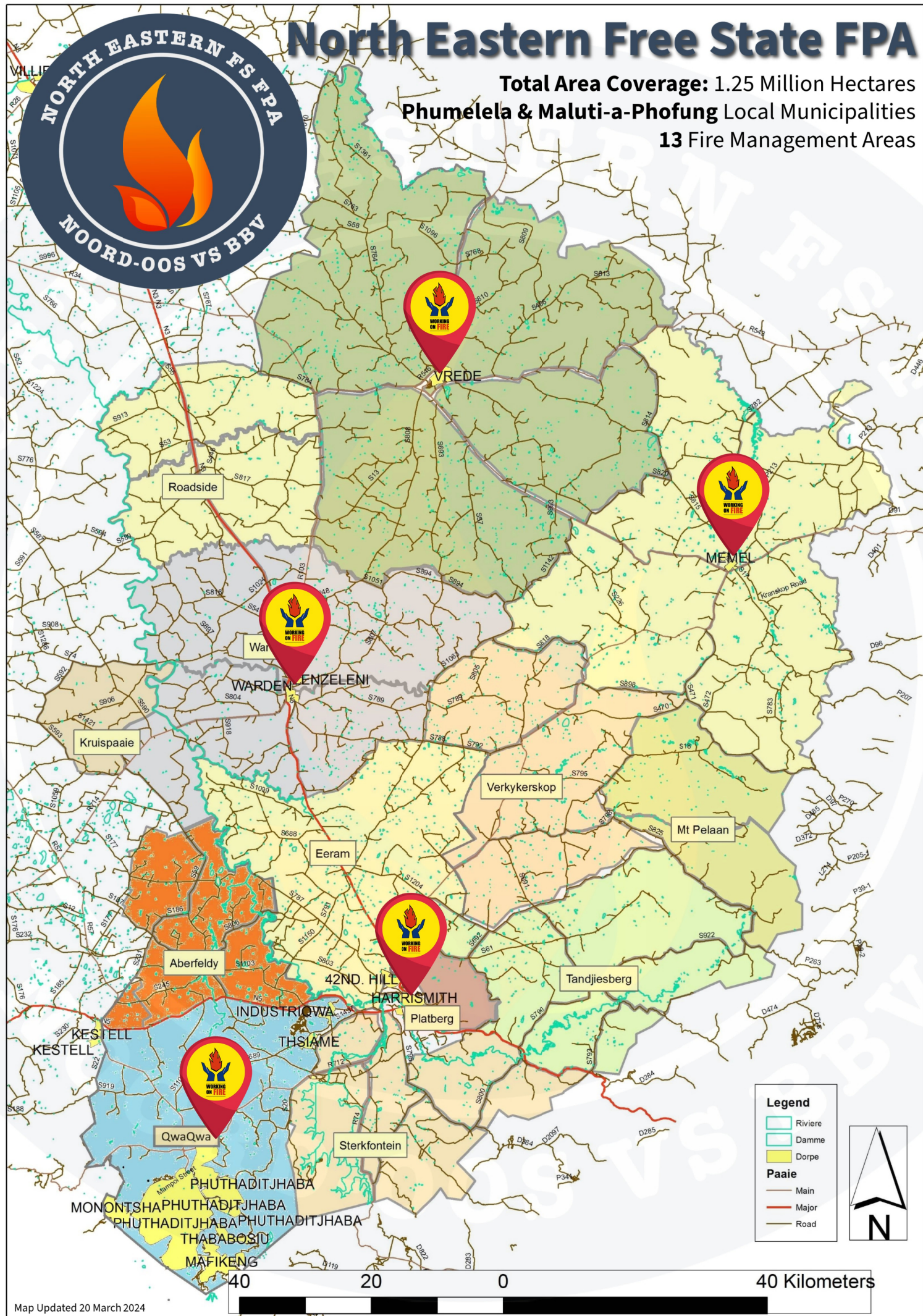


North Eastern Free State FPA

Total Area Coverage: 1.25 Million Hectares

Phumelela & Maluti-a-Phofung Local Municipalities

13 Fire Management Areas



❶ Advantages of FPA Membership

Membership of an FPA brings several advantages, directly to the member as well as through the capabilities of the FPA itself. These include:

- No presumption of negligence in civil claims for damage where a fire from the member's land causes damage or loss to another person. (*section 34(1)(b) of the Act*).

Presumption of negligence

34. (1) If a person who brings civil proceedings proves that he or she suffered loss from a veldfire which—

(a) the defendant caused; or

(b) started on or spread from land owned by the defendant,

the defendant is presumed to have been negligent in relation to the veldfire until the contrary is proved, unless the defendant is a member of a fire protection association in the area where the fire occurred.

