



24G Application: 14/2/4/2/2/E1/5/0032/23

ADMINISTRATIVE FINE NOTICE

The Managing Director
Schietspad Plase BDY
PO Box 59
NAPIER
7270

Tel: (082) 4444 969
Email: andrew@inteligro.co.za

Attention: Andre Wessels

ADMINISTRATIVE FINE 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

1. Your application in terms of section 24G of the NEMA ("the section 24G application") dated November 2024 has reference.
2. In order for the Department to process your application, you are required to pay an administrative fine of **R250 000 (Two hundred and fifty thousand rand)**.
3. The above administrative fine is determined by the type of activity or activities undertaken and the impact or impacts it has on the environment.
4. Please note that the continued operation, conduct or undertaking of the activity or activities will remain unlawful and should an environmental authorisation be issued at the conclusion of the section 24G application process, it shall only take effect from the date on which it has been issued.

5. Please note that in terms of section 24G(4) of the NEMA you must pay the administrative fine **before** the competent authority may consider your report and thereafter issue or refuse an environmental authorisation.

Notification of the administrative fine decision

6. The applicant must in writing, within 14 days of the date of the administrative fine decision ("the decision") –
- 6.1. notify all registered interested and affected parties ("I&APs") of –
 - 6.1.1. the amount of the administrative fine;
 - 6.1.2. the reasons for the decision as detailed in Annexure A; and
 - 6.1.3. the date of the decision;
 - 6.2. draw the attention of all registered I&APs to the manner in which they may access the decision; and
 - 6.3. provide the details of all registered I&APs (postal and/ physical address, contact number, facsimile and e-mail address) to all registered I&APs and the original decision-maker in the event that an appeal has been lodged in terms of the *National Appeal Regulations, 2025*.

Method of payment of the administrative fine

7. Please be advised that payment of the above administrative fine may be made by electronic transfer in the following manner:

Electronic Transfer

An electronic transfer may be made to the following bank account:

Name of Bank	:	NEDBANK
Name of Account	:	Provincial Government of the Western Cape: Department of Environmental Affairs and Development Planning
Account Type	:	Current Account
Account Number	:	1452 045 003
Branch Name	:	NEDBANK CORPORATE
Branch Code	:	145 209
Reference No.	:	S24G00397

8. Kindly forward a copy of **the proof of payment** (e.g. receipt, deposit slip, electronic transfer confirmation) to the Department and quote the abovementioned reference number to ensure that the Department may acknowledge payment of the administrative fine.
9. This proof of payment must also be accompanied by proof that the abovementioned administrative fine was brought to the attention of registered I&APs as required in paragraph 6 above.
10. The fine must be **paid within 30 (thirty) calendar days** from the date of this letter. **If no such payment is received** within the specified timeframe and no appeal has been lodged with the appeal administrator, **the said section 24G NEMA Application has lapsed. The matter to be referred for criminal investigation.**
11. You may apply for extension of the 30 (thirty) day period for payment of the administrative fine. Such request for extension must **fall within** the stipulated **30-day period. The request for extension must be supported by the following representation:**
 - 13.1. your financial circumstances, including financial disclosures;
 - 13.2. an indication of monthly instalments (if any) within a specified time period for full payment of the administrative fine; and
 - 13.3. any additional information you deem necessary to support your request for payment extension.
12. When applying for extension of payment of the administrative fine, the competent authority **may direct the ceasing of the activities being applied for** until such time that the section 24G NEMA Administrative Fine has been paid in full.
13. Should an extension for payment be granted and the administrative fine is not paid within the latest specified time period, **the section 24G NEMA Application lapses, and any partial amounts paid to the competent authority will not be refunded to the applicant.**
14. The Department may proceed with appropriate criminal investigative action which may result in criminal prosecution.
15. Please be advised that the notice of payment of the administrative fine is **not an authorisation** for the consequences of unlawful commencement of a listed activity/ies according to the NEMA.

16. Further consideration of your application will only continue upon receipt and acknowledgement of payment of the administrative fine.

Appeals

17. Appeals must comply the *National Appeal Regulations, 2025* (Government Notice No. R. 5985 in Government Gazette No. 52269 of 13 March 2025). Please note the provisions of Regulation 1(2) & (3) of the *National Appeal Regulations, 2025* when calculating the period of days.

