



LORNAY
ENVIRONMENTAL CONSULTING

PROOF OF PUBLIC PARTICIPATION

THE UNLAWFUL CLEARANCE OF VEGETATION FARM 326 AND PORTION 7 OF THE FARM 116, BREDASDORP RD

February 2024

Consultant:

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PO Box 1990, Hermanus, 7200
Lornay Environmental Consulting Pty Ltd | Reg 2015/445417/07

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1. INTRODUCTION

The Public Participation Process was conducted as required by Regulation 8 of the Section 24G Fine Regulations. The public participation was undertaken in terms of the Environmental Impact Assessment (EIA) regulations as promulgated in the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) (as amended) and the 2014 NEMA EIA Regulations promulgated in Government Gazette No. 38282 and Government Notice R983, R984 and R985 on 4 December 2014 (as amended).

Two rounds of Public participation were undertaken.

All potential interested and affected parties (I&APS) and applicable organs of state were notified of the Section 24G process. The Consultation Form was made available for a 30-day period to I&APS and organs of state, to register and / or comment. Noticeboards were placed on site and a newspaper advertisement was placed in the local newspaper. All comments were recorded in a comments and response report and a register for I&APS was opened.

DEA&DP issued the section 24O letters and the EAP provided the registered I&APs with the information.

2. LIST OF INTERESTED AND AFFECTED PARTIES AND ORGANS OF STATE

In line with the requirements of NEMA, all potential Interested and Affected Parties (I&APS) were notified of the project and provided with an opportunity to comment. This included applicable organs of state. See list of I&AP's identified for the project:

DRAFT PUBLIC PARTICIPATION

DEADP

Zaidah Toefy, Fahd Said, Yena Gunguluzi
Private Bag X9086
Cape Town
8000
Utilitas Building
1 Dorp Street
8001

Cape Nature

Rhett Smart
Private Bag x5014
Stellenbosch
7599
landuse@capenature.co.za

Cape Agulhas Municipality

Municipal Planner
Sunel Nel
SunelN@capeagulhas.gov.za

BOCMA

R. le Roux / F. Smith
o233468000
rleroux@bocma.co.za
fsmith@bocma.co.za

Dept of Agriculture

Cor vd Walt
corvdw@elsenburg.com
B. Layman
Brandon.Layman@westerncape.gov.za

Overberg District Municipality

Private Bag x 22
Bredasdorp
7280
rvolschenk@odm.org.za
R. Volschenk

Farm 367 - Schietpad Plase Boerdery Pty –andrew@inteligro.co.za

Farm 117/13 - Agri Dwala Eiendomme Pty – adicoaccounts@twk.co.za

Farm 117/11 - do not have this Portion

Farm 117/3 - Capeland Investment Ltd - accounts@fairfieldestates.co.za

FARM 117/4 - Elandskloof Trust – C/O Ove E Scheuble, P O Box 39, Napier, 7270 – Tel: 082 257 7478

FARM 117/2 - Hansiesrivier Trust – adicoaccounts@twk.co.za

FARM 34/1 - Hansiesrivier Trust - “

FARM RE/116 - BO Schietpad Beleggings Pty – P O Box 71, Napier, 7270

FARM RE334 - Jacobus Johannes Test. Trust – P O Box 132, Napier, 7270

FARM 1/334 - JW Wessels, P O Box 132, Napier, 7270

FARM 4/112 – Nicobus Boerdery Pty – P O Box 2, Napier, 7270

FARM 1/121 - AJ Scheuble, P O Box 39, Napier, 7270

FARM 367 - Schietpad Plase Boerdery Pty –andrew@inteligro.co.za

FARM 1/108 - Nicobus Boerdery Pry – P O box 2, Napier, 7270

3. WRITTEN NOTICE TO I&APS AND ORGANS OF STATE OF DRAFT BAR:

The I&AP's and organs of state identified above were given written notice of the application:



13 November 2023

**NOTICE OF SECTION 24 G PUBLIC PARTICIPATION
THE UNLAWFUL CLEARANCE OF VEGETATION FARM 326 AND PORTION 7 OF THE FARM 116, BREDASDORP RD**

DEA&DP Ref. No.: 14/1/1/E2/6/2/3/0688/22 & 14/1/1/E2/6/2/3/0687/22
Lornay Ref. No.: AW 24G

Notice is hereby given in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the Environmental Impact Assessment (EIA) Regulations 2014 (as amended) and Section 24 G Fine Regulations 2017 (Government Notice No. R 698), for the following:

Section 24 G Retrospective Environmental Authorisation Application for the removal of vegetation for agricultural purposes on portions of Farm 326 and portions of Portion 7 of the Farm 116, Bredasdorp RD

Location: Farm 326 and Portion 7 of the Farm 116, Bredasdorp RD

Applicant: Mr A. Wessel

Activities unlawfully commenced with: Removal of vegetation for agricultural purposes

Environmental Authorisation is required in terms of NEMA. The applicant is applying for *ex post facto* Environmental Authorisation for the following commenced listed activities in terms of:

Listing Notice 1 of 2014 (As amended): (27)
Listing Notice 3 of 2014 (As amended): (12)

Interested and affected Parties (I&AP's) are hereby invited to register as I&AP's and / or provide comment on the application. Only registered I&AP's will be notified during the remainder of the public participation process. Requests and / or comments must be submitted via email or post on / or before **14 December 2023** via the following contact details:

LORNAY ENVIRONMENTAL CONSULTING
ATT. Michelle Naylor
PO Box 1990, Hermanus, 7200
Tel. 083 245 6556
Email. michelle@lornay.co.za | Website. www.lornay.co.za

Michelle Naylor | Env. Consultant | M.Sc., Pr. Sci. Nat., EAPSA
cell: 083 245 6556 | tel: 028 316 1769 | fax: 086 585 2461 | michelle@lornay.co.za | www.lornay.co.za
PO Box 1990, Hermanus, 7200
Lornay Environmental Consulting Pty Ltd | Reg 2015/445417/07

4. PROOF OF NOTICE TO I&APS AND ORGANS OF STATE

Written notice was provided to I&APs and Organs of State via registered mail, email or courier, as indicated in the proofs below:

Michelle Naylor

From: Michelle Naylor <michelle@lornay.co.za>
Sent: Friday, 10 November 2023 10:56
To: 'Rhett Smart'; 'info@bocma.co.za'; 'Rafeeq le Roux'; 'Fabion Smith'; 'corvdw@elsenburg.com'; 'Brandon.Layman@westerncape.gov.za'; 'DEADP EIA Admin'; 'Zaidah Toefy'; 'Fahd Said'; 'Shafeeq Mallick'; 'Mogammad Holliday'
Cc: 'Yena Gunguluzi'
Subject: Notice of PPP 1 - 24G - Farm 326 and Ptn 7 of the Farm 116, Bredasdorp RD
Attachments: Notice of 24G PPP1.pdf

Importance: High

Dear Organ of State,

DEADP REF- 14/1/1/E2/6/2/3/0688/22 & 14/1/1/E2/6/2/3/0687/22

Cape Nature
Dept of Agriculture
BOCMA
DEADP Enforcement
DEADP Landuse
DEADP Rectification
Overberg District Municipality
Cape Agulhas Municipality

Kindly see attached notice of PPP and link to download the document: <https://we.tl/t-e8SeK5NIDf>

The documents are also available on my website.

Please feel free to contact me, should you have any queries.



Michelle Naylor
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E michelle@lornay.co.za | W www.lornay.co.za
PO Box 1990, Hermanus, 7200, South Africa
Reg No. 2015/445417/07

Michelle Naylor

From: Michelle Naylor <michelle@lornay.co.za>
Sent: Friday, 10 November 2023 11:00
To: 'adicoaccounts@twk.co.za'; 'accounts@fairfieldestates.co.za'
Cc: 'andrew@inteligro.co.za'
Subject: Notice of PPP 1 - 24G - Farm 326 and Ptn 7 of the Farm 116, Bredasdorp RD
Attachments: Notice of 24G PPP1.pdf
Importance: High

Dear Interested ad Affected Party,

DEADP REF- **14/1/1/E2/6/2/3/0688/22 & 14/1/1/E2/6/2/3/0687/22**

Kindly see attached notice of PPP and link to download the document: <https://we.tl/t-e8SeK5NIDf>

The documents are also available on my website.