(2) The presumption in subsection (1) does not exempt the plaintiff from the onus of proving that any act or omission by the defendant was wrongful.

- The benefits of co-operation in preventing and combating veldfires through the institution of the FPA, within the framework of an agreed veldfire management strategy.
- The cost saving that comes from avoiding duplication with for example disaster management plans and agricultural conservation programmes.

- The protection that comes from the enforceable rules of the FPA.
- The fact that FPA rules are enforceable in the FPA area protects members from the actions of non-members.
- Advice and assistance to members in meeting the statutory requirements for readiness for fire fighting, including skills development.
- The registered fire protection officer (FPO) of an FPA receives powers to enforce the Act and FPA rules.
- Improved communication among members, for example, of fire hazard conditions. FDI. This is done through e-mail and SMS messages.
- Improved communication between members and the Minister and other role-players.
- Free access to research commissioned by the Minister on the prevention and combating of veldfires and on the use of controlled fire in sustainable forest management.
- Possible relief from certain prevention measures, for example, the duty to create and maintain firebreaks, depending on the contents of the FPA's veldfire management strategy.
- The overall benefits of progressive building of capacity within the FPA and thus among its members, with overall reduction in the risks of veldfires.
- The possibility of assistance from the Minister.
- Possible decreased insurance premiums because the risk of veldfire is less. Most insurers will not pay out if not a member of an FPA.
- Improved powers of negotiation by virtue of being a member of a group of owners.
- Co-operation among rural owners and managers of land is required for the effective management of veldfires. The Act provides a framework for a consistent way for owners to organise and collaborate in veldfire management.
- Rural landowners need to have a collective self-sufficiency to manage veldfires because it is too costly for government to provide these services.
- Improved communication between FPA members.
- Stronger negotiation powers by virtue of being part of an organised group.
- Localized weather data and Fire Danger Index (FDI) notifications and predictions.
- Control room to monitor and assist with dispatch of resources to veldfires.



NORTH EASTERN FS FPA



RULES OF THE FPA

The Burning of Fire Belts (Fire breaks)

Compatible with the general wind direction and historic experience with the creation of successful firebreaks that are accessible and divide the area into controllable blocks, the minimum requirement is that next to road edges on all north-south primary and secondary routes firebreaks must be made at least 10 meters (ten) wide. Paragraph 7.7 is **mutatis mutandis applicable in regard to informing neighbours, Control room by giving notice as per whatsapp groups.** (see annexure on FDI in regards to when one can burn or not)

The Local Municipality.

The Local Municipality must provide and maintain firebreaks at least 15 meters (fifteen) wide around the proclaimed town district(s). Special precaution must be taken in regards to the Dumping Ground in regard to the timeous making of firebreaks around the Ground, and also ensure that the Dumping Ground is not ignited on days that are favourable to the creation and spread of veldfires.

National and Provincial Road Authority.

The National and Provincial Road Authorities must themselves or through their agents (contractors) road shoulders:

- Round of road shoulders so that the grass can be cut.
- Restrict the piling up of organic material.
- Assist with the burning of firebreaks on the road shoulders.
- In cases where the volume of traffic requires it, arrange for the management of traffic.
- All rest and picnic places on the road shoulder must be kept clear and organic material removed.
- Burning of road reserves of identified strategic north south roads.

By means of the application of the Law Ensure road users do not make fires on road shoulders and road users must be made aware of the need to prevent veldfires by appropriate road signs.

Protection of homes and buildings.

Around all homes, barns, storage places for hay and animal feed, stationery engines for the production of electricity and the pumping of water, and labourers' houses there must be firebreaks of 10 (ten) metres width appropriate to fire hazards, or raked or ploughed clean, or grass cut to a maximum length of 50 mm.

Times for preparation.

All firebreaks made by burning or other methods must be preferably completed before the 31 July each year during the mildest fire danger period. When burning firebreaks, the wind direction must be carefully considered, and only in the afternoon after 15:00 hrs, when the wind direction has



NORTH EASTERN FS FPA



stabilised, and only on weekdays from Monday to Friday. Ploughing, ripping or hoeing are not subject to these requirements. (see annexure in regard to when is burning allowed or not in respect of giving notice of intent to burn)

Co-operation among neighbours.

In the case of firebreaks, the farmer (owners and tenants) must consult with the area co-ordinator about the plan of action on the ground, and mutual assistance. A minimum of three, preferably four, fire-pumps and fire-fighting teams must be present during the burning of firebreaks within and alongside road shoulders. Extra pumps and other fire-fighting equipment for other types of firebreaks must be decided commensurate with the risk of wildfires.

