



Eco Route

ENVIRONMENTAL CONSULTANCY

REGISTRATION NO. 1998/031976/23

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COMMENTS AND RESPONSE REPORT

Section 24G EIA PROCESS

RECTIFICATION OF UNLAWFUL COMMENCEMENT OF CLEARANCE OF INDIGENOUS VEGETATION AND THE REPAIR OF A DAM WALL ON PORTIONS 17 AND 19 OF FARM AVONTUUR 166, HOEKWIL, GEORGE, WESTERN CAPE

Comments Received from Interested and Affected Parties Regarding the Draft NEMA Section 24G Application Form

DEA&DP Ref. No: 14/2/4/1/D2/30/0006/18

COMMENTS	RESPONSE
STATE DEPARTMENTS	
Department of Agriculture, Forestry and Fisheries: Forestry Western Cape – Melanie Koen (22/05/2019)	
<u>RECTIFICATION OF UNLAWFUL COMMENCEMENT OF CLEARANCE OF INDIGENOUS VEGETATION AND THE REPAIR OF A DAM WALL ON PORTIONS 17 AND 19 OF FARM AVONTUUR 166, HOEKWIL, GEORGE</u>	
1. The Department of Agriculture, Forestry and Fisheries (DAFF) is	Noted.

<p>responsible for the implementation and the enforcement of the National Forest Act (NFA), Act 84 of 1998 as amended and the National Veld and Forest Fire Act, Act 101 OF 1998 as amended (NVFFA).</p> <ol style="list-style-type: none"> 2. Section 15 of the National Forest Act (NFA) (Act no. 84 of 1998) as amended prohibits the cutting, disturbing, damaging or destroying of protected tree species without a license. Section 7 of the NFA, provides for the prohibition of the destruction of indigenous trees in any natural forest without a license. 3. DAFF recommend that the disturbed/ cleared areas, along the watercourse, be rehabilitated with indigenous/ endemic forest tree species. That the areas along the watercourse with indigenous forest patches be kept intact. 4. DAFF reserves the right to revise initial comment based on any additional information that may be received. 	<p>Noted.</p> <p>Agree. Recommendations have been included in the EIR.</p> <p>Noted.</p>
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Department of Environmental Affairs and Tourism – Shireen Pullen (02/06/2018)

<p>NEMA SECTION 24G APPLICATION: RECTIFICATION OF UNLAWFUL COMMENCEMENT OF CLEARANCE OF INDIGENOUS VEGETATION AND THE REPAIR OF A DAM WALL ON PORTIONS 17 AND 19 OF FARM AVONTUUR, HOEKWIL, GEORGE</p> <ol style="list-style-type: none"> 1. The abovementioned report received by the Department on 19 April 2018 refers. 2. This letter serves as acknowledgement of receipt of the abovementioned document by the Directorate: Development Management (Region 3) hereinafter referred to as “this Directorate”. 3. This Directorate has reviewed the document and comment as follows: <ol style="list-style-type: none"> 3.1 It is noted from your submission that the repairs to the dam wall requires a Water Use License (WULA) in terms of the National Water Act, 1996 (Act No 38 of 1998). In light of the one environmental system, it is now requirement to synchronise the EIA (S24G application) and WULA processes in order to ensure that both processes are duly informed by one another. It is therefore the duty of the Environmental Assessment Practitioner (“EAP”) to take note of the timeframes and synchronise the two processes. Failure to give effect to the one 	<p>The applicant had employed the relevant specialists in order to undertake the WULA process. The WULA has now been submitted to BGCMA by Confluent Environmental.</p>
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environmental system may prejudice the success of the application.

3.2 The Freshwater Assessment (Wetland IHI Assessment) however refers to serious modification of the larger wetland area, where large loss of natural habitat, biota and basic ecosystem functions has occurred, due to major loss of natural vegetation as a result of excavation and infilling. As such, the recommendations made to mitigate these impacts are supported.

3.3 It is further noted that the specialist report (Freshwater Assessment) does not contain all the information stipulated in Appendix 6 of the NEMA EIA Regulations, 2014 as the report does not contain the expertise of the specialist. Please ensure that the specialist report is amended to give effect to the requirements stipulated in the aforementioned Appendix.

4. It is evident from the significance scoring in the Impact Report that it is essential/ critical that the proposed mitigation measures be implemented to minimise habitat biodiversity loss (e.g. soil, hydrology, range of temperature, light intensity and biotic factors), as well as species diversity during the operational phase.