Please feel free to contact me, should you have any queries.
Should you have no further comment, please ignore this notice.

Kind regards



Michelle Naylor
LORNAY ENVIRONMENTAL CONSULTING
M.Sc.; Pr.Sci.Nat. 400327/13., EAPASA. 2019/698, Cand. APHP., IAIAA
T +27 (0) 83 245 6556 | F 086 585 2461
E michelle@lornay.co.za | W www.lornay.co.za
PO Box 1990, Hermanus, 7200, South Africa
Reg No. 2015/445417/07

POSTNET
PostNet Hermanus Sandbaal
C/o R43 & Sandbaal Main Rd
Sandbaal Hermanus
7200

Tel: 028 3164176/5
hermanussandbaal@postnet.co.za
Vat Reg: 4010170787

Tax Invoice

Till 1 Sale # 104549 11:46:41 10/11/2023

| Code | Description | Qty | Total |
|-----------------|-------------------|-----|---------------|
| 23007 | Registered - Smal | 5 | 400.00 |
| Vat Included | | | 52.17 |
| Subtotal | | | 400.00 |
| Visa | | | 400.00 |

Cashier ROXY

Thank you
APPN: Visa Card
Amount: R400.00
CUSTOMER COPY

DRAFT PUBLIC PARTICIPATION

BOCMA
R. le Roux / F. Smith
o233468000
rleroux@bocma.co.za
fsmith@bocma.co.za

Dept of Agriculture
Cor vd Walt
corvdw@elsenburg.com
B. Layman
Brandon.Layman@westerncape.gov.za

Overberg District Municipality
Private Bag x 22
Bredasdorp
7280
rvolschenk@odm.org.za
R. Volschenk

Boerdery Pty – andrew@inteligro.co.za
omme Pty – adicoaccounts@twk.co.za

do not have this Portion

Farm 117/3 - Capeland Investment Ltd - accounts@fairfieldestates.co.za

FARM 117/4 - Elandskloof Trust – C/O Ove E Scheuble, P O Box 39, Napier, 7270 – Tel: 082 257 7478

FARM 117/2 - Hansiesrivier Trust – adicoaccounts@twk.co.za

FARM 34/1 - Hansiesrivier Trust - "

FARM RE/116 - BO Schietpad Beleggings Pty – P O Box 71, Napier, 7270

FARM RE334 - Jacobus Johannes Test. Trust – P O Box 132, Napier, 7270

FARM 1/334 - JW Wessels, P O Box 132, Napier, 7270

FARM 4/112 – Nicobus Boerdery Pty – P O Box 2, Napier, 7270

FARM 1/121 - AJ Scheuble, P O Box 39, Napier, 7270

FARM 367 - Schietpad Plase Boerdery Pty – andrew@inteligro.co.za

FARM 1/108 - Nicobus Boerdery Pry – P O box 2, Napier, 7270

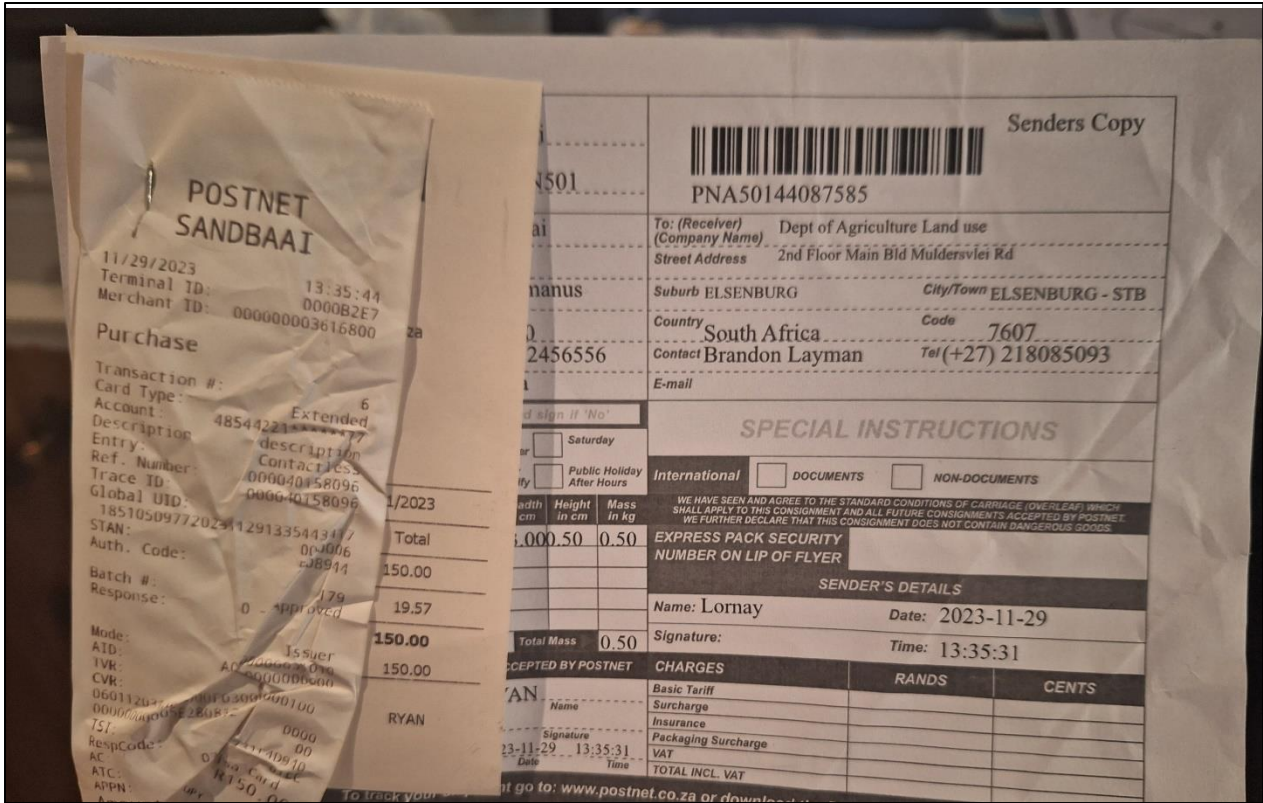
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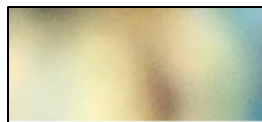
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5. NEWSPAPER ADVERTISEMENT

An advertisement was placed in the Cape argus:



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NOTICES

**NOTICE OF SECTION 24 G PUBLIC PARTICIPATION:
THE UNLAWFUL REMOVAL OF VEGETATION ON FARM 326 AND
PORTION 7 OF THE FARM 116, BREDASDORP
Ref.: 14/1/1/E2/6/2/3/0688/22 & 14/1/1/E2/6/2/3/0687/22**

Notice is hereby given in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the Environmental Impact Assessment (EIA) Regulations 2014 (as amended) and Section 24 G Fine Regulations 2017 (Government Notice No. R 698), for the following:

Section 24 G Retrospective Environmental Authorisation Application for the removal of vegetation for agricultural purposes on portions of Farm 326 and portions of Portion 7 of the Farm 116, Bredasdorp RD

Activities unlawfully commenced with: Removal of vegetation without necessary Environmental Authorisation

Location: Farm 326 and Portion 7 of the Farm 116, Bredasdorp RD

Applicant: Mr Andre Wessel

Environmental Authorisation is required in terms of NEMA. The applicant is applying for ex post facto Environmental Authorisation for the following commenced listed activities in terms of:

Listing Notice 1 of 2014 (As amended): (27)

Listing Notice 3 of 2014 (As amended): (12)

Interested and affected Parties (I&AP's) are hereby invited to register as I&AP's and / or provide comment on the application. Only registered I&AP's will be notified during the remainder of the public participation process. Requests and / or comments must be submitted via email or post on / or before 14 December 2023 via the following contact details:



LORNAY ENVIRONMENTAL CONSULTING

For Att. Michelle Naylor
PO Box 1990, Hermanus, 7200
Tel. 083 245 6556
Email. michelle@lornay.co.za | www.lornay.co.za

717 TENDERS 717 TENDERS 801 SERVICE GUIDE



6. NOTICEBOARDS

Two Noticeboards were placed on site, as required in terms of the legislation:









7. COMMENTS AND RESPONSE REPORT AND REGISTER FOR I&APS

A Register was opened during the first round of public participation, to list all I&APs which wished to be registered as such. The Register included contact details, date and comment made.

