

Background Information Document (BID)

S24G Rectification Application for the unauthorised activities located on Portion 1071 (a portion of Portion 158) of the Farm Zwavelpoort 373 JR, City of Tshwane Metropolitan Municipality

Gauteng Province, South Africa

S24G/03/20-21/0534

September 2021

Applicant: Branscombe Pty Ltd

Environmental Assessment Practitioner:

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1 INTRODUCTION

Branscombe Pty Ltd (Branscombe) voluntarily applied for a Section 24G application for the unlawful commencement of construction of recreational facilities and associated infrastructure, including parking bays, recreational accommodation for guests, staff accommodation, as well as a workshop and private facilities for the applicant's personal use on Portion 1071 (a portion of Portion 158) of the Farm Zwavelpoort 373 JR, City of Tshwane Metropolitan Municipality (Figure 1-1).

Branscombe purchased the property, Portion 1071 (a portion of Portion 158) of the Farm Zwavelpoort 373 JR, in 2017 (Figure 1-2) and proceeded with the town planning application and construction of the facilities unaware that the process triggered activities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and associated regulations. During the town planning application process Branscombe became aware that the construction of the facilities will require environmental authorisation, all construction activities were ceased. The Gauteng Department of Agriculture and Rural Development (GDARD) was contacted in 2020 and the applicant, realising the contravention, commenced with the Section 24G Application Process (S24G).

The S24G application was submitted to GDARD on 10 February 2021 and a Directive indicating the process to follow was issued to Branscombe received on 17 June 2021.

This Background Information Document (BID) has been developed to:

- Provide a description of the development.
- Provide an overview of the environmental regulatory processes which will be undertaken in accordance with the South African legislation; and
- Provide details of the Public Participation Process (PPP) and how Interested and Affected Parties (I&APs) can become involved.

1.1 BACKGROUND

When the subdivision of property 158 took place in 2014, no indication was provided by either GDARD or Tshwane that an environmental authorisation was required based on the existing information at the time. As the applicant was unaware of changes in the EIA Regulations in 2014 and the amendments made in 2017, Branscombe considered the letters received from Tshwane and GDARD back in 2014 as the final input from an environmental perspective. In no letter was it indicated that the subdivide properties are located within sensitive environments (CBAs, threatened ecosystems etc.) and the Gauteng Provincial Environmental Management Framework (2015) was not yet drafted and in effect. Accordingly, Branscombe proceeded only with a townplanning application in order to obtain approval for building plans and did not realise that certain activities trigger the need for an environmental authorisation.

The boundary wall was built first for security purposes and was completed in April 2018 (Figure 1-3). The staff quarters and the pump room with the four JoJo tanks were built afterwards which was completed in September 2018. During 2018, the applicant planted an orchard. Furthermore, the workshop and storeroom was completed in April 2019. In 2019 the applicant constructed a private recreational facility for personal use which was completed in May 2020. Since 2019, the applicant has been building the foundations and retaining walls for the recreational venue and associated infrastructure. This has not been

completed.

When the applicant realised that an Environmental Authorisation from GDARD was required, Branscombe immediately contacted GDARD in 2020 who explained that an external EAP had to be appointed to follow a S24G rectification process. Branscombe, therefore, would like to rectify this matter by applying for the necessary triggered activities (already indicated above) from GDARD. The applicant still wants to construct a parking bay and hospitality facilities that sleep less than 15 people.