18. The holder (applicant) of this decision must submit an appeal to the Appeal Administrator, any registered Interested and Affected Parties (I&AP's) and the decision maker (Competent Authority who issued the decision) within **20 calendar days** from the date this decision was sent by the decision maker.

19. The I&AP's (not the holder of this decision) must submit an appeal to the Appeal Administrator, the holder (applicant) of the decision and the decision maker within **20 calendar days** from the date this decision was sent to the registered I&AP's by the holder (applicant) of the decision.

20. All appeals submitted must:

- 20.1. be in writing in the appeal form obtainable from the Departmental website;
- 20.2. include supporting documents referred to in the appeal; and
- 20.3. include proof of payment of the prescribed non-refundable appeal fee, if prescribed.

21. The holder (applicant) of the decision must:

- 21.1. notify registered I&AP's and affected organs of state of any appeal received, and make the appeal available to them, within **5 calendar days** after the 20-day appeal period ends.
- 21.2. Submit proof of this notification to the Appeal Administrator within 5 calendar days after sending the last notification.

22. The applicant, where applicable, the decision-maker, or any person notified under regulation 4 of the *National Appeal Regulations, 2025* may submit a Responding Statement within **20 calendar days** from the date they received the appeal, in the form obtainable from the Department website to the Appeal Administrator and to the appellant, where the appellant is not the applicant.

23. Appeals, Responding Statements and supporting documents must be submitted to the Appeal Administrator by means of one of the following methods:

23.1 **By e-mail:**

DEADP.Appeals@westerncape.gov.za or

23.2 **By hand** where that person submitting does not hold an electronic mail account:

Attention: Mr Marius Venter

Room 809, 8th Floor Utilitas Building,

1 Dorp Street, Cape Town, 8001

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Administrator via email or to the address listed above.

24. A prescribed appeal form, responding statement form as well as assistance regarding the appeal processes is obtainable from the relevant website of the appeal authority: <http://www.westerncape.gov.za/eadp> or the office of the Minister at: Tel. (021) 483 3721 or email DEADP.Appeals@westerncape.gov.za



MRS Z TOEFY

DELEGATED AUTHORITY

DIRECTORATE: ENVIRONMENTAL GOVERNANCE

DATE: 27 October 2025

Copied to: (1) Michelle Naylor (EAP)

Email: michelle@lornay.co.za

ANNEXURE A: REASONS FOR THE DECISION

In determining the quantum of the administrative fine, the competent authority took, *inter alia*, the following into consideration:

- The section 24G application dated November 2024 with supporting environmental impact assessment and mitigation measures.
- Public participation conducted for the application by the Environmental Assessment Practitioner.
- The Environmental Management Programme dated November 2023 submitted for the application.
- Relevant information contained in the Departmental EIA Guideline and Information Document Series (March 2013), including, the Guidelines on Need and Desirability, Public Participation and Alternatives.
- The site inspection conducted on 14 August 2025, attended by officials of the Directorate: Environmental Governance.

All relevant information presented to the competent authority was taken into account in the determination of the fine quantum. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. PUBLIC PARTICIPATION

A public participation process as outlined in section 24G(1)(vii)(dd) of the NEMA, "...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 issues raised have been addressed..." was undertaken.

The public participation process conducted by the EAP comprised of the following:

- An advertisement was placed in the **Cape Argus** newspaper on 13 November 2023;
- A site notice was erected; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 10 November 2023 and 07 November 2024;
- I&APs were afforded the opportunity to provide comments on the application.

The Overberg Renosterveld Conservation Trust (ORCT) provided comment on this matter. The 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 their Conservation Easement Programme (CEP).

The ORCT explained that they are part of a working group known as the Overberg Renosterveld Task Team (comprising both NGOs and parastatals) and it was through the collaboration with partners in CapeNature that they were made aware of the ploughing on Schietpad farm. Because the area falls within the ORCT's area of operations, they registered as an Interested and Affected Party and presented their comments on the application.

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. The site 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.

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. It was therefore strongly recommended 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, the ORCT 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).

The ORCT stated that the 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.

Regarding the ORCT's previous comments on the 24G application for the above-mentioned sites, the ORCT confirm that the landowners of these properties signed a conservation servitude agreement (easement) with the ORCT on the 22 November 2024, committing 223ha of renosterveld to conservation in perpetuity through a title-deed endorsement.

