



24G Consultation: 14/2/4/1/D2/53/0003/21

Pre-Application – Information Requirements letter

The Managing Director
Octo Trading 377 cc
PO Box 35904
MENLO PARK
0102

Email: andre@ancil.co.za

Attention: Andre Spammer

Dear Sir

INFORMATION REQUIREMENTS FOR THE S24G APPLICATION PROCESS FOR THE UNLAWFUL CONSTRUCTION OF A ROAD AND CLEARANCE OF VEGETATION TO ESTABLISH A HOUSE ON THE REMAINDER OF FARM NO.91, HOLLE KLOOF AND PTN 1 OF FARM NO.131, PLATTEKLOOF, WABOOMSKRAAL, GEORGE

1. The abovementioned consultation form received by this Department on 26 January 2022, has reference.
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.

Listed activities that are being applied for:

4. A section 24G application is only relevant to listed activities that have commenced without the pre-requisite environmental authorisation. those activities applied for will be considered for environmental authorisation.
5. 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/ies and the relevant Environmental Impact Assessment legislative period/regime is of particular importance.
6. 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.

7. The appointed Environmental Assessment Practitioner is required to provide a detailed explanation as to why the unlawfully commenced activity is still similarly listed in terms of the NEMA.

Minimum requirements for every application for environmental authorisation:

8. 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.
9. 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.
10. 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:
 - 10.1. Guideline for Environmental Management Plans (June 2005);
 - 10.2. Guideline on Public Participation
 - 10.3. Guideline on Alternatives
 - 10.4. Guideline on Need and Desirability
 - 10.5. Departmental guideline series for involving specialist assessments, 2005
 - 10.6. Information Document for the Development of a Maintenance Management Plan for a Watercourse, July 2017
11. 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.
12. Having considered the information contained in the consultation form, this Department hereby advises that a botanical specialist and a freshwater specialist be considered for appointment to assess the impacts posed by the unlawful activities on the receiving environment.

Public Participation Process:

13. Preliminary Advertisement

- 13.1. 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.
- 13.2. 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.
- 13.3. 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.

- 13.4. 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.
14. Section 24O consultation with organs of state/State departments
 - 14.1. However, 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 which obligates the competent authority when considering an application; to consult with every State department that administers a law relating to a matter affecting the environment.
 - 14.2. You are required to submit a list of organs of state to be consulted in terms of section 24O together with the complete and signed application. The list of organs of state must include their contact details with fax/email and the relevant contact person.
 - 14.3. 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.
 - 14.4. Upon receipt of the complete and signed application, the Department will issue section 24O letters to the relevant organs of state for comment as per the EAPs specified timeframe for comment.
15. Two printed copies as well as two electronic copies (saved on CD/DVD) of the final Application must be submitted to the Department.
16. 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.
17. Kindly quote the abovementioned reference number in any future correspondence in respect of this consultation form.

Mrs Z Toefy
Head of Rectification
Directorate: Environmental Governance

CC: Michael Bennett(EAP)

Email: michael@sescc.net



24G CONSULTATION: 14/2/4/1/D2/53/0003/21

The Managing Director
Octo Trading 377 cc
PO Box 35904
MENLO PARK
0102

Email: andre@ancil.co.za

Attention: Andre Spammer

Dear Sir

TO ADVISE ON THE S24G APPLICATION PROCESS FOR THE UNLAWFUL CONSTRUCTION OF A ROAD AND CLEARANCE OF VEGETATION TO ESTABLISH A HOUSE ON THE REMAINDER OF FARM NO.91, HOLLE KLOOF AND PTN 1 OF FARM NO.131, PLATTEKLOOF, WABOOMSKRAAL, GEORGE

The documentation received by this Department on the 26 January 2022, is hereby acknowledged.

1. Please be advised that the Section 24G Fine Regulations, 2017 (hereafter referred to as "the fine regulations") require that **public participation be conducted prior to the submission** of an application, as outlined in Regulation 8 of the fine regulations. A section 24G application form must also include the information as set out in **Annexure A of the fine regulations**.
2. You are reminded of the G.N. No. 960 of 5 July 2019: Notice of the Requirement to Submit a Report Generated by the National Web Based Environmental Screening Tool in terms of Section 24(5)(h) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and Regulation 16(1)(b)(v) of the Environmental Impact Assessment Regulations, 2014, as amended.
3. Please note that from 04 October 2019 the submission of a Screening Report generated from the National Web Based Environmental Screening Tool is compulsory when submitting an application for environmental authorisation.
4. The Department will consider the information herein and advise you accordingly.
5. Kindly quote the abovementioned reference number in any future correspondence in respect of the pre-application/consultation process.

