

NOTICE 168 OF 2009**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM****NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)****LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D**

I, Marthinus Christoffel Johannes van Schalkwyk, Minister of Environmental Affairs and Tourism, hereby, under section 47(1), publish for public comment, the draft Listing Notice 3 of the activities and competent authorities identified in terms of sections 24(2) and 24D of the National Environmental Management Act, 1998, in the Schedule.

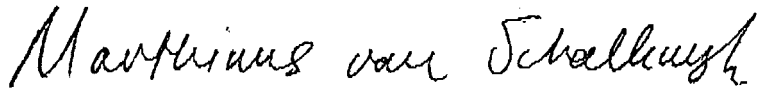
Any person who wishes to submit written representations or comments in connection with the draft regulations are invited to do so within 30 days of the date of this notice. All written representations and comments must be submitted in writing to the Director-General of the Department of Environmental Affairs and Tourism:

By post to: The Director-General: Environmental Affairs and Tourism
 Attention: Mrs. Amanda Britz
 Private Bag X447
 Pretoria, 0001

Delivered to: The Department of Environmental Affairs and Tourism
Attention: Mrs. Amanda Britz
Fedsure Building
South Tower Room
315 Pretorius Street
PRETORIA

By fax to: (012) 3103688, and by e-mail to abritz@deat.gov.za

Comments received after the closing date may not be considered.



MARTHINUS VAN SCHALKWYK
MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM

SCHEDULE

PURPOSE

1. The purpose of this Notice is to identify activities and competent authorities in terms of sections 24(2) and 24D of the National Environmental Management Act, 1998 that would require environmental authorisation in specific identified geographical areas only.

DEFINITIONS

2. In this Notice, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates—

“associated structures or infrastructure” means any building or infrastructure that is necessary for the functioning of a facility or activity or that is used for an ancillary service or use from the facility;

“construction” means the building, erection or establishment of a facility, structure or infrastructure that is necessary for the undertaking of a listed or specified activity, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure and excludes the reconstruction of the same facility in the same location, with the same capacity and footprint;

“development footprint”, in respect of land, means any evidence of physical transformation as a result of the undertaking of any activity;

“development setback” means a setback line as defined or adopted by the competent authority and where none has been defined or adopted it will be assumed that no setback line applies;

“expansion” means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the scale of the activity is increased;

“Environmental Impact Assessment Regulations” means the regulations made under section 24(5) of the Act;

“Gauteng Conservation Plan” means the Gauteng Conservation Plan (C-Plan) which can be obtained from the Gauteng Department of Agriculture, Conservation and Environment;

“Gauteng Agricultural Potential Atlas” means the Gauteng Agricultural Potential Atlas, 2006 (GAPA 3), which can be obtained from the Gauteng

Department of Agriculture, Conservation and Environment;

“industrial area” means an area used for bulk storage, manufacturing, processing or packaging purposes;

“littoral active zone” means any land forming part of, or is adjacent to, the seashore and that is—

- (a) unstable and dynamic as a result of natural processes; and
- (b) characterised by dunes, beaches, sand bars and other landforms composed of unconsolidated sand, pebbles or other such material which is either unvegetated or only partially vegetated;

“Mpumalanga Biodiversity Conservation Plan” means the Mpumalanga Biodiversity Conservation Plan (MBCP) which can be obtainable from Mpumalanga Tourism & Parks Agency in Nelspruit, or be downloaded from the South African National Biodiversity Institute’s BGIS website (<http://bgis.sanbi.org/>);

“the Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“urban areas” means areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas.

3. (1) The activities listed in Appendix 1 are identified in terms of section 24(2)(b) of the Act as activities that may not commence without an environmental authorisation from the competent authority.

- (2) The investigation, assessment and communication of potential impact of activities must follow the procedure as prescribed in the Environmental Impact Assessment Regulations published in terms of section 24(5) of the Act.