A Comments and Response report was also opened at the onset of the public participation. This report contains the comment made by the I&AP, as well as formal response by the Environmental Assessment Practitioner (EAP).



COMMENTS AND RESPONSE REPORT

PROJECT: Portion 7 of the Farm 116 and Farm 326 Bredasdorp

DRAFT SECTION 24G REPORT / PRE APPLICATION

| NAME: | COMMENT: | RESPONSE: | DATE & REF: |
|-------------------------------|---|--|---|
| DEADP Landuse Andre Thomas | Email dated 10/11/2023 Good Day Michelle Your below submission, refers. Our team has literally been inundated with very high volumes of S30A emergency requests since the 24th of September, and we are trying our level best to get to all our "normal" work while dealing with these flood damage emergencies before the 15 December 2023 cut-off period. Given our existing high workload and the unusual circumstances with the continued influx of emergency requests, our Directorate unfortunately do not currently have the capacity to participate in the PPP for this S24G application. | Noted – no further action required | - |
| Mr Kgadi Makgakga BOCMA | Email dated 30/11/2023 COMMENTS ON NEMA SECTION 24G: RETROSPECTIVE ENVIRONMENTAL AUTHORISATION APPLICATION FOR THE REMOVAL OF VEGETATION FOR AGRICULTURAL PURPOSES ON FARM 326 AND PORTION 7 OF THE FARM 116, BREDASDORP RD. (DEA&DP REF NO.: 14/1/1/E2/6/2/3/0688/22&14/1/1/E2/6/2/3/0687/22). | Content of letter noted. Await BOCMA Site visit and findings | 4/10/3/G50D/WINDHOEK 116/7, BREDASDORP |

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| | <p>The Breede-Olifants Catchment Management Agency (BOCMA) had received the submission of the above-mentioned report on 13 November 2023 and the comments are as follows:</p> <ol style="list-style-type: none"> 1. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for identifying unlawful water uses to water users to ascertain compliance with the National Water Act (NWA), (Act No.36 of 1998). 2. Please note that BOCMA has acknowledged the remarks made in NEMA Section 24G Application Completeness Checklist for Farm Windhoek Portion 7 of No. 116 and Farm Schietpad No. 326, Bredasdorp dated November 2023 as stipulated under section F (1)(b) of the checklist that terrestrial vegetation has been removed and the clearance in some areas encroached on drainage lines. In addition, this was supported by paragraph 6 (a)- Alternative one for restore impacted area under section F of the checklist which stated that Loss of vegetation and disturbance to watercourse edges and rehabilitate remnant patches and edges which were disturbed. Therefore, this activity triggers water uses in terms of section 21(c) and (i) of the NWA. Furthermore, such water use activities were exercised without water use authorisation which contravenes section 22(1) of the NWA. 3. BOCMA CME unit and Freshwater ecologist will conduct a site investigation regarding the alleged unlawful water use activities (clearance of vegetation within the drainage lines of the water course) which was exercised without authorisation in terms of section 21 (c) and (i) of the NWA. Furthermore, this will allow enforcement process to rectify the alleged unauthorised water use activities taking place at Farm Windhoek Portion 7 of No. 116 and Farm Schietpad No. 326, Bredasdorp. 4. Your attention is drawn to Section 22 (1) of the National Water Act, which states: 22. (1) A person may only use water (a) without a licence if that water use is permissible under Schedule 1; (i) if that water use is permissible as a continuation of an existing lawful use; or (ii) if that water use is permissible in terms of a general authorisation issued under section 39; (b) if the water use is authorised by a licence under this Act; or (c) if the responsible authority has dispensed with a licence requirement under subsection (3) 5. It is recommended that the BOCMA stands on this matter in terms of enforcement as stipulated in paragraph 3 of this letter to be considered during the assessment of this application. 6. BOCMA reserves the right to revise initial comments and request further information based on any additional information received. | | |
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| <p>Odette Curtis-Scott</p> <p>Overberg Lowlands Conservation Trust</p> | <p>Email dated 08/12/2023</p> <p>RE: DEADP REF- 14/1/1/E2/6/2/3/0688/22 & 14/1/1/E2/6/2/3/0687/22 S24G Application for ploughing of Critically Endangered Renosterveld vegetation, Schietpad farm, Napier.</p> <p>We hereby submit comments regarding the above-mentioned unlawful ploughing case and the associated S24G application.</p> <p>The Overberg Renosterveld Conservation Trust (ORCT) is an NPO based in the Overberg, focused on the conservation of remnant renosterveld (of which there is an estimated 5% remaining) on privately-owned land. The ORCT works with landowners in the region towards conserving, managing and restoring renosterveld through our Conservation Easement Programme. This programme has secured over 4500 ha of renosterveld for conservation through the voluntary signing of conservation servitudes with over 20 landowners in critical renosterveld areas. These servitudes are written into title deeds and registered in perpetuity.</p> <p>The ORCT is not a law enforcement body: Rather, our work focuses on building positive relationships with willing and concerned farmers in the community who understand and appreciate the intrinsic biodiversity value in their renosterveld remnants and are choosing to acknowledge their role as custodians (please see our video on the programme on: www.overbergrenosterveld.org.za/conservation-easements). We are also part of a working group known as the Overberg Renosterveld Task Team (comprising both NGOs and parastatals) and it was through our collaboration with our partners in CapeNature that we learned about the ploughing on Schietpad farm. Because the area falls within our Area of Operations, we have registered as an Interested and Affected Party and hereby present our comments on the application for the S24G approval by Mr Andre Wessels of Schietpad.</p> <p>Schietpad farm falls within one of the last clusters of relatively well-connected, Critically Endangered, Western Rûens Shale Renosterveld; on the vegetation map the whole farm straddles the ecotone between Western- and Eastern-Rûens Shale Renosterveld (see Fig. 1). I personally have spent a substantial amount of time on the property (particularly during my PhD studies between 2011 and 2013, as well as in more recent years). It contains exceptional plant diversity and is one of the most important properties in the region for these critically endangered vegetation types. While the removal of some smaller remnants / corridors is deeply regrettable, the property still presents a unique opportunity to conserve a portion of these highly under-conserved, severely threatened vegetation types.</p> | <p>Content of letter noted. Meeting to be scheduled to discuss way forward with ORCT, Landowner and EAP to determine condition of authorisation</p> | |
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| | <p><u>We would like to submit the following recommendations:</u></p> <p>i) A Section 24G needs to seek environmental justice, particularly when a vegetation type of this high threat status has been impacted. The rehabilitation or restoration of the ploughed renosterveld will not be possible, due to the aridity of the area, and the fact that the areas have been planted numerous times already. We therefore strongly recommend that the S24G application is only approved with the condition that the remainder of all the natural vegetation on the property (i.e. all renosterveld and watercourses roughly mapped as per Figure 2) is committed to conservation in perpetuity, through a title deed restriction. This can take the form of a Nature Reserve or Biodiversity Agreement through CapeNature, or a conservation easement/servitude with the ORCT; the costs of either would be carried by the landowner.</p> <p>A commitment of this nature would not impede existing farming activities in any way at all (barring some more controlled / managed grazing on the renosterveld which has also been subjected to high and inappropriate levels of burning and grazing) and would in fact essentially be seen as a more solid commitment by the landowner to abide by the NEMA laws in future. A conservation easement or contract reserve would be accompanied by an Integrated Management Plan which would focus on the most important management principles related to fire, alien clearing, livestock management and erosion control. Because of the high conservation value of the remnants on this property, the ORCT would be willing to engage with the landowner on a conservation easement / servitude. However, we are more than willing to support a nature reserve option through CapeNature too. The merits and advantages of both options can be discussed (amongst them, the potential to secure the property against future mining).</p> <p>ii) A draft screening-tool report reveals that this application should be accompanied by specialist reports, which appear to be lacking here. As a minimum, there needs to be a thorough assessment of the terrestrial biodiversity (particularly botanical) on the property. Furthermore, it is known that Critically Endangered Redfin Minnows <i>Pseudobarbus burchellii</i> occur in the river on this farm (they were first discovered in a pool on this property by the ORCT in 2016), thus a freshwater study may also prove necessary. It is thus further recommended that the relevant specialist studies are conducted to assess the impacts of the developments and inform the conditions of an S24G, should it be approved.</p> <p>We thank the Department for considering our proposals and will await further correspondence on the matter.</p> <p>Please feel free to contact me should you have any questions.</p> | <p>i</p> | |
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| | | | |
| <p>Cape Nature Rhett Smart</p> | <p>Email dated 10/12/2023</p> <p>Draft NEMA Section 24G Environmental Assessment Report for the Unlawful Clearing of Indigenous Vegetation on Farm Schietpad 326 and Portion 7 of Farm Windhoek 116, Napier (DEA&DP ref: 14/1/1/E2/6/2/3/0687/22 & 14/1/1/E2/6/2/3/0688/22)</p> <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>According to the Western Cape Biodiversity Spatial Plan, the patches of indigenous vegetation which were cleared consisted of Critical Biodiversity Area 1 (CBA). The vegetation occurring on the properties consists of Western Rûens Shale Renosterveld in the west and Central Rûens Shale Renosterveld in the east, both of which are classified as critically endangered and there are patches of vegetation cleared within both vegetation types (the Section 24G Report only refers to the one vegetation type).</p> <p>A total of thirteen patches of vegetation clearing are identified in the S24G Report, however it is noted that the pre-compliance and compliance notices only refer to two patches. CapeNature supports that all patches of indigenous vegetation that have been cleared within the legislated 10 year timeframe and had not been cleared in the preceding 10 years must be included within the S24G application.</p> <p>There is a good correlation between overlays of CBAs on areas currently occupied by cultivated lands and the identified cleared patches. It would be useful to provide an estimated date of clearing for each patch. We wish to note that there is an additional patch that was cleared within these timeframes which was identified by CapeNature, and which is visible in the comparison between the 2003 and 2012 images on page 16 of the S24G Report, with clearing having taken place between 2012 and 2014 (Figure 1). Historical Google Earth imagery was used to verify and identify cleared vegetation and is assumed to have also been used for the S24G Report.</p> | <p>Specialist to be appointed in due course</p> | |