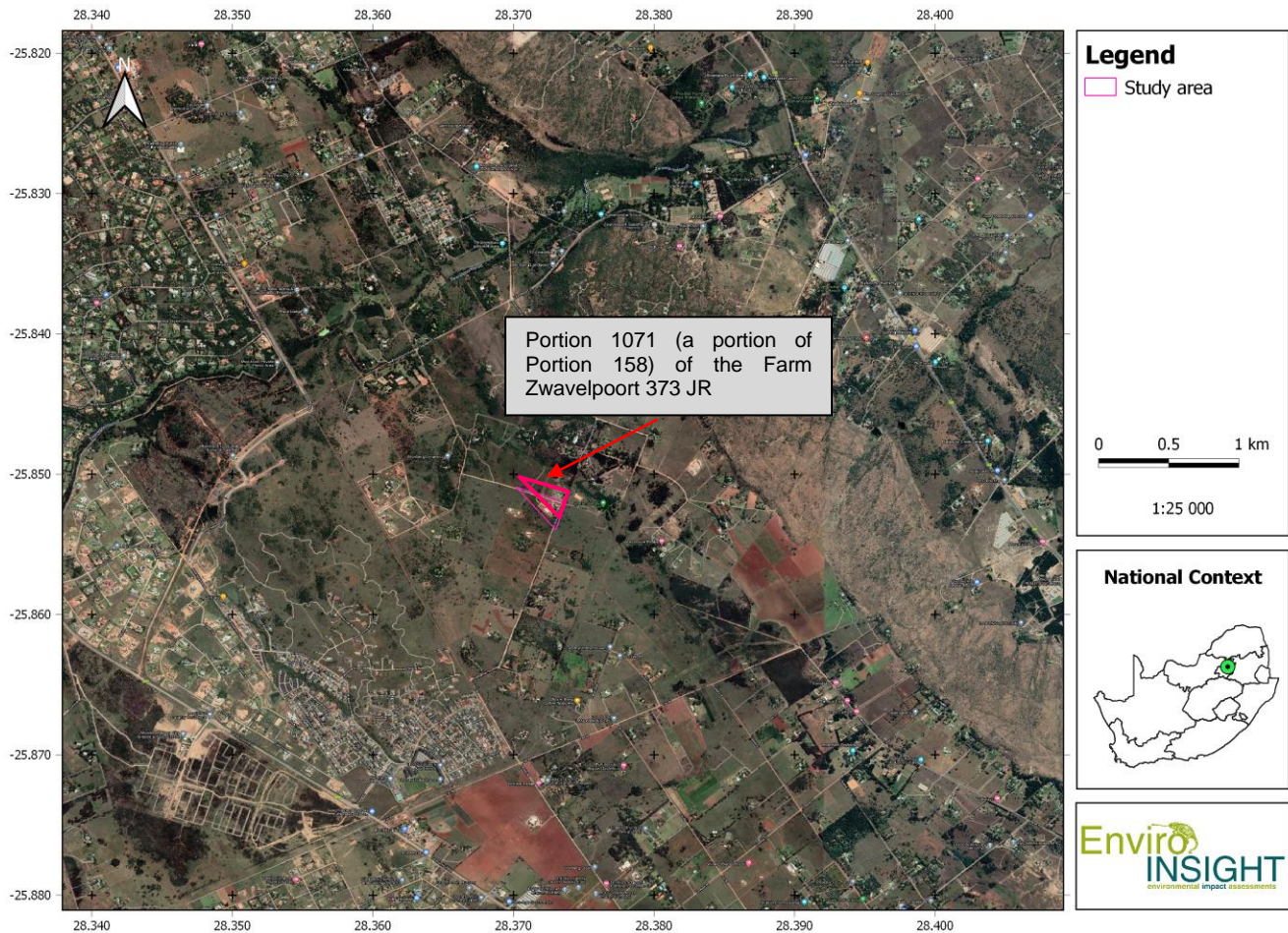


Figure 1-1: Locality map of Portion 1071 (a portion of Portion 158) of the Farm Zwavelpoort 373 JR.