5. Rehabilitation of the riparian zone is also essential and the proposed measures (re-planting of various types of indigenous trees on either side of the watercourse) recommended in the Impact Report is strongly supported. Alien invasive management should be done in conjunction with rehabilitation of the riparian zone, as recommended in the aforementioned report.

6. The establishment of appropriate buffers (30m) is also key to ensure that the freshwater features are rehabilitated as close as possible to their natural state.

7. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.

8. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Noted. Recommendations have been included in the EIR.

The expertise of specialists appointed as part of the EIA have now been included.

The expertise for specialists appointed by the applicant for the WULA process have not been included.

Noted and agreed.

Noted. Recommendations have been included in the EIR.

Noted and agreed.

ORGANS OF THE STATE

Breede Gouritz Catchment Management Agency – K. Ravele (29/05/2019)

RECTIFICATION OF UNLAWFUL COMMENCEMENT OF CLEARANCE OF INDIGENOUS VEGETATION AND THE REPAIR OF A DAM WALL ON PORTIONS 17

AND 19 OF FARM AVONTUUR 166, HOEKWIL, GEORGE, WESTERN CAPE

The abovementioned report for comments, dated 30 April 2019, has reference,

- Please note that activities of infilling and straightening of the river channel triggers a water use authorization for section 21 (c) – *impeding or diverting the flow of water in a watercourse* and (i) – *altering the bed, banks, course or characteristics of watercourse* in terms of the National Water Act, 1998 (Act 36 of 1998).
- The whole freshwater system (including the unnamed streams and drainage lines), are to be properly rehabilitated and re-vegetated with appropriate vegetation. This is to be done according to a formal rehabilitation plan as prepared by EverWater Freshwater Consulting Services.
- The applicant must submit a Risk Matrix , which will guide the type of authorisation that will be undertaken. The Risk Matrix must be undertaken by a SACNASP Registered Aquatic Specialist.
- All relevant sections and regulations of the National Water Act (Act 36 of 1998) regarding water use must be adhered to.
- No pollution of groundwater or surface water may occur due to any activity.
- No permanent structures may be constructed within a 1:100 floodline or within 100 metres from a watercourse (seasonal or permanent river or stream etc), whichever is furthest without firstly obtaining authorization in terms of section 21 (c) and (i) of the National Water Act (Act 36 of 1998).
- All future agricultural practices should be kept outside of the 30m buffer area.
- A river Maintenance and Management Plan should be followed for any future work in this area.

Please be advised that no activities may commence without the appropriate approvals / authorisations (where needed) from the responsible authority. The

Noted. A WULA has been submitted to BGCMA by Confluent Environmental.

Noted. Recommendations have been included in the EIR.

This has been undertaken by EverWater Freshwater Consulting Services and is attached to the EIR in Appendix H.1.4.

Noted.

Noted. Recommendations have been included in the EIR.

Noted. Recommendations have been included in the EIR.

Noted. Recommendations have been included in the EIR.

Noted. Recommendations have been included in the EIR.

Noted.

onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorisation.

This office reserves the right to amend and revise its comments as well as to request any further information.

NGO

Wilderness and Lakes Environmental Action Forum – Charles Scott (22/05/2019)

RECTIFICATION OF UNLAWFUL COMMENCEMENT OF CLEARANCE OF INDIGENOUS VEGETATION AND THE REPAIR OF A DAM WALL ON PORTIONS 17 AND 19 OF FARM AVONTUUR 166, HOEKWIL, GEORGE, WESTERN CAPE

Before we comment on this 24G application, WALEAF wishes to place on record that the matter of the illegal clearing of vegetation and the construction of a dam was first reported to DEADP, DAFF, BGCMA, CapeNature and the George Municipality by both Michael Leggatt and WALEAF in November 2016. If the authorities had acted swiftly at the time, most of the clearing of the vegetation and the illegal construction of a dam would not have occurred, and future damage to the environment could have been alleviated (see photographs 1-3 sent to these departments in November 2016).

With reference to the specialist studies submitted with this 24G process, we wish to compliment all those who have taken the time and trouble to compile these unbiased reports. The information contained therein is of great use to anyone having to comment on or process this application.

In response to “**Riparian and Wetland Rehabilitation Plan for the Alleged Unlawful Activity on Portion 17, Farm 116 Avontuur, George, Western Cape**” by **EverWater Freshwater Consulting Services**, we wish to make the following points :

1. From the attached google earth pictures (figures 4 – 6) you will observe that Dam 2 did not exist in April 2016, and that the area of the new Dam 2 was partially covered in trees. We feel that this Dam 2 should in fact be **removed**, and the area be **rehabilitated**. This was not discussed in this report.

