

SCHEDULE 5

☎ VZZ. Maqutu
☎ 041 508 5832
☎ 071 882 3925
☎ Vuvo.Maqutu@dedea.gov.za
Ref: SBROB#2025-02-04



Mr. L.J. Wilken
P.O. Box 252
Cookhouse
5850

Attention : Mr. L.J. Wilken

DELIVERY: BY EMAIL – wilgrowpty@gmail.com

Dear Mr. L.J. Wilken,

NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT (ACT 107 OF 1998) AS AMENDED IN RESPECT OF THE COMMENCEMENT OF LISTED ACTIVITIES WITHOUT AN ENVIRONMENTAL AUTHORISATION ON FAIRVIEW FARM NO 454, BLUE CRANE ROUTE MUNICIPALITY.

1. DECISION

- 1.1. I, Vuvo Maqutu, in my capacity as an Environmental Management Inspector (EMI) having considered the matter am of the view that you have failed to adhere to the provisions of the law in respect of activities conducted by yourself on Fairview farm No 454.
- 1.2. Accordingly, I hereby give you a written notice of my intention to have you Mr. Louis Jacobus Wilken in your capacity as a director of Nastoworx (Pty) Ltd, issued with a compliance notice in terms of section 31L of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended (NEMA), further read with regulation 8 of the Regulations Relating to Qualification Criteria, Training and Identification of, and Forms to be used by Environmental Management Inspectors (Government Notice R.480 in Government Gazette 40879 of the 31 May 2017).

2. INTRODUCTION

- 2.1. I refer to the following:
 - 2.1.1. The commencement of listed activities without an environmental authorization was determined by this Department's officials during an investigation undertaken on the 19th February 2025.
 - 2.1.2. The following observations were made during the site investigation:

HEAD OFFICE T: 043 605 7004/7007 | Block 16, Business Village, Bisho 5605 | Private Bag X0054, Bisho, 5605, REPUBLIC OF SOUTH AFRICA

Facebook: ECOEDEAT Instagram: DEDEA_EC Twitter: eastern-cape-dedeat www.dedea.gov.za

- 2.1.2.1. In excess of 20 hectares of vegetation was cleared in order to establish citrus orchards.
- 2.1.2.2. The clearing of vegetation also impacted on watercourses running through the farm.
- 2.1.2.3. Your actions are in direct contravention with the provisions of Section 24F read with Section 1, section 24D, section 49A and Section 49B of the NEMA, read with Government Notice R.984¹, also read with PAJA Act 3 of 2000 and further read with section 250 of the Criminal Procedure Act, 1977 (Act 51 of 1977) as amended. Detailed laws contravened are referred to in table 1.

3. DETAILS OF NON-COMPLIANCE

TABLE 1: NON-COMPLIANCE WITH PROVISIONS CONTAINED IN SECTION 24F OF NEMA (ACT 107 OF 1998).

Act / Regulation name	Section / Regulation number	Legal Provision (i.e. wording of section)	Finding
NEMA 107 of 1998	Section 24F (1)	No person may commence with a listed activity without obtaining a prior Environmental Authorisation from the competent authority.	You failed to obtain environmental authorisation from DEDEAT as a competent authority prior to the commencement of a listed activity.
EIA Regulations (2014) as amended	GN R. 983: Listing Notice 1 Activity 19	The infilling or depositing of any material of more than 10 cubic meters into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic meters from- (a) watercourse.	On the 19 th February 2025, it was confirmed that you excavated more than 10 cubic meters of soil from a wetland (Refer to Annexure A).
EIA Regulations (2014) as amended	GN R. 984: Listing Notice 2 Activity 15	The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—(i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.	On the 19 th February 2025, it was confirmed that you cleared more than 20 hectares of indigenous vegetation (Refer to Annexure A).

¹ Government Notice R.984 in Government Gazette No. 38282 of 4 December 2014 was amended by GNR 327 in Government Gazette 40772 of 7 April 2017 and GNR 706 in Government Gazette 41766 of 13 July 2018.

4. INTENDED INSTRUCTIONS

- 4.1. In terms of regulation 8 of the Regulations I hereby afford you an opportunity to make representation in writing to EMI Le Roux, at the Department of Economic Development, Environmental Affairs and Tourism, delivery by email to Adriaan.leroux@dedea.gov.za or by hand to the Corner of Athol Fugard Terrace and Castle Hill, 6001 (office telephone 041 508 5857, Cell Phone 066 4850497) within twenty-one (21) working days of receipt of this notice, if you believe there are any compelling reasons for not having you issued with a section 31L compliance notice in terms of NEMA that will instruct you to *inter alia*:
- 4.1.1. Immediately stop and desist from further undertaking the activities that informed the issuing of this notice.
- 4.1.2. Within twenty (21) working days, submit terms of reference that provide for the appointment of a suitably qualified person to compile a rehabilitation plan whereby the site that was impacted on as a result of the clearing and excavation activities is rehabilitated.
- 4.2. The terms of reference must provide for:
- 4.2.1. The rehabilitation of the cleared and excavated area to a state indicative of the indigenous vegetation including any endemic species to the area prior to commencement of the clearing activities.
- 4.2.2. The rehabilitation plan must reflect achievable and realistic time frames linked to varied stages of the rehabilitation plan.
- 4.2.3. Within ten (10) working days of receipt of approval of the terms of reference at your own cost, you must appoint a suitable qualified person to develop the rehabilitation plan.
- 4.2.4. Within thirty (21) working days for the terms of reference, you must submit to the EMI Le Roux, the rehabilitation plan for the department's approval.
- 4.2.5. Within ten (10) working days of receipt of approval of the rehabilitation plan, at your own cost, implement the provisions of the rehabilitation plan adhering to the specified time frames contained therein.
- 4.3. On completion of the implementation of the rehabilitation plan, EMI Le Roux must be notified in writing after which a site meeting will be held, and the rehabilitation inspected for effectiveness.