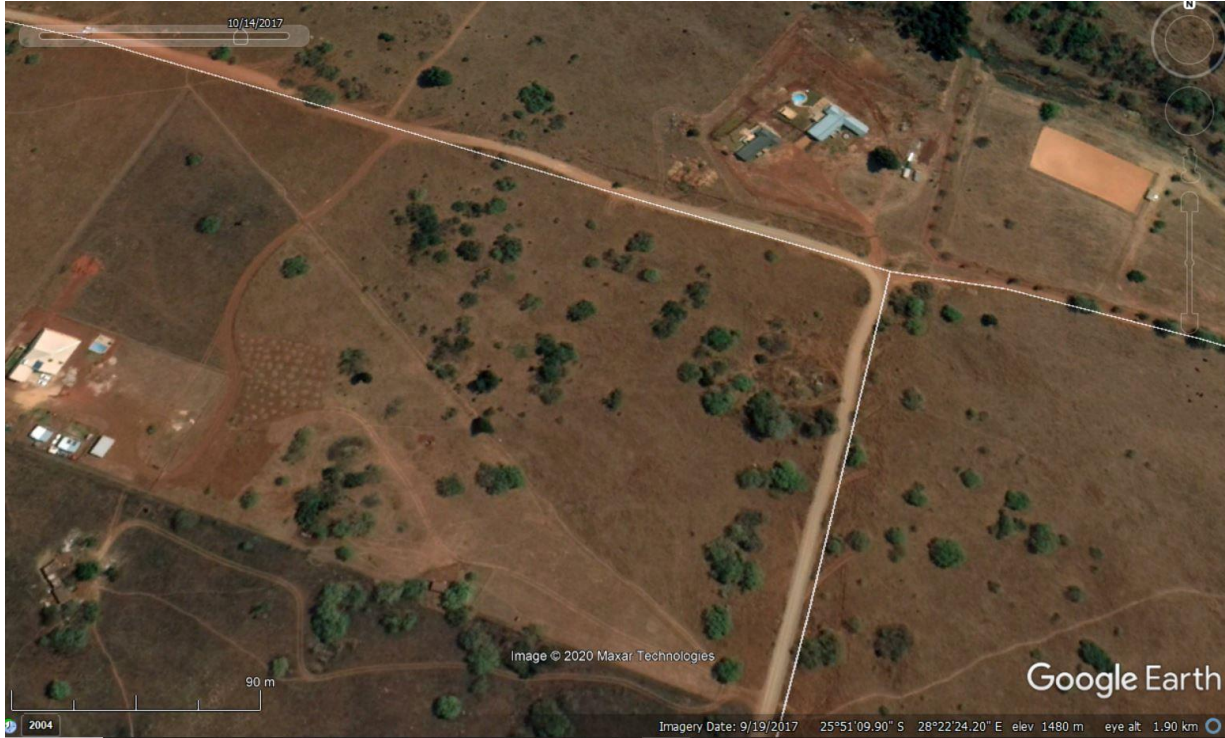


Figure 1-2: The study area showing that no development has commenced before September 2017.



Figure 1-3: In 2017, the construction of the boundary wall commenced and was completed by April 2018. The construction of the staff accommodation and the pump room with the four JoJo tanks commenced in March 2018 and was completed in September 2018.

2 LEGISLATIVE PROCESS

2.1 THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998, AS AMENDED

Section 24G (1) of the National Environmental Management Act 107 Of 1998, as amended states the following:

“(1) application by a person who—

- (a) has commenced with a listed or specified activity without an environmental authorisation in contravention of section 24F(1);”

Branscombe, unintentionally commenced with the construction of recreational facilities and associated infrastructure, which violates Section 24(F)(1) of NEMA. This has resulted in the Section 24G application for the consequences of unlawful commencement of activity. GDARD issued a directive in terms of the application that was submitted to the department in February 2021. The Directive clearly indicates the process to follow in order to obtain authorisation for the activity.