The recently signed documentation was delivered and will be registered at the Deeds Office as soon as bondholder (ABSA) consent is secured. The ORCT anticipate this will happen before year-end.

The ORCT can also provide a copy of the management plan, if requested.

Current offset guidelines suggest a 1:30 ratio for unlawfully cleared CR and EN vegetation. Given that a total of 1.67ha was cleared, the recommended offset would be in the region of 50.1ha. However, the remaining renosterveld on the properties owned by the Wessels do not exceed 223ha and ALL these hectares have been included in the conservation servitude. The ORCT is satisfied that the offset is sufficient and that the 24G application be approved on this basis.

1.1 Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- CapeNature (CN)
- Breede Overberg Catchment Management Agency (BOCMA)
- Department of Agriculture (DoA)
- Overberg District Municipality (ODM)

During the first round of the Public Participation Period, CN Indicated that comments provided only pertain to the biodiversity related impacts and not to the overall desirability of the application.

CapeNature

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. There are patches of vegetation cleared within both vegetation types however 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. CN 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 as CN noted that there is an additional patch that was cleared within these timeframes which was identified, 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. 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 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. CN 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.

CN supports 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. The EAP confirmed during the draft Public Participation Period that Specialist studies will be sought and the concerns raised above will be addressed before the next round of Public Participation.

CN was not in support of the first draft of the NEMA Section 24G Report as no specialist studies had been undertaken. A botanical assessment has accordingly been undertaken to evaluate the impacts that were incurred as a result of the ploughing of renosterveld for the purposes of expansion of the cultivated lands.

The botanical assessment includes a delineation of the areas which were cleared based on a comparison of the aerial imagery dating over the past 10 years between 2014 and 2024. The total area cleared was a total of 12.47 ha. However, the total area cleared should date from 10 years prior to the investigation of the unlawful activities and therefore should include the additional areas identified in the initial S24G Report for which the total area was calculated to amount to 15.2 ha. The additional area identified by CN should also be included. Therefore, the total area cleared needs to be recalculated including all the remnants identified by the environmental assessment practitioner, the botanical specialist and CapeNature dating from 2012 to date. The total area will amount to more than 15.2 ha and should be presented in a high-resolution spatial format, preferably as a shapefile or kmz file and a high resolution image. The EAP indicated that the additional area identified by Cape Nature has been included in the final report and this has brought up the total area cleared to 16.8 ha on both farms. The EAP has assessed all clearing activities as per CapeNature's comment.

The botanical assessment confirms that the remaining remnants of renosterveld are representative of the original vegetation type and in a good condition and species rich. The vegetation is not described in detail as it would not be possible to determine the exact condition and species composition of the fragments which were lost however the remaining fragments provide good evidence of the likely condition and conservation value.

The remaining fragments do have alien invasive species in parts, mainly consisting of alien grasses. Another impact as a result of fragmentation is the exclusion of fire which results in

senescence. The assumption is however made that all renosterveld remnants on the property that were present before the clearing commenced and those still persisting are of very high conservation value. Two plant species of conservation concern (SCC) were encountered, however the site visit was undertaken in a sub-optimal time of year and there are likely to be many more SCCs present if an additional survey were undertaken in August/September. A spring survey is however not considered necessary due to the assumption of very high conservation value of all remnants and that additional SCCs are present.

The impact assessment of the clearing of vegetation is rated as high negative impact prior to mitigation and medium negative after mitigation. The required mitigation in this instance is to ensure that no further clearance of vegetation occurs on site; clearance of alien invasive species from natural areas; and conservation of the remainder of the natural vegetation either through a stewardship agreement with CapeNature or a conservation easement with the Overberg Renosterveld Conservation Trust (ORCT).

The National Biodiversity Offset Guidelines indicate that a biodiversity offset is required if the residual impact after following the mitigation hierarchy is medium negative or higher. Although the guidelines are aimed primarily at NEMA applications prior to the commencement of activities, the guidelines indicate that the same principles can be applied to other processes such as NEMA S24G processes. We therefore recommend that a biodiversity offset is required to remedy the loss of habitat.

