

COMMENTS AND RESPONSE REPORT – RIVERSDALE S24G

Initial Comments received: 28 February 2025 – 04 April 2025

Date	Comment	I&AP	Response	Respondent
04/04 2025	<p>CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.</p> <p>The activities undertaken consist of two areas of clearance of indigenous vegetation and construction of a small dam. The impacted footprints are mapped as Critical Biodiversity Area (CBA) 1 (CBA 2 for the dam) in the 2023 Western Cape Biodiversity Spatial Plan (BSP) adopted by the competent authority on 13 December 2024. The mapping in the 2017 BSP is the same for the areas cleared of vegetation. The vegetation that occurred on the footprints was Garden Route Shale Fynbos, which is listed as endangered in the November 2022 Revised List of Threatened Ecosystems and was previously vulnerable. The dates when activities were undertaken should be referred to with regards to the relevant version of the BSP and vegetation threat status. The footprints are in proximity to the Duivenhoks River and associated unchanneled valley bottom wetland as mapped in the National Wetland Map.</p> <p>CapeNature recommends that the screening tool and associated site sensitivity verification must be used to determine which specialist studies are required in accordance with the Procedures for the Assessment and Minimum Criteria for Reporting on Environmental Themes (termed “the protocols”). It must be ensured that the specialist studies adhere to all aspects of the protocols.</p>	CapeNature	<p>Noted.</p> <p>The mapped sensitivities and the need to reference the applicable versions of the BSP and vegetation threat status at the time of activity are acknowledged. The two areas cleared for orchard establishment fall within CBA 1, and the dam footprint within CBA 2, as per both the 2017 and 2023 Western Cape Biodiversity Spatial Plans. The vegetation type affected, Garden Route Shale Fynbos, was listed as Vulnerable at the time of clearance in 2022 and later reclassified as Endangered in the <i>Revised National List of Ecosystems</i> (GN 2747 of 18 November 2022). The dam and orchards are near a mapped valley-bottom wetland and the Duivenhoks River, but site verification confirmed that the watercourse and riparian areas had already been heavily degraded by past agricultural activities. These factors were considered in the specialist studies, which concluded that the ecological impact is limited, and no biodiversity offset is required.</p> <p>CapeNature's recommendation regarding the use of the Screening Tool and associated site sensitivity verification in line with the <i>Procedures for the Assessment and Minimum Criteria for Reporting on Environmental Themes</i> (“the protocols”) is acknowledged and accepted. A Screening Report was generated using the national Environmental Screening Tool, and the required site sensitivity verification was undertaken by the appointed Environmental Assessment Practitioner (EAP) and qualified specialists.</p>	EnviroAfrica

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	<p>Specific aspects we wish to highlight:</p> <ul style="list-style-type: none"> • The palmiet (<i>Prionium serratum</i>) peat wetlands associated with the Duivenhoks River are highly sensitive to disturbance. It must therefore be ensured that the activities undertaken do not result in disturbance to the wetlands and if necessary, a larger buffer from the wetland must be implemented for the cultivated lands. Once a knickpoint of erosion forms in the wetland, it can result in severe erosion and environmental degradation. 	<p>As part of the Section 24G rectification process, specialist studies were commissioned and compiled in accordance with the applicable protocols for the relevant environmental themes, including Agriculture (High Sensitivity), Terrestrial Biodiversity, and Aquatic Biodiversity. These reports include a clear statement of compliance with the minimum reporting standards outlined in the protocols published under GN 320 of 2020, as amended. Where sensitivity ratings differed between the screening tool and on-site verification, motivation and justification have been provided within the specialist reports in line with the procedural requirements.</p> <p>The project team is committed to ensuring that all specialist assessments submitted as part of this application are protocol-compliant, and any additional studies or updates required by the competent authority or commenting authorities will be undertaken accordingly.</p> <p>The sensitivity of the Palmiet (<i>Prionium serratum</i>) peat wetlands associated with the Duivenhoks River is acknowledged and fully recognised. These wetlands are known for their high ecological value and vulnerability to physical disturbance, particularly erosion, which can be exacerbated by nearby land use and hydrological changes. The potential for knickpoint erosion and subsequent wetland degradation has been carefully considered in the freshwater impact assessment (WATSAN Africa, February 2025).</p> <p>The freshwater report confirms that the activities undertaken, specifically the orchard and the dam development, are located outside the functional Palmiet wetland system and do not intersect directly with the intact wetland areas mapped along the Duivenhoks River. Furthermore, the dam was constructed in a historically</p>	