During fire-fighting members must react to signs of fire and calls for help. Those that are moving in from outside the fire have the responsibility of fighting the fire at its points (fire line). Owners that are directly affected and are threatened by the advancing fire have the responsibility to secure the safety of people and animals, open gates and indicate water points. After the fire has moved over their property owners must ensure that the fire does not flare up behind the fire-fighters. Teams working in front of the fire should preferably work in groups of 3-4, for safety, and at short spaces on the fire line, for effectiveness.

Burning of grass and harvest remains as part of pasture managements.

This management technique is acknowledged and owners that wish to apply it must proceed as follow:

- A written permit must be acquired from the Dispatch centre and or the Fire Protection Officer (FPO).
- Permits will only be issued if the Fire Danger Index at 14:00 hours on the specific day is below <45 and not exceeding >55 on the following day.
- Should members burn without a permit and the fire burns out of control the burden shall fall 100% on the party that burned.
- Should the fire danger index for the following day be more than >60 a permit will not be issued.
- Grazing camps and harvested lands may only be burned after 16:00.
- Neighbours must be informed of your intention to burn.
- Whenever a controlled burn is undertaken the minimum equipment available must conform to paragraph 7.6, Co-operation between farmers.
- There must be enough personnel available to monitor the fire and initiate follow-up actions.
- The Fire-fighting Officer and/or Co-ordinator for your area must be advised before you start to burn.
- Pastures are burned under the CARA Act and should burning only commence after receiving 25mm of rain across the whole region.



NORTH EASTERN FS FPA



SEASONAL FIRE BAN FOR THE FREE STATE

Notice should be taken of a total fire ban for the Free State as announced by the Free State Umbrella Fire Protection Association for the period 1 August up to 31 October of each year. Burning is subjected to the Rules of the various FPA's, National Veld and Forest Fire Act, Act 101/1998 and the acquiring of a written burning permit.

FIRE PREVENTION AND READINESS ON HIGH FDI DAYS

Should a high fire alert be published in accordance to the Act an automatic fire ban is in place. During this period no open fires are to be made. All staff and equipment should be placed on standby.

REPORTING OF VELDIRES

Immediately report fires to the Dispatch Centre and supply information as per 10 point Sizeup Report.

MINIMUM BRANDBESTRYDINGS TOERUSTING / MINIMUM REQUIRED FIRE FIGHTING EQUIPMENT

Grootte In ha (±) Size Ha	Drup aan steker /hark DRIPTORCH / RAKE	Tange/ Bout knippers PLIERS / BOLT CUTTER	Sleep-tou TOWING ROPE	Rugsak spuite 15l KNAPSACK 15LTR	Brand plakke FIRE BEATERS	Bakkie spuite(of soort-gelyke) 500l BAKKIE FIRE UNIT 500L	Water sleepwa 1000 + l WATER TANKER 1000L +	Selfone CELL	Eerste hulp sak/kis FIRST AID KIT	Twee Rigting Radios TWO WAY RADIO'S
1-200	-	1	1	2	2	-	-	1	-	1
201- 800	1	2	1	1	2	1	-	1	1	1
801- 2000	2	4	1	2	4	2	-	2	1	1
2001 +	2	4	1	2	4	2	1	2	2	2



NORTH EASTERN FS FPA



PERSONEEL / BESKERMDE OORKLERE / TOERUSTING / STAFF / PPE / EQUIPMENT

GROOTTE IN ha (±) SIZE IN Ha	SPANLEIERS CREW LDERS	BRANDSLANERS FIRE FIGHTERS	OORPAK 100% KATOEN COTTON OVERAL	T-HEMP T SHIRT	STEWELS LEER LEATHER BOOTS	HANDSKOENE LEER LEATHER GLOVES	BRANDHELM FIRE HELMET	BALACLAVA
1 – 200	1	2	3	3	3	3	3	3
201 – 800	1	2	3	3	3	3	3	3
801 – 2000	2	4	6	6	6	6	6	6
2001 +	2	6	8	8	8	8	8	8

GENERAL INFORMATION

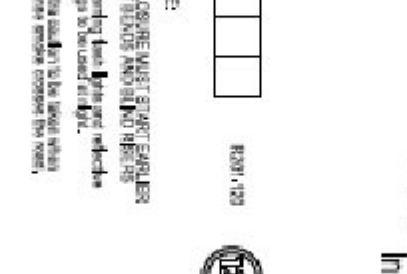
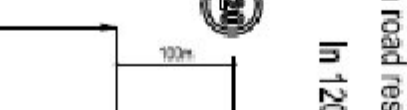