As the two vegetation types affected are critically endangered, the maximum offset ratio of 1:30 must be applied. Although the total extent of vegetation cleared must still be calculated the extent of 15.2 ha included in the S24G Report would require that 456 ha must be conserved. The botanical assessment used a ratio of 1:20 and the area of 12.47 ha requiring 172 ha to be conserved. If the property to the south also owned by the landowner is also included (Windhoek 367) a total area of 219 ha of renosterveld remains which can be conserved. The ratios using the botanical assessment calculations amounts to 1:17.7.

CN noted the correspondence from the ORCT dated August 2024 included as an appendix to the S24G Report and the subsequent correspondence following the release of the report for public comment dated November 2024. CN highlights the fact that Section 7.6.2 of the guidelines indicates that *“environmental authorisation holders are responsible for covering all of the costs of a biodiversity offset”*. One of the NEMA principles underpinning biodiversity offsets is the *“polluter pays principle”*. Motivations regarding the funding constraints of the ORCT are therefore misplaced as it is the responsibility of the applicant. Any actions which the ORCT undertake in respect of the biodiversity offset would be on behalf of the applicant in terms of their offset obligations.

As the primary threat is incremental reduction in the renosterveld remnants it is essential that the current extent of the remnants are delineated. Surveying of the extent of the renosterveld remnants is therefore considered essential and should be permanently pegged out on site to determine if there are any further transgressions. Compilation of the biodiversity offset report and the biodiversity offset management plan and implementation of the management interventions included within the management plan are the financial responsibility of the applicant.

CN raised concern regarding the security of a conservation easement against further loss of habitat, in particular if the easement does not explicitly refer spatially to the remnants which are to be protected i.e. surveyed remnants. Precedents where clearing has taken place in conservation easements have not revealed any additional protection compared to other critically endangered remnants without a status. Additional protection measures would therefore be necessary if the option of an easement is selected such as an undertaking by the landowner to not disturb remnants further with consequences for transgressions, which is bindings on successors in title. A conservation easement would also not be an effective measure to protect the property from mining. Only nature reserves declared in terms of the National Environmental Management: Protected Areas Act (NEM:PAA) are secure from mining (prospecting and mining can take place in NEM:PAA Protected Environments if agreed to by the Minister of Environmental Affairs).

The total area of natural habitat which the landowner has available to place into conservation is 223 ha (slightly more than reported in the botanical assessment). CN supports that the landowner places 223 ha into conservation, however as indicated above the total area which is required to be conserved exceeds this amount. CN therefore recommends that options to meet the offset requirements are investigated further. The acceptability of the offset should be determined by the competent authority (DEA&DP) with the advice of CN.

Additional properties should be investigated to meet the additional offset requirements and could include acquisition or an agreement with the landowner which may include a financial contribution from the applicant. Another option could be to include adding areas which have been disturbed to the conservation area to improve connectivity, although these areas would have to be recognised as containing low conservation value habitat however play a role in ecological connectivity and a buffer for edge effects for the highly fragmented remnants and can also be faunal habitat. Should it not be feasible to obtain an additional offset area this must be taken into account in the decision-making by the competent authority.

CN therefore recommends that the total area which was cleared within the timeframes of 10 years since the transgression was reported is calculated and presented spatially in an appropriate format and resolution. The offset requirements should then be calculated based

the area cleared at a ratio of 1:30. Additional offset areas must be investigated, and it must be ensured that the offset is aligned to the National Biodiversity Offset Guideline. CN strongly recommends that the proposed offset should only be considered for authorisation after review by both the Biodiversity Offset Advisory Panel and the CapeNature Stewardship Review Committee. The EAP highlighted that the Conservation Easement agreement has already been signed and concluded. The agreement is classified as a Conservation Servitude Agreement (Easement) with the ORCT, with a commitment of 223 ha of remaining renosterveld to conservation in perpetuity through a title deed endorsement.

Breede Overberg Catchment Management Agency

BOCMA acknowledged the remarks made in NEMA Section 24G Application that terrestrial vegetation has been removed and the clearance in some areas encroached on drainage lines. This activity therefore triggers water uses in terms of section 21(c) and (i) of the National Water Act (NWA). Furthermore, such water use activities were exercised without water use authorisation which contravenes section 22(1) of the NWA. The BOCMA CME unit and Freshwater ecologist will therefore 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. 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.