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	<ul style="list-style-type: none"> The National Biodiversity Offset Guideline is aimed primarily at NEMA applications for activities which have not yet commenced, however, as indicated in the guidelines, the same principles apply to other processes such as NEMA S24G process. We therefore recommend that the terms of reference for the specialist studies must include an evaluation of whether a biodiversity offset is required in accordance with the National Biodiversity Offset Guidelines with specific reference to the implementation of the mitigation hierarchy and the impact significance. 		<p>degraded drainage feature and does not interact hydrologically with the Duivenhoks River or its peat-based wetland zones.</p> <p>It is recognised that maintaining adequate buffer zones is of paramount importance. The current cultivation practices are positioned at a significant distance from the wetland and supplementary buffer measures, such as no-go zones, berms to mitigate runoff, and the preservation of natural vegetation between agricultural lands and the wetland, will be implemented as necessary. These measures aim to prevent erosion, sedimentation, and alterations to the natural flow of water. No further clearing or encroachment toward the wetland will take place.</p> <p>The project team will ensure full compliance with NEMA and the principles of responsible land management.</p> <p>CapeNature's assessment regarding the applicability of the National Biodiversity Offset Guideline to the Section 24G process is acknowledged. While the guideline is primarily designed for prospective applications under the National Environmental Management Act (NEMA), it is agreed that the principles it outlines—particularly the application of the mitigation hierarchy—remain relevant in rectification scenarios where residual impacts may be present.</p> <p>Accordingly, the terms of reference for the botanical specialist study included an evaluation of whether a biodiversity offset would be required, in accordance with the National Biodiversity Offset Guideline (GN 380 of 2023). The assessment considered:</p> <ul style="list-style-type: none"> Residual impacts following avoidance, minimisation, and on-site mitigation. 	
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	<ul style="list-style-type: none"> • CapeNature will provide further comment once the first draft of the NEMA S24G Report is made available for comment. 		<ul style="list-style-type: none"> • The irreplaceability and vulnerability of the affected ecosystem—Garden Route Shale Fynbos, listed as Endangered and mapped as CBA1. • Whether the impact significance remains high despite the application of mitigation measures. <p>Based on site verification and ecological condition, the botanical specialist concluded that the cleared areas were already highly degraded or historically cultivated, with no species of conservation concern or intact ecological features recorded. As such, while the mapped sensitivity is acknowledged, the actual ecological impact is assessed as Medium-Low Negative, and a biodiversity offset is not required in this case. The project team remains committed to engaging further with CapeNature and the competent authority, should future land use changes or new findings alter this conclusion.</p> <p>CapeNature's intention to provide further comment upon review of the first draft of the NEMA Section 24G Report is noted and welcomed. The draft report, along with all supporting specialist studies and relevant appendices, will be circulated to CapeNature and other commenting authorities as part of the formal public and authority review phase.</p>	
11/06 2025	INFORMATION REQUIREMENTS OF THE POTENTIAL SECTION 24G APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF LISTED ACTIVITY/IES: THE UNLAWFUL CLEARANCE OF VEGETATION AND DEVELOPMENT OF A DAM ON FARM WADRIFT NO.91, RIVERSDALE.	WCDEADP		EnviroAfrica

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EnviroAfrica
July 2025

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	<p>6. The applicant is thus required to ensure that all the applicable listed activities are included in the application to be submitted. In this regard, the timeframe of commencement of the listed activity and the relevant Environmental Impact Assessment legislative period / regime is of particular importance.</p> <p>7. Please also ensure that the similarly listed activities in terms of the current Environmental Impact Assessment Regulations, 2014 (as amended) are applied for should the listed activities not have commenced within this period.</p> <p>8. The appointed EAP is required to provide a <u>detailed explanation as to why the unlawfully commenced activity is still similarly listed</u> in terms of the NEMA.