supporting documentation received by the Department via electronic mail correspondence on 23 February 2022, refers.
2. This letter serves to confirm the applicability of the EIA Regulations, 2014 (as amended), with respect to the application for rezoning: the proposed establishment of a cemetery and associated infrastructure on Portion 103 of the Farm Groot Valley No. 451, Division Clanwilliam.
3. The Department reviewed the municipal rezoning application and note the following:
  - 3.1. The application is for the rezoning of an approximately 2490m<sup>2</sup> portion of Portion 103 of the Farm Groot Valley No. 451, Division Clanwilliam from Agricultural Zone 1 to Open Space Zone 1 for the establishment of a cemetery and associated infrastructure;
  - 3.2. The proposed site is located outside the demarcated urban edge of Citrusdal and outside an urban area;
  - 3.3. The proposed site is located within 5km of the Winterhoek Mountain Catchment Area, a Protected Area;
  - 3.4. The proposed site is mapped as containing Cape Lowland Freshwater Wetlands vegetation, a Least Threatened ecosystem in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEM:BA"), List of Threatened Ecosystems in Need of Protection, December 2011;
  - 3.5. Existing access roads and registered servitudes will be used to access the proposed site; and
  - 3.6. The proposed site is located more than 32m of the closest watercourse, including wetland areas.
4. Based on the information provided, the Department is of the view that the proposed development **does not trigger** any of the following Listed Activities in terms of the EIA Regulations, 2014 (as amended):

**Listing Notice 1 of the EIA Regulations, 2014 (as amended):**

Activity Number: 23

Activity Description:

*"The development of cemeteries of 2 500 square metres or more in size."*

Activity Number: 27

Activity Description:

*"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."*

Activity Number: 28

Activity Description:

*"Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:*

- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or*
- (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;*

*excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes."*

### **Listing Notice 3 of the EIA Regulations, 2014 (as amended):**

Activity Number: 4

Activity Description:

*"The development of a road wider than 4 metres with a reserve less than 13,5 metres.*

#### **i. Western Cape**

- i. Areas zoned for use as public open space or equivalent zoning;*
- ii. Areas outside urban areas;*
  - (aa) Areas containing indigenous vegetation;*
  - (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*
- iii. Inside urban areas:*
  - (aa) Areas zoned for conservation use; or*
  - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority."*

Activity Number: 12

Activity Description:

*"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 or even 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."*

5. This determination is based on the following:

- 5.1 The development footprint of the proposed cemetery will be less than 2500m<sup>2</sup> in extent;
  - 5.2 The proposed development will not result in the clearance of more than 1ha of indigenous vegetation;
  - 5.3 The proposed site does not contain Critically Endangered or Endangered indigenous vegetation;
  - 5.4 The proposed development will not entail the transformation of more than 1ha of land used for agricultural purposes;
  - 5.5 Access to the site will utilise existing access roads and registered servitudes; and
  - 5.6 The site is located more than 32m from the closest watercourse.
6. Written Environmental Authorisation is therefore **not required** from the Competent Authority (in this instance, this Directorate), prior to the proposed establishment of a cemetery and associated infrastructure on the proposed site.
7. However, should the development proposal be amended in a manner that makes any Listed Activity in terms of the EIA Regulations, 2014 (as amended) applicable, an application form for Environmental Authorisation must be submitted to the Competent Authority and the relevant Environmental Authorisation obtained prior to the development proposal being commenced with on the proposed site.
8. You are reminded of the general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *"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."*
9. It is prohibited in terms of the NEMA to commence with a Listed Activity without a relevant Environmental Authorisation from the Competent Authority. Non-compliance in terms of the prohibition will be referred to the Environmental Law Enforcement Directorate of the Department for possible prosecution. The penalty for a person convicted of an offence in terms of the above is a fine not exceeding R10 000 000 or imprisonment for not more than 10 years, or both such fine and such imprisonment.
10. Kindly quote the abovementioned reference number in any future correspondence concerning the proposed development.
11. The Department reserves the right to revise or withdraw its comments and request further information from you based on any information received.

Your interest in the future of the environment is greatly appreciated.

Yours faithfully

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pp **HEAD OF DEPARTMENT**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**