



**24G Consultation: 14/2/4/1/D5/15/0009/25**

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## **Pre-Application – Information Requirements letter**

The Trustees  
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**Attention: Mr. A. Engelbrecht**

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Dear Sir

### **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.**

1. This draft section 24G application form dated 02 April 2025 and received by this Departments sub-directorate: Rectification ("this Directorate") on 25 April 2025 and this Directorate's acknowledgement thereof dated 06 May 2025, refer.
2. Please be advised that the *Section 24G Fine Regulations* (GN. No. 698 of 20 July 2017 (hereafter referred to as "the fine regulations") were published on 20 July 2017. The fine regulations require that public participation be conducted **prior** to the submission of an application and that an application must include the representations as set out in Annexure A of the fine regulations.
3. Please be advised that submission of a section 24G application shall in no way derogate from an investigation of any transgression in terms of the *National Environmental Management Act, 1998 (Act 107 OF 1998)* ("NEMA") nor from the National Prosecuting Authority's legal authority to institute criminal proceedings.
4. You are reminded that a Registered EAP must take full responsibility for the compilation and submission of the application / documents and must hold primary responsibility for the planning, management, coordination or review of environmental impact assessments (EIAs) and associated EMPs in terms of the Section 24H Regulations of the NEMA.

## Listed activities that are being applied for:

5. A section 24G application is only relevant to listed activities that has commenced without the pre-requisite environmental authorisation. Only those activities applied for will be considered for environmental authorisation.
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.
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.
8. The appointed EAP is required to provide a detailed explanation as to why the unlawfully commenced activity is still similarly listed in terms of the NEMA.
9. Commencement of listed activities
  - 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.:

### Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended)

Activity Number: 12

Activity Description:

"The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or
- (ii) infrastructure or structures with a physical footprint of 100 square metres or more;

where such development occurs—

- (a) within a watercourse;
- (b) in front of a development setback; or
- (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —

excluding—

- (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
- (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;

- (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;
- (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
- (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."

Activity Number: 19

Activity Description:

*"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;*

*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

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."*

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

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."

Activity Number: 14

Activity Description:

"The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or
- (ii) infrastructure or structures with a physical footprint of 10 square metres or more;

where such development occurs—

- (a) within a watercourse;
  - (b) in front of a development setback; or
  - (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 structures within existing ports or harbours that will not increase the development footprint of the port or harbour.

**i. Western Cape**

i. Outside urban areas:

- (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
- (bb) National Protected Area Expansion Strategy Focus areas;
- (cc) World Heritage Sites;
- (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;
- (ee) Sites or areas listed in terms of an international convention;"

**Minimum requirements for every application for environmental authorisation:**

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.

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 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.
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:
  - 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)
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.
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) (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. 431 10 on 20 March 2020) and it is noted that protocols are applicable to your proposed development.
  - 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.
  - 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.

- 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:**

### **15. Preliminary Advertisement**

- 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 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.
- 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.
- 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.
- 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.

### **16. Section 24O consultation with organs of state/State departments**

- 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.
- 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.
- 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.

- 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.
- 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.
- Note:** this does not qualify as the Regulation 8 public participation requirement which is required to be conducted **prior to submission of an application.**
- 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.
- 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.
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.
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.
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.
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.



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.
22. Kindly quote the abovementioned reference number in any future correspondence in respect of this pre-application consultation phase.



Zaidah Toefy  
(53677480)

Digitally signed by Zaidah Toefy (53677480)  
Date: 2025.06.11 11:05:18 +0200

**Ms Z Toefy**  
**Head of Rectification**  
**Directorate: Environmental Governance**  
**Date: 11 June 2025**

CC: (1) Mr. C. Geyser (EnviroAfrica CC)  
(2) Mr. S. Carelse (Hessequa Local Municipality)

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