</p> <p>9. <u>Commencement of listed activities</u></p> <p>9.1 In accordance with the information contained in the draft section 24G application form (dated 02 April 2025), the following listed activities have been triggered by the unlawful commencement of the development activities, i.e.:</p> <p>Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended)</p> <p>Activity Number: 12</p> <p><u>Activity Description:</u></p> <p><i>“The development of—</i> <i>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</i> <i>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</i></p>		<p>Noted.</p> <p>Noted. All activities included in this Section 24G application relate specifically to those that had already commenced unlawfully.</p> <p>Noted. The explanation is incorporated into the Report.</p> <p>Noted and agreed.</p>	
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	<p><i>where such development occurs—</i></p> <p><i>(a) within a watercourse;</i> <i>(b) in front of a development setback; or</i> <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; — excluding—</i></p> <p><i>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</i> <i>(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;</i> <i>(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;</i> <i>(dd) where such development occurs within an urban area; (ee) where such development occurs within existing roads, [or] road reserves or railway line reserves; or</i> <i>(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.”</i></p> <p><i>Activity Number: 19</i></p> <p><u><i>Activity Description:</i></u></p> <p><i>“The infilling or depositing of any material of more than [5] 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;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p>		<p>Noted and agreed.</p>	
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	<p><i>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;</i></p> <p><i>ii. Within critical biodiversity areas identified in bioregional plans;</i></p> <p><i>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;</i></p> <p><i>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</i></p> <p><i>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.”</i></p> <p>Activity Number: 14</p> <p><u>Activity Description:</u></p> <p>“The development of—</p> <p><i>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or</i></p> <p><i>(ii) infrastructure or structures with a physical footprint of 10 square metres or more;</i></p> <p>where such development occurs—</p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback; or</i></p> <p><i>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; excluding the development of infrastructure or</i></p>		<p>Noted and agreed.</p>	
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	<p><i>structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</i></p> <p><i>i. Western Cape</i> <i>i. Outside urban areas:</i> <i>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</i> <i>(bb) National Protected Area Expansion Strategy Focus areas;</i> <i>(cc) World Heritage Sites;</i> <i>(dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</i> <i>(ee) Sites or areas listed in terms of an international convention;”</i></p> <p><i>Minimum requirements for every application for environmental authorisation:</i></p> <p>10. You are reminded that section 24G is an application for environmental authorisation and thus an applicant must comply with the requirements of the NEMA in relation to the submission of an application for environmental authorisation and any other relevant information (section 24(1A)(e) of the NEMA). Section 24(4)(a) of the NEMA specifies the “procedures for the investigation, assessment and communication of the potential consequences or impacts of the activities on the environment” that every application for environmental authorisation must comply with.</p> <p>11. Taking the above into consideration, together with the information requirements of Annexure A, Section C, Part 1 of the fine regulations related to the environmental impacts</p>		<p>Noted and acknowledged. The applicant recognises that a Section 24G application constitutes an application for environmental authorisation and is therefore subject to the requirements set out in Section 24(1A)(e) and Section 24(4)(a) of the National Environmental Management Act, 1998 (Act No. 107 of 1998). The application process has been undertaken in accordance with these provisions, including the submission of all relevant information and the undertaking of appropriate investigations, assessments, and communication of potential environmental consequences through the required specialist studies, public participation, and compilation of the environmental reports. The project team is committed to ensuring full compliance with all applicable requirements of NEMA throughout the Section 24G process.</p> <p>Noted and acknowledge.</p>	