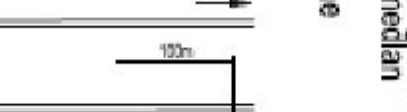
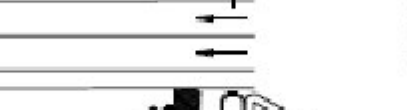

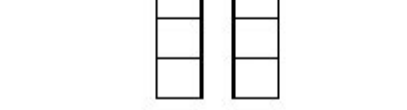
MINIMUM REQUIREMENTS FOR BURNING ALONGSIDE PROVINCIAL ROAD RESERVES

- 2 X road signs Fire Breaks
- 2 x road signs Smoke
- Signs should be placed between 200-500m from actual burning operation on either side of the road
- Signs should be placed at least 50m apart
- Two flag operators with reflective vests and red reflective flags of 1x1m
- Two flag operators not closer than 200m and further than 500m from burning operations on both sides of the road and moving along as the burning operation progresses
- Yellow rotating warning lights on vehicles operating within the road reserve

PLEASE VIEW THE ILLUSTRATIONS ON THE FOLLOWING PAGES FOR ADDITIONAL INFORMATION



NORTH EASTERN FS FPA

RPM Traffic Accommodation check list			
Route Section : N-3 _____		Catchway: _____ Date: _____	
From Km: _____		To Km: _____ Activity: _____	
Traffic accommodation during firebreaks In road reserve & median In 120 km zone			
<p>NOTE:</p> <ol style="list-style-type: none"> 1. CLOSURE MUST START EARLIER AT ROAD AND GROUND MARKS. 2. Working time limits and reduction days to be used at night. 3. Safety barriers to be placed within areas closure covers the work. 			
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Thumb Rule: **20/20/20**

Do not Burn if:

- Windspeed more than **20km/h** and
- Temperature more than **20°C** and
- Humidity lower than **20%**

NEFSFPA Season Cycle:



Basic Burn Rules:

1. Do not burn if the FDI is above 55, and if more than 60 for the following day.
2. The FDI Actuals of 2PM must be used for Burning.
3. If FDI for today the FDI is above 55 and Lower than 60 tomorrow, you can burn in the afternoon today after 3pm.
4. Do not Burn on Fridays, Weekends, and Public Holidays.
5. ALWAYS Notify FPA & Neighbour of your intent to burn - before you start.
6. FPA will notify when Burning Permits is a Requirement.

Colour	Value	Fire Danger	Fire Prevention and Preparedness measures Prescribed in the ACT
BLUE	0-20	Low	No precautions necessary
GREEN	21-45	Moderate	Fires, including prescribed burns, are allowed in the open air on condition that all reasonable precautions are taken against the fires spreading
YELLOW	46-60	Dangerous	No fires are allowed in the open air except those that are authorised by the Fire Protection Officer
ORANGE	61-75	Very Dangerous	No fires may be allowed in the open air under any circumstances.
RED	>75	Extremely Dangerous	No fires may be allowed in the open air under any circumstances, and special emergency fire preparedness measures must be put into place

Lowveld FDI Description	Colour	Category	Lowveld FDI Precaution
SAFE	BLUE	0 - 20	Low fire hazard. Controlled burn operations can normally be executed with a reasonable degree of safety
MODERATE	GREEN	21 - 45	Although controlled burning operations can be executed without crating a fire hazard, care must be taken when burning on exposed, dry slopes. Keep constant watch for unexpected wind speed and direction changes
DANGEROUS	YELLOW	46 - 60	Controlled burning not recommended when fire danger index exceeds 45. Aircraft should be called in at early stages of a fire.
VERY DANGEROUS	ORANGE	61 - 75	No controlled burning of any nature should take place. Careful note should be taken of any sign of smoke anywhere, especially on the upwind side of any plantation. Any fire should be attacked with maximum force at hand, including all aircraft at the time.
EXTREMELY DANGEROUS	RED	75<	All personnel and equipment should be removed from the field. Fire teams, labour and equipment are to be placed on full stand-by. At first sign of smoke, every possible measure should be taken in order to bring the fire under control in the shortest possible time. All available aircraft are to be called for without delay.

Prevention is better than Supression – NEFSFPA

NE FS FPA: Veldfire Management Strategy: (To-Do for Landowners)

February: (Prep Season)

1. Identify vulnerabilities and risks in the area.
2. Update your Fire Plan and categorize Fuel Load in the area and the current state of the Firebreaks.
3. Plan a Fuel Load Reduction Strategy, should it be Mowing, Slashing, Burning, etc.
4. Pastures may be Burnt if the Fire Danger Index is favorable..
5. Continue weed and alien control operations.

