

Appendix B: Copies of Correspondence with DEDEAT and Section 24G Application Form

Copy of the Section 24G Application Form



PROVINCE OF THE EASTERN CAPE
DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL
AFFAIRS

NEMA Section 24G Application Form

APPLICATION TO RECTIFY UNLAWFUL COMMENCEMENT OR CONTINUATION OF LISTED ACTIVITIES

NOTES:

1. Lodging an application for rectification does not necessarily imply that the activity will be authorized. In terms of the Act the Minister or relevant MEC may either conditionally authorize the activity or issue a directive for the activity to cease and for the environment to be rehabilitated.
2. It is not a requirement for this form to be completed by an environmental assessment practitioner.

THE APPLICATION FORM

Applicants are responsible for the accuracy of the information supplied and are therefore required to complete the checklist fully and honestly.

CONTACT DETAILS

Applications must be submitted to the Provincial Department of Economic Affairs, Environment and Tourism through the relevant District Offices listed in Annexure B

APPLICATION FORM A: (NEMA SECTION 24G)

FOR OFFICIAL USE ONLY

Date Received:	
Reference Number	

COMPLETION OF ALL SECTIONS AND FIELDS IS COMPULSORY

SECTION A: PERSONAL INFORMATION AND CONTACT DETAILS

Applicant:	Mr HHJ (Hermanus) Potgieter		
Company/ Closed Corporation Registered Name (if applicable)	Hermanus Potgieter Familie trust		
Company / Closed Corporation Registration Number (if applicable)	Trust (IT 2775/96)		
Contact Person:	Hermanus Potgieter		
Position in Company:	Owner		
ID Number of Contact Person / Applicant:	49101 3501 5085		
Postal Address:	PO Box 214		
Physical Address:	Kirkwood	Code:	6120
	Nooitgedacht, Sunlands, Sundays River Valley Municipality		
		Code:	6115
Telephone No:	042 234 0126	Cell:	082 558 8200
E-mail address:	laslappies@srvalley.co.za hj@srvalley.co.za	Fax:	086 673 3205
Registered Land Owner:	Hermanus Potgieter Familie trust		
Contact Person:	Mr HHJ (Hermanus) Potgieter		
Postal Address:	PO Box 214		
Physical Address:	Kirkwood	Code:	6120
	Nooitgedacht, Sunlands, Sundays River Valley Municipality		
		Code:	6115
Telephone No:		Cell:	

E-mail address:

042 234 0126
laslappies@srvalley.co.za/
hhj@srvalley.co.za

Fax:

082 558 8200
086 673 3205

SECTION B: ACTIVITY DETAILS

Activity number¹:

GN R546,13. (c) ii (ff)
GN R546,14. (a) i

APPA Schedule Process Number (if applicable):

N/A

Location of contravention: Kirkwood, Sundays River Valley Municipality

Farm name and division number:

Portion 23 a portion of 5 of 104: and Farm No 650 Swanepoels Kraal: Division Uitenhage
Portion 23 of Farm 104 Swanepoels Kraal and Remainder of Farm 650
Not applicable
Not applicable
Sundays River Valley Municipality

Farm Portion:

Suburb name:

Erf number:

Municipal area:

A LOCALITY PLAN MUST BE ATTACHED

Description of activity:

Please provide a brief description of the nature and extent of the activity. Extent to include but not be limited to²:

- Area covered by the activity;
- Capacity of the facility (if applicable);
- Throughput of the facility (if applicable)

INTRODUCTION & BACKGROUND

The two farms noted above measure approximately 230 hectares in total, it is the applicants intention to obtain environmental authorisation to clear approximately 92 ha of the 230 ha (40% of the total area) for the planting of citrus. The project requires Environmental Authorization due to the inclusion of listed activities in terms of the NEMA EIA Regulations, 2010, i.e. GN R546 Activities: 4 (a) ii (gg); 13 (c) ii (ff); & 14 (a) (i). In view of this an application for a Basic Assessment for the above properties for the expansion of existing agricultural activities was submitted to the Provincial Department of Economic Development and Environmental Affairs on the 23 July 2012. Acknowledgement of the receipt of the application was received from DEDEAT on the 10 August 2012 and reference number EC06/LN3/M/12-45 was assigned to this application.