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	<p>and representations to be completed by an Environmental Assessment Practitioner ("EAP"); and to be submitted together with the section 24G application; you are hereby advised that the application be informed by an environmental impact assessment.</p> <p>12. When conducting such environmental impact assessment, the applicant/EAP must take into account the applicable guidelines developed by the Department, which may be downloaded from the Department's website (see above). In particular, the following are applicable:</p> <p>12.1. Guideline for Environmental Management Plans; 12.2. Guideline on Public Participation 12.3. Guideline on Alternatives 12.4. Guideline on Need and Desirability 12.5. Departmental guideline series for involving specialist assessments 12.6. Other (as applicable)</p> <p>13. You are required to submit a Screening Report from the National Web based Environmental Screening Tool. The Screening Tool also provides site specific EIA process and review information, for example, the Screening Tool may identify if an industrial development zone, minimum information requirement, Environmental Management Framework or bio-regional plan applies to a specific area. The Screening Tool identifies related exclusions and/ or specific requirements, including specialist studies applicable to the site and/or development, based on the national sector classification and the environmental sensitivity of the site.</p> <p>14. In addition, your attention is drawn to the "Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)</p>		<p>Noted. The applicant and appointed Environmental Assessment Practitioner (EAP) confirm that the environmental impact assessment process is being conducted in accordance with the applicable guidelines developed by the Department, as required. The relevant guidelines, including those for specialist studies, public participation, and environmental management planning, have been consulted and applied where applicable.</p> <p>Noted. A Screening Report generated from the National Web-based Environmental Screening Tool has been obtained for the site, in compliance with the requirements. The report includes site-specific sensitivity ratings, applicable exclusions, and recommended specialist studies in accordance with the national sector classification and environmental attributes of the area. This Screening Report will be attached to the Section 24G Report submission as an annexure to demonstrate compliance with the prescribed process and to inform the environmental assessment.</p>	
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	<p>(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for Environmental Authorisation” (“the Protocols”) were published on 20 March 2020 (Government Notice No. 320 as published in Government Gazette No. 43110 on 20 March 2020) and it is noted that protocols are applicable to your proposed development.</p> <p>14.1. According to the Protocols, before commencing with a specialist assessment, the current use of the land and environmental sensitivity of the site under consideration identified by the screening tool must be confirmed by undertaking site sensitivity verification. A site sensitivity verification report is therefore required in order to confirm the relevant specialist assessments and/or compliance statements required as part of the Section 24G application.</p> <p>14.2. Please note that should reasonable concerns arise from any potential interested and affected parties that require additional assessment, such assessment may be required.</p> <p>14.3. Please note that where a specialist assessment is required, but no specific environmental theme protocol has been prescribed, the level of assessment must be based on the findings of the site sensitivity verification and must comply with Appendix 6 of the NEMA EIA Regulations, 2014 (as amended). Public Participation Process:</p> <p><u>15. Preliminary Advertisement</u></p> <p>15.1. Kindly note the requirements of Regulation 8 and Annexure A, Section D of the fine regulations which stipulate that when submitting an application form, the applicant must</p>		<p>Noted. The applicant and Environmental Assessment Practitioner (EAP) confirm that the “Procedures for the Assessment and Minimum Criteria for Reporting on Identified Environmental Themes” (the Protocols), published under GN 320 in Government Gazette No. 43110 of 20 March 2020, have been duly considered and applied where applicable to this Section 24G application. All relevant specialist studies including botanical and aquatic assessments have been undertaken in accordance with the applicable protocols, including site sensitivity verification, and include confirmation of compliance within each report.</p> <p>Noted. A Site Sensitivity Verification Report has been completed in line with the 2020 Protocols to confirm the environmental sensitivities and inform the required specialist studies. This report is included in the Section 24G submission.</p> <p>The applicant acknowledges that reasonable concerns from I&APs may require further assessment and is committed to addressing such concerns in consultation with the competent authority.</p> <p>Where no specific protocol exists for a required theme, the assessment has been conducted in line with Appendix 6 of the NEMA EIA Regulations (2014, as amended), based on the sensitivity verification findings.</p>	