2. A resident downstream of this activity whose property the stream crosses, and who has lived in the area for 30-40 years, states that the stream used to flow 365 days a year, but now it very seldom flows due to all the dams upstream.

Noted. Unfortunately, the matter was brought to Eco Route's attention after the fact.

Please note that Dam 2 (referred to as Dam 1 within the EIR) did exist in April 2016. This dam was unlawfully enlarged. The relevant specialists have provided rehabilitation and maintenance recommendations for the affected area to reduce the impacts caused by the dam enlargement and vegetation clearance.

As per GIS imagery obtained from Google Earth, it is clear to see that the dams on portion 17 and 19 of the farm Avontuur 166 have been in existence in the last 17 years. Therefore, it is unlikely that the reduction in stream flow is isolated to the applicant's recent activities. The Freshwater Assessment states the following “The degraded state at the study site can be attributed to both upstream impacts as well as that caused by the unlawful activities. Upstream from the dam several

3. The Langvleispruit stream feeds Bo-Langvlei which is part of an internationally recognised Ramsar site. By illegally damming the water upstream, and polluting the water, the Ramsar site is being irreparably compromised.

4. Various property owners bordering on this stream, who, in terms of their title deeds, have water rights, are allowed to draw water from the stream. Due to the fact that this stream very seldom flows anymore, their rights have now been compromised, due to dams being constructed on the stream without permission. There is a possibility that they might have to revert to taking legal action against those people who have illegally constructed dams on the stream.

5. Since the illegal construction of the dam(s) and the reshaping of the water course, the water downstream is now always clay coloured, and contains much silt which is being deposited on the stream's floor and in Bo-Langvlei, which is detrimental to the Ramsar site.

6. Current salinity readings taken in Langvleispruit downstream from the dams average around 1100ppm. Sanparks also takes water samples from the stream once a month, and their readings are similar.

Breede-Gouritz CMA Report 2018-02-13

In their report they refer to 2 small dams that were constructed without permission, that do not have any release mechanisms for water downstream. We feel that as they have not been approved, that they should be removed, as they are severely limiting the water flow downstream.

Attached to the email covering our comments are two water analysis reports that BGCMA had done on water samples taken in the vicinity of Avontuur,

instream dams occur within the stream channel, abstracting a significant amount of the flow that would naturally exist in the stream together with farm lands adjacent to the stream often encroaching onto the little riparian area still left."

The hydrology report compiled by Groundwater Complete states: "the increased storage size of the Dam 1 and Dam 2 catchment by 32 000 m³ will cause a 0.11% (additional) reduction in flow to the Three Lakes area.

The negative impact on the fresh water supply to the lakes as a direct result of the increased dam size is thus considered to be negligible."

The pollution of water on the property and downstream of the property could very well have been due to the previous owner burying cattle within the river. The current owner (the applicant) had removed the carcasses and straightened the river to remove the terrible smell and potential pollution due to the decaying carcasses. The unlawful excavation and straightening of the watercourse forms part of this EIR.

Please note that the Hydrology report compiled by Groundwater Complete states that: "as far as could be determined, there are no other registered users, taking water from the Toorbos River downstream of Avontuur."

Therefore, the water users you are referring to should ensure that their water use is registered with the DWS.

Noted. The Hydrology report mentions that in drought conditions, the river occurring on Portion 17/166 has an increased salinity that damages trees and cannot be used for irrigation. However, the salinity levels in Dam 1 and Dam 2 were found to be low and their high quality makes them ideal for irrigation purposes, especially during drought conditions.

The release mechanisms have been addressed in the dam safety report. In addition, a WULA was submitted to BGCMA by Confluent Environmental. After review of the EIR and accompanying specialist reports, DEA&DP will make a decision on the outcome of the EIR.

which clearly demonstrate how badly polluted the water in the Langveispuit is. We can find no reference to these reports in any of the specialist reports.

The **Botanical Assessment of Farm Avontuur No. 166 Portion 17 Bo-Langvelei for an S24g Application** by **Cape Vegetation Surveys**, recommends the following :

“(7) Environmental Risks

Encroachment into wetlands / watercourse area:

The activity has encroached into forest and riparian habitat and flat bench or channelled valley bottom wetlands. It is advised that adequate setbacks (between 30 and 60 metres) are implemented to prevent erosion and increased stormwater velocity.”

WALEAF is of the opinion that setback should be a **minimum of 60 metres**, or where the vegetation **used to be** before it was cleared, **whichever is the greater**.

