

BACKGROUND INFORMATION DOCUMENT

APPLICATION FOR A NEMA SECTION 24G RETROSPECTIVE APPROVAL

for

THE EXPANSION OF CULTIVATED LAND AND DEVELOPMENT OF INFORMAL FARM ROADS THE REMAINDER OF FARM 14, REDELINGHUYS AND PORTION 5 OF FARM 14, REDELINGHUYS, AS WELL AS THE PROPOSED DEVELOPMENT OF A DAM AND PIPELINE EXTENSION ON PORTION 5 OF FARM 14, REDELINGHUYS.

Purpose of this Document

The purpose of this Background Information Document (BID) is to inform Interested and Affected Parties (I&APs) of the application being submitted to obtain a retrospective environmental authorisation (EA) for the abovementioned project.

The applicant, *Bodhi Holdings (Pty) Ltd.*, expanded the existing cultivated land by clearing indigenous vegetation and infilling watercourses without the requisite EA in 2020. Once the applicant became aware of the unlawful activities, all works ceased pending the outcome of this application. The applicant intends to apply for ex post facto approval of these activities.

This BID provides a summary of the retrospective EA application, Water Use Licence Application, intended Public Participation Process required in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the Environmental Impact Assessment (EIA) Regulations, 2014 (as amended), the Section 24G Fine Regulations, 2017, and the National Water Act, 1998 (Act No. 38 of 1998).

Introduction and Background

The applicant has appointed *Doug Jeffery Environmental Consultants (Pty) Ltd.* (DJEC) to apply for ex post facto approval for clearing indigenous vegetation and infilling watercourses. A registered Environmental Assessment Practitioner (EAP) will facilitate this Section 24G Rectification process in terms of Section 24G of NEMA, the EIA Regulations, 2014 (as amended) and the Section 24G Fine Regulations, 2017.

The applicant cleared indigenous vegetation to establish orchards, unsurfaced dirt farm roads immediately adjacent to or into watercourses, roads crossing watercourses and stockpiling of soil and rocks within watercourses. These activities are considered unlawful and require a retrospective EA.

To address these unauthorised activities, a Section 24G Rectification process will be conducted to apply for a retrospective EA from the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP), Directorate: Rectification.

Site Location

The applicant purchased the Remainder of Farm 14, Redelinghuys, hereafter referred to as "RE/14", and Portion 5 of Farm 14, Redelinghuys, hereafter referred to as "5/14", in 2017.

All unlawful activities occurred to the north of the R366, which runs through both portions (see **Figure 1**). The Verlorenvlei wetland lies south of the R366, upstream of this RAMSAR site.

No activities were conducted near the Verlorenvlei or within the Verlorenvlei Wetland delineated boundaries.

Municipal Area

District Municipality:	West Coast District Municipality		
Local Municipality:	Bergrivier Local Municipality		
Nearest Settlement:	Redelinghuys		
Distance:	±14 km	Ward:	5

Properties Details

Portion 5 of the Farm Krommeriviers Valley No. 14	
Size:	2110.71
SG Code:	C05800000000001400005
Coordinates:	32°32'26.66"S; 18°40'1.32"E
Zoning:	Agriculture
Remainder of the Farm Krommeriviers Valley No. 14	
Size:	2162.04
SG Code:	C05800000000001400000
Coordinates:	32°31'44.02"S; 18°38'54.66"E
Zoning:	Agriculture

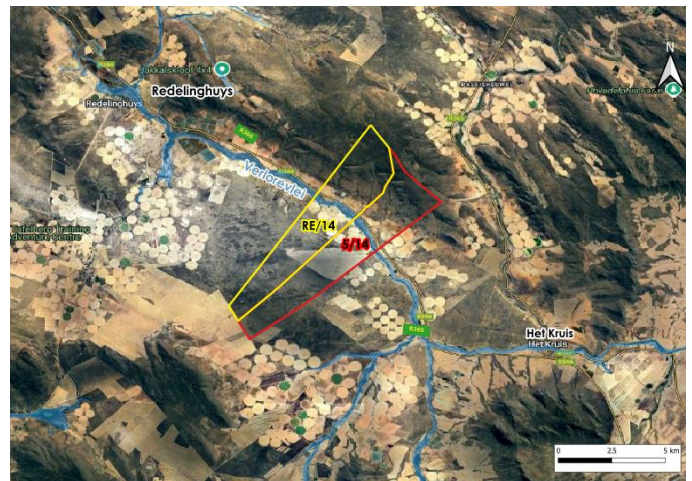


Figure 1: Location of the RE/14 (yellow polygon) and 5/14 (red polygon).

