

ENVIRONMENTAL IMPACT ASSESSMENT BACKGROUND INFORMATION DOCUMENT



RECTIFICATION OF THE UNLAWFUL COMMENCEMENT OF THE CLEARANCE OF VEGETATION ON PORTION 1 & 2 OF THE FARM KWADE HOEK 52 AND THE REMAINING EXTENT OF THE FARM SCHELM DRIFT 53, WITHIN THE MAKANA LOCAL MUNICIPALITY, EASTERN CAPE PROVINCE

INTRODUCTION

Habitat Link Consulting (Pty) Ltd has been appointed by Seriso 661 (Pty) Ltd (the Proponent) to submit an application for the abovementioned activities in terms of Section 24(G) of the National Environmental Management Act (NEMA) (Act No. 107 of 1998, as amended). The proponent intends to submit a NEMA Section 24(G) application for the *post facto* authorisation of the unlawful commencement of the abovementioned activities, located between Grahamstown and Bedford, within the Makana Local Municipality, Eastern Cape Province (Figure 1).

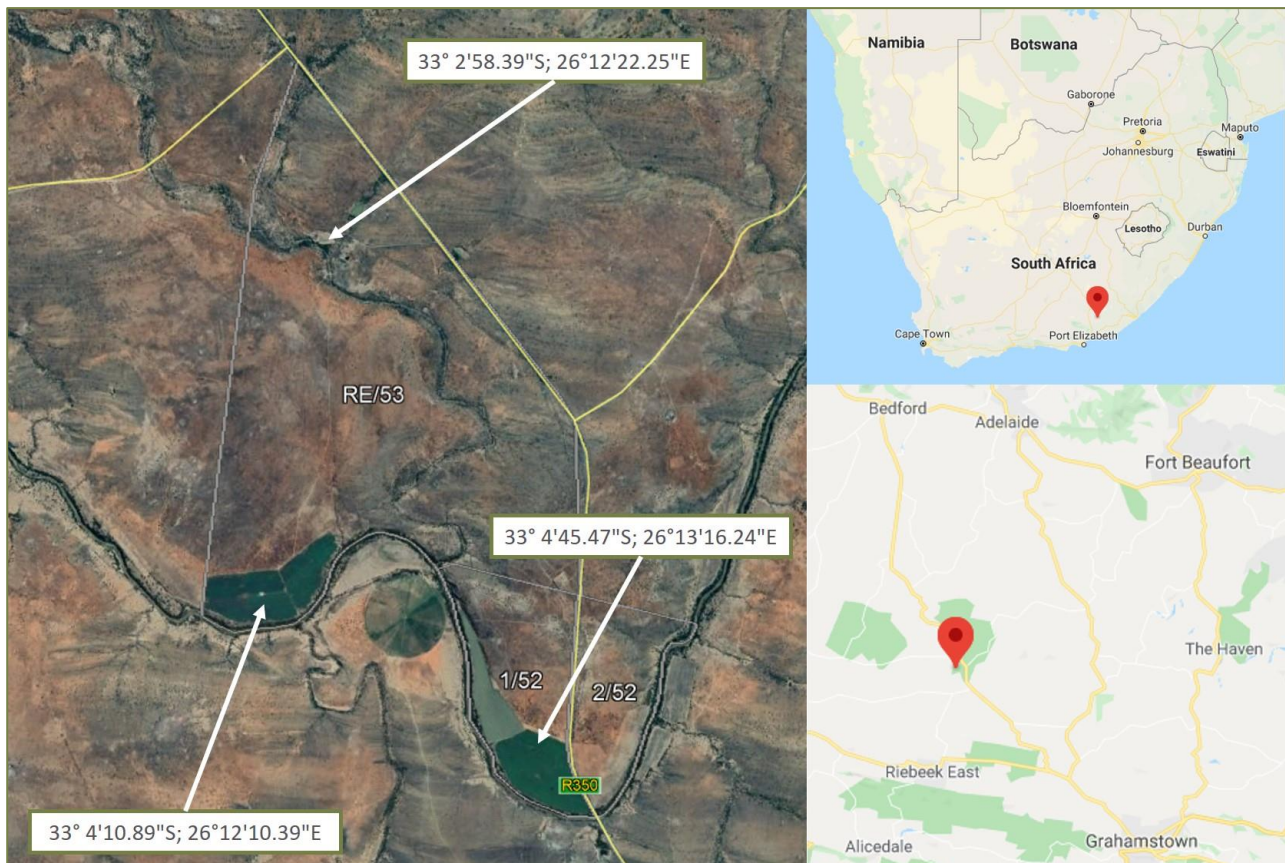
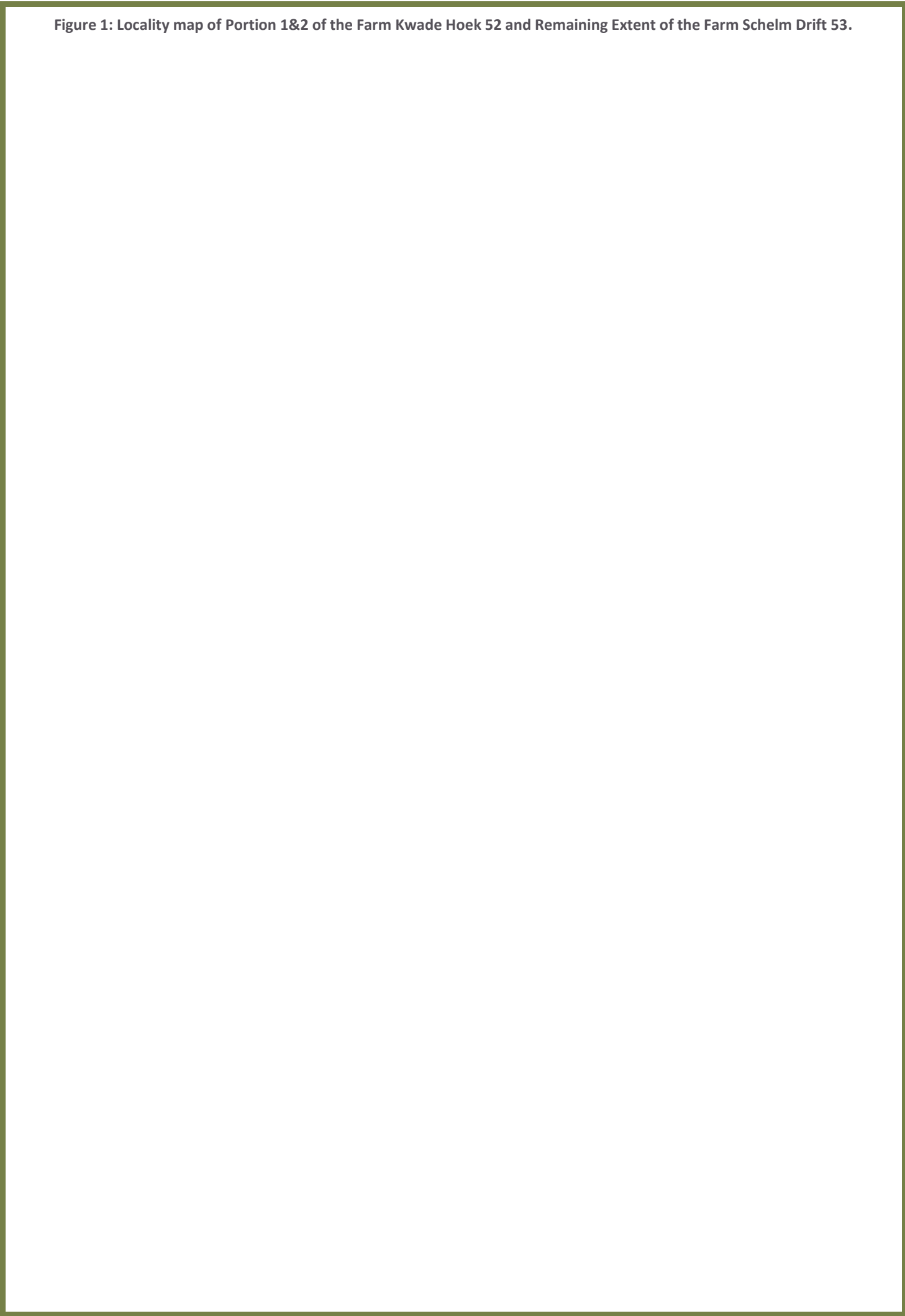


Figure 1: Locality map of Portion 1&2 of the Farm Kwade Hoek 52 and Remaining Extent of the Farm Schelm Drift 53.