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	<p>attach proof that the application has been advertised in at least one local newspaper in circulation in the area in which the activity was commenced, and on the applicant's website, if any.</p> <p>15.2. Please note further that the advertisement must state that the applicant commenced a listed/ specified/ waste management activity(ies) without the necessary environmental authorisation and/or waste management licence and is now applying for ex post facto approval. The advertisement must include (a) the date, (b) the location, (c) the applicable legislative provision contravened, (d) and the listed activity(ies) commenced with without the required authorisation.</p> <p>15.3. Interested and affected parties (I&APs) must be provided with the details of where they can register as an I&AP and submit their comment. Please be advised that at least 20 days must be provided in which to do so. Proof of compliance with Regulation 8 of the fine regulations must be submitted together with your application.</p> <p>15.4. Should you decide to compile a draft section 24G Application and of your own accord, make it available for comment, it is recommended that the draft section 24G Application report be made available simultaneously with the Preliminary Advertisement requirement.</p> <p><u>16. Section 24O consultation with organs of state/State departments</u></p> <p>16.1. Kindly note that any public participation undertaken prior to submission of the section 24G Application report does not exempt from compliance with section 24O of the NEMA.</p>		<p>Noted. The public advertisement of the Section 24G application has been placed in a local newspaper in circulation in the area of the activity, in accordance with Regulation 8 and Annexure A, Section D of the Fine Regulations. The advertisement included all required details, namely the date, location, contravened legislative provisions, and the listed activities commenced without authorisation, and invited Interested and Affected Parties (I&APs) to register and comment within a minimum 20-day period. Proof of advertisement and I&AP notification will be attached to the final Section 24G submission.</p> <p>The applicant has opted to make the draft Section 24G Report available for public comment.</p> <p>Noted. The applicant and Environmental Assessment Practitioner (EAP) acknowledge that compliance with</p>	
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	<p>16.2. According to Section 24 O (2) of NEMA, upon submission of the complete and signed application to this Department, it is the responsibility of the EAP to consult with every organ of state that administers a law relating to a matter affecting the environment. Proof of consultation must be included as part of the final report submitted to this Department.</p> <p>16.3. You are required to submit a list of organs of state to be consulted in terms of section 24O together with the complete duly dated and signed application. The list of organs of state must be include their contact details with fax/email and the relevant contact person.</p> <p>16.4. Based on the information provided, this Directorate notes the list of State departments / organs of state contained in the draft section 24G application and is deemed sufficient at this stage.</p> <p>16.5. Copies of the section 24G application may be made available for comment to the relevant organs of state upon simultaneous submission of the application to the Department.</p> <p>Note: this does not qualify as the Regulation 8 public participation requirement which is required to be conducted prior to submission of an application.</p> <p>16.6. In terms of the public participation process ("PPP") to be undertaken, kindly be advised that you/the EAP must record and respond to all comments received during the public participation process. The comments and responses must be captured in a Comment and Response Report (C&RR) and must also include a description of the PPP followed.</p>		<p>Section 24O of NEMA is required regardless of any prior public participation. All relevant organs of state administering laws related to environmental matters will be consulted, and proof of such consultation will be included in the final Section 24G application.</p> <p>A list of organs of state, including names, contact persons, and email addresses, has been compiled and will be submitted with the dated and signed application form. The current list noted in the draft report is confirmed as sufficient.</p> <p>Noted.</p> <p>Copies of the Section 24G application will be made available to the relevant organs of state for comment, simultaneously with submission to the competent authority.</p> <p>Noted.</p> <p>A Comment and Response Report (C&RR) will be compiled, capturing all comments received during the initial 30-day public participation process, along with the corresponding responses and a clear description of the public participation process followed.</p>	