¹ As per EIA Regulations Schedules

² Should the space provided be insufficient, a clearly marked page could be attached to the form

The procedures for a Basic Assessment process as per the NEMA EIA regulations 2010, GN R 543, were initiated on the 24 July 2012 and the following activities were undertaken:

- Newspaper advertisements placed in "The Herald"
- Site notice board placed at the entrance to the affected properties
- Letter to adjacent landowners and tenants including a Background Information Document on the project and Basic Assessment Process as well as a comment form
- A 30 day period was provided for I&APs to register on the project database which ends on the 23 August 2012

In preparation of the Draft Basic Assessment Report and in order to assess the potential impacts of the project on the biophysical environment a site visit to the affected properties was undertaken on the 24 July 2012.

ACTIVITIES ON SITE TO DATE

The site visit, by the appointed independent environmental assessment practitioners, Public Process Consultants, identified that approximately 20 hectares of vegetation, on a southern portion of the two properties has been cleared. The majority of the vegetation clearing has taken place on the southern section of Portion 23 of Farm 104. The vegetation cleared to date amounts to approximately 8.7% of the 230 ha being assessed. All activities on the site have ceased and no further activities relating to the establishment of additional areas for citrus cultivation have taken place, pending the outcome of the Section 24G application and the Environmental Authorisation for the Basic Assessment.

The following activities are still proposed to take place on the area that has been cleared.

Construction Phase

The following provides an overview of the activities which are still required to take place on the site before citrus orchards can be established, but which have not yet commenced:

Shaping and earthworks

Depending on the topography of the site minor shaping and levelling may be required in order to manage runoff from the cultivated lands and prepare the site for crop planting.

Planting of windbreaks

The orchards will require the establishment of suitable windbreaks. In order to provide optimum yields and quality, citrus crops need to be protected from environmental extremes, including wind.

Irrigation infrastructure

The crops will require regular watering. In order to achieve this, a system of underground pipes to provide drip/ micro-irrigation is required to be installed in order to deliver water to the crops.

Planting of the crops

Seed has been purchased, which has been sent to a nursery for germination. The saplings will be ready for planting in November 2012, a variety of citrus crops are proposed for planting, predominantly for the export market.

Supporting Infrastructure (potable water, sanitation, administration)

Swanepools Kraal is a member of the Sundays River Citrus Company (SRCC) which directly receives and packs citrus for export. During harvesting of the crops, the citrus is directly transported to the SRCC for processing, packaging and export. Therefore no additional infrastructure is required on site for the processing or packaging of the citrus

Operational Phase

Cultivation

Once established the lands will be used to cultivate a variety of citrus crops for the export market. This will require seasonal harvesting of the citrus and transport to the SRCC for export.

Date when activity was commenced with for the first time:

April 2012

Please indicate the current status by ticking the appropriate boxes:

Construction completed:	<input type="checkbox"/>	Activity operational:	<input type="checkbox"/>
Property/ies transferred to new owners;	<input type="checkbox"/>	Construction ceased prior to finalization:	<input checked="" type="checkbox"/>
Operation / activity ceased pending outcome of application	<input checked="" type="checkbox"/>	Activity has been decommissioned and property rehabilitated to original state:	<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>

SECTION C: AUTHORISATIONS / PERMITS OBTAINED FROM OTHER ORGANS OF STATE:

Please complete the table below with regard to authorisations / permits obtained from other organs of state (if applicable). Certified copies of permits / authorisations / certificates must be attached

Name of Authority:	Legislation / Regulations / By-law in terms of which authorisation was obtained	Date of authorisation / permit / certification	Applicable authorisation / permit / certificate number:

SECTION D: MOTIVATION FOR SECTION 24G APPLICATION:

Please explain why this activity was commenced or continued with in contravention of NEMA

During the first half of 2012, I cleared a piece of bush of approximately 18 -19 hectares on the farm Swanepoelskraal: Portion 23 of farm 104 and remainder of farm 650 as part of a larger development with the aim of establishing citrus. An application for this bush clearance has already been submitted.