Mrs Z Toefy
Head of Rectification
Directorate: Environmental Governance

CC: (1) Ziyaad Allie (DEA&DP (Rectification))
(2) Michael Bennett(EAP)

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REFERENCE: 16/3/3/6/6/D2/54/0017/22
ENQUIRIES: Dorien Werth
DATE OF ISSUE: 16 February 2022

Managing member
Octo Trading 377 cc - Reg. No. 2009/138280/23
PO Box 35904
Menlo Park
0102

Attention: Andre Spammer

Cell: 0832578307
E-mail: andre@ancil.co.za

Dear Sir

RE: COMMENT ON THE ALLEGED UNLAWFUL CONSTRUCTION OF A ROAD AND CLEARANCE OF VEGETATION TO ESTABLISH A HOUSE ON THE REMAINDER OF FARM 91, HOLLE KLOOF AND PORTION 1 OF THE FARM 131, PLATTEKLOOF, WABOOMSKRAAL, GEORGE MUNICIPALITY.

1. The abovementioned document requesting comment, received by this Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 26 January 2022, refers.
2. This directorate notes that the applicant is in the process of submitting an application for a S24G for the alleged unlawful construction of a road and clearance of vegetation to establish a house on the Remainder of Farm 91, Holle Kloof and Portion 1 of the Farm 131, Plattekloof, Waboomskraal.
3. It is noted that a vegetation and aquatic specialist still needs to be appointed. Please be reminded that any specialist doing work related to any of the fields of practice listed in Schedule I of the Natural Scientific Professions Act, 2003 (Act 27 of 2003) ("SACNASP") Act must be registered with the SACNASP in any of the prescribed categories [Section 18] and further to this, only a person registered with the SACNASP may practise in a consulting capacity [Section 20]. The applicant/EAP must confirm that this requirement has been complied with and the declaration(s) must reflect compliance with the applicable Act. Furthermore, it is recommended that the specialist report(s) should contain all the information set out in Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).
4. Please note that the National Screening Tool can be used to inform the scope of the proposed assessment.

5. This Directorate noted that the following activity is possibly not triggered as the area is zoned for Agriculture 1 and not for open space, conservation or equivalent zoning.

Environmental Impact Assessment Regulations Listing Notice 3

GN No. R. 324 as amended on 7 April 2017 –

Activity 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

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

6. This Directorate does not have any further comment at this stage.
7. This Directorate reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

John Sharples

Koenraad Potgieter PrTech Eng, BTech Eng (Civil)

DEADP - SD: Rectification: Mr. Ziyaad Allie

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24G Application: 14/2/4/2/3/D2/53/0015/22

SECTION 24G PRE-DIRECTIVE

The Managing Director
Octo Trading 377 cc
P.O. Box 35904
MENLO PARK
0102

Email: andre@ancil.co.za

Attention: Andre Spammer

Dear Sir

INTENTION TO ISSUE A DIRECTIVE IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL CONSTRUCTION OF A ROAD AND CLEARANCE OF VEGETATION TO ESTABLISH A HOUSE ON THE REMAINDER OF FARM NO.91, HOLLE KLOOF AND PTN 1 OF FARM NO.131, PLATTEKLOOF, WABOOMSKRAAL, GEORGE

1. Section 24G of the NEMA provides for the consequences of unlawful commencement, and upon application to the competent authority, applies to any person who has commenced a listed or a specified activity without environmental authorisation in contravention of section 24F(1).
2. The Department has received by this Department on 03 August 2022 regarding the unlawful construction of a road and clearance of vegetation to establish a house on the Remainder of Farm No.91, Holle kloof and Ptn 1 of Farm No.131, Plattekloof, Waboomskraal, George.
3. Having considered the information in respect of your application, you are hereby given notice of this Department's intention to issue you with a Directive in terms of section 24G of the NEMA, which will direct you to:

3.1. "Compile a report containing-

a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed;"

4. Kindly be reminded of the NEMA public participation requirements for applications for environmental authorisation:
 - (i) Section 24(1A) and 24(4)(a) of the NEMA stipulate the minimum requirements for applications for environmental authorisation and includes the requirement for public participation to be undertaken.
 - (ii) Please refer to Chapter 6 of the *Environmental Impact Assessment Regulations, 2014* (as amended G.N. No 326 of 7 April 2017) for detail on the public participation process to be followed for applications for environmental authorisation.
 - (iii) In terms of section 24O of the NEMA, the relevant competent authority must consult with every State department that administers a law relating to a matter affecting the environment when such authority considers an application for an environmental authorisation.
 - (iv) The applicant/Environmental Assessment Practitioner ("EAP") is required to inform this Department, in writing, upon submission of the application to the relevant State Departments. Upon receipt of this confirmation, this Department will in accordance with section 24O(2) & (3) of NEMA, inform the relevant State Departments of the commencement date of the 30 day commenting period.
5. 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 and must also include a description of the PPP followed. The Comments and Responses Report must be made available to registered Interested and Affected Parties for review and/or comment, if any, before it is submitted to the Department for consideration.
6. Together with a public participation process, that comprises of comments and responses, the section 24G application process includes the issuing and payment of an administrative fine, prior to deciding on the application.