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	<p>16.7. Following the initial 30-day commenting period, the application and the C&RR must be made available to registered Interested and Affected Parties and State Departments for an additional 21 days for review and/or comment, if any, advising them how their comments and concerns have been addressed, before it is submitted to the Department for consideration. Proof of notification of the additional 21-day commenting period must be appended to the final C&RR.</p> <p>17. It is noted that your activity/development may require a water use licence. Please provide proof of submission of the application to the relevant authority together with your section 24G application form.</p> <p>18. The Environmental Management Programme (“EMPr”) contents must meet the requirements outlined in Section 24N (2) & (3) of the NEMA (as amended) and Appendix 4 of the NEMA EIA Regulations, 2014 (as amended). The EMPr must address the environmental impacts of the activity throughout the development life cycle, including an auditing protocol for the assessment of the effectiveness of monitoring and management arrangements after implementation.</p> <p>19. The EAP must ensure that the section 24G application be submitted as a standalone document, separate to the accompanying appendices, and that each of the appendices is saved separately (in PDF format) and not scanned / merged into a single document.</p>		<p>Noted.</p> <p>Noted. The activity does trigger water uses as defined under Section 21 of the National Water Act, 1998 (Act No. 36 of 1998). An application for a Water Use Licence has been submitted to the Breede-Olifants Catchment Management Agency (BOCMA). Proof of submission of the Water Use Licence Application is attached to the Section 24G application form as part of the final submission.</p> <p>The Environmental Management Programme (EMPr) has been compiled in compliance with Section 24N (2) and (3) of NEMA and Appendix 4 of the NEMA EIA Regulations, 2014 (as amended). The EMPr addresses the environmental impacts associated with the activity throughout its entire life cycle and includes a detailed auditing protocol to assess the effectiveness of monitoring and management measures post-implementation. The EMPr is attached to the Section 24G application.</p> <p>Noted.</p>	
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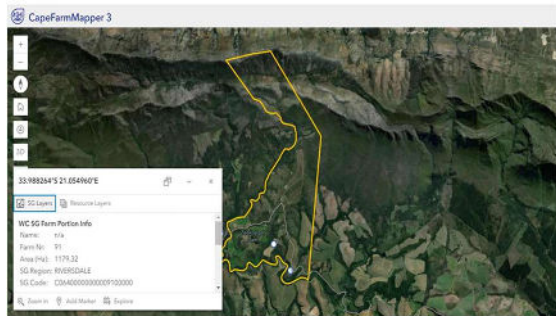
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	<p>20. Reports must be submitted via email to the case officer, with attached pdf versions of the report or, if too large to attach to an email, to be made available via an electronic link provided in the email that is accessible by the Directorate. The Directorate may require that a hard copy of the reports also be submitted to the Department by a certain date but will advise you accordingly.</p> <p>21. You are reminded that it is an offence in terms of section 49A of the NEMA to commence with a listed activity unless the competent authority has granted environmental authorisation for the undertaking of the activity, and it is an offence to fail to comply with a directive issued in terms of NEMA. A person convicted of an offence is liable to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>22. Kindly quote the abovementioned reference number in any future correspondence in respect of this pre-application consultation phase.</p>		<p>Noted. The implementation of the new online system for S24 G Applications is currently being adopted and adhered to.</p> <p>Noted.</p> <p>Noted.</p>	
15/01/2025	<p>PRE-COMPLIANCE NOTICE: INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998</p> <p>1. During a joint intergovernmental operation into allegations of the commencement of listed activities in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA") a joint site inspection was conducted at Farm No. 91 ("the property"), by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement, a representative of Department of Agriculture and representatives of Hessequa Municipality and CapeNature on 17 September 2024, and it was confirmed that you have commenced with the alleged unlawful clearing of indigenous vegetation of more than 1 hectare with the expansion of agricultural lands (at GPS:</p>	WCDEADP: Directorate: Environmental Law Enforcement	Noted and agreed.	

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33°58'53.90" S 21°2'53.64" E (Site 1) & 33°59'22.61" S 21°3'11.65" E (Site 2)) without the requisite environmental authorisation from the Department.



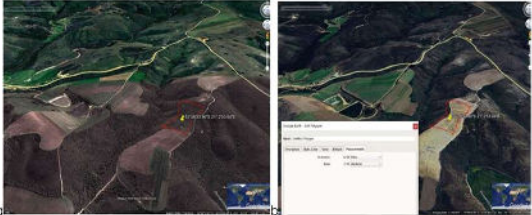

Aerial map 1: View of the property and of the alleged unlawful vegetation clearing expansion that occurred on the property.



Aerial map 2: CapeFarmMapper indication of Endangered Ecosystem of Garden Route Shale Fynbos that have been impacted on the areas (as indicated) with the expansion of agricultural lands on the property.

