

# ENVIRONMENTAL IMPACT ASSESSMENT BACKGROUND INFORMATION DOCUMENT



## RECTIFICATION OF THE UNLAWFUL COMMENCEMENT OF THE CLEARANCE OF VEGETATION ON PORTION 36 & 38 OF THE FARM BUFFELS HOEK NO 180, WITHIN THE KOUGA LOCAL MUNICIPALITY, EASTERN CAPE PROVINCE

### INTRODUCTION

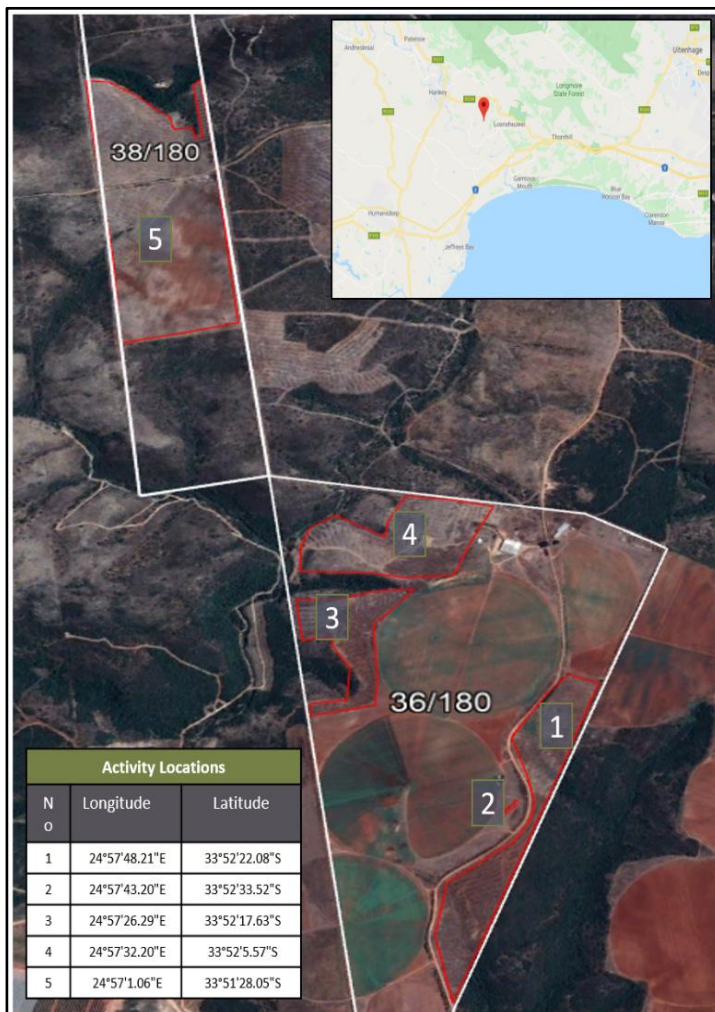


Figure 1: Locality map of the vegetation clearance.

Habitat Link Consulting (Pty) Ltd has been appointed by Savuka Fruit (Pty) (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 near Loerie, within the Kouga Local Municipality, Eastern Cape Province (Figure 1).

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 development was undertaken between February 2015 and January 2019 and triggered activities listed 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 36 and Portion 38 of the Farm Buffels Hoek No 180, which is located approximately 5 km west of the town of Loerie, situated within the Kouga Local Municipality, seated within the Sarah Baartman District Municipality, Eastern Cape province.