AIM OF THIS DOCUMENT

The purpose of this Background Information Document (BID) is to ensure that people who are interested in, or affected by, the project are provided with the relevant information, including the process being followed. Registering as an Interested and/or Affected Party (I&AP) allows individuals or groups to contribute ideas, issues, and concerns relating to the project. I&APs also have an opportunity to review all of the reports and submit their comments on these reports. All of the comments that are received will be included in the final reports that are submitted to the Competent Authority (CA). All I&APs are hereby invited to register their interest and submit initial comments on any aspect of the project.

PROJECT DESCRIPTION

The cultivation was undertaken between in 2016 and triggered listed activities that require an Environmental Authorisation (EA) in terms of the 2014 NEMA Environmental Impact Assessment (EIA) Regulations (please refer to the applicable legislation below). The activities took place on a section of Portion 1 and Portion 2 of the Farm Kwade Hoek 52 and on the Remaining Extent of the Farm Schelm Drift 53, which is located approximately 50 km northwest of the town of Grahamstown, situated within the Makana Local Municipality, seated within the Sarah Baartman District Municipality, Eastern Cape province.

The project included the clearance of vegetation for the cultivation of lucerne. The study area consists of a combination of natural riverine vegetation associated with the Great Fish River, agricultural land and natural Karoo vegetation. The surrounding land uses include several existing irrigated pastures and natural areas. The purpose of the development was to utilise the previously cultivated land bordering the Great Fish River in order to grow and cultivate lucerne. During preparation of the land in 2016, the farmer extended the previously cultivated areas (56 hectares) and cleared an additional 21 hectares (ha) of indigenous vegetation. The total area that is currently under cultivation is thus approximately 77 ha (Figure 2). The previously cultivated areas were originally cleared in the late 1980s and were last cultivated in 2009.



Figure 2: Left (February 2016): Areas previously cultivated; Right (October 2018): Additional cultivated areas.

In addition, an area to the north in close proximity to the Bampiespruit River, a tributary of the Great Fish River, was cleared in 2016. This area is in close proximity to the existing farm house and is within a tributary of the river, thus likely to have resulted in some deposition of sediment in the riverine area during clearance of vegetation (Figure 3). The existing farm dam located further north, was constructed prior to 1997 and thus does not form part of this application. Several smaller artificial wetlands occur throughout the farm with one natural wetland located in the southern section in close proximity to the Great Fish River. All water utilised for the cultivation of the farmland is done so as per an existing water use licence (WUL) issued to the proponent by the Department of Water and Sanitation (DWS) in November 2019.