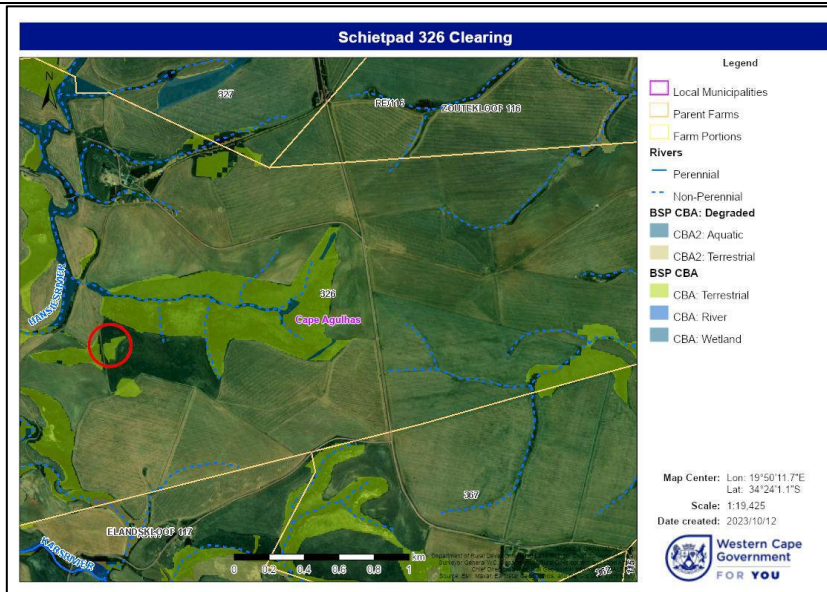


Figure 1. Image from CapeFarmMapper indicating an additional patch of vegetation cleared as described above, encircled in red.

The results from the national web-based screening tool report are presented which rates terrestrial biodiversity and aquatic biodiversity themes for the site as very high sensitivity and animal species and plant species themes as high sensitivity. The S24G Report however states that the removal of vegetation has taken place within a highly transformed agricultural landscape and therefore no specialist input has been sought. CapeNature disagrees with this motivation as the two renosterveld vegetation types occurring on site are two of the most threatened vegetation types with lowest remaining extent within South Africa, and both support a high number of endemic threatened species. The only remaining vegetation occurs as remnants within the matrix of the agricultural landscape, and it is essential that each remnant is protected from transformation.

| | | | |
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| | <p>We therefore support the results of the screening tool and recommend that as a minimum, specialist studies must be undertaken to identify and assess the impacts for the terrestrial biodiversity and plant species themes, as the activity which was undertaken was clearing of indigenous vegetation (the terrestrial biodiversity and plant species themes can be combined into one study). The impact assessment section has been completed without the inputs of a specialist, however this requires specialist expertise to assess the impacts. As in the case of S24G cases the vegetation is no longer present, the vegetation which would have occurred must be inferred based on desktop information, past experience, available evidence on site and the remaining intact vegetation occurring in the vicinity of the cleared area.</p> <p>The specialist assessment/s must take into account the gazetted National Biodiversity Offset Guidelines and we recommend that there should be consultation with CapeNature in this regard prior to completion of the study. Each of the cleared patches must be assessed and recommendation provided should this differ between patches.</p> <p>In conclusion, CapeNature does not support the S24G Report as there is insufficient information to inform the application. As a minimum, a plant species and terrestrial</p> | | |
| <p>DEADP rectification Shafeeq Mallick</p> | <p>Letter dated 31/01/2024</p> <p>INTENTION TO ISSUE A DIRECTIVE IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL CLEARANCE OF VEGETATION ON PTN 7 OF FARM 116 WINDHOEK WESSELS AND FARM 326 SCHIETPAD, BREDASDORP</p> <ol style="list-style-type: none"> 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 your application on 28 November 2023 regarding the unlawful clearance of vegetation on Portion 7 of Farm 116 Windhoek Wessels and Farm 326 Schietpad, Bredasdorp. 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: | <p>Noted and info sent on the 1/02/2024</p> | |

