

CHAPTER ONE: INTRODUCTION AND BACKGROUND

1.1 BACKGROUND TO THE SECTION 24G APPLICATION

The applicant, Mr HHJ (Hermanus) Potgieter of the Hermanus Potgieter Familie Trust, through their appointed Environmental Assessment Practitioners (EAP), Public Process Consultants, submitted an application for a Basic Assessment for the expansion of existing agricultural activities on Portion 23 a portion of 5 of 104 (94 ha); and the Remainder of Farm No 650 Swanepoels Kraal (136ha), Division Uitenhage, Sundays River Valley Municipality. The two farms measure approximately 230 hectares in total extent.

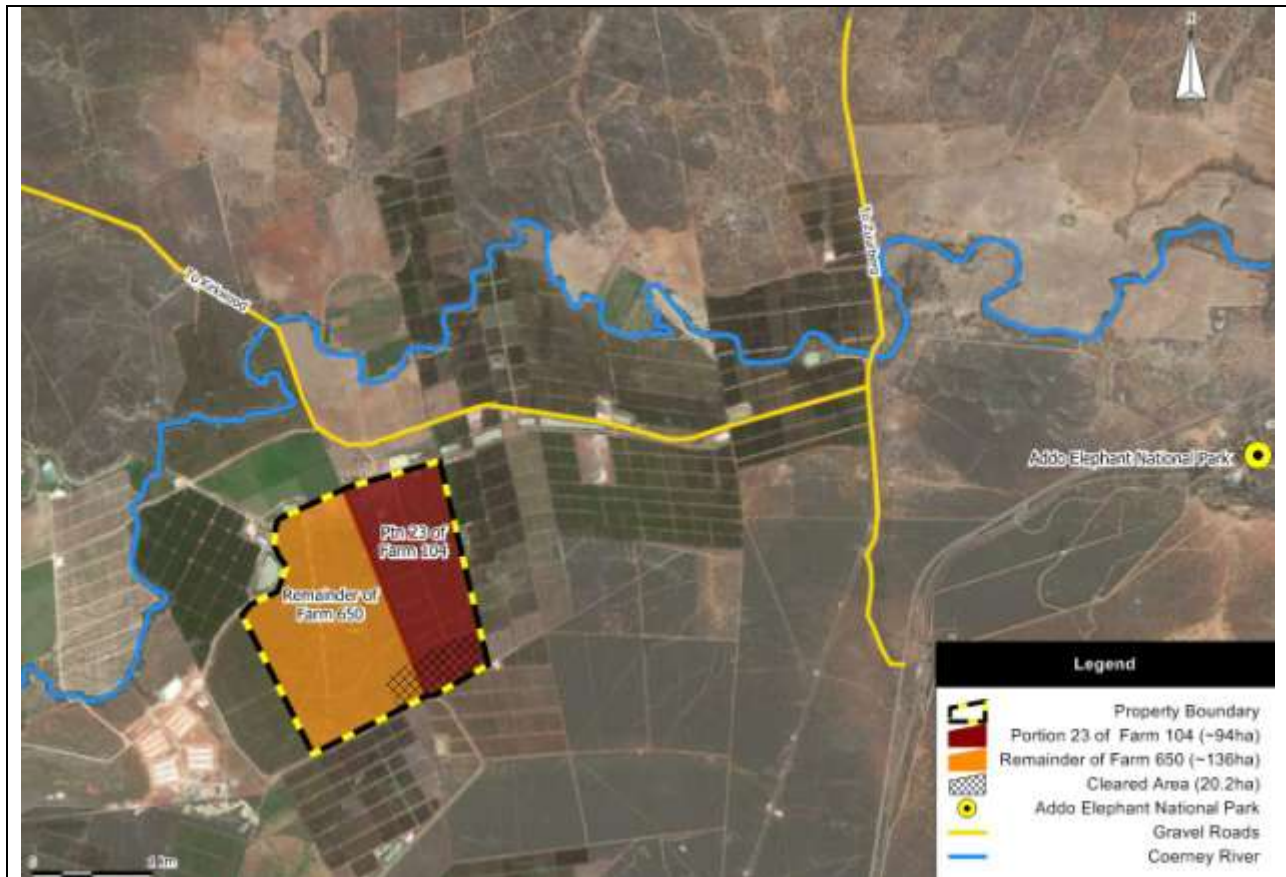
The expansion of the agricultural activities requires Environmental Authorization due to the inclusion of listed activities in terms of the NEMA EIA Regulations, 2010, i.e. GN 546. In view of this an application for a Basic Assessment for the above properties was submitted to the Provincial Department of Economic Development, Environmental Affairs and Tourism (DEDEAT) 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 the application. 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 ended 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. The site visit by Public Process Consultants identified that the clearing of vegetation had commenced on a southern portion of the two properties. The applicant was informed that the clearing of the vegetation on the site was considered the illegal commencement of the activity prior to the receipt of an environmental authorisation and was advised to commence with a Section 24G application process in terms of the National Environmental Management Act (NEMA), as amended. The applicant immediately ceased with all operations on the site and voluntarily commenced with the Section 24G Application process.