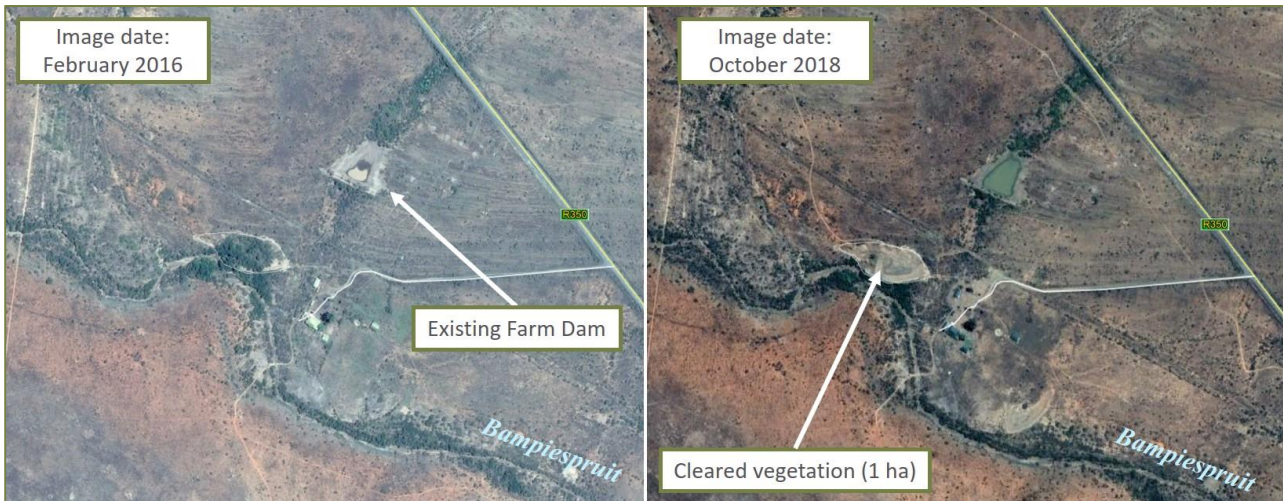


Figure 3: Left (February 2016): Pre-vegetation clearance; Right (October 2018): Clearance of 1 ha of vegetation within a tributary of the Bampiespruit River.

APPLICABLE LEGISLATION

National Environmental Management Act (NEMA) (Act No. 107 of 1998, as amended)

The development constituted a number of listed activities in terms of the 2014 EIA Regulations (as amended in 2017) as promulgated under the NEMA and should thus have been subject to an application for Environmental Authorisation (EA). The following activities commenced prior to an EA been issued:

Activity No.	Description	Triggering activity
2014 NEMA EIA REGULATIONS LISTING NOTICE 1 – GN R. 983		
Activity 19	The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from— (i) a watercourse.	The proponent undertook the infilling, depositing, removal and excavation of soil of more than 10 m ³ from a watercourse.
2014 NEMA EIA REGULATIONS LISTING NOTICE 2 – GN R. 984		
Activity 15	The clearance of an area of 20 hectares or more of indigenous vegetation.	The proponent cleared 21 ha of potentially indigenous vegetation without environmental authorisation.

Due to the fact that the abovementioned activities commenced without an EA from the competent authority, the proponent is hereby applying for the '*Regularisation of the Unlawful Commencement of a Listed Activity in terms of NEMA Section 24(G)*,' as per the requirements of the NEMA Regulations Relating to the Procedure to be Followed and Criteria to be Considered when Determining an Appropriate Fine in terms of Section 24G.

National Water Act (NWA) (Act No. 36 of 1998, as amended)

The NWA is the primary regulatory legislation for the control, management and use of water resources. Section 21 of the NWA sets out water uses that may require registration or licencing. The development occurs within along the banks of the Great Fish River (a perennial river flowing in an easterly direction) and the Bampiespruit River (a non-perennial tributary of the Great Fish).

According to Regulation 509 of 2016 (General Authorisation in terms of Section 39 of the NWA for Water Uses as Defined in Section 21c or Section 21i), the "*regulated area of a watercourse*" for water uses includes

“a 500m radius from the delineated boundary (extent) of any wetland or pan” and “within 100 m from the edge of a watercourse.”

In addition, the storage of additional water in the existing farm dams as well as its abstraction for the irrigation of pastures, are defined water uses according to the NWA. Section 21 of the NWA water use activities include:

- (a) taking water from a water resource – **currently authorised***
- (b) storing water*
- (c) impeding or diverting the flow of water in a water course*
- (i) altering the bed, banks, course or characteristics of a watercourse*

The development may therefore require additional Water Use Authorisation (either a Water Use Licence or a General Authorisation) in terms of Section 21 of the NWA.

National Heritage Resources Act (NHRA) (Act No. 25 of 1999, as amended)

The NHRA provides for the protection and management of South Africa’s heritage resources. Section 38 of the NHRA notes that *‘any person who intends to undertake a development categorised as—*

- (c) any development or other activity which will change the character of a site—*
 - (i) exceeding 5 000 m² in extent*

must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.’

The vegetation clearance has changed the character of the site. As such, a notification must be submitted to the provincial heritage authority, along with a Heritage Assessment. This will be undertaken in conjunction with the NEMA Section 24(G) process.

POTENTIAL IMPACTS ASSOCIATED WITH THE DEVELOPMENT

The following preliminary environmental issues have been identified and will be investigated during the application process:

- Loss of vegetation communities;
- Impacts on biodiversity and plant Species of Conservation Concern;
- Disruption of ecosystem function and processes (e.g. invasion of alien plant species);
- Impact on water availability and water resources;
- Soil compaction and erosion;
- Dust, noise and other nuisance aspects;
- Generation of waste (e.g. spoil material);
- Impact on visual aesthetics;
- Loss of sites of archaeological and/or palaeontological importance; and
- Employment creation and socio-economic benefits.