March: (Prep Season)

1. Start with Fuel Load Reduction.
2. Start making Chemical Firebreaks.
3. Finalize on Firebreak plan and agreement with adjoining Neighbors end Sector Leaders.
4. Update Contact Details of all Landowners and Neighbors.
5. Check and Maintain fire fighting equipment and PPC, PPE.
6. Estimate if your Insurance are in place.
7. Understand your Accountability in terms of the National Veld & Forest Fire Act 101 of 1998.
8. Put in Protocols and Agreements with N3TC, ESKOM, Local Municipalities, Cellphone Companies, etc.

9. Attend to the Annual General Meeting.

April: (Prep Season)

1. Pay FPA Membership Fees.
2. Check and Maintain 2-Way Radios.
3. Start making Mechanical Firebreaks around Workers houses, Houses, Structures etc.
4. Have safe Dumping Sites where fire cannot start from.
5. Does your fire fighting equipment meet the Minimum Requirements of the FPA Rules & Regulations and your Fire Risk?
6. Is your fire fighting equipment in a working condition and Serviced?
7. Familiarize yourself with the rules of the FPA as well as contact details and assistance procedure.
8. Familiarize yourself with the working of the Fire Danger Index and procedure.
9. Train your workers.
10. Make sure that Water resources are in place.
11. Remove loose hay in the field and secure.
12. Secure homes and sheds depending on fire risk.
13. Attend to the Sector Meeting.

May: (Firebreaks Season)

1. Make Sure FPA Membership fees Are paid.
2. FDI will be sent out daily to the FPA WhatsApp Announcement Group.
3. Start with making of Firebreaks.
4. Prioritize where you are going to start firstly.
5. **Rules of the Fire Protection Association are very important.**
6. Burn firstly around workers residence, secure main residence, hay, etc.
7. Make firebreaks around pastures which will be burnt in the **POST Season**.
8. Activate Fire Awareness Campaigns and Scout/Watchout for Fires.
9. Give PPC(Personal Protective Clothing to Personnel)
10. Working on Fire to be put on standby for the next 5 months from 15 May.
11. Working on Fire can be arranged to assist in making Firebreaks and/or strategic firebreaks.
12. Make sure that All members are informed about the WoF Call-out Procedure.
13. Attend to Sector Meeting.

June: (Firebreaks Season)

1. Burn prescribed firebreaks.
2. Check progress on Firebreaks with N3TC, ESKOM, Local Municipalities, etc., and report to FPA.
3. Have regular inspections of equipment.
4. Make sure Water Resources are full.
5. Get the FDI Daily on the FPA WhatsApp Announcement Group or on the Website.
6. Landowners and Institutions must make sure about standby of personnel and equipment and vehicles.
7. Attend to Sector Meeting.

July: (Firebreaks Season)

1. Start to Finalize and Finish Firebreaks.
2. Obtain inspection certificates from ESKOM regarding the condition of power lines, poles and supports.
3. Do daily and weekly inspection of fire equipment and PPC.
4. Check water Resources.
5. Get the FDI Daily on the FPA WhatsApp Announcement Group or on the Website.
6. Compile a service and standby register.
7. Put personnel on standby in week or weekend, depending of the Fire Danger Index.
8. Attend to Sector Meeting.

August, September & October : (Fire Season)

Monthly Actions:

1. **No Firebreaks are allowed to make anymore: No Fires.**
2. Advise all personnel and members on protocols.
3. Get the FDI Daily on the FPA WhatsApp Announcement Group or on the Website.
4. Acquire and distribute standby register.
5. Study weather information.
6. **Should a Veldfire occur:**
 - o Report the Fire Immediately to the FPA Group and over 2-Way Radio.

- First Responder must provide a Size-Up Report, and must be posted to the FPA Group.
- Send a Location pin onto the FPA WhatsApp group.

7. The objectives for Fire Fighting:

- Responder Safety.
- Public Safety.
- Structure and Asset Protection.
- Suppressing the Fire.

8. Post-Fire Actions: When a fire is contained the following needs to be done:

- **Relieve Actions** – Animals that got injured, without fodder. Infrastructure needs repair.
- **Paper Work** – Report to FPA for the Incident Report to be Complete:
 - (1) Loss of Life.
 - (2) Loss of Animals.
 - (3) Loss of Infrastructure.
 - (4) Loss of Vehicles and Equipment.
- **Debriefing** – What happened and where can we improve?
- **Legal Actions** – Report fires to SAP, and having Fire Protection Officer to open dockets where necessary. Land owners may claim for Damages.