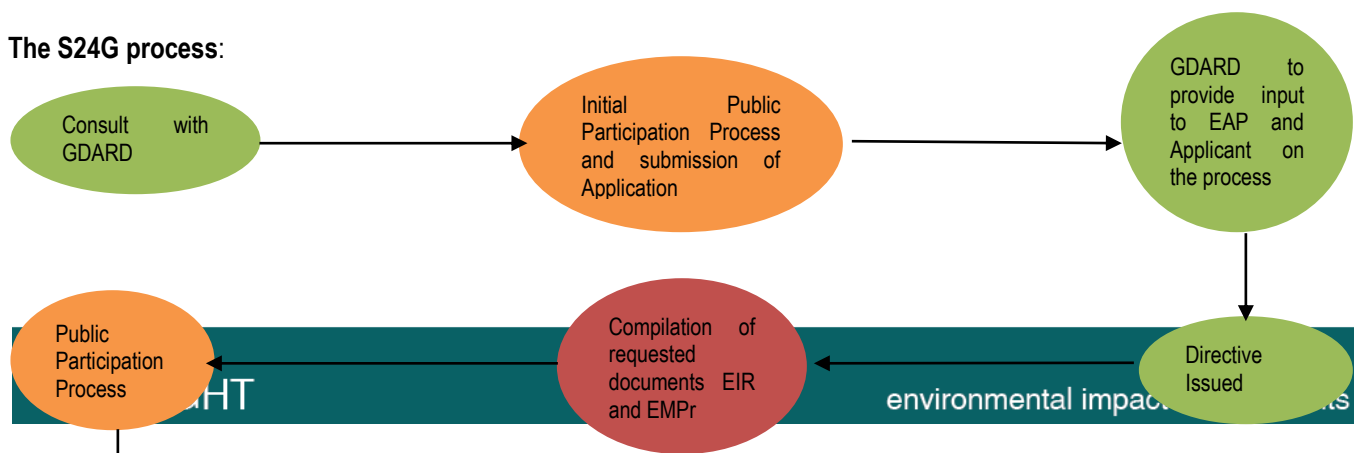
2.2 NEMA EIA REGULATIONS (2014, AS AMENDED)

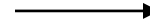
The construction of recreational facilities and associated infrastructure on Portion 1071 (a portion of Portion 158) of the Farm Zwavelpoort 373 JR, constitutes various listed activities which have been listed within the scheduled activities in Government Notice EIA Regulation No 983 and 985 (as amended on 7 April 2017) .

The following listed activities are applicable for the construction of the recreational facilities and associated infrastructure:

- Activity 27 of Listing Notice 1 (GN983):
 “The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation. except where such clearance of indigenous vegetation is required for-(i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.”
- Activity 5 of Listing Notice 3 (GN985):
 “The development of resorts, lodges, hotels, tourism or hospitality facilities that sleep less than 15 people.
 C. Gauteng
 (iii) Sites identified as Critical Biodiversity Areas (CBAs) or Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or bioregional plans; or
 (iv) Sensitive areas identified in an environmental management framework adopted by the relevant environmental authority”

The S24G process:





3 SCIENTIFIC REPORT TO BE SUBMITTED

Specialist studies as per the screening report and national protocols to assess the environmental impacts:

- Environmental impact Assessment Report (including an impact assessment);
- Ecological Study;
- Stormwater Management Plan;
- Heritage exemption; and
- Operational Environmental Management Programme

4 PUBLIC PARTICIPATION PROCESS

4.1 OBJECTIVES OF PUBLIC PARTICIPATION (PP)

- Provides Interested and Affected parties (I&APs) with an opportunity to voice their support, concerns and questions regarding the project, application or decision;
- Provides an opportunity for I&APs, EAP and the Competent Authority (CA) to obtain clear, accurate and understandable information about the environmental, social and economic impacts of the proposed activity or implications of a decision;
- Provides I&APs with the opportunity of suggesting ways of reducing or mitigating negative impacts of an activity and for enhancing positive impacts
- Enables the applicant to incorporate the needs, preferences and values of affected parties into the application;

4.2 LEGISLATION

The PP Process must comply with the several important sets of legislation that require public participation as part of an application for authorisation or approval; namely:

- The National Environmental Management Act (Act No. 107 of 1998 - NEMA);
- The EIA Regulations (2014, as amended);
- Disaster Management Act (57/2002): Directions Regarding Measures to Address, Prevent and Combat the Spread of COVID-19 Relating to National Environmental Management Permits and Licences.