APPENDIX 1

Activity number	Activity description	Geographical areas based on environmental attributes	Identification of competent authority
1	The construction of billboards exceeding 18 square metres in size outside urban, mining or industrial areas.	<p>In the Eastern Cape:</p> <p>(a) The coastal zone of the province, within 1000 meters inland of the high-water mark of the sea, but excluding urban areas within urban edges as determined in the approved Spatial Development Frameworks of coastal municipalities;</p> <p>(b) The Greater Baviaanskloof Mega-Conservancy Area, the Pondoland Centre of Endemism and the Maluti Drakenberg Transfrontier Project Area, as indicated on maps that are obtainable from any office of the Eastern Cape Department of Economic Development and Environmental Affairs;</p> <p>(c) Any Conservancies and Private Nature Reserves which may be declared in terms of Eastern Cape Environmental legislation; and</p> <p>(d) All indigenous State Forests.</p> <p>In the Free State:</p> <p>(a) Areas outside urban areas;</p> <p>(b) Areas zoned for use as public open space in terms of the relevant applicable Town planning or Zoning Scheme; and</p>	<p>The competent authority in respect of the activities listed in this part of the schedule is the environmental authority in the province in which the activity is to be undertaken unless:</p> <p>(a) it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1)(d) of the Act, as amended; or</p> <p>(b) the activity is to be conducted in or on a mining area or is to transform the area where the activity is to be conducted into a mining area, in which case the competent authority will be the Minister of Minerals &</p>

		<p>(c) Areas zoned for a conservation purpose within urban areas.</p>	Energy.
		<p>In Gauteng:</p> <p>(a) All sites identified by the applicable Gauteng Conservation Plan as irreplaceable or important;</p> <p>(b) Any protected area including Municipal or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003); and</p> <p>(c) Any areas zoned for conservation purposes or for use as public open space in terms of the relevant applicable Town Planning or Zoning Scheme.</p>	
		<p>In Mpumalanga:</p> <p>(a) All sites identified by the applicable Mpumalanga Biodiversity Conservation Plan's terrestrial assessment as Irreplaceable, Highly Significant or Important & Necessary;</p> <p>(b) Any protected area which may be declared in terms of Mpumalanga's Stewardship Programme or Protected Area Expansion Strategy, or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);</p> <p>(c) Areas outside urban areas;</p>	

		<p>(d) Areas zoned for use as public open space within urban areas; and</p> <p>(e) Areas zoned for a conservation purpose within urban areas.</p>	
		<p>In Northern Cape:</p> <p>(a) Areas zoned for use as public open space in terms of the relevant applicable Town planning or Zoning Scheme; and</p> <p>(b) Areas zoned for a conservation purpose within urban areas.</p>	
		<p>In North West province:</p> <p>(a) A protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).</p>	
		<p>In Western Cape:</p> <p>(a) Areas outside urban areas;</p> <p>(b) Areas zoned for use as public open space within urban areas; and</p> <p>(c) Areas designated for conservation use in approved Spatial Development Frameworks, or zoned for a conservation purpose, within urban areas.</p>	

2

The construction of reservoirs for bulk water supply with a capacity of more than 250 cubic metres.

In Eastern Cape:

- (a) The coastal zone of the province, within 1000 meters inland of the high-water mark of the sea, but excluding urban areas within urban edges as determined in the approved Spatial Development Frameworks of coastal municipalities;
- (b) The Greater Baviaanskloof Mega-Conservancy Area, the Pondoiland Centre of Endemism and the Maluti Drakenberg Transfrontier Project Area, as indicated on maps that are obtainable from any office of the Eastern Cape Department of Economic Development and Environmental Affairs;
- (c) Any Conservancies and Private Nature Reserves which may be declared in terms of Eastern Cape Environmental legislation; and
- (d) All indigenous State Forests.

In Free State:

- (a) Areas outside urban areas;
- (b) Areas zoned for use as public open space in terms of the relevant applicable Town planning or Zoning Scheme; and
- (c) Areas zoned for a conservation purpose within urban areas.