We refer to the letter dated 2017-12-17 from the **Department of Agriculture, Forestry and Fisheries** addressed to the owner of the property, stating “*Upon inspection it was found that only invasive alien trees /vegetation was removed.*” As this letter was written more than **one year** after the illegal removal of the vegetation, we question how DAFF can issue such a statement, when in fact they never inspected the property prior to the removal of the vegetation. When they did their inspection, there was very little remaining vegetation to inspect. So therefore to state that only alien vegetation was removed is questionable.

In response to the document **Avontuur Nema 24G Application Form and Checklist April 2018**, please see our comments below :

1. Page 7 : Appendix F was not attached to this document.
2. Page 19 : 6.1 : The report states : “*DAFF agreed that the vegetation that was cleared was alien vegetation*”. See our comment above.
3. Page 23 : 10.2 : the report states : “*An increased number of farm workers have been employed.*” Whilst we do not dispute this, it would be interesting to know how many farm workers were employed previously when the farm was used for the grazing of cows, the production of dairy products, and the

Water sample testing and analysis did not fall within the scope of this EIR. However, the Hydrology report makes reference to the salinity of the unnamed stream on Portion 17, as well as the negligible water quality impact that Dam 1 would have on the surrounding environment.

The Freshwater specialist has recommended a setback of 30 metres, which the Botanical specialist, DEA&DP, and BGCMA have agreed with.

Noted. The specialists’ have also made mention in their reports of the abundance of AIPs in the activity area.

This is now attached.

Addressed above.

This number is unknown. The previous owner utilised the farm for cattle grazing, etc.

slaughtering of cattle?

4. Page 27 : 10 : the freshwater impact assessment compiled by Everwater Freshwater Consulting Services states : *"Once again taking into account the size of the section of the stream together with above mentioned factors, the impact rising from the change in flow is found to be a Low to Moderate Negative impact."* We cannot agree that the change in flow is only *"low to moderate"*. As we have already stated above, this stream used to flow 365 days a year, but now it very seldom flows due to all the dams upstream. We have also heard from residents residing alongside the stream that there used to be otters and fish in the stream, but since all the dams were built, and the flow reduced to zero for weeks on end, that these otters and fish have vanished.

5. Page 27 : 11 : *"How did/does the development impact on people's health and wellbeing(e.g. in terms of noise, odours, visual character and sense of place, etc.)?"* We do not agree with the consultant stating that there is no impact : there most certainly is. The sense of place has been completely transformed :

- (a) the stream that used to flow continuously, now only flows occasionally,
- (b) the water that used to be clear is now clay coloured,
- (c) the otters and fish have vanished downstream,
- (d) residents who used to water their gardens from the stream can no longer do so as the stream is often dry.

6. Page 28 : 13 : *"Increased employment opportunities"*, see our comments in 3 above.

7. Page 30 : (c) Design or layout alternatives, (d) Technology alternatives & (g) Any other alternatives . We propose that all the dams should have release valves in their walls that release a certain quantity of water daily to keep the stream flowing continuously.

8. page 36 : Visual impacts / Sense of Place : the consultant states : *"The sense of place will not be impacted on."* We do not agree with this statement :

- (a) the stream that used to flow continuously, now only flows occasionally,
- (b) the water that used to be clear is now clay coloured,
- (c) the otters and fish have vanished downstream,
- (d) residents who used to water their gardens from the stream can no longer do so as the stream is often dry.

As mentioned above, as per GIS imagery obtained from Google Earth, it is clear to see that the dams on portion 17 and 19 of the farm Avontuur 166 have been in existence in the last 17 years. Therefore, it is unlikely that the reduction in stream flow is isolated to the applicant's recent activities.

Answered above.

Answered above.

Agreed. This has been included as a recommendation in the EIR.

As mentioned above, as per GIS imagery obtained from Google Earth, it is clear to see that the dams on portion 17 and 19 of the farm Avontuur 166 have been in existence in the last 17 years. Therefore, it is unlikely that the reduction in stream flow is isolated to the applicant's recent activities.

9. Page 39 : Visual impacts / Sense of Place : the consultant states : “The sense of place will not be impacted on”. We do not agree with this statement :

- (a) the stream that used to flow continuously, now only flows occasionally,
- (b) the water that used to be clear is now clay coloured,
- (c) the otters and fish have vanished downstream,
- (d) residents who used to water their gardens from the stream can no longer do so as the stream is often dry.

In conclusion, what we would like to see is the following :

1. Restore all the vegetation that was removed with endemic vegetation with a setback of not less than **60 metres**, or where the vegetation **used to be** before it was cleared, **whichever is the greater**.
2. Remove the dams that were illegally constructed without permission.
3. All the dams should have release mechanisms which should be opened on a daily basis to ensure that the water can flow continuously downstream. This will contribute to restoring the “sense of place” to what it used to be, and allow the otters and fish to return to the stream.
4. Put measures in place to ensure that in future the water flowing into the Langveispruit is not polluted (refer to BGCMA water analysis reports).