1. The reasons for the "unauthorised" bush clearance of this smaller portion are as follows:
 - 1.1 A reasonably large portion of this area, about 4 Ha, was mostly grassland and sparsely bushed. We regularly irrigated this area to establish additional grazing for our game.
 - 1.2 On purchasing this land from Mr Sydney Daniell about 9 years ago, he confirmed that he had a bush clearance certificate for 20 Ha for citrus development on this land. At that stage, however, I had no plans to establish citrus as I only wanted to use this area as a nature reserve. Mr Daniell has since passed away.
 - 1.3 I have always been under the impression that bush clearance of less than 20 Ha could be done without permission subject only to the availability of water for irrigation.
 - 1.4 I have only recently heard from "Public Process Consultants" that a regulation for bush clearance within a radius of 10km from a National Park exists.

With the above mentioned reasons I am in no way trying to indemnify myself but am only, stating the facts as conveyed to me.

2. My reasons for deciding to clear this area and the larger area as well, are largely due to the following:
 - 2.1 My initial aim was to maintain the 230ha of natural bush veld as an intact area for game associated with my lodge, Dung Beetle Lodge. This however failed as the surrounding land developed into a citrus producing area. During harvesting season, approximately 8 months of the year, seasonal workers are housed in hostels on the which presented a number of negative consequences with regards to my attempts to maintain this area as a natural area for game.
 - 2.2 In order to manage these impacts I have been forced to put up electric fences, fortified gates at the entrances to the property and steel hindrances at the storm water barrages in the canal system. Poaching of game became a major problem and in order to manage this I appointed a permanent team of workers to remove snares from the bush (about 40-50 snares per week). Of all the game I stocked in this area (with a large capital outlay) very little remains.

In order to ensure the sustainability of my guest house and manage the impacts on the natural area I have been left with no choice but to cut back the intact bush veld to a smaller portion of the area around the guest house which will hopefully be more manageable and to establish citrus on the remaining portions of the properties.

Please motive why your application in terms of Section 24G of the National Environmental Management Act should be considered favorably⁴:

As noted above I have been under the impression that the clearance of an area of bushveld under 20 ha's did not require environmental authorisation. As indicated in this documentation, and as per the Basic Assessment Application submitted by Public Process Consultants to DEDEAT, it is my intention

to clear approximately 92 ha of the 230 ha for the cultivation of citrus. I have however only cleared an approximate 20 ha portion, which I was under the impression I was allowed to clear. Upon being informed by Public Process Consultant's that I required environmental authorisation for the clearance of the 20 ha and that this was considered the commencement of an illegal activity, I immediately ceased all activities on the site and I voluntarily commenced with the Section 24 G application process. I have undertaken no further activities on the site required for the establishment of citrus on the cleared portion of the site, pending the outcome of this application.

The area cleared, which is currently under assessment by Public Process Consultants, amounts to 8.7 % of the total site being assessed, the total area being assessed is 230 ha. It is still my intention to maintain an approximate 138 ha of the 230 ha being assessed (approximately 60% of the area) as agriculture to be used for activities associated with my guest lodge.

The area currently under assessment has previously been used for game associated with my guest lodge and it has become unsustainable for me to continue to maintain this area for such use. The land is zoned for agriculture and is surrounding by agricultural activities, however, it is still my intention to maintain a suitable intact portion of the site for activities associated with my guest lodge. However, in order to sustainably manage the site, I need to establish citrus on the identified parcels of land.

As noted above I have only cleared approximately 20 ha (8.7%) of the site, I have ceased with all activities on the affected area, I have voluntarily committed myself to and commenced with the Section 24 G application process. I am committed to the outcome of the Basic Assessment Process which is currently being undertaken by Public Process Consultants, for the remainder of the two farms.

SECTION E:

Certified copies of the following documents must accompany your application:

1. Identification page from ID document of the applicant in cases where an individual is the applicant or of the contact person where a company / closed corporation apply.
2. Registration certificate of the Company / Closed Corporation.
3. Proof of ownership of the land or alternatively, proof of owner's consent to undertake activity on the relevant land.