In Gauteng:

- (a) All sites identified by the applicable Gauteng Conservation Plan as irreplaceable or important;

		<p>(b) Any protected area including Municipal or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003); and</p> <p>(c) Any areas zoned for conservation purposes or for use as public open space in terms of the relevant applicable Town Planning or Zoning Scheme.</p>	
		<p>In Mpumalanga:</p> <p>(a) All sites identified by the applicable Mpumalanga Biodiversity Conservation Plan's terrestrial assessment as Irreplaceable, Highly Significant or Important & Necessary;</p> <p>(b) Any level of protected area which may be declared in terms of Mpumalanga's Stewardship Programme or Protected Area Expansion Strategy, or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);</p> <p>(c) areas outside urban areas;</p> <p>(d) areas zoned for use as public open space within urban areas; and</p> <p>(e) areas zoned for a conservation purpose within urban areas.</p>	

		<p>In Northern Cape:</p> <ul style="list-style-type: none"> (a) Areas outside urban areas; (b) Areas zoned for use as public open space in terms of the relevant applicable Town planning or Zoning Scheme; and (c) Areas zoned for a conservation purpose within urban areas. 	
		<p>In Western Cape:</p> <ul style="list-style-type: none"> (a) Areas outside urban areas; (b) Areas zoned for use as public open space within urban areas; and (c) Areas designated for conservation use in approved Spatial Development Frameworks, or zoned for a conservation purpose, within urban areas. 	

3	<p>The construction of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast:</p> <ul style="list-style-type: none"> (a) is to be placed on a site not previously used for this purpose, and (b) will exceed 15 metres in height, (c) but excluding: (d) attachments to existing buildings; (e) masts on rooftops; or (f) masts that fall inside industrial areas. 	<p>In Eastern Cape:</p> <ul style="list-style-type: none"> (a) The coastal zone of the Province, within 1000 meters inland of the High-water Mark of the sea, but excluding urban areas within urban edges as determined in the approved Spatial Development Frameworks of coastal municipalities; (b) The Greater Baviaanskloof Mega-Conservancy Area, the Pondoland Centre of Endemism and the Maluti Drakenberg Transfrontier Project Area, as indicated on maps that are obtainable from any office of the Eastern Cape Department of Economic Development and Environmental Affairs; (c) Any Conservancies and Private Nature Reserves which may be declared in terms of Eastern Cape Environmental legislation; and (d) All indigenous State Forests. 	
		<p>In Free State:</p> <ul style="list-style-type: none"> (a) Areas outside urban areas; (b) Areas zoned for use as public open space in terms of the relevant applicable Town planning or Zoning Scheme; and (c) Areas zoned for a conservation purpose within urban areas. 	

		<p>In Gauteng:</p> <ul style="list-style-type: none">(a) All sites identified by the applicable Gauteng Conservation Plan as irreplaceable or important;(b) Any protected area including Municipal or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003); and(c) Any areas zoned for conservation purposes or for use as public open space in terms of the relevant applicable Town Planning or Zoning Scheme.	
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		<p>In Mpumalanga:</p> <ul style="list-style-type: none"> (a) All sites identified by the applicable Mpumalanga Biodiversity Conservation Plan's terrestrial assessment as Irreplaceable, Highly Significant or Important & Necessary; (b) Any level of protected area which may be declared in terms of Mpumalanga's Stewardship Programme or Protected Area Expansion Strategy, or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003); (c) Areas outside urban areas; (d) Areas zoned for use as public open space within urban areas; and (e) Areas zoned for a conservation purpose within urban areas. 	
		<p>In North West Province:</p> <ul style="list-style-type: none"> (a) A protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003). 	