Answered above.

Thank you for your comments. These points have been addressed above.

PUBLIC

Fabian von Hase – (12/05/2019)

Dear Janet,

A distant neighbour in Rondevlei informed me of the open comment periods for the illegal earthworks that have happened on portions 17 and 19 of farm Avontuur.

I am living on portion 19 and 21 of farm new Melsetter 179, directly downstream from the above mentioned farm. Our western border lies on the affected stream. I am the beneficiary of a trust which owns the land I am living on.

I was appalled to see the earthworks being done on Avontuur, quite

Thank you for your comments. The Environmental Impact Report and

incredulous that something like that is legal. I'm happy to hear that it wasn't. In my opinion the earthworks were done in a way that massively increases erosion risk, totally destroys the riparian zone and therefore negatively affects the health of the river.

The river is in a sorry state once it reaches our land. It only trickles, is polluted and full of sediment and does not look like a healthy riverine system any longer. I deeply care about nature and the resilience of our local ecology, not only for emotional upliftment but also as a token of respect to all other lifeforms and as the foundation for human existence. The degradation of the river really pains me. Furthermore we were planning to establish a small tourism facility on our farm. The river used to be a selling point for us, but no more. Not to mention the loss of biodiversity.

To reshape the land with such blatant disregard for basic erosion control (the river was also channeled in a way that I believe will lead to huge soil loss) is simply unbelievable to me.

I would appreciate it if you kept me in the loop about all developments regarding this case. How it is that we were not notified in the first case is beyond me.

The least that could be done in my opinion is to restore a riparian buffer zone of at least 30 metres to each side with indigenous vegetation and shaped to minimise erosion risk. Also, to install a mechanism on the new dam that will allow constant flow of the river with a volume that will guarantee optimal functioning of the riverine ecosystem. This system should be able to allow surges to come through when heavy rains are received. In an ideal world, I would like to see the complete removal of the dam.

Thank you for the opportunity to comment.

Best regards,

Fabian von Hase

ECO ROUTE WEBSITE SUBMISSION (23/05/2019) –

Project: RECTIFICATION OF UNLAWFUL COMMENCEMENT OF CLEARANCE OF INDIGENOUS VEGETATION AND THE REPAIR OF A DAM WALL ON PORTIONS 17 AND 19 OF FARM AVONTUUR 166, HOEKWIL, GEORGE, WESTERN CAPE [1]

Title: Mr

recommendations from specialists' have addressed the points that you have made.

Please note that you were identified as an I&AP and a letter notifying you of the public participation details was posted to you.

Thank you for your comments. The Environmental Impact Report,

Name & Surname: Fabian von Hase
 Email: vhasefabian@gmail.com
 Cell no: 833,590,126
 Address: Po Box 4633, George, 6539, South Africa

Key issues: Degradation of water quality of river flowing into Ramsar site and past our farm. Loss of health and beauty of river system that was planned to be used commercially for a small tourism operation on our farm. Pollution of the environment, loss of critical indigenous habitat. Ignoring of environmental and other laws as well as the well-being of downstream stakeholders. Loss of emotional and psychological upliftment through pristine/intact environment. Reason / motivation for participating: We border this stream, and care deeply about a functioning ecology, as well as the reasons mentioned above.

Potential alternatives: The least that could be done in my opinion is to restore a riparian buffer zone of at least 30 metres to each side with indigenous vegetation and shaped to minimise erosion risk. Also, to install a mechanism on the new dam that will allow constant flow of the river with a volume that will guarantee optimal functioning of the riverine ecosystem. This system should be able to allow surges to come through when heavy rains are received. In an ideal world, I would like to see the complete removal of the dam and reinstating a more undulating river shape (where it has been narrowed and effectively channeled).

recommendations from specialists', and rehabilitation and maintenance management plans have addressed the points that you have made.

Herman Potgieter – (14/05/2019)

To whom it may concern

As neighbours of Idlewild farm(Hoogekraal and Skuinskraal Trust) we do not have any objections towards the clearance of invasive trees like blackwattle trees. They do absorb a lot of water and create a fire hazard.

Further more we do not have any objections in keeping the damwall up to standard as the breaking thereof will result in severe damage to our property.

Hope this email finds your well.

Kind regards

Johan and Herman Potgieter

Noted. Thank you for your comments.