Project Description

The applicant purchased both properties in 2017 and began earthworks to expand the cultivated land. This included developing informal farm roads for access to cultivated land and starting to clear land to construct a dam to store water for irrigation. The expansion of cultivated land was completed on both properties; however, the dam on 5/14 still needs to be completed.

The unlawful activities on RE/14 involved expanding the cultivated land by clearing indigenous vegetation, creating informal farm roads, and infilling watercourses to establish olive and citrus orchards. On 5/14, unlawful activities included clearing indigenous vegetation, infilling watercourses to extend the cultivated land, creating informal farm roads, and commencing earthworks for a dam.

The appointed Botanical Specialists, Riaan van der Walt, and Aquatic Specialists, James Dabrowski, have identified, assessed and determined the most reasonable and feasible alternatives for this application. Both specialists recommended that certain areas be rehabilitated while others can remain in cultivation. Based on these recommendations, the following activities still need to be undertaken once the retrospective EA has been obtained:

Rehabilitation of Watercourses and Cultivated Land

The aquatic specialist determined that no watercourses had been impacted on 5/14. All watercourses affected by the unlawful activities have occurred on the RE/14. The aquatic specialists identified areas to rehabilitate and recommended that watercourses be buffered. The appointed botanical specialist supports this alternative, provided no further vegetation clearing occurs on the site. The applicant intends to retain the cleared areas, as supported by both specialists, rehabilitate the identified areas and establish buffers around watercourses on the RE/14.

Proposed Dam

The Applicant intends to develop a dam on 5/14 to serve as a storage dam for summer irrigation. The proposed dam will have a storage capacity of approximately 39 800 m³, cover an area of 1.79 ha, and have a wall 12.25 meters high.

The proposed dam will primarily be filled with water pumped from the Verlorenvlei River under an Existing Lawful Water Use (ELU).

Proposed Pipeline Extension

The existing water supply pipeline routes from the existing pumphouse below the R366 crosses the R366 via a culvert and then terminates within the existing cultivated land on 5/14. Currently, the pipeline does not extend to the proposed dam and, therefore, needs to be extended. The water supply pipeline will be extended for approximately 716 m in length and have a diameter of approximately 0.16 m. The pipeline will be placed along the existing informal service road towards the proposed dam on 5/14.

The Department of Water and Sanitation (DWS) has issued a General Authorisation (WU34141) for the proposed dam and pipeline expansion.

Legislative Context

National Environmental Management Act, 1998

In terms of the NEMA: EIA Regulations, 2014 (amended), the following listed activities were relevant at the time of commencement:

Listing Notice 1 (GN R983 of 2014, as amended)	
Activity 12(ii)(a)	The expansion of cultivated land and the development of informal service roads have a physical footprint of more than 100 m ² and occur within watercourses.
Activity 19	The expansion of cultivated land and the development of informal farm roads required the excavation, removal, and moving of more than 10 m ³ of fill within watercourses.
Listing Notice 2 (GN R984 of 2014, as amended)	
Activity 15	The expansion of cultivated land and the development of informal farm roads required the clearance of more than 20 ha of indigenous vegetation.
Activity 16(i)(i)	The proposal includes developing a dam, with a dam wall higher than 5 m. The proposed dam will have a storage capacity of 39 800 m ³ and a wall height of 12.5 m.
Listing Notice 3 (GN R985 of 2014, as amended)	
Activity 12	The expansion of cultivated land and the development of informal farm roads required the clearance of more than 300 m ² of indigenous vegetation within a critically endangered ecosystem.
Activity 14 (ii)(b)(i)(ff)	The expansion of the cultivated land and the development of informal service roads have a physical footprint of more than 100 m ² within watercourses.