Adherence to the requirements of the above-mentioned Acts and Regulations will allow for effective PPP to be conducted, and in so doing, satisfy the requirement for public participation referenced in the Acts.

The Directions as published by the Minister of DEFF on 5 June 2020 provides guidance when conducting public participation during the COVID-19 pandemic. All applicable health and safety and other restrictions, directions and requirements determined in terms of section 27(2) of the Disaster Management Act are relevant. At all times it must be ensured that reasonable opportunity is provided for public participation and that all administrative actions are reasonable. A compulsory Public Participation Plan (PP Plan) (as required in Annexure 3 of the Directions) for pending applications was submitted to the relevant assigned case officer for approval prior to commencement of PP Process (see section 5.2.1 below).

As per the Directions:

- “In ensuring the above, applicants and EAPs, in addition to the methods contained in Chapter 6 of the EIA Regulations, or as part of reasonable alternative methods proposed in terms of regulation 41(2)(e) of the EIA Regulations, may make use of the following non-exhaustive list of methods:
emails, websites, Zero Data Portals, Cloud Based Services, or similar platforms, direct telephone calls, virtual meetings, newspaper notices, radio advertisements, community representatives, distribution of notices at places that are accessible to potential I&APs.”
- “Reports **may not** be made available at any public places or premises closed to the public, as contemplated in the Regulations. Hard copies or electronic versions of reports may be made accessible through any of the following non-exhaustive list of methods: websites, Zero Data Portals, community or traditional authorities, Cloud Based Services, provided that all registered I&APs have access to the reports.”
- “Unless part of a site visit, virtual or telephonic meetings to be arranged.”

The details of the PP Process are provided below.

4.2.1 Public Participation Plan as submitted and approved by GDARD

The Public Participation Plan was submitted to the GDARD case officer on 4 February 2021 and was approved on the 8th of February 2021.

A summary of the Public Participation Plan, with regards to communication with the landowners and Interested and Affected Parties (I&APs) are as follows:

1. Preliminary Public Participation:

Communication with applicant:

- Face-to-face meetings have been avoided as far as possible, with the exception of the initial site visit to assess the

impacts of the existing development. Masks were worn at all times, and hands were sanitised.

- Only the applicant and the EAP met on site to limit the number of people.
- Communication so far has been via email, telephonic calls, and WhatsApp messages.

Communication with Interested and Affected Parties (I&APs):

- As per Regulation 8 of the mentioned Regulation, a preliminary newspaper advert was placed in the local newspaper, Bronnie The Bronberger.
- The notice was also advertised on the EAPs website.
- Emails were sent to relevant organs of state, including the City of Tshwane Environmental Unit, and to
- I&APs who were involved in the town planning application process. The surrounding landowners were included.
- A register of I&APs was opened and is being maintained.
- I&APs have registered via email and phoning the office.
- No physical contact has been required during the preliminary phase.

2. Future Public Participation Process

Communication with applicant:

- Face-to-face meetings will be avoided as far as possible.
- A follow up site visit may be required, depending on the issued Section 24G Directive.
- Communication will continue via email, telephonic calls, and WhatsApp messages.
- Where required, meetings shall take place via virtual platforms such as Microsoft Teams or Zoom.

Communication with Interested and Affected Parties (I&APs):

- An advertisement in the local newspaper may be required again.
- The outcome of the Directive may be advertised on the EAPs website, if deemed necessary by GDARD.
- Registered I&APs will continue receiving updates throughout the process via email and telephonic calls.
- Should it be necessary, site notices can be erected on the boundary of the site as per the Regulations.
- All reports / documents will be made available electronically via the EAPs website. No hard copies will be made available at public locations. Where people do not have access to internet, alternative measures can be made. This will be discussed with GDARD should this issue arise. At this stage, this has not been indicated as a major limitation.
- Public meetings or open days will not be held. Should the need arise, a virtual meeting can be arranged. Depending on the requirements, the specifics will be captured and discussed with GDARD.
- All written comments received will be captured in a Comments and Response Report.

