



24G Application: 14/2/4/2/2/E2/15/0006/25

SECTION 24G PRE-DIRECTIVE

The Trustees
The Volmoed Trust for Healing and Reconciliation
P. O. Box 130
HERMANUS
7200

Attention: Mr. D. Ludik / Ms M. Roos

Tel: 028 312 1282

Email: manager@volmoed.co.za

Dear Sir / Madam

PRE-DIRECTIVE IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL CLEARING OF INDIGENOUS VEGETATION ON PORTION 1 OF FARM VOLMOED NO. 586, HERMANUS.

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) of the NEMA.
2. The Department has received your application on 14 March 2025 regarding the unlawful clearing of indigenous vegetation on Portion 1 of Farm Volmoed No. 586, Hermanus.
3. Having considered the information in respect of your application, you are hereby given notice of the delegated authority's intention to issue you with a Directive in terms of section 24G of the NEMA (as amended), which will direct you to:
 - 3.1 Investigate, evaluate and assess the impact of the activity on the environment,
 - 3.2 Compile a report containing a description of the public participation process followed during the course of compiling the application and assessment report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed, and
 - 3.3 Provide such other information or undertake such further studies as the relevant competent authority may deem necessary.
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 Environmental Assessment Practitioner ("EAP") 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) Based on the information contained in the section 24G application form (dated March 2025), you are advised that the following organs of state / State departments must be included in addition to the list provided in the section 24G application:
 - Heritage Western Cape
 - Department of Water and Sanitation
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**.
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.
7. In terms of the public participation process ("PPP") to be undertaken, kindly be advised that 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 include a description of the PPP followed.
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.
9. You are advised that an unredacted version of the public participation report must be provided to the delegated authority for decision-making purposes.
10. This Directorate has considered the information contained in the draft section 24G application assessment report, and provide the following comments:

10.1. Unlawfully Commenced Activities

10.1.1. The EAP has indicated that Site 1 (i.e. comprising a container office on an area of approximately 133m² in extent) entailed the placement of a shipping container on an existing lawned area for office use between 2020 and 2021. According to the EAP, this development resulted in the removal of domestic lawn and did not involve the clearance of indigenous vegetation.

10.1.1.1. However, based on satellite imagery dated prior to April 2018, this Directorate notes that Site 1 and surrounding area appeared to support indigenous vegetation, which may have been cleared incrementally in association with the

broader cluster development of Volmoed Trust – Retreat Centre. Clarification is therefore required regarding the status of the site prior to 2018, the lawful clearance of indigenous vegetation on this portion and particularly in relation to the extent and condition of the naturally occurring vegetation that may have existed at the time.

10.2. Activity Description

10.2.1. The activity description provided on page 25 of the draft section 24G application assessment report refers to the clearance of approximately 667m² of indigenous vegetation and "lawn" across Sites 1 and 2 on Portion 1 of Farm Volmoed No. 586, Hermanus. Please note that the removal of domestic lawn does not constitute a listed activity in terms of the NEMA EIA Regulations, 2014 (as amended). Accordingly, the activity description must be revised to accurately reflect the extent and nature of the unlawful commencement of the listed activity, specifically in relation to the unlawful clearance of indigenous vegetation.

10.2.2. Furthermore, you are advised that the activity description must include detailed information regarding the nature and purpose of the unlawfully commenced activity, as well as the type, extent, and classification of the indigenous vegetation that was affected as a consequence of the unlawful commencement.

10.2.2.1. This Directorate notes that the type of vegetation mapped and ground-truthed / verified as relevant to the site is predominantly Elim Ferricrete Fynbos and Overberg Sandstone Fynbos described as Endangered vegetation in the draft section 24G application assessment report and respective appendices. In accordance with the National List of Ecosystems that are Threatened and in Need of Protection, 2011, and as confirmed by the botanical specialist the respective vegetation types were classified as **Critically Endangered** ecosystems at the time of the unlawful clearance activities. Please correct this error.