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| | <p>3.1. Compile a report containing a description of the public participation process followed during the course of compiling the application and assessment report, including comments received from interested and affected parties and an indication of how the issues raised have been addressed.</p> <p>3.2. Additionally, the Department requests the following to be included as part of the application:</p> <p>3.2.1. The co-ordinates of the property boundaries for each ERF/ Farm, as well as the co-ordinates demarcating the unlawfully cleared vegetation area must be included as part of SECTION:A the s24G application.</p> <p>3.2.2. Proof of the pre-application Public Participation conducted, as required in terms 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.</p> <p>4. Kindly be reminded of the NEMA public participation requirements for applications for environmental authorisation:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>5. The application must therefore be made available to registered Interested and Affected Parties (I&APs) and State Departments for a 30-day commenting period.</p> <p>6. 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.</p> <p>7. 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> | | |
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| | <p>8. Following the initial 30-day commenting period, the application and the C&RR must be made available to registered I&APs and State Departments for an additional 21-days for review and/or comment, if any, advising them how their issues or 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>9. 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.</p> <p>10. Please note that a signed declaration page must be included as part of the s24G application and must therefore be submitted with the final application.</p> <p>11. In addition to any representations made in the application, 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.</p> <p>12. 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.</p> <p>13. 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.</p> <p>14. Kindly quote the abovementioned reference number in any future correspondence in respect of this application.</p> | | |
| IN PROCESS PUBLIC PARTICIPATION | | | |
| | TO BE COMPLETED | | |



REGISTER FOR INTERESTED AND AFFECTED PARTIES

| PROJECT: Andre Wessels | | | | | | |
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| NAME: | ORGANISATION: | POSTAL ADDRESS: | TEL: | EMAIL: | COMMENT: | DATE & REF: |
| Department of Environmental Affairs and Development Planning Andre Thomas Directorate: Development Management, Region 1 | Case officer | 021 483 3679 | - | Andrea.Thomas@westerncape.gov.za | Email dated 10/11/2023 Good Day Michelle Your below submission, refers. Our team has literally been inundated with very high volumes of S30A emergency requests since the 24th of September, and we are trying our level best to get to all our “normal” work while dealing with these flood damage emergencies before the 15 December 2023 cut-off period. Given our existing high workload and the unusual circumstances with the continued influx of emergency requests, our Directorate unfortunately do not currently have the capacity to participate in the PPP for this S24G application. | 16/3/3/6/7/1/E2/27/1169/22 |
| Breede Oliphants Catchment | BOCMA | - | - | jmakgaka@bcma.co.za | Email dated 30/11/2023 | |

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| <p>Management Agency (BOCMA) K Makgakga</p> | | | | <p>COMMENTS ON NEMA SECTION 24G: RETROSPECTIVE ENVIRONMENTAL AUTHORISATION APPLICATION FOR THE REMOVAL OF VEGETATION FOR AGRICULTURAL PURPOSES ON FARM 326 AND PORTION 7 OF THE FARM 116, BREDASDORP RD. (DEA&DP REF NO.: 14/1/1/E2/6/2/3/0688/22&14/1/1/E2/6/2/3/0687/22).</p> <p>The Breede-Olifants Catchment Management Agency (BOCMA) had received the submission of the above-mentioned report on 13 November 2023 and the comments are as follows:</p> <ol style="list-style-type: none"> 1. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for identifying unlawful water uses to water users to ascertain compliance with the National Water Act (NWA), (Act No.36 of 1998). 2. Please note that BOCMA has acknowledged the remarks made in NEMA Section 24G Application Completeness Checklist for Farm Windhoek Portion 7 of No. 116 and Farm Schietpad No. 326, Bredasdorp dated November 2023 as stipulated under section F (1)(b) of the checklist that terrestrial vegetation has been removed and the clearance in some areas encroached on drainage lines. In addition, this was supported by paragraph 6 (a)- Alternative one for restore impacted area under section F of the checklist which stated that Loss of vegetation and disturbance to watercourse edges and rehabilitate remnant patches and edges which were disturbed. Therefore, this activity triggers water uses in terms of section 21(c) and (i) of the NWA. Furthermore, such water use activities were exercised without water use authorisation which contravenes section 22(1) of the NWA. 3. BOCMA CME unit and Freshwater ecologist will conduct a site investigation regarding the alleged unlawful water use activities (clearance of vegetation within the drainage lines of the water course) which was exercised without authorisation in terms of section 21 (c) and (i) of the NWA. Furthermore, this will allow enforcement process to rectify the alleged unauthorised water use activities taking place at Farm Windhoek Portion 7 of No. 116 and Farm Schietpad No. 326, Bredasdorp. 4. Your attention is drawn to Section 22 (1) of the National Water Act, which states: 22. (1) A person may only use water | <p>4/10/3/G50D/WI NDHOEK 116/7, BREDASDORP</p> |
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| | | | | | <p>(a) without a licence if that water use is permissible under Schedule 1; (i) if that water use is permissible as a continuation of an existing lawful use; or (ii) if that water use is permissible in terms of a general authorisation issued under section 39; (b) if the water use is authorised by a licence under this Act; or (c) if the responsible authority has dispensed with a licence requirement under subsection (3)</p> <p>5. It is recommended that the BOCMA stands on this matter in terms of enforcement as stipulated in paragraph 3 of this letter to be considered during the assessment of this application.</p> <p>6. BOCMA reserves the right to revise initial comments and request further information based on any additional information received.</p> | |
| Odette Curtis-Scott | Overberg Lowlands Conservation Trust | | 083 551 3341 | info@overbergrenosterveld.org.za | <p>Email dated 08/12/2023</p> <p>RE: DEADP REF- 14/1/1/E2/6/2/3/0688/22 & 14/1/1/E2/6/2/3/0687/22 S24G Application for ploughing of Critically Endangered Renosterveld vegetation, Schietpad farm, Napier. We hereby submit comments regarding the above-mentioned unlawful ploughing case and the associated S24G application.</p> <p>The Overberg Renosterveld Conservation Trust (ORCT) is an NPO based in the Overberg, focused on the conservation of remnant renosterveld (of which there is an estimated 5% remaining) on privately-owned land. The ORCT works with landowners in the region towards conserving, managing and restoring renosterveld through our Conservation Easement Programme. This programme has secured over 4500 ha of renosterveld for conservation through the voluntary signing of conservation servitudes with over 20 landowners in critical renosterveld areas. These servitudes are written into title deeds and registered in perpetuity.</p> | - |

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| | | | | | <p>The ORCT is not a law enforcement body: Rather, our work focuses on building positive relationships with willing and concerned farmers in the community who understand and appreciate the intrinsic biodiversity value in their renosterveld remnants and are choosing to acknowledge their role as custodians (please see our video on the programme on: www.overbergrenosterveld.org.za/conservation-easements). We are also part of a working group known as the Overberg Renosterveld Task Team (comprising both NGOs and parastatals) and it was through our collaboration with our partners in CapeNature that we learned about the ploughing on Schietpad farm. Because the area falls within our Area of Operations, we have registered as an Interested and Affected Party and hereby present our comments on the application for the S24G approval by Mr Andre Wessels of Schietpad.</p> <p>Schietpad farm falls within one of the last clusters of relatively well-connected, Critically Endangered, Western Rûens Shale Renosterveld; on the vegetation map the whole farm straddles the ecotone between Western- and Eastern-Rûens Shale Renosterveld (see Fig. 1). I personally have spent a substantial amount of time on the property (particularly during my PhD studies between 2011 and 2013, as well as in more recent years). It contains exceptional plant diversity and is one of the most important properties in the region for these critically endangered vegetation types. While the removal of some smaller remnants / corridors is deeply regrettable, the property still presents a unique opportunity to conserve a portion of these highly under-conserved, severely threatened vegetation types.</p> <p>We would like to submit the following recommendations:</p> <p>i)</p> <p>A Section 24G needs to seek environmental justice, particularly when a vegetation type of this high threat</p> | |
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| | | | | | <p>status has been impacted. The rehabilitation or restoration of the ploughed renosterveld will not be possible, due to the aridity of the area, and the fact that the areas have been planted numerous times already. We therefore strongly recommend that the S24G application is only approved with the condition that the remainder of all the natural vegetation on the property (i.e. all renosterveld and watercourses roughly mapped as per Figure 2) is committed to conservation in perpetuity, through a title deed restriction. This can take the form of a Nature Reserve or Biodiversity Agreement through CapeNature, or a conservation easement/servitude with the ORCT; the costs of either would be carried by the landowner.</p> <p>A commitment of this nature would not impede existing farming activities in any way at all (barring some more controlled / managed grazing on the renosterveld which has also been subjected to high and inappropriate levels of burning and grazing) and would in fact essentially be seen as a more solid commitment by the landowner to abide by the NEMA laws in future. A conservation easement or contract reserve would be accompanied by an Integrated Management Plan which would focus on the most important management principles related to fire, alien clearing, livestock management and erosion control. Because of the high conservation value of the remnants on this property, the ORCT would be willing to engage with the landowner on a conservation easement / servitude. However, we are more than willing to support a nature reserve option through CapeNature too. The merits and advantages of both options can be discussed (amongst them, the potential to secure the property against future mining).</p> <p>ii)</p> <p>A draft screening-tool report reveals that this application should be accompanied by specialist reports, which appear to be lacking here. As a minimum, there needs to be a</p> | |
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| | | | | | <p>thorough assessment of the terrestrial biodiversity (particularly botanical) on the property. Furthermore, it is known that Critically Endangered Redfin Minnows <i>Pseudobarbus burchellii</i> occur in the river on this farm (they were first discovered in a pool on this property by the ORCT in 2016), thus a freshwater study may also prove necessary. It is thus further recommended that the relevant specialist studies are conducted to assess the impacts of the developments and inform the conditions of an S24G, should it be approved.</p> <p>We thank the Department for considering our proposals and will await further correspondence on the matter. Please feel free to contact me should you have any questions.</p> | |
| Rhett Smart | Cape Nature | - | - | rsmart@capenature.co.za | <p>Email dated 10/12/2023</p> <p>Draft NEMA Section 24G Environmental Assessment Report for the Unlawful Clearing of Indigenous Vegetation on Farm Schietpad 326 and Portion 7 of Farm Windhoek 116, Napier (DEA&DP ref: 14/1/1/E2/6/2/3/0687/22 & 14/1/1/E2/6/2/3/0688/22)</p> <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>According to the Western Cape Biodiversity Spatial Plan, the patches of indigenous vegetation which were cleared consisted of Critical Biodiversity Area 1 (CBA). The vegetation occurring on the properties consists of Western Rûens Shale Renosterveld in the west and Central Rûens Shale Renosterveld in the east, both of which are classified as critically endangered and there are patches of</p> | |