SECTION F: DECLARATION

Please complete the declaration below:

I, H.H.J. Potgieter duly authorised to act on behalf of myself hereby declare that the information provided herein is according to my knowledge complete and accurate.

Signed at Saraland on this 15 day of August 2012

On behalf of the applicant

W. Lendberg
Witness 1
[Signature]
Witness 2

[Signature]

Appendix A: Locality Plan for the affected Properties, indicating the approximate area cleared (this still requires ground truthing)



Appendix B: Certified copy of ID document



Hendrikus Potgieter

15 AUG 2012

REPUBLIC OF SOUTH AFRICA

Appendix C: Registration Certificate of the Trust



MAGTIGINGSBRIEF

Ingevolge Artikel 6(1) van die Wet op Behaar oor Trustgoed, 1968 (Wet 57 van 1968)

NO: 17 1775/98

Hiermee word gesertifiseer dat **BERNARDUS HENDRIKUS JACOBUS POTGIETER**,
SINDEL-ANNE POTGIETER en
COHELIEUS JOHANNES VICK

geagtig word en as trustees van die

BERNARDUS POTGIETER FAMILIEFONDS

op te tree.

gegee onder my hand te

ERASMUSSTAD

op heide die *9de*

dag van **DESEMBER**

1916

[Handwritten Signature]
ABDT. HENDRIK VAN DER WOUDE
(OOS-KAAP) AFDELING



Appendix D: Proof of Ownership of the land

SearchWorks Report		Print Date:	2013/08/15 03:05 PM		
Report Details					
Search Date:	2012/08/15 03:05 PM				
Reference:	NS				
Description:	TSL252/2008 (CFM)				
Type Of Search:	Deed Document				
Property Information					
Deed Office:	CAPE TOWN				
Property Type:	Farm				
Registration Division Name:	UETENHARE RD				
Farm Number:	104				
Plot Number:	23				
Farm Name:	SWANEPOELS KRAL				
Previous Description:	OF FARM 5				
Diagram Code:	TSL252/2008				
Site:	61,8346 H				
Registration Division:	UETENHARE RD				
Clearance Authority:	DEAS DC				
Province:	SOUTHERN CAPE				
Situated at:					
UFI Code:	CD760000009010400023				
Owner Information					
Owner 1 of 1					
Owner Type:	TRUST				
Owner Name:	HERMANUS POTGIETER FAMILIE TRUST				
Registration Number:	2779/04				
Title Deed:	TSL252/2008				
Registration Date:	2008/07/31				
Purchase Price:	DETACT				
Multiple Owners:	No				
Multiple Properties:	No				
Share:					
Deed Date:	2008/07/31				
Record Number:	2008 0708 1461				
Encumbrance Information - (None)					
History Information					
No	Document No	Document Type	Owner	Value	Reference No
1	TSL252/2008	TRANSFER		R 1 040 000,00	2008 0708 1461
2	TSL252/2008	TRANSFER		R 1 540 000,00	2008 0708 1461
3	TSL252/2008	TRANSFER	HELMAN THOMAS ALBERT REYNARD	R 1 940 000,00	2008 0708 1461
4	TSL252/2008	TRANSFER	HELMAN REYNARD	R 1 940 000,00	2008 0708 1461

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Handwritten signature and stamp: *M. Potgieter* C.F.T.

Stamp: 15 AUG 2012

SearchWorks Report

Print Date:

2012/06/15 03:32 PM

Report Details

Search Date: 2012/06/15 03:32 PM
 Reference: 50
 Description: SEVENHAGE, REMAINDER, 820 (CTN)
 Type Of Search: Deed Plans

Property Name: SEVENHAGE RD
 Property Number: 820

Portion Number	Registration Date	Owner	Title Deed	Purchase Price
0	2006/09/12	HERMANUS POTGIETER FAMILY TRUST	T75843/2006	R 810 795,00
1		*** NO LONGER EXISTS - SEE ENDORSEMENTS ***		
2	2011/02/04	COMUNYS CITIES PTY LTD	T2961/2011	R 12 500 000,00
3	2008/09/02	GOLDEN RIDGE PROP TRUST	T4391/2008	R 4 800 000,00

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10/10/12 P. Potgieter
 [Handwritten signature]



Confirmation of the Approach to the Section 24G Application

From: Jan Kapp [Kapp.Jan@deaet.ecape.gov.za]
Sent: 08 October 2012 12:14 PM
To: Sandy Wren
Subject: RE: Swanepoelskraal Section 24G Report

Hi Sandy

As outline underneath will be sufficient.