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	<div><p>Aerial map 3: (a) Google Earth image dated 2012 where no expansion of the agricultural land can be noted (Site 1) and (b) Google Earth image dated 2022 where expansion of agricultural land and clearing of an Endangered Ecosystem can be noted of approximately 2.91 ha on the property (Site 1).</p><p>Aerial map 4: (a) Google Earth image dated 2016 where no expansion of the agricultural land can be noted (Site 2) and (b) Google Earth image dated 2024 where expansion and clearing of an Endangered Ecosystem can be noted of approximately 4.8 ha on the property (Site 2).</p></div> <div><p>2. In terms of section 24F of the NEMA, no activity listed in the Environmental Impact Assessment (“EIA”) Regulations Listing Notice 1 and 3 of 2014 may commence without environmental authorisation from the competent authority.</p><p>3. On considering the evidence before me, there are reasonable grounds to believe that you have commenced the following listed activity without environmental authorisation:</p><p>EIA Regulations Listing Notice 1 of 2014:</p></div>		<p>Noted.</p> <p>Agreed.</p>	
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	<p>Activity No. 27:</p> <p><i>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></p> <p>(i) <i>the undertaking of a linear activity; or</i></p> <p>(ii) <i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p>EIA Regulations Listing Notice 3 of 2014:</p> <p>Activity No. 12:</p> <p><i>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></p> <p><i>i. Western Cape</i></p> <p><i>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.</i></p> <p>ii. Within critical biodiversity areas identified in bioregional plans.</p> <p>iii. Within the littoral active zone or 100 metres inland from the high-water mark of the sea or an estuarine functional zone, whichever distance is the greater,</p>			
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	<p>excluding where such removal will occur behind the development setback line on erven in urban areas.</p> <p>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</p> <p>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.</p>  <p>Photo 1: View of Site 1 where the alleged unlawful clearance of Endangered Ecosystem occurred with the expansion of agricultural lands of approximately 2.91 ha on the property.</p>			
			Noted.	

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	<p>7. You are afforded a period of 7 (seven) calendar days from the date of receipt of this Pre-Compliance Notice to make written representations to the Department as to why a Compliance Notice should not be issued.</p> <p>8. If you inform the Department, in respect of paragraph 7 above that you intend to rectify the non-compliance, you must submit to the Department for approval, within 30 (thirty) calendar days of receipt of this Pre Compliance Notice, a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:</p> <p>8.1 Assessment and evaluation of the impact on the environment.</p> <p>8.2 Identification of proposed remedial and/or mitigation measures</p> <p>9. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.</p> <p>10. Approval of the above report by the Department does not remedy the unlawful commencement of the above activity, which remains unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA.</p> <p>11. If you wish to continue with the listed activity, you may apply for environmental authorisation by way of a section 24G (“S24G”) application. However, such an application does not constitute permission to continue with the listed activity, which remains unlawful unless environmental authorisation is granted.</p>		<p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted</p> <p>The project schedule will be submitted within 30 days of the date of the pre-compliance notice, indicating the timeframes for the process decided upon by Mr Engelbrecht.</p> <p>Noted.</p>	
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	<p>12. Should you choose to apply in terms of s24G on the NEMA, you must submit to the Department for approval, within 30 (thirty) calendar days of receipt of this Pre-Compliance Notice, a project schedule compiled by a suitably qualified and experience independent environmental assessment practitioner. The project schedule must clearly stipulate the time frames in terms of the s24G process and by when a S24G application will be submitted to the Sub-Directorate: Rectification.</p> <p>13. Notwithstanding the section 24G application, the Department may issue a Compliance Notice and/or commence criminal proceedings should circumstances so require.</p>			
17/02/2025	<p>INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998</p> <p>1. The Department's Directorate: Environmental Law Enforcement ("this Directorate") Pre-Compliance Notice issued to you on 15 January 2025, and the representation received from your appointed Environmental Assessment ("EAP"), dated 04 February 2025 with the Section 24G application Project Schedule ("PS") (attached hereto as an annexure), has reference.</p> <p>2. Having considered the evidence before me, <u>and the fact that you have decided to apply for the rectification of the unlawful commencement of a listed activity in terms of section 24G of the NEMA</u>, I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mrs Sanmaré Engelbrecht with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 ("NEMA").</p>		<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>	