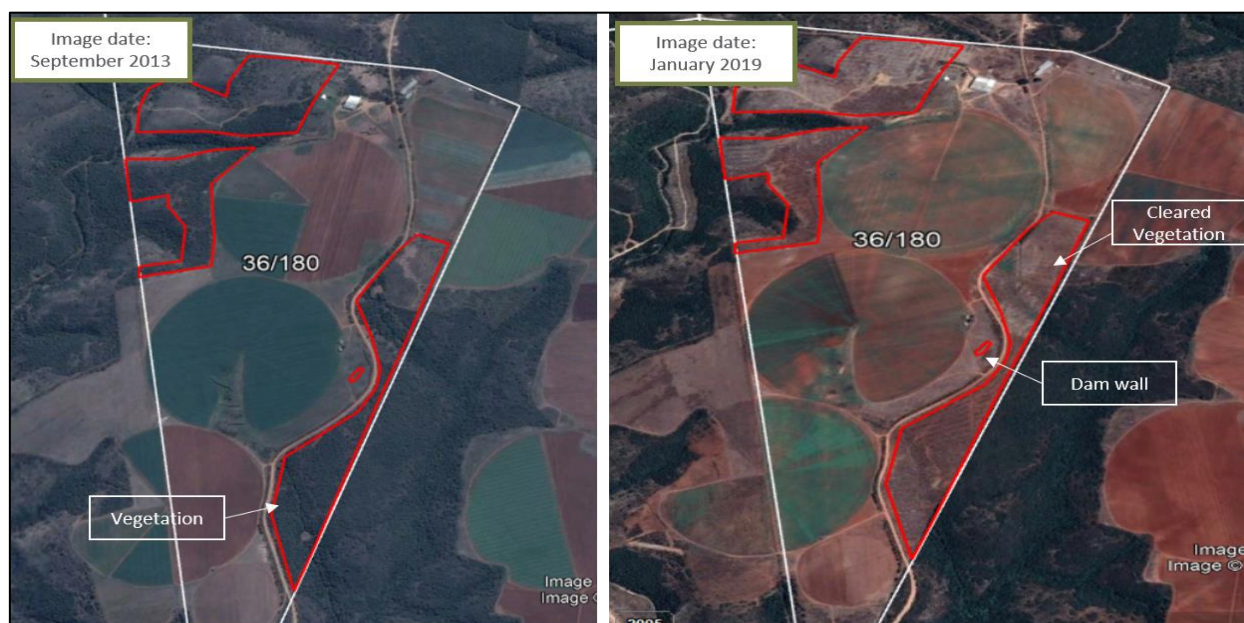


Figure 2: Clearance of vegetation on the Farm Buffels Hoek 36 -180.

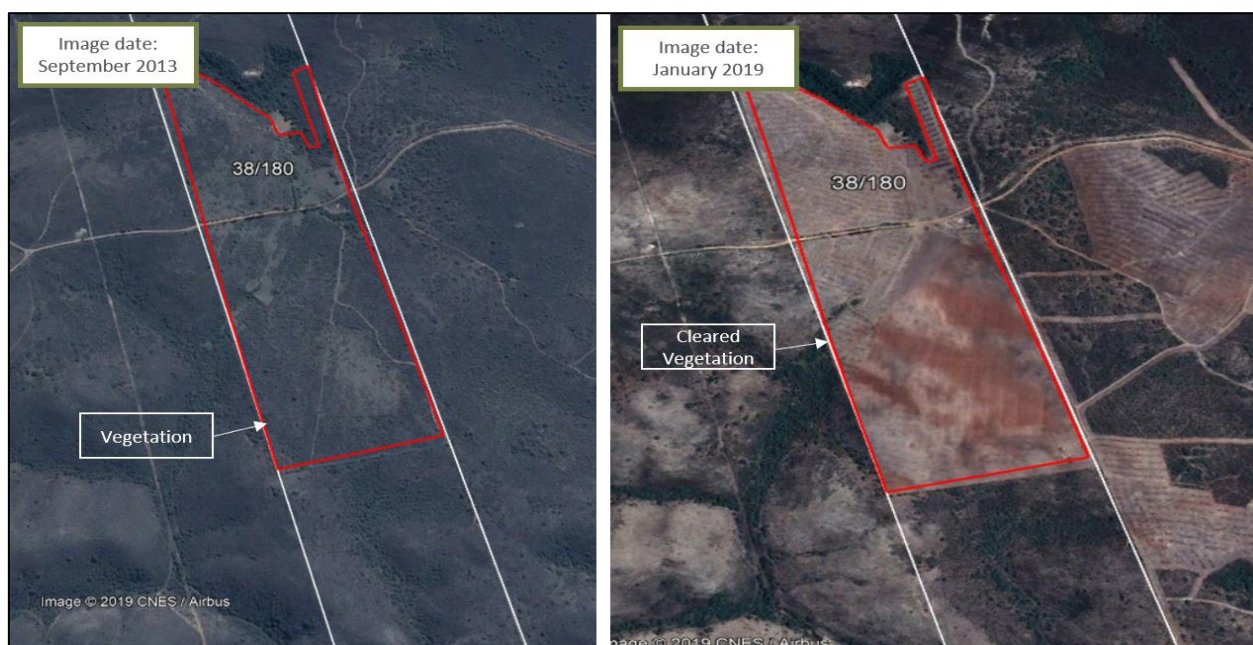


Figure 3: Clearance vegetation on the Farm Buffels Hoek 38 -180.

