



**REFERENCE:** 14/2/4/1/F2/4/0005/18

**ENQUIRIES:** Shafeeq Mallick

The Managing Director  
Tierhoek Boerdery (Pty) Ltd  
PO Box 418  
**CITRUSDAL**  
7340

Tel: (022) 921 3436  
Fax: (022) 921 3745  
Email: admin@paardekop.co.za

Attention: Mr Biele van Zyl

Dear Sir

**INFORMATION REQUIREMENTS OF THE POTENTIAL SECTION 24G APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL CONSTRUCTION OF DAMS ON REMAINDER OF PORTION 3 OF FARM WILDSCHUTSKRAAL 13372, CLANWILLIAM**

1. The pre-application document dated 29 March 2018 and received by this Department on the same day, has reference.
2. Please be advised that the *Section 24G Fine Regulations (GN. No. 698 of 20 July 2017* (hereafter referred to as "the fine regulations") were published on 20 July 2017. The fine regulations require that public participation be conducted prior to the submission of an application and that an application must include the representations as set out in Annexure A of the fine regulations.
3. Please be advised that submission of a section 24G application shall in no way derogate from an investigation of any transgression in terms of the *National Environmental Management Act, 1998 (Act 107 OF 1998)* ("NEMA") nor from the National Prosecuting Authority's legal authority to institute criminal proceedings. See Section B of Annexure A of the fine regulations.
4. Please note that a section 24G application form must be accompanied by Annexure A of the fine regulations. You are required to submit the application form together with Annexure A and the relevant representations as outlined in the fine regulations.
5. A section 24G application is only relevant to listed activities that have commenced without the pre-requisite environmental authorisation. Only those activities applied for will be considered for environmental authorisation.
6. The applicant is thus required to ensure that all the applicable listed activities are included in the application to be submitted. In this regard, the timeframe of commencement of the listed activity/ies and the relevant Environmental Impact Assessment legislative period/regime is of particular importance.
7. Please also ensure that the similarly listed activities in terms of the current *Environmental Impact Assessment Regulations, 2014* (as amended) are applied for should the listed activities not have commenced within this period.

8. The appointed Environmental Assessment Practitioner is required to provide a detailed explanation as to why the unlawfully commenced activity is still similarly listed in terms of the NEMA.
9. Preliminary Advertisement
  - 9.1. Kindly note the requirements of 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.
  - 9.2. Please note further that the advertisement must state that the applicant commenced with listed activities without the necessary environmental authorisation and is now applying for *ex post facto* approval. The advertisement **must** include (a) the date, (b) the location, (c) the applicable legislative provision contravened, (d) and the listed activities commenced with without the required authorisation.
  - 9.3. Interested and affected parties (I&APs) must be provided with the details of where they can register as I&APs and submit their comment. Please be advised that at least 20 days must be provided in which to do so.
  - 9.4. Should you, on your own initiative, proceed with the compilation of a section 24G Environmental Impact Assessment ("EIA") report; 30 days may be provided to I&APs within which to provide their comments on the pre-application 24G EIA report.
10. Two printed copies as well as two electronic copies (saved on CD/DVD) of the Application Form must be submitted to the Department.
11. An applicant may be issued with a directive to comply with any such provision in terms of section 24G of the NEMA that the competent authority may deem necessary. The following directives in terms of section 24G(1) has reference:
  - (i) *Immediately cease the activity pending a decision on the application submitted in terms of this subsection;*
  - (ii) *Investigate, evaluate and assess the impact of the activity on the environment;*
  - (iii) *Remedy any adverse effects of the activity on the environment;*
  - (iv) *Cease, modify or control any act, activity, process or omission causing pollution or environmental degradation;*
  - (v) *Contain or prevent the movement of pollution or degradation of the environment;*
  - (vi) *Eliminate any source of pollution or degradation;*
  - (vii) *Compile a report envisaged in subsection 24G(1)(vii) (aa) – (ee); and*
  - (viii) *Provide such other information or undertake such further studies as the Minister, Minister responsible for mineral resources or MEC, as the case may be, may deem necessary.*

Please ensure that you submit your representations in this regard as required in Section A of Annexure A of the fine regulations.

12. Please be advised that Section C of Annexure A of the fine regulations require that the representations regarding the "Quantum of the fine" must be completed by an Environmental Assessment Practitioner ("EAP"). Such representations must be informed by an environmental impact assessment.
13. Please be reminded that it is an offence in terms of section 49A of the NEMA to commence with a listed activity unless the competent authority has granted environmental authorisation for the undertaking of the activity and it is an offence to fail to comply with a directive issued in terms of NEMA. A person convicted of an offence is liable to a fine not exceeding **R10 million** or **imprisonment for a period not exceeding 10 years**, or to both such fine and imprisonment.

14. Kindly quote the abovementioned reference number in any future correspondence in respect of the pre-consultation process.



**Mrs Z Toefy**  
**Head of Rectification**  
**Directorate: Environmental Governance**

**Date:** 29/05/2018

CC: (1) Renier Kapp (GNEC)

Fax: (021) 870 1873

Email: renier@gnec.co.za