		<p>In Western Cape:</p> <ul style="list-style-type: none">(a) Areas outside urban areas;(b) Areas zoned for use as public open space within urban areas;(c) Areas designated for conservation use in approved Spatial Development Frameworks, or zoned for a conservation purpose, within urban areas. and(d) Areas within urban areas within 100 metres of:<ul style="list-style-type: none">(i) Areas zoned for use as public open space,(ii) Kindergartens,(iii) Schools and(iv) Hospitals.
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4	The construction of a road wider than 4 metres with a reserve less than 13,5 metres.	<p>In Eastern Cape:</p> <p>(a) The coastal zone of the Province, within 1000 meters inland of the High-water Mark of the sea, but excluding urban areas within urban edges as determined in the approved Spatial Development Frameworks of coastal municipalities;</p> <p>(b) The Greater Baviaanskloof Mega-Conservancy Area, the Pondoland Centre of Endemism and the Maluti Drakenberg Transfrontier Project Area, as indicated on maps that are obtainable from any office of the Eastern Cape Department of Economic Development and Environmental Affairs;</p> <p>(c) Any Conservancies and Private Nature Reserves which may be declared in terms of Eastern Cape Environmental legislation; and</p> <p>(d) All indigenous State Forests.</p> <p>In Free State:</p> <p>(a) Areas outside urban areas;</p> <p>(b) Areas zoned for use as public open space in terms of the relevant applicable Town planning or Zoning Scheme; and</p> <p>(c) Areas zoned for a conservation purpose within urban areas.</p>
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		<p>In Gauteng:</p> <ul style="list-style-type: none"> (a) Any site identified as land with high agricultural potential located within the agricultural Hubs or Important Agricultural Sites identified in terms of the Gauteng Agricultural Potential Atlas, 2006 (GAPA 3); (b) All sites identified as irreplaceable or important in terms of the applicable Gauteng Conservation Plan; (c) Any protected area including Municipal or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003); and (d) Any areas zoned for conservation purposes or for use as public open space in terms of the relevant applicable Town Planning or Zoning Scheme. 	
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5	The construction of resorts, lodges, hotels or other tourism and hospitality facilities of any size regardless of the location of such protected area, but excluding conversion of existing structures to resorts, lodges, hotels or other tourism and hospitality facilities that sleeps less than 30 people.	(a) A protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).
6	The construction of aircraft landing strips and runways shorter than 1,4km.	(a) A protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).

		<p>In Western Cape:</p> <p>(a) Areas outside urban areas;</p> <p>(b) Areas zoned for use as public open space within urban areas; and</p> <p>(c) Areas designated for conservation use in approved Spatial Development Frameworks, or zoned for a conservation purpose, within urban areas.</p>
7	The expansion of a resort where the development footprint will be expanded.	(a) A protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).
8	The expansion of a road where the original reserve was wider than 13.5 meters and such expansion extends the reserve by more than 6 meters, excluding where such expansion takes place in a mining area.	<p>In Eastern Cape:</p> <p>(a) the coastal zone of the Province, within 1000 meters inland of the High-water Mark of the sea, but excluding urban areas within urban edges as determined in the approved Spatial Development Frameworks of coastal municipalities;</p> <p>(b) the Greater Baviaanskloof Mega-Conservancy Area, the Pondoland Centre of Endemism and the Maluti Drakenberg Transfrontier Project Area, as indicated on maps that are obtainable from any office of the Eastern Cape Department of Economic Development and Environmental Affairs;</p> <p>(c) any Conservancies and Private Nature Reserves which may be declared in terms of Eastern Cape Environmental legislation; and</p> <p>(d) all indigenous State Forests.</p>

		<p>In Free State:</p> <ul style="list-style-type: none"> (a) areas outside urban areas; (b) areas zoned for use as public open space in terms of the relevant applicable Town planning or Zoning Scheme; and (c) areas zoned for a conservation purpose within urban areas. <p>In Gauteng:</p> <ul style="list-style-type: none"> (a) Any site identified as land with high agricultural potential located within the agricultural Hubs or Important Agricultural Sites identified in terms of the Gauteng Agricultural Potential Atlas, 2006 (GAPA 3); (b) All sites identified as irreplaceable or important in terms of the applicable Gauteng Conservation Plan; (c) Any protected area including Municipal or Provincial Nature Reserves as contemplated by the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Nature Conservation Ordinance (Ordinance 12 of 1983) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003); and (d) Any areas zoned for conservation purposes or for use as public open space in terms of the relevant applicable Town Planning or Zoning Scheme. 	
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