Regards

Jan Kapp
Compliance & Enforcement



Tel: 041 508 5821
Cell: 082 332 0293
Fax: 041 508 5865
c/o Belmont Terrace & Castle Hill
Port Elizabeth, 5001
Private Bag X5001, Greenacres, 6057, South Africa
<http://www.dedea.gov.za/>
Jan.Kapp@deaet.ecape.gov.za

From: Sandy Wren [<mailto:sandy@publicprocess.co.za>]
Sent: 02 October 2012 04:14 PM
To: Andries Struwig; Jan Kapp; Max Landule
Subject: Swanepoelskraal Section 24G Report

Hi Andries

As per our discussion of today please find attached correspondence sent to Jan Kapp yesterday. I understand that the Section 24G application Report needs to meet the requirements for a Basic Assessment in terms of GN R 543. In terms of this, and as per the attached correspondence we would like to request that the public participation timeframes for registration of I&APs and for comment on the Draft S24G report is shortened to 14 days respectively.

As per our discussion we will continue with the original Basic Assessment for the remainder of the site, taking into account the area that has already been cleared.

Your response regarding the timeframes for public participation will be most appreciated.

Regards

Sandy Wren
Public Process Consultants
PO Box 27688, Greenacres, 6057
120 Diaz Road, Adcockvale, PE, 6001
Phone: 041 374 8426
Fax: 041 373 2002
Cell: 082 4909 828
www.publicprocess.co.za

PO Box 27688 Greenacres 6057
120 Diaz Road Adcockvale, PE 6001
Phone 041 374 8426 Fax 041 373 2002
Email sandy@publicprocess.co.za
www.publicprocess.co.za
Ck 97/32984/23 VAT 44601 68273



1 October 2012

Jan Kapp
Department of Economic Development Environmental Affairs and Tourism
Private Bag X 5001
Greenacres
6057

Dear Sir,

Re: Section 24 G Application, Portion 23 of Farm 104 Swanepoelskraal and the Remainder of Farm 650, Kirkwood, Sundays River Valley Municipality

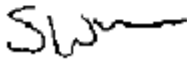
Further to your telephonic discussion with Mr Hermanus Potgieter (the applicant) on the 28 September 2012, I hereby confirm that the above application is pending a report and public participation process from our offices. I would hereby like to confirm the proposed approach to the application, and recommend that subject to confirmation from your Department the following process is followed:

- Advertisement in one local newspaper
- Registration and comment period for I&APs (14 Days)
 - A 14 day registration period is recommended as the Basic Assessment process for the two affected parcels of land, on which the vegetation clearing has taken place, has already been advertised in the Herald, a notice board has been placed at the site and adjacent landowners / tenants have been notified of the Basic Assessment process.
- Site notice board regarding Section 24 G application
- Written notification to surrounding landowners and tenants regarding the Section 24G application
- Site visit to determine the area cleared
- Draft Section 24 G Application Report to include:
 - Project description
 - Mapping and description of the biophysical environment of the area cleared
 - Outline of the Public Participation Process followed including supporting documentation
 - An assessment of the impacts on the environment of the activity
 - a description of mitigation measures undertaken or to be undertaken in respect of the consequences for or impacts on the environment of the activity;
 - Environmental Management Programme Report
 - Conclusion and Recommendation
- Review of the Draft Section 24 G application (14 days)

- Notify all I&APs in writing of the review period
 - Place the draft report on the project website
- Finalise and submit the Section 24G application report to DEDEAT
 - Include comments received from I&APs during the review period
 - Notify all I&APs of the submission of the Final Report
- Notify I&APs of the outcome of the decision making process
 - Advertisement in one local newspaper
 - All I&APs notified in writing

Could you confirm the process as outlined above for this application is acceptable to the Department.

Yours sincerely



SANDY WREN