



REFERENCE: 14/1/1/E2/9/9/3/0845/24

ENQUIRIES: Najah Ben Jeddou

EMAIL: cropmax@telkomsa.net

Cropmax Business Trust

P.O. Box 149

Villiersdorp

6848

Attention: Mr. Wikus Erasmus, (as Trustee of Cropmax Business Trust)

PRE-COMPLIANCE NOTICE

Dear Sir

INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

1. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA"), a site inspection was conducted at Portion 22 of Farm 82 Klipfontein, Vyeboom, Villiersdorp, Caledon, by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 23 May 2024,

which confirmed that you have commenced with the clearing of indigenous vegetation and infilling within a watercourse (wetland) without environmental authorisation.

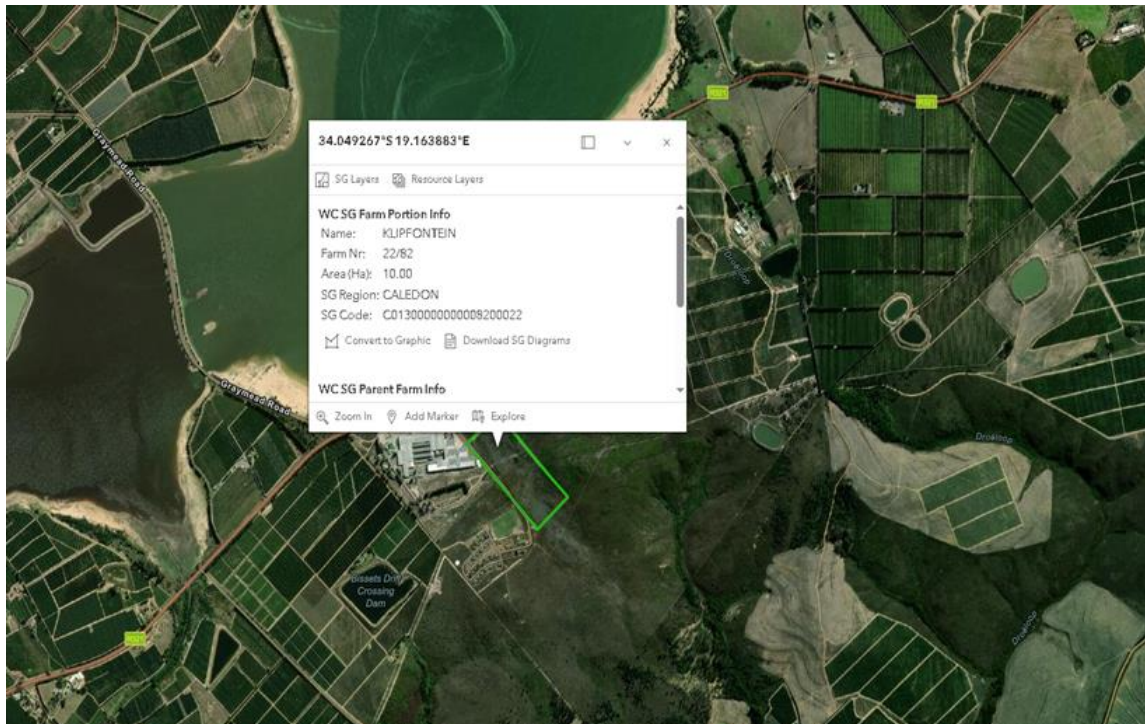
34° 2'57.98"S 19° 9'49.42"E



Map 1: Location of alleged illegal clearing of indigenous vegetation.