9. Attend to Sector Meeting.

November, December, January: (Post Season)

Monthly Actions:

1. Pastures may be Burnt if sufficient rain has fallen, and if the Fire Danger Index is favorable.
2. Start planning for weed and alien control operations.
3. Start weed and alien control operations.



KEBD
KLAGSBRUN EDELSTEIN BOSMAN DU PLESSIS INC.

Attorneys | Notaries | Conveyancers

Our ref: Jean du Plessis
Your ref: Thinus Botha

10 April 2024

.... Forum

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Dear Sirs

RE: AMENDMENTS TO THE NATIONAL VELD AND FOREST FIRE ACT – GOVERNMENT GAZETTE NO 50428 DATED 3 APRIL 2024

1. As per your request the recent amendments to the then National Veld and Forest Fire Act, now National Veldfire Act were considered. Comments were not provided on all the amendments and even on those where comments were provided it needs to be said that the real effect of the amendments will probably play out in legal opinions and in the end in the courts.
2. Accordingly, the comments should be seen as face value comments and based on years of experience working with the Act and having been part of cases where these issues were considered and discussed.
3. Please find below the amendments as provided for in Gazette No 50428 dated 3 April 2024. To assist and for ease of reference the section or definition as it was, is provided, and thereafter the amended version is provided. Please note the underlined portions are those portions of the sections or definitions that were amended.

Klagsbrun Edelstein Bosman Du Plessis Inc.

Directors: Steven Klagsbrun, Alan Edelstein, Jean du Plessis, Patricia Morgan, Malandi Pieterse, Ronie Nyama, Candace Schoeman, Elizna Meyer, Eunice Davey

Senior Associates: Christelle Le Roux Venter, Anke Olivier-Kok

Associates: Erik Terblanche, Mpho Diphagwe, Thinasha Pillay

Consultant: Gordon Leith

Registration number: 2013/211167/21

VAT number: 4370264584

AMENDMENT OF SECTION 1:

4.1 The wording of subsection 1(1) before its substitution as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“1 Purpose

(1) The purpose of this Act is to prevent and combat veld, forest and mountain fires throughout the Republic.”

The wording of subsection 1(1) as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“1 Purpose

1(1) - The purpose of this Act is to prevent and combat veldfires throughout the Republic.”

Comment:

4.2 The definition of veldfire has been amended. The effect of this amendment will be discussed together with the amendment of the amended definition of veldfire.

AMENDMENT OF DEFINITIONS:

5.1 “Fire in the open air” - new definition as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“fire in the open air” means any fire not within a building or structure, but does not include a fire in an area specifically designated for such fire protected against wind and spreading, and maintained by the owner.

5.2 “Municipality” - definition before its substitution as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

'municipality' means a local council, a metropolitan council, a metropolitan local council, a representative council, a rural council or a district council as defined in section 10 of the Local Government Transition Act, 1993 ([Act 209 of 1993](#)), and any successor to such a council;

“Municipality” – new definition as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“municipality” means a municipality as referred to in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

5.3 “Public entity” - new definition as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“public entity” means a public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

Comment:

- 5.3.1 This is a new definition and should be read with section 4(8) of the Veldfire Act as amended. The PFMA applies to the entities as listed in schedules 2 and 3 of the PFMA, said schedules are attached hereto for ease of reference. The schedules include entities such as ESKOM, Transnet, SANRAL, SANParks, Aventura, Eastern Cape Parks and Tourism Agency, Mpumalanga Tourism and Parks Board, Western Cape Nature Conservation etc.
- 5.3.2 It is evident that read with section 4(8) as amended, the entities as referred to in Schedules 2 and 3 will where appropriate be obliged to be members of fire protection associations.
- 5.3.3 A “public entity” as defined by the Public Finance Management Act:

'public entity' means a national or provincial public entity;

'provincial public entity' means-

- (a) a provincial government business enterprise; or
- (b) a board, commission, company, corporation, fund or other entity (other than a provincial government business enterprise) which is-
 - (i) established in terms of legislation or a provincial constitution;
 - (ii) fully or substantially funded either from a Provincial Revenue Fund or by way of a tax, levy or other money imposed in terms of legislation; and
 - (iii) accountable to a provincial legislature;