National Water Act, 1998

Any water use activities trigger Section 21 of the National Water Act, 1998 (Act No. 38 of 1998) (NWA) requires authorisation from DWS. The establishment of orchards and unsurfaced dirt farm roads immediately adjacent to or into the watercourses requires authorisation. The unlawful activities that have impacted the watercourses on RE/14 will be included in the Water Use Licence Application (WULA) being undertaken for the Koopmanskraal Dam. For this WULA, the water use activities to be applied for include:

Section 21 (b): storing water;

Section 21 (c): impeding or diverting the flow of water in a watercourse; and

Section 21 (j): altering the bed, banks, course, or characteristics of a watercourse.

The Water Use Licence Application Summary Report (**Annexure A**) is distributed with this BID.

Please note: No additional abstraction rights will be applied. The applicant intends to register the unlawful water use activities that have impeded and altered the beds and banks of the watercourses on the Remainder of Farm 14, Redelinghuys.

Public Participation Process

The Public Participation Process (PPP) will be undertaken following the requirements of NEMA, the EIA Regulations, 2014 (as amended), the Section 24G Fine Regulations, 2017, and the NWA. The objective of the PPP is to:

- Provide I&APs with an opportunity to express their views, support, concerns, and questions regarding the project, application, or decision-making process.
- Offer a platform for I&APs, the EAP, and the Competent Authority to obtain clear, accurate, and comprehensible information about the environmental, social, and economic impacts of the activities undertaken on the site.
- Allow I&APs to suggest ways to reduce or mitigate the identified negative impacts and enhance the identified positive impacts.
- Enable the Applicant to incorporate affected parties' needs, preferences, and values into the application.

A register of all registered I&APs will be opened and updated throughout the Section 24G process. Only registered I&APs will be notified of the availability of reports or updated on the proceedings of this Section 24G process.

A minimum of two commenting periods are anticipated for this Section 24G process and the WULA. These will be as follows:

1. **Preliminary PPP** in terms of Regulation 8 of the Section 24G Fine Regulations, 2017, a 30-calendar day registration period (this process). This process invites I&APs to register for the Section 24G process, provides them with information on the activities that have commenced unlawfully, and offers access to the WULA summary report (**Annexure A**).
2. **Statutory PPP**, in terms of Regulation 41 of the EIA Regulations, 2014 (as amended), a second comment period will be provided to review/comment on the Section 24G Report, WULA summary report, and Maintenance Management Plan.

The Section 24 G Report will capture, consider, and respond to all comments or concerns from I&APs.

How to Participate

I&APs are invited to register and/or submit interim comments on this Section 24G Rectification process and the WULA Summary Report from **Wednesday, 13 November 2024**, to **Friday, 13 December 2024**.

To register for the project and/or submit comments, I&APs must provide their name, contact details, and preferred method of communication in writing to the EAP using the contact details. In addition, I&APs must disclose any direct business, financial, personal, or other interests in this project.

Only registered I&APs will be notified and updated throughout this Section 24G process. During office hours, anyone unable to read or write or needing assistance registering or submitting their comments may request assistance from the EAP.

ALL REGISTRATIONS AND COMMENTS MUST BE SUBMITTED TO THE EAP BY FRIDAY, 13 DECEMBER 2024.

Please Note: When registering as an I&AP, you consent to legally processing personal information for the intended purposes, as prescribed by the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Refer to DJEC's privacy policy on the website.

Contact Details of the EAP

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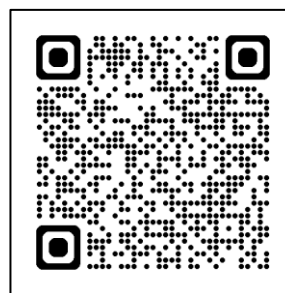
Way Forward

The draft Section 24G Report and the Maintenance Management Plan provides a detailed description of this Section 24G process. These reports provide an overview of the affected receiving environment, assessments from the relevant specialists, the identified impacts, proposed mitigation measures, and management plans. These reports will be circulated for comment to registered I&APs, State Departments, and Organs of State during the next commenting period (i.e., **Statutory PPP**).

The EAP will notify registered I&APs once the reports are available for public review and comment. Additionally, all reports will be made available on DJEC's website at the following link:

<https://www.dougjeff.co.za/download/bohdi-park/>

Alternatively, use the QR code below to access the reports.



QR-Code