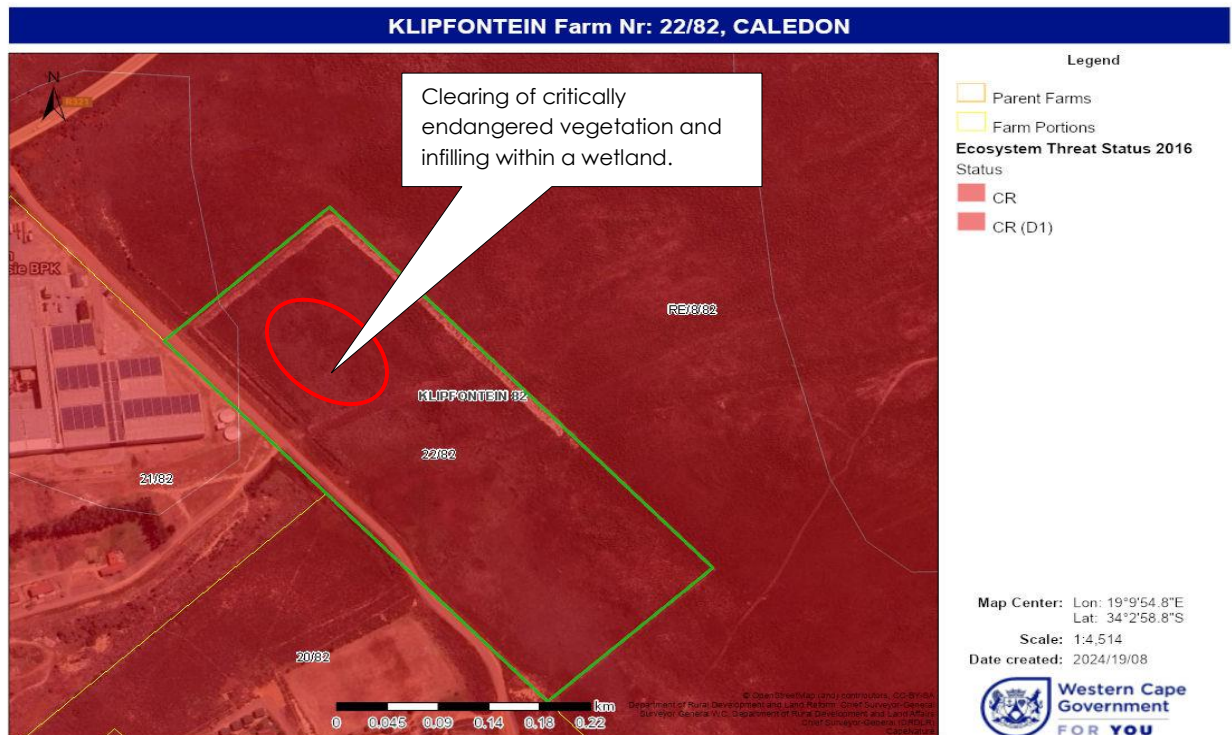
Map 2: Zoomed in aerial image of the area where clearing of indigenous vegetation and infilling within a watercourse (wetland) took place.



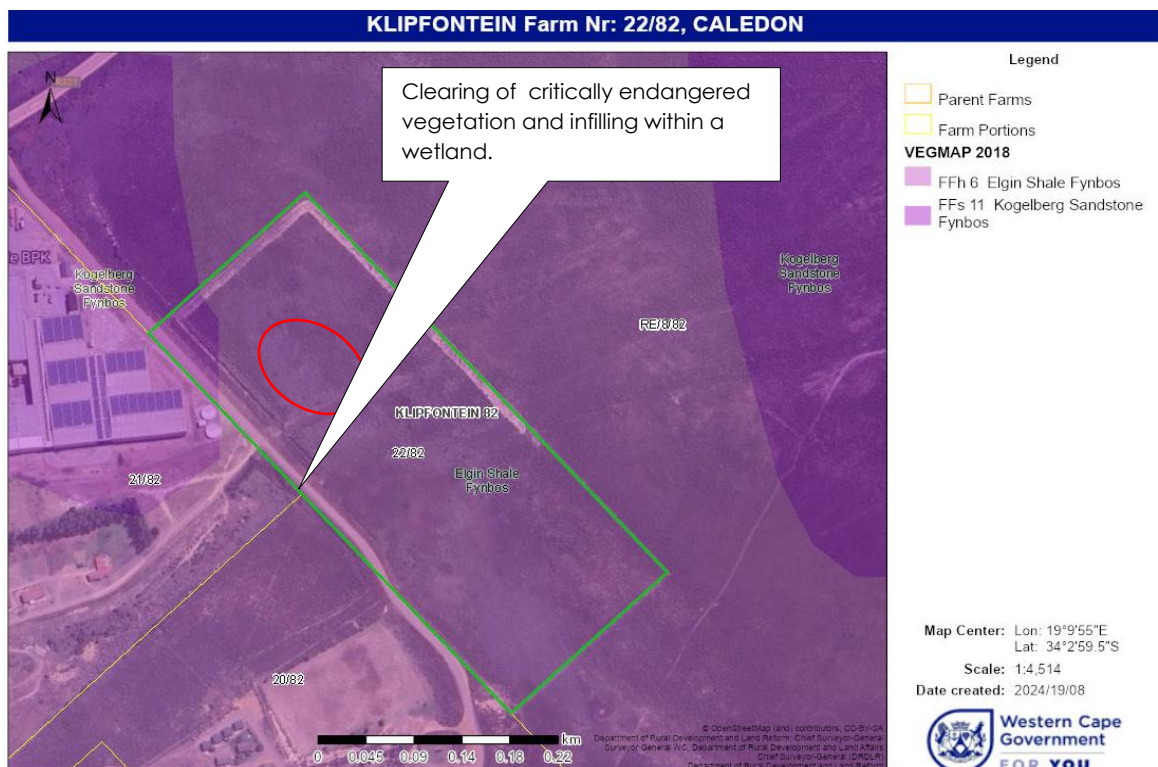
Map 3: CapeFarmMapper showing details of Farm Klipfontein Nr.22/82, where clearing of vegetation and infilling within a wetland took place.