7. In addition to any representations made in the application form, you are afforded a period of **7 (seven) calendar days** from the date of receipt of this Pre-directive to make written representations to the Department as to why a Directive should not be issued.
8. Please note that if you fail to comply with a Directive, you will have committed a criminal offence in terms of 49A(1)(g) of the NEMA.
9. In addition, section 49B of the NEMA stipulates that a person convicted of an offence in terms of section 49A(1)(g) is liable 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.

ZAIDAH TOEFY

ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE

CC: (1) Sharples Environmental Services cc

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24G Application: 14/2/4/2/3/D2/53/0015/22

26 September 2022

**Department of Environmental Affairs
and Development Planning
Directorate: Rectification
Ufilitas Building
1 Dorp Street
Cape Town
8001**

BY EMAIL: Ziyaad.Allie@westerncape.gov.za

Dear Mr. Ziyaad Allie

INTENTION TO ISSUE A DIRECTIVE IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL CONSTRUCTION OF A ROAD AND CLEARANCE OF VEGETATION TO ESTABLISH A HOUSE ON THE REMAINDER OF FARM NO.91, HOLLE KLOOF AND PTN 1 OF FARM NO.131, PLATTEKLOOF, WABOOMSKRAAL, GEORGE

The Section 24G Pre-Directive, signed 21 September 2022 refers,

In terms of point 7 of the Pre-Directive we request that the Directive should not be issued as we are in the process of updating the content of the specialist's compliance statements and subsequently the content of the Section 24G application form.

The reason for the update is that a section of the road which was constructed when the activities were undertaken was not included in the initial application form. As seen in Figure 1, the road which the applicant constructed leads from the house platform northwards till its junction with the tarred road next to the Waboomskraal e-Centre, from points 1 to 7.

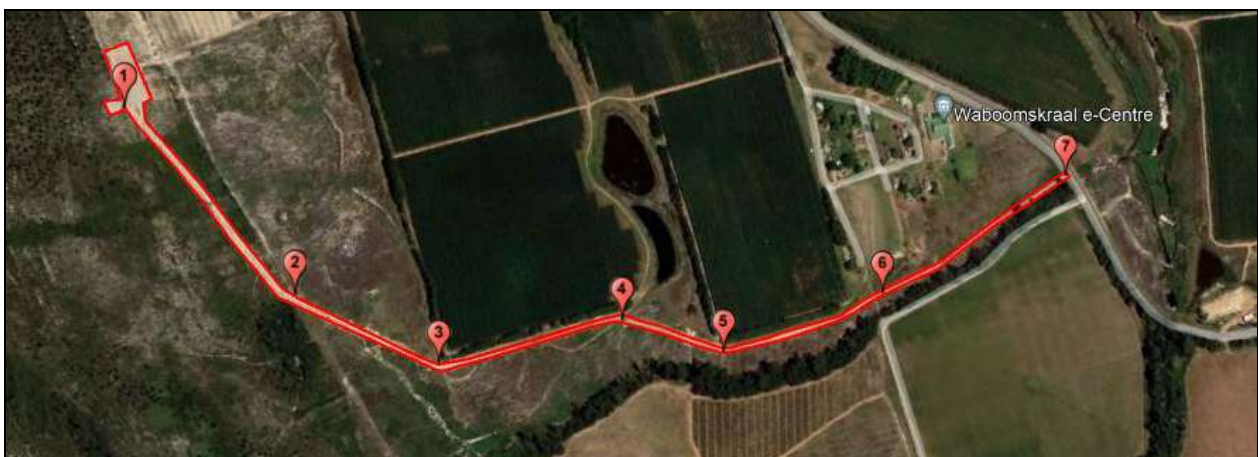


Figure 1: Updated road extent to be included into the updated report

- Environmental Impact Assessments • Basic Assessments • Environmental Management Planning
- Environmental Control & Monitoring • Water Use License Applications • Aquatic Assessments



We expect that the specialists will have completed their revisions in the first week of October 2022.

Additionally, some of the I&AP's indicated that their comments would be ready by the 4th October 2022. If we receive them by the date they indicated, we believe it would be valuable to include them into the Comments and Response Report and make any changes to the Application form, if required, before the application is placed out for the next 30-day commentary period so that they can review the responses to their comments.

Once we have completed the changes to the Section 24G Application we shall inform your Department, in writing, of the submission of the application to the relevant State departments and registered I&AP's, so that your Department can inform the relevant State Departments of the commencement date of the 30 day commenting period, in accordance with section 24O(2) & (3) of NEMA.

Yours sincerely,



Michael Bennett

Environmental Consultant

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