The development included the clearing of approximately 53 hectares (ha) of vegetation as well as the construction of an off-channel dam wall (Figure 2 & Figure 3). Prior to the commencement of activities, the study area consisted of a combination of natural fynbos vegetation, alien vegetation and agricultural lands. The surrounding land uses include several existing irrigated pastures and livestock areas. The purpose of the development was to clear 53 ha of natural vegetation to plant pastures for livestock as well as the planting of citrus orchards. The development also included the construction of an off-channel dam wall which has the capacity of approximately 2 250 m<sup>3</sup>. The dam will be used to store water for the irrigation of citrus orchards

and pastures as well as for livestock drinking water in order to accommodate the grazing that takes place on the farm.

## APPLICABLE LEGISLATION

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

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

Activity No.	Description	Triggering activity
2014 NEMA EIA REGULATIONS LISTING NOTICE 2 – GN R. 984		
Activity 15	<p><b>The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for-</b></p> <p><b>(i) maintenance purposes undertaken in accordance with a maintenance management plan.</b></p>	The proponent cleared an area of approximately 53 ha of potentially indigenous vegetation without prior approval of a maintenance management plan.

Due to the fact that the abovementioned activities commenced without an EA from the competent authority, the proponent is hereby applying for the Rectification 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. Some clearance of vegetation occurred in close proximity to an artificial wetland and some drainage lines are mapped within the farm boundaries. 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 500 m 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 on additional water in the dam as well as its utilisation for the irrigation of pastures, are defined water uses according to the NWA. Section 21 of the NWA water use activities include:

- (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*

An aquatic specialist study will be undertaken to delineate the extent of the watercourses and to undertake a Risk Assessment Matrix, to determine what Water Use Authorisation (in terms of Section 21 of the NWA) is required for all of the relevant water use activities as discussed above.

### 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 m<sup>2</sup> 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 53 ha of 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 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 in the Environmental Management Programme (EMPr).

## 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 or not 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).

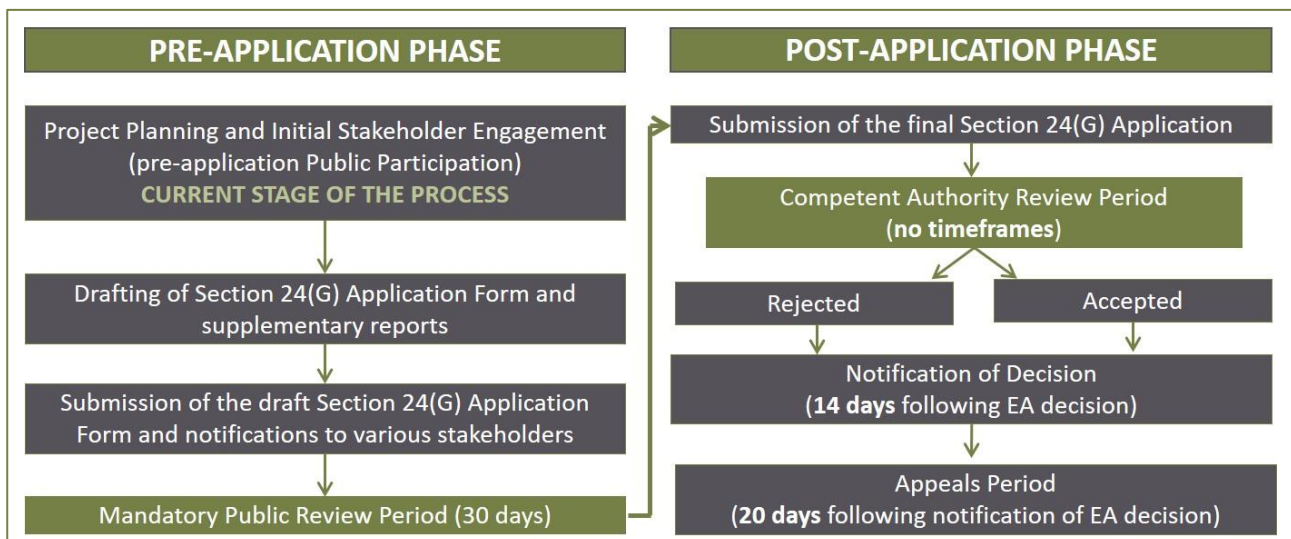


Figure 4: Generic NEMA Section 24(G) process.

## PUBLIC PARTICIPATION PROCESS

In terms of NEMA, public participation forms an integral part of the EIA process. The Public Participation Process (PPP) provides people who may be (or 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.

## 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:



Office Address: 117 Cape Road, Mount Croix, Port Elizabeth, 6001

Postal Address: PO Box 63879, Greenacres, 6057

Tel: 082 776 4936

Email: [comments@habitatlink.co.za](mailto:comments@habitatlink.co.za) or  
[rino@habitatlink.co.za](mailto:rino@habitatlink.co.za)