'provincial government business enterprise' means an entity which-

- (a) is a juristic person under the ownership control of a provincial executive;
- (b) has been assigned financial and operational authority to carry on a business activity;
- (c) as its principal business, provides goods or services in accordance with ordinary business principles; and
- (d) is financed fully or substantially from sources other than-
 - (i) a Provincial Revenue Fund; or
 - (ii) by way of a tax, levy or other statutory money;

'national public entity' means-

- (a) a national government business enterprise; or
- (b) a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is-
 - (i) established in terms of national legislation;
 - (ii) fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation; and
 - (iii) accountable to Parliament;

'national government business enterprise' means an entity which-

- (a) is a juristic person under the ownership control of the national executive;
- (b) has been assigned financial and operational authority to carry on a business activity;
- (c) as its principal business, provides goods or services in accordance with ordinary business principles; and
- (d) is financed fully or substantially from sources other than-

- (i) the National Revenue Fund; or
- (ii) by way of a tax, levy or other statutory money.

5.4 'The Act' - definition before its substitution as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

'the Act' or 'this Act' means the National Veld and Forest Fire Act, 1998, and includes the regulations made under the Act;

'The Act' - new definition as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

"the Act" or "this Act" means the National Veldfire Act, 1998, and includes the regulations made under the Act.

5.5 "Traditional council" - new definition as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

"Traditional council" means a traditional council as defined in section 2 of the Traditional and Khoi-San Leadership Act;

5.6 "Traditional and Khoi-San Leadership Act" - new definition as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

"Traditional and Khoi-San Leadership Act" means the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019);

5.7 "Veldfire" - definition before its substitution as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

'veldfire' means a veld, forest or mountain fire.

“Veldfire” - new definition as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“veldfire” means any vegetation fire that occurs outside a city, town, its adjoining industrial or residential area including any vegetation along any rural-urban fringe of a city, town, and its adjoining industrial or residential area boundaries.

Comment:

- 5.7.1 It is unclear how the change in the definition will play out. On face value the courts will most probably have the last say on the interpretation of the new definition.
- 5.7.2 The reference to “any vegetation” may possibly make it easier to determine whether a fire is a veldfire as envisaged in the Act.
- 5.7.3 The debate will now most probably move from the type of vegetation in which a fire is or was burning to the area where the fire is or was burning and whether such area is inside or outside a city, town, its adjoining industrial or residential area including any vegetation along any rural-urban fringe of a city, town, and its adjoining industrial or residential area boundaries.
- 5.7.4 One very interesting development will be whether a fire starting within a railway reserve, a road reserve, the area under Eskom powerlines etc will now be considered a veldfire as envisaged in the Act. In the Gouda Boerdery Bk vs Transnet matter it was decided that “veld” as envisaged in the Act did not refer to veld as contained in a railway reserve. The reference to veld has now been replaced by “any vegetation”. Obviously if the aforementioned areas are now considered areas upon which a veldfire as envisaged in the Act may start, then such owners will for example be obliged in terms of section 12(1) of the Act to prepare firebreaks. Section 21(1) states *“Every owner on whose land a veldfire may start or burn or from whose land it may spread must prepare and maintain a firebreak on his or her side of the boundary between his or her land and any adjoining land.”*
- 5.7.5 The above should also be read with the newly inserted definition for “public entity” and section 4(8) of the Veldfire Act as amended.

AMENDMENT OF SECTION 3:

6.1 The wording of the insertion of section 3A as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“(3A) The municipality concerned, and a traditional council established in terms of section 16 of the Traditional and Khoi-San Leadership Act, if any, may facilitate the formation of a fire protection association process as contemplated in subsection (3), if the Minister is of the opinion that a fire protection association is required.”

AMENDMENT OF SECTION 4:

7.1 The wording of subsection 4(7) before its amendment as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“4(7) Where a fire protection association has been registered in an area-

- (a) all or part of which is controlled by a municipality and that municipality has a service; or
- (b) in which there is a designated service,

the municipality or designated service must become a member of the fire protection association.”

The wording of subsection 4(7) as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“4(7) Where a fire protection association has been registered in an area-

- (a) all or part of which is controlled by a municipality and that municipality has a service; or
- (b) in which there is a designated service,

the municipality and designated service must become a member of the fire protection association.”

7.2 The wording of subsection 4(8) before its substitution as per National Veld and Forest Fire Amendment Act, Act 13 of 2023

“4(8) The owner in respect of State land must join any fire protection association registered in the area in which the land lies.”

The wording of subsection 4(8) as per National Veld and Forest Fire Amendment Act, Act 13 of 2023

“4(8) The owner in respect of State land, a state-owned enterprise, a public entity or an organ of state must, within a year after the commencement of the National Veld and forest Fire Amendment Act, 2023, join a registered fire protection association in the area in which the land is situated.”