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| | | | | | <p>vegetation cleared within both vegetation types (the Section 24G Report only refers to the one vegetation type). A total of thirteen patches of vegetation clearing are identified in the S24G Report, however it is noted that the pre-compliance and compliance notices only refer to two patches. CapeNature supports that all patches of indigenous vegetation that have been cleared within the legislated 10 year timeframe and had not been cleared in the preceding 10 years must be included within the S24G application.</p> <p>There is a good correlation between overlays of CBAs on areas currently occupied by cultivated lands and the identified cleared patches. It would be useful to provide an estimated date of clearing for each patch. We wish to note that there is an additional patch that was cleared within these timeframes which was identified by CapeNature, and which is visible in the comparison between the 2003 and 2012 images on page 16 of the S24G Report, with clearing having taken place between 2012 and 2014 (Figure 1). Historical Google Earth imagery was used to verify and identify cleared vegetation and is assumed to have also been used for the S24G Report.</p> <p>Figure 1. Image from CapeFarmMapper indicating an additional patch of vegetation cleared as described above, encircled in red.</p> <p>The results from the national web-based screening tool report are presented which rates terrestrial biodiversity and aquatic biodiversity themes for the site as very high sensitivity and animal species and plant species themes as high sensitivity. The S24G Report however states that the removal of vegetation has taken place within a highly</p> | |
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| | | | | <p>transformed agricultural landscape and therefore no specialist input has been sought. CapeNature disagrees with this motivation as the two renosterveld vegetation types occurring on site are two of the most threatened vegetation types with lowest remaining extent within South Africa, and both support a high number of endemic threatened species. The only remaining vegetation occurs as remnants within the matrix of the agricultural landscape, and it is essential that each remnant is protected from transformation.</p> <p>We therefore support the results of the screening tool and recommend that as a minimum, specialist studies must be undertaken to identify and assess the impacts for the terrestrial biodiversity and plant species themes, as the activity which was undertaken was clearing of indigenous vegetation (the terrestrial biodiversity and plant species themes can be combined into one study). The impact assessment section has been completed without the inputs of a specialist, however this requires specialist expertise to assess the impacts. As in the case of S24G cases the vegetation is no longer present, the vegetation which would have occurred must be inferred based on desktop information, past experience, available evidence on site and the remaining intact vegetation occurring in the vicinity of the cleared area.</p> <p>The specialist assessment/s must take into account the gazetted National Biodiversity Offset Guidelines and we recommend that there should be consultation with CapeNature in this regard prior to completion of the study. Each of the cleared patches must be assessed and recommendation provided should this differ between patches.</p> <p>In conclusion, CapeNature does not support the S24G Report as there is insufficient information to inform the application. As a minimum, a plant species and terrestrial</p> | |
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| | | | | | <p>biodiversity impact assessment must be undertaken to inform the application, which must recommend appropriate mitigation and take into account the National Biodiversity Offset Guidelines.</p> <p>CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.</p> | |
| Shafeeq Mallick, Nabeelah Khan Zaidah Toefy DEADP Rectification | DEADP Rectification | - | 021 483 8339 | Shafeeq.Mallick@westerncape.gov.za | <p>Letter dated 31/01/2024</p> <p>INTENTION TO ISSUE A DIRECTIVE IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) (“NEMA”): THE UNLAWFUL CLEARANCE OF VEGETATION ON PTN 7 OF FARM 116 WINDHOEK WESSELS AND FARM 326 SCHIETPAD, BREDASDORP</p> <p>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).</p> <p>2. The Department has received your application on 28 November 2023 regarding the unlawful clearance of vegetation on Portion 7 of Farm 116 Windhoek Wessels and Farm 326 Schietpad, Bredasdorp.</p> <p>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:</p> <p>3.1. Compile a report containing a description of the public participation process followed during the course of compiling the application and assessment report, including comments received from interested and affected parties and an indication of how the issues raised have been addressed.</p> <p>3.2. Additionally, the Department requests the following to be included as part of the application:</p> <p>3.2.1. The co-ordinates of the property boundaries for each ERF/ Farm, as well as the co-ordinates demarcating the unlawfully cleared vegetation area must be included as part of SECTION:A the s24G application.</p> | 24G Application: 14/2/4/2/2/E1/5/0032/23 |

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| | | | | | <p>3.2.2. Proof of the pre-application Public Participation conducted, as required in terms 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.</p> <p>4. Kindly be reminded of the NEMA public participation requirements for applications for environmental authorisation:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>5. The application must therefore be made available to registered Interested and Affected Parties (I&APs) and State Departments for a 30-day commenting period.</p> <p>6. 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.</p> <p>7. 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>8. Following the initial 30-day commenting period, the application and the C&RR must be made available to registered</p> | |
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| | | | | <p>I&APs and State Departments for an additional 21-days for review and/or comment, if any, advising them how their issues or 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>9. 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.</p> <p>10. Please note that a signed declaration page must be included as part of the s24G application and must therefore be submitted with the final application.</p> <p>11. In addition to any representations made in the application, 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.</p> <p>12. 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.</p> <p>13. 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.</p> <p>14. Kindly quote the abovementioned reference number in any future correspondence in respect of this application.</p> | |
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8. COMMENTS RECEIVED DURING DRAFT / PRE-APPLICATION PUBLIC PARTICIPATION

Michelle Naylor

From: Andrea Thomas <Andrea.Thomas@westerncape.gov.za>
Sent: Friday, 10 November 2023 16:38
To: Michelle (michelle@lornay.co.za)
Subject: RE: FW: Notice of PPP 1 - 24G - Farm 326 and Ptn 7 of the Farm 116, Bredasdorp RD

Good Day Michelle

Your below submission, refers.