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)

It is recommended that the BOCMA stands on this matter in terms of enforcement during the assessment of this application.

Overberg District Municipality

The Environmental Management Services Department of the Overberg District Municipality take cognisance of the S24G report for the unlawful clearance of vegetation on the subject farm.

Based on the Western Cape Biodiversity Spatial Plan of 2017 the cleared area falls partly within a CBA and form part of critically endangered ecosystems, namely Western Ruens Shale Renosterveld and Central Ruens Shale Renosterveld. With reference to the Overberg District Municipalities Spatial Development Framework of 2022, CBA is classified as core 1 under the Spatial Planning Categories. These areas must be regarded as no-go for development and must be kept in a natural state, with a management plan focussed on maintaining or improving the state of biodiversity. There should be no further loss of natural habitat and degraded areas should be rehabilitated

Giving the conservation status of Renosterveld, any remnants irrespective of its state, pristine or degraded, should be excluded from development activities.

The mitigation measures and recommendations made in the Botanical Assessment is supported together with the establishment of a Conservation Easement. The management plan for such easement should form part of the EMP.

The ODM reserves the right or revise its comments and request further information based on any additional information that may be received.

2. CALCULATION OF THE ADMINISTRATIVE FINE

Section 44(1)(aC) of the NEMA makes provision for the *“Minister to make regulations relating to the procedure and criteria to be followed in the determination of an administrative fine in terms of section 24G.”*

The Section 24G Fine Regulations, 2017 (“the regulations”) as referred to above have come into effect on 20 July 2017 which stipulate the procedure to be followed and criteria for the determination of a section 24G administrative fine. All applications submitted after the promulgation date are subject to the aforesaid regulations which stipulate the maximum fine applicable to an application is R5 million, as per the NEMA amendments.

The S24G fine calculator is a guide that is not rigidly applied and is used to determine an appropriate fine (to the maximum of R5 million) based on applicable impacts resulting from the unlawful commencement activity/ies on the receiving environment. The determination of a fine is based on the assessment undertaken for the section 24G application and the significance of impacts of the activity/ies on the environment. Each section 24G administrative fine is determined on its own merit and is dependent on the information provided in the application. The section 24G fine is not a criminal sanction and the section 24G process is distinct and not punitive in nature.

In accordance with section 24(4) of the *National Environmental Management Act, 1998* (Act No. 107 of 1998) ("NEMA") the application contains, *inter alia*, an assessment of the consequences and impacts on the environment, including cumulative impacts, and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the activity as well as a description of the mitigation measures that will be undertaken.

2.1 ASSESSMENT OF IMPACTS, BENEFITS AND MITIGATION MEASURES

The determination of the administrative fine is based on the administrative fine calculator which was developed by the National Department of Environmental Affairs. The fine calculator (which is a guide that is not applied rigidly) was based on the following indexes that were informed by the environmental assessment practitioner as specified in the section 24G application:

- Socio-Economic Impact Index
- Biodiversity Impact Index
- Sense of Place &/ or Heritage Impact Index
- Pollution Impact Index.

The administrative fine decision and the reasons for the decision were informed by the section 24G application with supporting information, submitted by the environmental assessment practitioner, which stated *inter alia* the following:

2.1.1 Socio-economic Impact

The **Socio-Economic Impact Index** was rated by the EAP that "*The activity is not giving, has not given and will not give rise to any negative socio-economic impacts*".

The motivation for this rating by the EAP was that "*The activity does not have any negative socio-economic impacts. The activity allows for improved farming practices and therefore improved performance of the farmer which will ensure long term job security for employees and continued investment in the area.*"

Having regard to the impacts caused by the activities, I am in agreement with the fine committee's recommendation that the administrative fine calculator be scored consistent with the score of the application that: "*The activity is not giving, has not given and will not give rise to any negative socio-economic impacts*".

The motivation for this rating is that the activity does not result in any negative socio-economic impacts that would raise any potential concerns.

2.1.2 Biodiversity Impacts

The **Biodiversity Impact Index** was rated by the EAP that *"The activity is giving, has given or could give rise to localised biodiversity impacts"*.