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<p>3. This Compliance Notice relates to the non-compliance with the provisions of section 24F of the NEMA <u>and serves to hold you responsible to comply with the aforesaid project schedule.</u></p> <p>Details of conduct constituting non-compliance</p> <p>4. During a joint intergovernmental operation into allegations of the commencement of listed activities in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA"), a joint site inspection was conducted at Farm 91 ("the property"), by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement, a representative of Department of Agriculture and representatives of Hessequa Municipality and CapeNature on 17 September 2024, and it was confirmed that you have commenced with the alleged unlawful clearing of indigenous vegetation of more than 1 hectare with the expansion of agricultural lands (at 33°58'53.90" S 21°2'53.61" E (Site 1) & 33°59'22.61" S 21°3'11.65" E (Site 2), without the requisite environmental authorisation from the Department.</p> <p>5. As such, you are hereby instructed to:</p> <p>Adhere to the section 24G project schedule and specified timeframes as received on 4 February 2025 (attached hereto) and confirm such in writing within 7 (seven) calendar days of receipt of this Compliance Notice.</p>		<p>Noted and agreed.</p> <p>We confirm receipt of the Compliance Notice and acknowledged the instruction to adhere to the Section 24G project schedule and specified timeframes as submitted on 4 February 2025. We confirm that compliance with the project schedule has been adhered to as far as possible. However, EnviroAfrica informed the Western Cape Department of Environmental Affairs and Development Planning (WCDEADP) via email on 4 June 2025 of an unforeseen delay due to the finalisation of one of the required specialist reports. This delay was outside of the control of the applicant and EAP but has been actively managed.</p>
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	<p>6. Approval of the section 24G application by the Department does not remedy the unlawful commencement of the above activities, which remain unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA, until such time that environmental authorization is granted.</p>		<p>We confirmed that we are currently actively engaged in completing the Section 24G application form and checklist on the online system and remain fully committed to finalising and submitting all outstanding documentation in line with the rectification process. Noted.</p>	
	<p>7. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.</p>		<p>Noted.</p>	
	<p>8. Inform the Department of any delays/changes in respect of the section 24G PS on the following details; Ms Zaidah Toefy (Head of Sub-Directorate: Rectification) email: Zaidah.Toefy@westerncape.gov.za and Mrs Diana Mouton (Directorate: Environmental Law Enforcement) email: Diana.Mouton@westerncape.gov.za</p>		<p>EnviroAfrica informed the Western Cape Department of Environmental Affairs and Development Planning (WCDEADP) via email on 4 June 2025 of an unforeseen delay due to the finalisation of one of the required specialist reports. This delay was outside of the control of the applicant and EAP but has been actively managed. We confirmed that we are currently actively engaged in completing the Section 24G application form and checklist on the online system and remain fully committed to finalising and submitting all outstanding documentation in line with the rectification process.</p>	
	<p>9. Varying this Compliance Notice 9. If you would like me to vary this Compliance Notice or extend the period to which it relates, you may make representations to me, in writing, to do so.</p>		<p>Noted.</p>	
	<p>10. Failure to comply with this Compliance Notice (section 31N of the NEMA) and related offences in terms of the NEMA 10. In terms of section 49A(1)(a) of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable</p>		<p>Noted.</p>	

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	<p>to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.</p> <p>11. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of such an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment. 3 www.westerncape.gov.za Department of Environmental Affairs and Development Planning</p> <p>12. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:</p> <p>12.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or</p> <p>12.2 take any steps necessary to ensure compliance with the provisions of the law, permit or authorisation to which this Compliance Notice relates and recover from you the cost of doing so.</p> <p>Procedure for lodging an objection to this Compliance Notice (section 31L and 31M of the NEMA).</p> <p>13. If you wish to lodge an objection to this Compliance Notice, you may do so by making representations, in writing, to the Provincial Minister of Environmental Affairs and Development Planning ("the Minister") within 30 (thirty) calendar days of receipt of this Compliance Notice.</p> <p>14. Note further that the lodgement of an appeal does not automatically suspend the operation of this Compliance</p>		<p>Noted.</p> <p>Noted.</p> <p>Noted. Noted.</p> <p>Noted.</p>	
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