Our team has literally been inundated with very high volumes of S30A emergency requests since the 24th of September, and we are trying our level best to get to all our "normal" work while dealing with these flood damage emergencies before the 15 December 2023 cut-off period. Given our existing high workload and the unusual circumstances with the continued influx of emergency requests, our Directorate unfortunately do not currently have the capacity to participate in the PPP for this S24G application.

Kind Regards,

Andrea Thomas
EAPASA registration: 2021/3936
Control Environmental Officer
Directorate: Development Management (Region 1)
Department of Environmental Affairs and Development Planning
Western Cape Government
6th Floor, Utilitas Building, Dorp Street, Cape Town, 8001
Tel: +27 (0)21 483 2790
Email: andrea.thomas@westerncape.gov.za
Website: www.westerncape.gov.za/eadp



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BREED-OLIFANTS
CATCHMENT MANAGEMENT AGENCY

Corner Mountain Mill & East Lake Roads, Worcester, 6850 | Private Bag X3055 Worcester 6850

Enquiries: Mr. Kgadi Makgakga Tel: 023 346 8000 Fax: 023 347 2020 E-mail: jmakgakga@bocma.co.za

Reference: 4/10/3/G50D/WINDHOEK 116/7, BREDASDORP

Lornay Environmental Consulting (Pty) Ltd
P O Box 1990
Hermanus
7200

Email: michelle@lornay.co.za

Attention: Michelle Naylor

COMMENTS ON NEMA SECTION 24G: RETROSPECTIVE ENVIRONMENTAL AUTHORISATION APPLICATION FOR THE REMOVAL OF VEGETATION FOR AGRICULTURAL PURPOSES ON FARM 326 AND PORTION 7 OF THE FARM 116, BREDASDORP RD. (DEA&DP REF NO.: 14/1/1/E2/6/2/3/0688/22&14/1/1/E2/6/2/3/0687/22).

The Breede-Olifants Catchment Management Agency (BOCMA) had received the submission of the above-mentioned report on 13 November 2023 and the comments are as follows:

1. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for identifying unlawful water uses to water users to ascertain compliance with the National Water Act (NWA), (Act No.36 of 1998).
2. Please note that BOCMA has acknowledged the remarks made in NEMA Section 24G Application Completeness Checklist for *Farm Windhoek Portion 7 of No. 116 and Farm Schietpad No. 326, Bredasdorp dated November 2023* as stipulated under section F (1)(b) of the checklist that *terrestrial vegetation has been removed and the clearance in some areas encroached on drainage lines*. In addition, this was supported by paragraph 6 (a)- Alternative one for restore impacted area under section F of the checklist which stated that *Loss of vegetation and disturbance to watercourse edges and rehabilitate remnant patches and edges which were disturbed*. Therefore, this activity triggers water uses in terms of section 21(c) and

(i) of the NWA. Furthermore, such water use activities were exercised without water use authorisation which contravenes section 22(1) of the NWA.

3. BOCMA CME unit and Freshwater ecologist will conduct a site investigation regarding the alleged unlawful water use activities (clearance of vegetation within the drainage lines of the water course) which was exercised without authorisation in terms of section 21 (c) and (i) of the NWA. Furthermore, this will allow enforcement process to rectify the alleged unauthorised water use activities taking place at Farm Windhoek Portion 7 of No. 116 and Farm Schietpad No. 326, Bredasdorp.

4. Your attention is drawn to Section 22 (1) of the National Water Act, which states:

22. (1) A person may only use water

(a) without a licence if that water use is permissible under Schedule 1;

(i) if that water use is permissible as a continuation of an existing lawful use; or

(ii) if that water use is permissible in terms of a general authorisation issued under section 39;

(b) if the water use is authorised by a licence under this Act; or

(c) if the responsible authority has dispensed with a licence requirement under subsection (3)

5. It is recommended that the BOCMA stands on this matter in terms of enforcement as stipulated in paragraph 3 of this letter to be considered during the assessment of this application.

6. BOCMA reserves the right to revise initial comments and request further information based on any additional information received.

Yours faithfully



P.P

MR. JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)

DATE: ...30/11/2023.....



Overberg Lowlands Conservation Trust
Trading as Overberg Renosterveld Conservation Trust
Box 27
Napier
7270

5th December 2023

Attention: Michelle Naylor, Lornay Environmental Consulting

CC:
Cape Nature
DEADP
Overberg District Municipality

RE: DEADP REF- 14/1/1/E2/6/2/3/0688/22 & 14/1/1/E2/6/2/3/0687/22
S24G Application for ploughing of Critically Endangered Renosterveld vegetation, Schietpad farm, Napier.

We hereby submit comments regarding the above-mentioned unlawful ploughing case and the associated S24G application.

The Overberg Renosterveld Conservation Trust (ORCT) is an NPO based in the Overberg, focused on the conservation of remnant renosterveld (of which there is an estimated 5% remaining) on privately-owned land. The ORCT works with landowners in the region towards conserving, managing and restoring renosterveld through our Conservation Easement Programme. This programme has secured over 4500 ha of renosterveld for conservation through the voluntary signing of conservation servitudes with over 20 landowners in critical renosterveld areas. These servitudes are written into title deeds and registered in perpetuity.

The ORCT is not a law enforcement body: Rather, our work focuses on building positive relationships with willing and concerned farmers in the community who understand and appreciate the intrinsic biodiversity value in their renosterveld remnants and are choosing to acknowledge their role as custodians (please see our video on the programme on: www.overbergrenosterveld.org.za/conservation-easements). We are also part of a working group known as the Overberg Renosterveld Task Team (comprising both NGOs and parastatals) and it was through our collaboration with our partners in CapeNature that we learned about the ploughing on Schietpad farm. Because the area falls within our Area of Operations, we have registered as an Interested and Affected Party and hereby present our comments on the application for the S24G approval by Mr Andre Wessels of Schietpad.

Schietpad farm falls within one of the last clusters of relatively well-connected, Critically Endangered, Western Rûens Shale Renosterveld; on the vegetation map the whole farm straddles the ecotone between Western- and Eastern-Rûens Shale Renosterveld (see Fig. 1). I personally have spent a substantial amount of time on the

Overberg Lowlands Conservation Trust, trading as Overberg Renosterveld Conservation Trust.
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Board of Trustees: Dirk van Papendorp (Chair), Lesley Richardson (Vice-Chair), Sean Privet, Muthama Musya, Christina Stewart

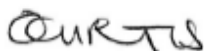
property (particularly during my PhD studies between 2011 and 2013, as well as in more recent years). It contains exceptional plant diversity and is one of the most important properties in the region for these critically endangered vegetation types. While the removal of some smaller remnants / corridors is deeply regrettable, the property still presents a unique opportunity to conserve a portion of these highly under-conserved, severely threatened vegetation types.

We would like to submit the following recommendations:

- i) A Section 24G needs to seek environmental justice, particularly when a vegetation type of this high threat status has been impacted. The rehabilitation or restoration of the ploughed renosterveld will not be possible, due to the aridity of the area, and the fact that the areas have been planted numerous times already. We therefore strongly recommend that the S24G application is only approved with the condition that the remainder of *all the natural vegetation on the property (i.e. all renosterveld and watercourses roughly mapped as per Figure 2)* is committed to conservation in perpetuity, through a title deed restriction. This can take the form of a Nature Reserve or Biodiversity Agreement through CapeNature, or a conservation easement/servitude with the ORCT; the costs of either would be carried by the landowner. A commitment of this nature would not impede existing farming activities in any way at all (barring some more controlled / managed grazing on the renosterveld which has also been subjected to high and inappropriate levels of burning and grazing) and would in fact essentially be seen as a more solid commitment by the landowner to abide by the NEMA laws in future. A conservation easement or contract reserve would be accompanied by an Integrated Management Plan which would focus on the most important management principles related to fire, alien clearing, livestock management and erosion control. Because of the high conservation value of the remnants on this property, the ORCT would be willing to engage with the landowner on a conservation easement / servitude. However, we are more than willing to support a nature reserve option through CapeNature too. The merits and advantages of both options can be discussed (amongst them, the potential to secure the property against future mining).
- ii) A draft screening-tool report reveals that this application should be accompanied by specialist reports, which appear to be lacking here. As a minimum, there needs to be a thorough assessment of the terrestrial biodiversity (particularly botanical) on the property. Furthermore, it is known that Critically Endangered Redfin Minnows *Pseudobarbus burchellii* occur in the river on this farm (they were first discovered in a pool on this property by the ORCT in 2016), thus a freshwater study may also prove necessary. It is thus further recommended that the relevant specialist studies are conducted to assess the impacts of the developments and inform the conditions of an S24G, should it be approved.