10.3. Impact Assessment

10.3.1. You are advised that a clear demonstration of the differentiation between the pre-commencement and post-commencement status of the activity through a comparative assessment of the associated environmental aspects and impacts is essential for the effective evaluation of a section 24G application. This comparison is critical to understanding the extent and significance of the environmental changes resulting from the unlawfully commenced development.

10.3.1.1. A detailed description of the environmental context prior to the unlawful activity must be provided, including baseline environmental conditions and any ecological sensitivities. This information is necessary to assess the potential impacts that would have been associated with the proposed development / activity had it been lawfully proposed / initiated.

10.3.1.2. The post-commencement description must include an assessment of the actual environmental impacts resulting from the unlawfully commenced activity. This may include, but is not limited to, the loss of habitat, sedimentation, alterations to land use and topography, as well as socio-economic implications.

10.4. Specialist Assessments

10.4.1. You are advised that the Botanical Assessment Report (compiled by the Hermanus Botanical Society and dated August 2024) provided in Appendix G of the section 24G application assessment report must be undertaken and contain the minimum information required in accordance with the relevant Protocols for the Specialist Assessment and Minimum Report Content Requirements for Environmental Impacts on Terrestrial Plant Species.

10.4.1.1. Based on the sensitivity rating of the botanical specialist (i.e. Medium) with the confirmation of presence of species of conservation concern, you are reminded that a Terrestrial Plant Species Specialist Assessment must be submitted in accordance with the requirements specified for "very high" and "high" sensitivity in the relevant protocol.

10.4.1.2. The botanical assessment must include, *inter alia*, a discussion on the cumulative impacts as well as the impact management actions and outcomes proposed by the specialist to be included in the Environmental Management Programme.

10.4.2. The botanical specialist has excluded Site 1 from the assessment on the basis that no fynbos has been removed from this area. A **revised botanical assessment may be required** given the investigation required in paragraph 10.1.1 above.

10.5. Environmental Management Programme ("EMPr")

10.5.1. The EMPr provided in Appendix F of the section 24G application assessment report refers to the undertaking of agricultural activities, the incorrect property details and incorrect applicant. Please correct this error.

10.5.2. The EMPr must be updated to include the relevant specialist recommendations in terms of proposed mitigation and management actions.

10.6. Quantum of Section 24G Fine

10.6.1. Section C: Part 1 of the section 24G application assessment report indicates the Biodiversity Impact Index as "*the activity is not giving, has not given and will not give rise to any impacts on biodiversity*". Based on the findings of the botanical specialist and the fact that a loss of biodiversity has occurred, a revised adequate motivation as to why the EAP has indicated that the activity has not given rise to any impacts on biodiversity is required.

10.6.2. Section C: Part 2 of the section 24G application assessment report indicates that previous administrative action was not previously taken against the applicant in respect of a contravention of section 24F(1) of the NEMA. However, a Pre-Compliance Notice in terms of section 31L of the NEMA (Ref. No. 14/1/1/E2/7/6/4/0815/23 and dated 30 May 2024) has been issued in respect of Portion 1 of Farm Volmoed No. 586, Hermanus. Please correct this error.

11. Based on the above, you are advised that a revised draft section 24G assessment report must be subjected to an **additional round of PPP comprising a 30-day commenting period** prior to the submission of the final S24G application with updated Comments and Response Report for decision-making.
12. 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.
13. Please note that a duly dated and signed declaration page must be included as part of the s24G application and must therefore be submitted with the final application for decision making.
14. 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.
15. 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: Environmental Governance. 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.
16. 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.
17. 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.
18. 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.
19. Kindly quote the abovementioned reference number in any future correspondence in respect of this application.

This Department reserves the right to revise or withdraw comments or request further information based on any information received.



MRS Z TOEFY
HEAD OF RECTIFICATION
DIRECTORATE: ENVIRONMENTAL GOVERNANCE
DATE: 23 APRIL 2025

CC: (1) Ms. M. Naylor (Lornay Environmental Consulting)
(2) Ms. P. Aplon (Overstrand Municipality)
(3) Mr. R. Smart (CapeNature)
(4) Mr. F. Fahd (DEA & DP: Environmental Law Enforcement – Region 2)

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