The motivation for this rating by the EAP was that *"long terms farming practices and therefore were not a true representation of the vegetation of the area prior to disturbances."*

Having regard to the impacts caused by the activities, I am in agreement with the fine committee's recommendation that the administrative fine calculator be scored consistent with the score of the section 24G application that: *"The activity is giving, has given or could give rise to localised biodiversity impacts"*.

The motivation for this rating is that the vegetation cleared on site was confirmed as Western Ruens Shale Renosterveld and Central Ruens Shale Renosterveld, both of which are gazetted as Critically Endangered on a national basis. According to the Botanical Impact Assessment, all remaining natural vegetation onsite, and most of the approximately 12.47ha lost to unauthorised cultivation in the last ten years, is and probably was of High botanical conservation value. The overall botanical impact of the loss of the approximately 12.47ha of Renosterveld on site is deemed to have had a High negative impact before mitigation, and Medium negative after mitigation.

2.1.3 Sense of place and Heritage Impacts

The **Sense of place and Heritage Impacts Index** was rated by the EAP that *"The activity is in keeping with the surrounding environment and / or does not negatively impact on the affected area's sense of place and /or heritage"*.

The motivation for this rating by the EAP was that *"the landowner removed small and dispersed patches of remaining natural vegetation across the subject properties. These remnant areas had already been impacted by the fringe effects of long terms farming practices and therefore were not a true representation of the vegetation of the area prior to disturbances."*

Having regard to the impacts caused by the activities, I am in agreement with the fine committee's recommendation that the administrative fine calculator be scored

consistent with the score of the section 24G application that: *"The activity is in keeping with the surrounding environment and / or does not negatively impact on the affected area's sense of place and /or heritage."*

The motivation for this rating is that the transformed nature of the site and the remnants of natural vegetation found at the site is considered to be consistent with farming practices in the area.

2.1.4 Pollution Impact

The **Pollution Impact Index** was rated by the EAP that *"The activity is not giving, has not given and will not give rise to any pollution"*.

The motivation for this rating by the EAP was that *"no pollution impacts are applicable."*

Having regard to the impacts caused by the activities, I am in agreement with the fine committee's recommendation that the administrative fine calculator be scored consistent with the score of the section 24G application that: *"The activity is not giving, has not given and will not give rise to any pollution"*.

The motivation for this rating is based on the conclusions of the s24G application in that no pollution impacts are applicable to the activities that have commenced on site.

The indices contained in the section 24G application submitted by the EAP were used in the determination of the fine. This was assessed, reviewed and confirmed by observations obtained during the site inspection on 14 August 2025.

It should also be noted that the section 24G fine calculator distinguishes between the following two categories of offenders:

- Category 1 offenders are (firm) trusts, body corporates, close corporations, companies, parastatals and government departments.
- Category 2 offenders are individual/natural persons.

The calculation of the administrative fine is also based on the fact that the applicant in this matter is a category 1 offender. Nevertheless, the amounts determined by the section 24G fine calculator for both categories were analysed to assess whether it is appropriate to regard the applicant under the abovementioned category, given the personal circumstances of the applicant. I am of the opinion that it is appropriate to regard the applicant in this matter is a category 1 offender.

2.2 OTHER CONSIDERATIONS AND REPRESENTATIONS

Further to the above, the following factors were taken into account in determining whether the fine recommended by the fine calculator is appropriate in the circumstances of this matter and whether there are reasons to deviate from the quantum of the fine recommended:

2.2.1 **Aggravating factors, or the absence thereof, such a blameworthiness, non-compliance history and ignoring previous advice.**

In this regard, the fact that the applicant and/or its director have not previously been advised that conduct such as occurred in the present matter constituted an offence, is noted.

2.2.2 **Mitigation factors such as preventative measures, co-operation with the environmental authority, immediate voluntary remediation and restoration and personal circumstances.**

In this regard, I have considered the applicants conduct and am of the view that the applicant's commitment to the conservation servitude agreement (easement) justifies a deviation from the recommended fine amount.

The reason for the deviation consideration is due to the Overberg Renosterveld Trust (ORT) confirming that the applicant, along with other landowners, signed a conservation servitude agreement (easement) with the ORT, committing 223 ha of renosterveld to conservation in perpetuity through a title-deed endorsement.