5. PROCEDURAL ARRANGEMENTS

- 5.1. You may however voluntarily submit a section 24G application in terms of the NEMA for the post facto authorisation of the said unlawful commencement of the listed activities. Please note that your application will not summarily guarantee that after the payment of an administrative fine, you will be granted an environmental authorisation. The outcome of the section 24G application is that, similarly to any EIA application, an environmental authorisation may be granted or refused. If you intend to submit a section 24G application in terms of the NEMA you must indicate your intention in writing within twenty-one (21) working days of receipt of this letter, failing which the contemplated compliance

notice will be issued to you, the provisions of which you will have to comply with. If you intend to submit a section 24G application, please direct your communication to EMI Le Roux.

6. FAILURE TO COMPLY

- 6.1. The section 31L compliance notice that I intend to have you issued with has offences and penalties that are applicable to non-compliance in terms of section 49A of the NEMA. Upon conviction for:
- 6.1.1. Non-compliance with section 31L compliance notice, a person is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment, and
- 6.1.2. Commencement of a listed activity without an environmental authorization, a person is liable to a fine not exceeding R10 million or to imprisonment not exceeding 10 years, and in both instances to both such fine and imprisonment.
- 6.1.3. I must make it clear that the instructions contained in this notice are made in the interest of responsible environmental management and with a view to a cooperative resolution of the issue. Furthermore, please note that this notice of intention to have you issued with a NEMA section 31L compliance notice does not negate your obligations to comply with section 28(4) of the NEMA or any other overlapping or concurrent environmental legislation.

7. CONCLUSION

- 7.1. If you are unclear about any aspect of this notice of intention, kindly contact EMI Le Roux at 066 4850 497 / Adriaan.leroux@dedea.gov.za for enquiries as soon as possible.

Signed on this 5th day of February 2025, at Gqeberha



Vuyo Maqutu

Environmental Management Inspector

Control Environmental Officer: Compliance and Enforcement

Department of Economic Development and Environmental Affairs and Tourism.

Acknowledgement of receipt: NOTICE OF INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT (ACT 107 OF 1998) AS AMENDED IN RESPECT OF THE COMMENCEMENT OF LISTED ACTIVITIES WITHOUT AN ENVIRONMENTAL AUTHORISATION ON FAIRVIEW FARM NO 454, BLUE CRANE ROUTE MUNICIPALITY.

Received by Mr /Ms _____

On behalf of the company _____

on this _____ day of _____ 2025, _____

Signature: _____

ANNEXURE A: Google Earth Images and pictures

Image 1: Google earth image depicting the area in 2018 before clearing commenced.

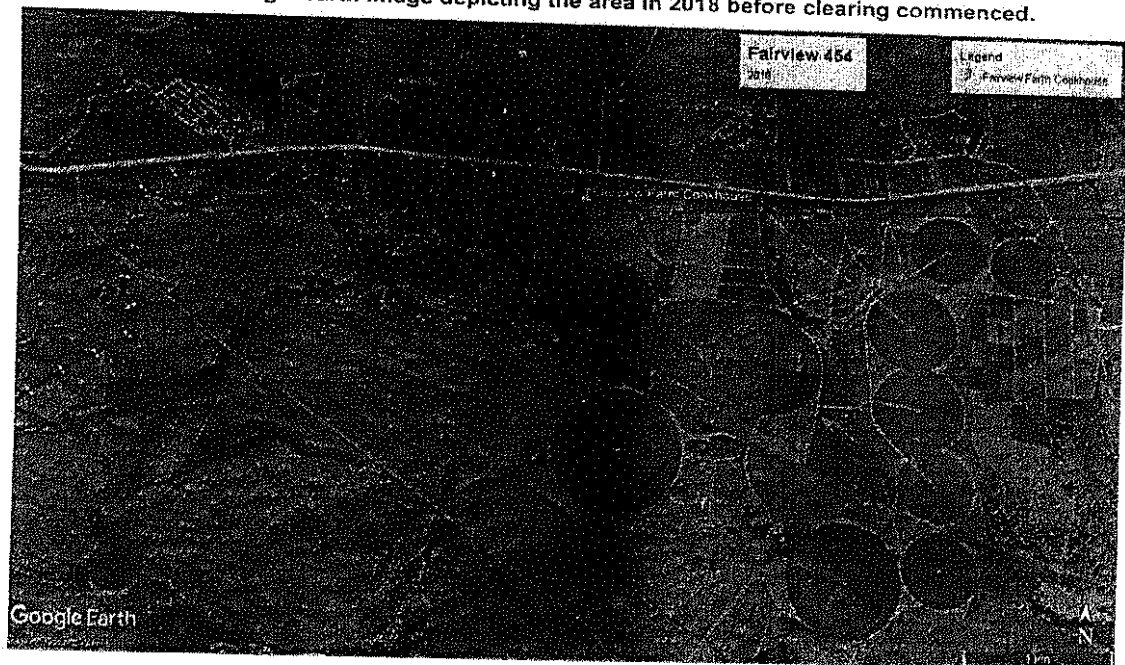


Image 2: 2023 Google earth image depicting the clearing activities.



Picture 1: Soil drainage trench