These and other impacts will be assessed in detail during the Section 24(G) application process and mitigation measures to reduce the significance of the negative impacts will be provided.

PUBLIC PARTICIPATION PROCESS

In terms of the NEMA, public participation forms an integral part of the EIA process. The Public Participation Process (PPP) provides people who may be (or may have been) affected by the development with an opportunity to provide comment and to raise issues of concern about the project, or to make suggestions that may result in enhanced benefits for the project. Comments and issues raised during the PPP will be captured, evaluated and included in an Issues and Responses Trail (IRT). These issues will be addressed and included in the final versions of the reports, which will be submitted to the competent authority.

NEMA SECTION 24(G) PROCESS

The NEMA Section 24(G) process sets out to rectify the unlawful activity by retrospectively assessing impacts in order to allow the environmental authority to decide whether or not such an activity should be authorised, depending on the assessed environmental impacts. The application process is also subject to a fine, calculated based on a number of factors, including the extent of environmental impact caused by the activity. Ultimately, the decision to authorise the unlawful activity rests with competent authority. Should environmental authorisation be refused, the unlawful activity will need to be reversed and the environment reinstated. There are no specified timeframes in which it must be administered by the competent authority (Figure 3).

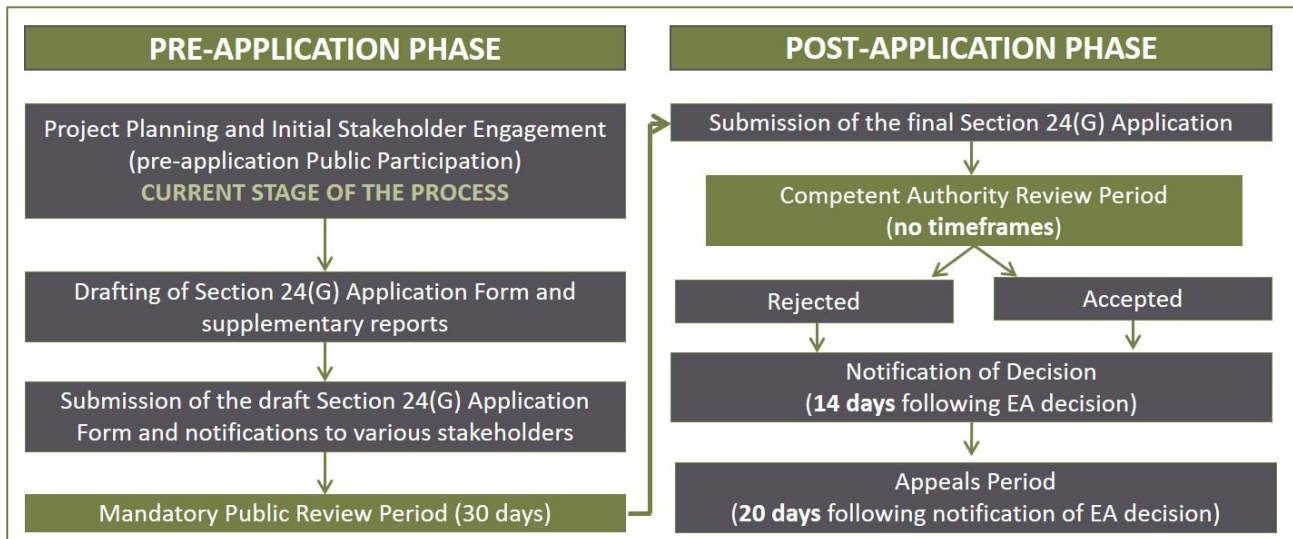


Figure 3: Generic NEMA Section 24(G) process.

INVITATION TO COMMENT

Should you wish to express your views regarding this development, please send us your written comments. The names of all registered Interested and Affected Parties (I&APs), together with the comments received, will be incorporated into the IRT and will be submitted to the competent authority. Please note that I&APs must provide their name, contact details (postal address, telephone number and email address) and an indication of any direct business, financial, personal, or other interest they may have in the approval or refusal of the development.

Please submit your name, contact information (address, telephone number, email address, postal address) and any written comments to Habitat Link Consulting:



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