Comment:

- 7.2.1 The amendment was published in Government Gazette 50426 dated 3 April 2024, accordingly the entities as envisaged in section 4(8) will be obliged to be members of fire protection associations by 2 April 2025.
- 7.2.2 The section is now much more specific and clear as to which entities are obliged to members of fire protection associations. This broader base has to a large extent been covered in the discussion of the “public entity in paragraph 5.3 above.

8.

AMENDMENT OF SECTION 10:

8.1 The wording of subsection 10(2) before its substitution as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“10(2) When the Minister has published a warning in terms of subsection (1) (b), no person may light, use or maintain a fire in the open air in the region where the fire danger is high or extreme.”

The wording of subsections 10(2)(a) & (b) as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“10(2)(a) When the Minister has published a warning in terms of subsection (1)(b), no person may light, use or maintain a fire in the **open air** in the region where the fire danger is high or extreme, unless the Minister, on good cause shown, exempts in writing, a landowner or group of landowners from the said warning, subject to any conditions that the Minister may impose.

10(2)(b) The Minister must, before granting any exemption, consult the fire protection association of the area, if any, and the fire protection officer.”

9.

AMENDMENT OF SECTION 11:

9.1 The wording of subsection 11(a) before its substitution as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“11 The Minister may delegate any of his or her powers or duties in terms of this Chapter to-

(a) the South African Weather Bureau if the Director-General of the Department of Environmental Affairs and Tourism agrees.”

The wording of subsection 11(a) as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“11 The Minister may delegate any of his or her powers or duties in terms of this Chapter to-

(a) the South African Weather Service, established in terms of the South African Weather Service Act, 2001 (Act No 8 of 2001) if the Director-General of the Department responsible for the administration of the said Act agrees.”

AMENDMENT OF SECTION 26:

10.1 The wording of subsections 26(2) and 26(3) wording before the substitution as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“26 Implementation of this Chapter

...

26(2) (a) A forest officer, a police officer, and an officer appointed in terms of section 5 or 6 of the Fire Brigade Services Act, 1987 ([Act 99 of 1987](#)), have the power to enforce the Act in terms of this Chapter.

26(2)(b) A reference to a fire protection officer in sections 27, 28 and 29 includes the officers referred to in paragraph (a).

26(3) A fire protection officer exercising powers under this Act must carry with him or her, and produce on request, the prescribed proof of his or her identity and appointment as a fire protection officer.”

The wording of subsection 26(2) and 26(3) as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

“26 Implementation of this Chapter

...

26(2)(a) A forest officer, a police officer, a peace officer, a traditional leader as defined in section 1 of the Traditional and Khoi-San Leadership Act and an offices appointed in terms of section 5 or 6 of the Fire Brigade Services Act, 1987 (Act No 99 of 1987) have the power to enforce the Act; Provided that they have been trained to be competent by an accredited institution to exercise powers to enter, search, arrest and seize in terms of this Act.

26(2)(b) A reference to a fire protection officer in sections 27, 28 and 29 includes the officers and the traditional leader referred to in paragraph (a).

26(3) A fire protection officer and any officer or traditional leader contemplated in subsection (2)(b), exercising powers under this Act must carry with him or her, and produce on request, the prescribed proof of his or her identity."

Comment:

- 10.2 The amendment of section 26(2) clarifies the authority of a fire protection officer in that he or she has authority to enforce the totality of the Veldfire Act, his or her authority is not only limited to Chapter 6 of the Veldfire Act.

11.

AMENDMENT OF SECTION 32:

11.1 The wording of the subsection 32A insertion as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

"32A(1) Any affected person may appeal to the Minister against a decision or action taken by any person or entity acting under a power delegated in terms of this Act.

- (2) An appeal under subsection (1) must be noted and shall be dealt with in the manner and in accordance with the procedure prescribed by the Minister in the regulations.

- (3) The Minister shall consider any matter submitted to him or her on appeal, after giving every person with an interest in the matter an opportunity to state his or her case."

12.

AMENDMENT OF SECTION 37:

12.1 The wording of section 37 before the amendment as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

"37 Short title

This is the National Veld and Forest Fire Act, 1998."

The wording of section 37 as per the National Veld and Forest Fire Amendment Act, Act 13 of 2023

"37 Short title

This Act is called the National Veldfire Act, 1998."

13. I trust the above will assist. Please feel free to contact us if there are any of the amendments that you require a more detailed response on.

Yours faithfully;

**Klagsbrun Edelstein Bosman Du Plessis Inc.
Jean du Plessis**