4.2.2 Identification of I&APs

An I&AP database has been compiled of key stakeholders and I&AP's identified for notification of the S24G Application Process. The I&AP database includes, amongst others; landowners, affected communities, regulatory authorities and other

specialist interest groups. This register will be maintained and updated throughout the process.

4.2.3 Notification and Register of I&APs

The initial PP Process and a call to register as I&APs commenced in January 2021 with an initial newspaper advertisement.

The initial notification procedure included:

- Newspaper advertisement: published in the Bronberger on 20 January 2021;
- Email communication with I&APs.

All individuals who register for this project were added to the I&AP list, provided that they have given the correct and complete contact details in order to receive communications for this project

The Directive issued by GDARD requested the following additional Public Participation be undertaken:

- Site Notices;
- Public Notices: distributed to identified stakeholders, landowners and residents (where possible) via email; and
- All registered I&APs will be provided with this Background Information Document (BID) in relation to the activity/ies applied for and a copy of the EIR may be provided to an I&APs upon request.

4.3 NOTIFICATION OF AVAILABILITY OF THE ENVIRONMENTAL IMPACT ASSESSMENT REPORT

The EIR will be available to stakeholders and I&APs for a period of 30 days to review and provide comments. All registered I&APs will be notified via email of the availability of the EIR. Electronic copies can be obtained from the Enviro-Insight website: <http://www.enviro-insight.co.za/download-it/project-downloads/>.

Comments raised by stakeholders will assist in informed decision-making for authorities and provides information to be considered by the project team and specialists conducting studies.

REGISTRATION AND COMMENT FORM

September 2021

Registered Interested and Affected Parties (I&APs) will be informed of ongoing developments. The EIR for comment will be available on <http://www.enviro-insight.co.za/download-it/project-downloads/> and all registered I&APs will be notified of its availability in an announcement letter.

Comments raised by stakeholders will assist in informed decision-making for authorities and provides information to be considered by the project team and specialists conducting the Environmental Impact Assessment process. Please register as an I&AP and provide comments by sending this form, or other written correspondence, to the contact details provided below:

Enviro-Insight CC

Reference: Branscombe S24G

Attention: Mr Corné Niemandt

Tel: 012 807 0637

Email: corne@enviro-insight.co.za

www.enviro-insight.co.za

Postal address:

Unit 8, Oppidraai Office Park

862 Wapadrand Rd

Wapadrand Security Village

Pretoria 0081

Please fill in your contact details below for the project database

Title, Full Name				
Designation				
Cellphone		Tel		Fax
Email				
Postal Address				Code

Please indicate which sector you represent and also provide a name (if applicable)

Landowner	
Government Department	
Municipality	
Community	
Non-Government Organisation	
Business	

If you are a landowner or land occupier, please indicate which farm(s) and portion(s) you reside on, as well as the number of people living on the property.

	Farm portion and name	Number of people
Landowner		
Land occupier		

Please complete the questions below to assist with the stakeholder engagement process:

How do you think the project might impact (affect) you?
If you are a landowner or occupier, what is your land currently being used for?
How do you think the project might impact (affect) the socio-economic or biophysical conditions of the area?
Suggest ways that these impacts can be managed or mitigated, or avoided?

Are there any environmental, social or heritage features on the proposed project area we need to be aware of? If possible, please indicate these locations on a map or by providing GPS coordinates.

General Comments

Please sign this document to confirm receipt of this document as well as to verify that the information you provided herein are correct. The information will be captured in the Project database and will ensure that your comments and concerns are captured. No personal information will be made publicly available, but the information will be shared with the competent authority.

Signature: **Name:** **Date:**

If there are any other stakeholders we should include onto the stakeholder database for the proposed project, please forward this BID to them or please provide their contact details (with their permission).

Title, Full Name			
Cellphone	Tel	Fax	
Email			

Title, Full Name			
Cellphone	Tel	Fax	
Email			

Title, Full Name			
Cellphone	Tel	Fax	
Email			

Title, Full Name			
Cellphone	Tel	Fax	
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