The project is currently at the stage where a Section 24G application has been submitted for the cleared area on the two properties and the Basic Assessment Process, which was initiated in July 2012, will separately consider and assess the area on the properties that has not been subject to clearing.

Map 1.1 below indicates the locality of the properties under assessment and the cleared area on areas on Portion 23 a portion of 5 of 104; and the Remainder of Farm No 650 Swanepoels Kraal (cross hatched area), which forms part of the Section 24G application process.



Map 1.1 Locality of the properties forming part of the Section 24G application (cross hatched area).

1.2 LEGAL CONTEXT AND OVERVIEW

Early in August 2012, Mr Max Landule of the Department of Economic Development, Environmental Affairs and Tourism (DEDEAT), Compliance Division was notified of the clearing of the vegetation without receipt of an environmental authorisation. A site visit was undertaken by Mr Landule, and the Applicant was instructed to commence with the Section 24 G Application Process for the cleared portions of the site.

Prior to the commencement of any of the activities on the site, environmental authorisation is required from DEDEAT due to activities listed in GN R 544 and 546 of the NEMA EIA regulations, 2010, as follows:

“14. The clearance of an area of 5 hectares or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, ...

(a) In the Eastern Cape, ...

i. All areas outside urban areas.”

Other listed activities that required environmental authorisation, and which form part of this Section 24G application are outlined in detail in Chapter 3 of this report. Chapter 3 of this report also provides a detailed overview of the approach towards this assessment, including the public participation which forms part of the assessment process.

On 16 August 2012 an Application Form in terms of NEMA Section 24 G was submitted to the DEDEAT, Compliance Division. See copy attached as Appendix B. Further correspondence with the DEDEAT Cacadu Region and Compliance Division, dated 1 October 2012, requested confirmation of the approach towards this assessment process. Confirmation of the approach was received from the DEDEAT Compliance division on the 8 October 2012. Copies of correspondence with DEDEAT are attached as Appendix B of this Report.

The section 24G application includes the cleared areas on Portion 23 a portion of 5 of 104; and the Remainder of Farm No 650 Swanepoels Kraal, approximately 20.2 ha. 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.

The Section 24G Application Report needs to meet with the requirements for a Basic Assessment Report in terms of Section 21 and 22 of GN R 543 of the NEMA EIA regulations, 2010. Table 1.2 at the end of this Chapter indicates where the requirements of Section 21 and 22 of GN R 543 have been complied with in this report.

1.2.1 Limitations and Gaps in Knowledge

It is assumed that the information provided by the applicant, Mr Hermanus Potgieter is true and accurate. A large portion of this report documents events that have already taken place on the site. The most significant limitation of this report is that certain activities associated with the expansion of agriculture have already commenced on the site, thus the impact assessment is taking place retrospectively. This report has to identify the impacts of activities that have taken place on the biophysical environment and assess the scale of these impacts. The assessment is thus largely based on the bioregional and local planning frameworks of the state of the biophysical environment and what was anticipated to have occurred on a site. These documents are broad based large scale planning instruments and in order to confirm their accuracy require ground truthing. In this instance vegetation clearing on the site has already commenced and therefore the vegetation that may have occurred cannot be confirmed with absolute accuracy. A further limitation includes the reactive nature of mitigation measures; measures that reduce an already existing impact versus preventing (reducing, avoiding, maximising) a potential impact.

1.3 EIA TEAM

This section of the report provides an overview of the proposed EIA project team under the leadership of Public Process Consultants.

Table 1.1 Section 24G Assessment Team and Specialists

EIA PROJECT TEAM		
Sandy Wren	Public Process Consultants	EIA Team Leader
Marisa Jacoby	Public Process Consultants	Environmental Assessment Practitioner and Biophysical Specialist.
Wandile Junundu	Public Process Consultants	Community Consultation
Dr Johan Binneman	Albany Museum	Archaeological Specialist
Dr Freddy Ellis	University of Stellenbosch	Soil Suitability Assessment
TECHNICAL TEAM		
Hermanus Potgieter		Applicant to provide technical input

1.3.1 Expertise of Environmental Assessment Practitioner to Undertaken the Assessment Process

The EIA Project Team is being led by **Ms. Sandy Wren** of Public Process Consultants, who has over 15 years of experience in Scoping and EIA studies. Initially this role entailed the overarching management and integration of the public participation component for Scoping Reports, EIAs and SEAs. Under this role Sandy was actively involved in projects such as the Strategic Environmental Assessment ("SEA") for expansion of the Addo Elephant National Park, SEA for the Coega IDZ and Port of Ngqura and Boardwalk Casino Development. This management and integration role expanded through years of experience to include the leadership and management of Basic Assessment reports, Scoping and EIA Reports. Sandy is being assisted in this assessment process by Marisa Jacoby who has a BSc Honours degree (*cum laude*), majoring in Botany and specialising in Environmental Management from the Nelson Mandela Metropolitan University. Sandy and Marisa have worked on the following agricultural related expansion projects in the Addo, Kirkwood and Sunlands area, namely: New Agricultural Development for Habata Boerdery, on Oliphantskop, Logan Braes and Falcon Ridge; expansion of agricultural activities on the Farm River Bend for San Miguel Fruits.