2.2.3 **The potential costs that the applicant will incur in complying with directions as to remedial measures.**

In this regard, the contents of the Application, together with the assessment report and suggested mitigation/rehabilitation measures are noted.

2.2.4 **Social/Public benefit factors resulting from activities.**

In this regard, I am of the opinion that the applicant's activities provide no direct social service to the affected community and will have little, or no, positive impact on job creation or poverty alleviation in the area which justifies a deviation from the recommended fine amount.

It is acknowledged that the National Environmental Management Principles (set out in section 2 of the NEMA) which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment. In terms of the NEMA Principles, the effects of decisions on all aspects of the environment are to be taken into account. I am satisfied that the NEMA principles, including the consideration, assessment and evaluation of the social, economic and ecological impacts of activities (disadvantages and benefits), have been correctly applied in this application and this fine is appropriate in the light of such consideration and assessment.

In all the circumstances, and after weighing all the above, I am of the view that a fine of **R250 000 (two hundred and fifty thousand rand)** is an appropriate fine. Please find attached a copy of the calculated fine (Appendix 1).

Appendix 1

14/2/4/2/2/E1/5/0032/23

2016 SECTION 24G CALCULATOR				
IMPACT INDEX CALCULATOR				
1 Socio Economic Impact Index		Weighting	20	
Description of variable			Selection	Score
a	The activity will not give rise to any negative socio-economic impacts	0,5	X	10
b	The activity could give rise to negative socio-economic impacts, but highly localised	3		0
c	The activity could give rise to significant negative socio-economic and regionalized impacts	7		0
d	The activity could result in wide-scale socio-economic impacts.	10		0
Notes: The activity does not result in any negative socio-economic impacts that would raise any potential concerns.				
2 Biodiversity Impact Index		Weighting	30	
Description of variable			Selection	Score
a	The activity will not give rise to any impacts on biodiversity	0,5		0
b	The activity could give rise to localised biodiversity impacts	3	X	90
c	The activity could give rise to significant biodiversity impacts	8		0
d	The activity is likely to permanently / irreversibly transform/ destroy a recognised biodiversity 'hot-spot' or threaten the existence of a species or sub-species.	10		0
Notes: The vegetation cleared on site was confirmed as Western Ruens Shale Renosterveld and Central Ruens Shale Renosterveld, both of which are gazetted as Critically Endangered on a national basis. According to the Botanical Impact Assessment, all remaining natural vegetation onsite, and most of the approximately 12.47ha lost to unauthorised cultivation in the last ten years, is and probably was of High botanical conservation value. The overall botanical impact of the loss of the approximately 12.47ha of Renosterveld on site is deemed to have had a High negative impact before mitigation, and Medium negative after mitigation.				
3 Sense of Place & / or Heritage Impact Index		Weighting	20	
Description of variable			Selection	Score
a	The activity is in keeping with the surrounding environment and / or does not negatively impact on the affected area's sense of place and /or heritage	0,5	X	10
b	The activity is not in keeping with the surrounding environment and will have a localised impact on the affected area's sense of place and/or heritage	3		0
c	The activity is not in keeping with the surrounding environment and will have a significant impact on the affected area's sense of place and/ or heritage	8		0
d	The activity is completely out of keeping with the surrounding environment and will have a significant impact on the affected area's sense of place and/ or heritage	10		0
Notes: The transformed nature of the site and the remnants of natural vegetation found at the site is considered to be consistent with farming practices in the area.				
4 Pollution Impact Index		Weighting	30	
Description of variable			Selection	Score
a	The activity will not give rise to any pollution	0,5	X	15
b	The activity could give rise to pollution with low impacts.	3		0
c	The activity could give rise to pollution with moderate impacts.	5		0
d	The activity could give rise to pollution with high impacts.	8		0
e	The activity could give rise to pollution with major impacts.	10		0
Notes: No pollution impacts are applicable to the activities that have commenced on site.				
			TOTAL SCORE	125
			IMPACT INDEX	12,50%
Applicant				
Company , Government & Parastatal.			625 000,00	
Committee Reasons for Deviation (only when relevant)				
The applicant's signing of a conservation servitude agreement (easement) with the ORT on the 22 November 2024, committing 223 ha of renosterveld to conservation in perpetuity through a title-deed endorsement, warrants a deviation to the fine quantum.				
Fine Amount			250 000,00	