We thank the Department for considering our proposals and will await further correspondence on the matter. Please feel free to contact me should you have any questions.

Kind regards



Dr Odette Curtis-Scott; Director, Overberg Renosterveld Conservation Trust

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date 10 December 2023

Lornay Environmental Consulting
P.O. Box 1990
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7200

Attention: Michelle Naylor
By email: michelle@lornay.co.za

Dear Ms Naylor

Draft NEMA Section 24G Environmental Assessment Report for the Unlawful Clearing of Indigenous Vegetation on Farm Schietpad 326 and Portion 7 of Farm Windhoek 116, Napier
(DEA&DP ref: 14/1/1/E2/6/2/3/0687/22 & 14/1/1/E2/6/2/3/0688/22)

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.

According to the Western Cape Biodiversity Spatial Plan, the patches of indigenous vegetation which were cleared consisted of Critical Biodiversity Area 1 (CBA). The vegetation occurring on the properties consists of Western Rûens Shale Renosterveld in the west and Central Rûens Shale Renosterveld in the east, both of which are classified as critically endangered and there are patches of vegetation cleared within both vegetation types (the Section 24G Report only refers to the one vegetation type).

A total of thirteen patches of vegetation clearing are identified in the S24G Report, however it is noted that the pre-compliance and compliance notices only refer to two patches. CapeNature supports that all patches of indigenous vegetation that have been cleared within the legislated 10 year timeframe and had not been cleared in the preceding 10 years must be included within the S24G application.

There is a good correlation between overlays of CBAs on areas currently occupied by cultivated lands and the identified cleared patches. It would be useful to provide an estimated date of clearing for each patch. We wish to note that there is an additional patch that was cleared within these timeframes which was identified by CapeNature, and which is visible in the comparison between the 2003 and 2012 images on page 16 of the S24G Report, with clearing having taken place between 2012 and 2014 (Figure 1). Historical Google Earth imagery was used to verify and identify cleared vegetation and is assumed to have also been used for the S24G Report.

The Western Cape Nature Conservation Board trading as CapeNature
Board Members: Associate Prof Denver Hendriks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Loubser, Mr Mervyn Burton, Dr Colin Johnson, Prof Aubrey RedInghuis, Mr Paul Slack

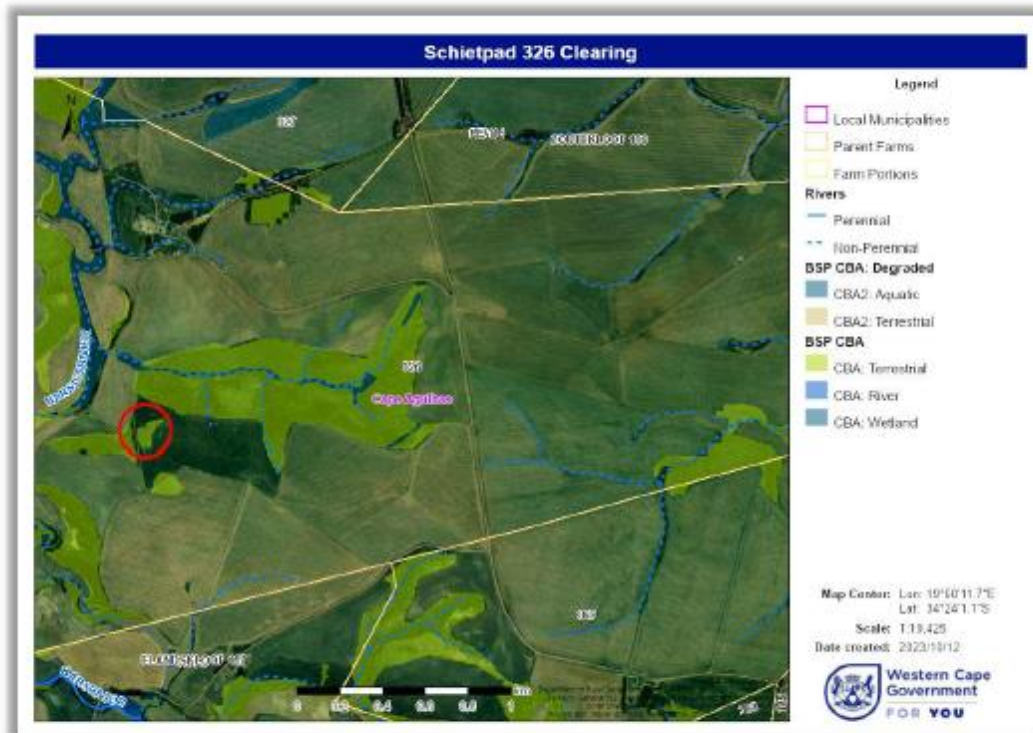


Figure 1. Image from CapeFarmMapper indicating an additional patch of vegetation cleared as described above, encircled in red.

The results from the national web-based screening tool report are presented which rates terrestrial biodiversity and aquatic biodiversity themes for the site as very high sensitivity and animal species and plant species themes as high sensitivity. The S24G Report however states that the removal of vegetation has taken place within a highly transformed agricultural landscape and therefore no specialist input has been sought. CapeNature disagrees with this motivation as the two renosterveld vegetation types occurring on site are two of the most threatened vegetation types with lowest remaining extent within South Africa, and both support a high number of endemic threatened species. The only remaining vegetation occurs as remnants within the matrix of the agricultural landscape, and it is essential that each remnant is protected from transformation.

We therefore support the results of the screening tool and recommend that as a minimum, specialist studies must be undertaken to identify and assess the impacts for the terrestrial biodiversity and plant species themes, as the activity which was undertaken was clearing of indigenous vegetation (the terrestrial biodiversity and plant species themes can be combined into one study). The impact assessment section has been completed without the inputs of a specialist, however this requires specialist expertise to assess the impacts. As in the case of S24G cases the vegetation is no longer present, the vegetation which would have occurred must be inferred based on desktop information, past experience, available evidence on site and the remaining intact vegetation occurring in the vicinity of the cleared area.

The specialist assessment/s must take into account the gazetted National Biodiversity Offset Guidelines and we recommend that there should be consultation with CapeNature in this regard prior to completion of the study. Each of the cleared patches must be assessed and recommendation provided should this differ between patches.

In conclusion, CapeNature does not support the S24G Report as there is insufficient information to inform the application. As a minimum, a plant species and terrestrial

biodiversity impact assessment must be undertaken to inform the application, which must recommend appropriate mitigation and take into account the National Biodiversity Offset Guidelines.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rhett Smart', with a horizontal line underneath.

Rhett Smart
For: Manager (Landscape Conservation Intelligence)

cc. Shafeeq Mallick, Department of Environmental Affairs and Development Planning

9. FINAL ROUND OF PUBLIC PARTICIPATION

The final round of public participation was conducted as outlined below: TO BE COMPLETED

10. REGISTERED INTERESTED AND AFFECTED PARTIES

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| <u>To be added</u> | |
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11. NOTICE OF FINAL PUBLIC PARTICIPATION

To be added

12. PROOF OF NOTICE OF FINAL ROUND OF PPP

To be added

13. COMMENTS RECEIVED DURING THE FINAL ROUND OF PUBLIC PARTICIPATION

To be added

*Please see section 7 above for final Comments and Response Report and Register for I&APS