A CV for Sandy Wren is attached as Appendix A of this report.

Table 1.2: Summary of where the requirements for a Basic Assessment Report in terms of Section 21 and 22 of GN R 543 of the NEMA EIA Regulations, 2010 (as amended) are provided for in this report.

21. (1) If a basic assessment must be applied to an application, the applicant or EAP managing the application must submit an application form, including a declaration of interest by the EAP and any documents referred to in regulation 12(2)(b), to the competent authority before conducting basic assessment.	Appendix A
(2) After having submitted an application, the EAP managing the application, must— (a) conduct at least a public participation process as set out in regulation 54;	Chapter 3
(b) open and maintain a register of all interested and affected parties in respect of the application in accordance with regulation 55;	Appendix C
(c) consider all comments and representations received from	Chapter 3, Issues and

interested and affected parties following the public participation process conducted in terms of paragraph (a), and subject the proposed application to basic assessment;	Responses Trail
(d) prepare a basic assessment report in accordance with regulation 22; and	This report
(e) give all registered interested and affected parties an opportunity to comment on the basic assessment report in accordance with regulation 56.	Appendix C
(3) The format of an application form as contemplated in subregulation (1) may be determined by the competent authority.	Appendix B
22. (1) The EAP managing an application to which this Part applies must prepare a basic assessment report in a format that may be determined by the competent authority.	Appendix B
(2) A basic assessment report must contain all the information that is necessary for the competent authority to consider the application and to reach a decision contemplated in regulation 25, and must include—	Appendix A
(a) details of	
(i) the EAP who prepared the report; and	
(ii) the expertise of the EAP to carry out basic assessment procedures;	Appendix A
(b) a description of the proposed activity;	Chapter Two
(c) a description and a map of the property on which the activity is to be undertaken and the location of the activity on the property, or, if it is	Chapter Four
(i) a linear activity, a description of the route of the activity; or	This is not a linear activity
(ii) an ocean-based activity, the coordinates within which the activity is to be undertaken;	This is not an ocean based activity
(d) a description of the environment that may be affected by the proposed activity and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;	Chapter Four and Chapter Five
(e) an identification of all legislation and guidelines that have been considered in the preparation of the basic assessment report;	Chapter 3
(f) details of the public participation process conducted in terms of regulation 21(2)(a) in connection with the application, including—	Chapter 3
(i) the steps that were taken to notify potentially interested and affected parties of the proposed application;	Chapter 3
(ii) proof that notice boards, advertisements and notices notifying potentially interested and affected parties of the proposed application have been displayed, placed or given;	Appendix D
(iii) a list of all persons, organisations and organs of state that were registered in terms of regulation 55 as interested and affected parties in relation to the application; and	Appendix E
(iv) a summary of the issues raised by interested and affected parties, the date of receipt of and the response of the EAP to those issues;	Chapter 3, Issues and Responses Trail
(g) a description of the need and desirability of the proposed activity;	Chapter Two
(h) a description of any identified alternatives to the proposed activity that are feasible and reasonable, including the advantages and disadvantages that the proposed activity or alternatives will have on the environment and on the community that may be affected by the activity;	Chapter Seven

(i) a description and assessment of the significance of any environmental impacts, including— (i) cumulative impacts, that may occur as a result of the undertaking of the activity or identified alternatives or as a result of any construction, erection or decommissioning associated with the undertaking of the activity; (ii) the nature of the impact; (iii) the extent and duration of the impact; (iv) the probability of the impact occurring; (v) the degree to which the impact can be reversed; (vi) the degree to which the impact may cause irreplaceable loss of resources; and (vii) the degree to which the impact can be mitigated; (j) any environmental management and mitigation measures proposed by the EAP; (k) any inputs and recommendations made by specialists to the extent that may be necessary;	Chapter Four
(l) a draft environmental management programme containing the aspects contemplated in regulation 33 ;	Part 2
(m) a description of any assumptions, uncertainties and gaps in knowledge;	Chapter Four
(n) a reasoned opinion as to whether the activity should or should not be authorised, and if the opinion is that it should be authorised, any conditions that should be made in respect of that authorisation	Chapter Eight
(o) any representations, and comments received in connection with the application or the basic assessment report;	Appendix F
(p) the minutes of any meetings held by the EAP with interested and affected parties and other role players which record the views of the participants;	No meetings have been held
(q) any responses by the EAP to those representations, comments and views;	Chapter 3
(r) any specific information required by the competent authority; and;	None requested to date
(s) any other matters required in terms of sections 24(4)(a) and (b) of the Act.	
(3) In addition, a basic assessment report must take into account (a) any relevant guidelines; and (b) any departmental policies, environmental management instruments and other decision making instruments that have been developed or adopted by the competent authority in respect of the kind of activity which is the subject of the application.	Chapter Three and Four
(4) The EAP managing the application must provide the competent authority with detailed, written proof of an investigation as required by section 24(4)(b)(i) of the Act and motivation if no reasonable or feasible alternatives, as contemplated in subregulation 22(2)(h) , exist.	This Report