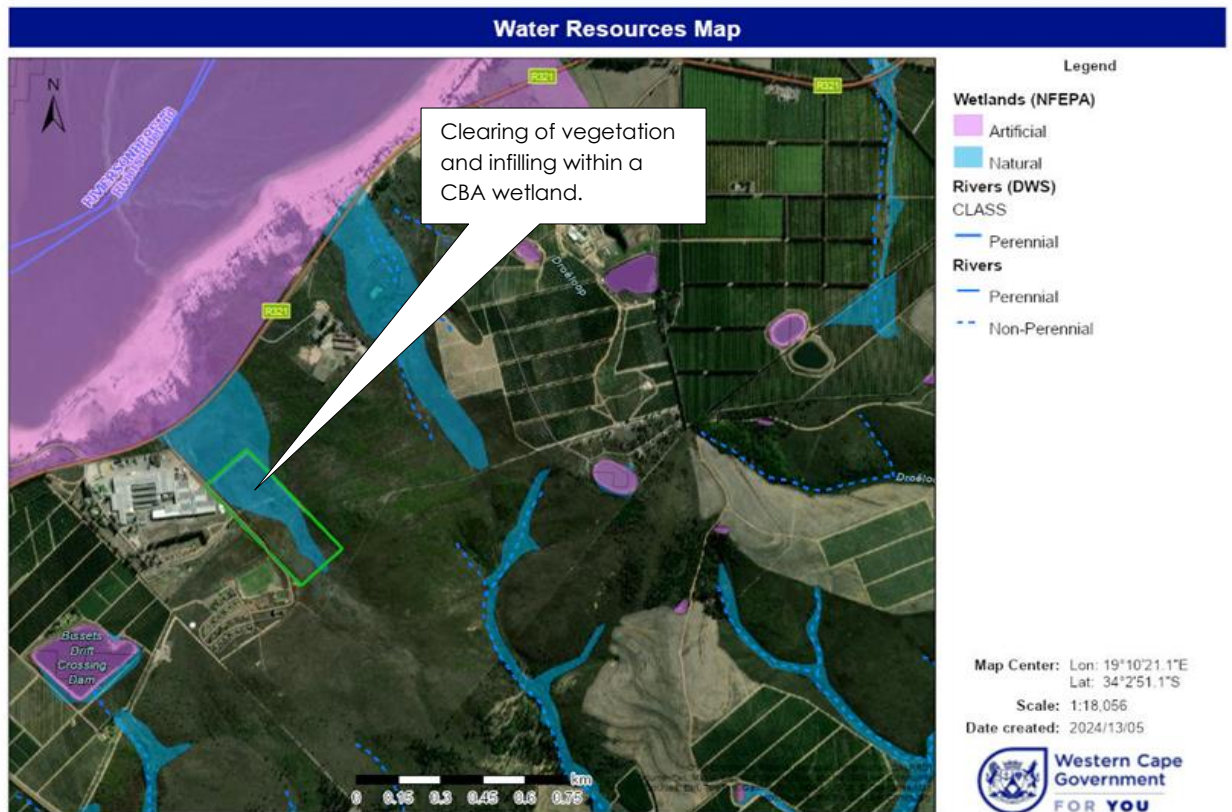
Map 4: showing the approximate size of area cleared of vegetation, measuring about 1.1 Hectare (red polygon).



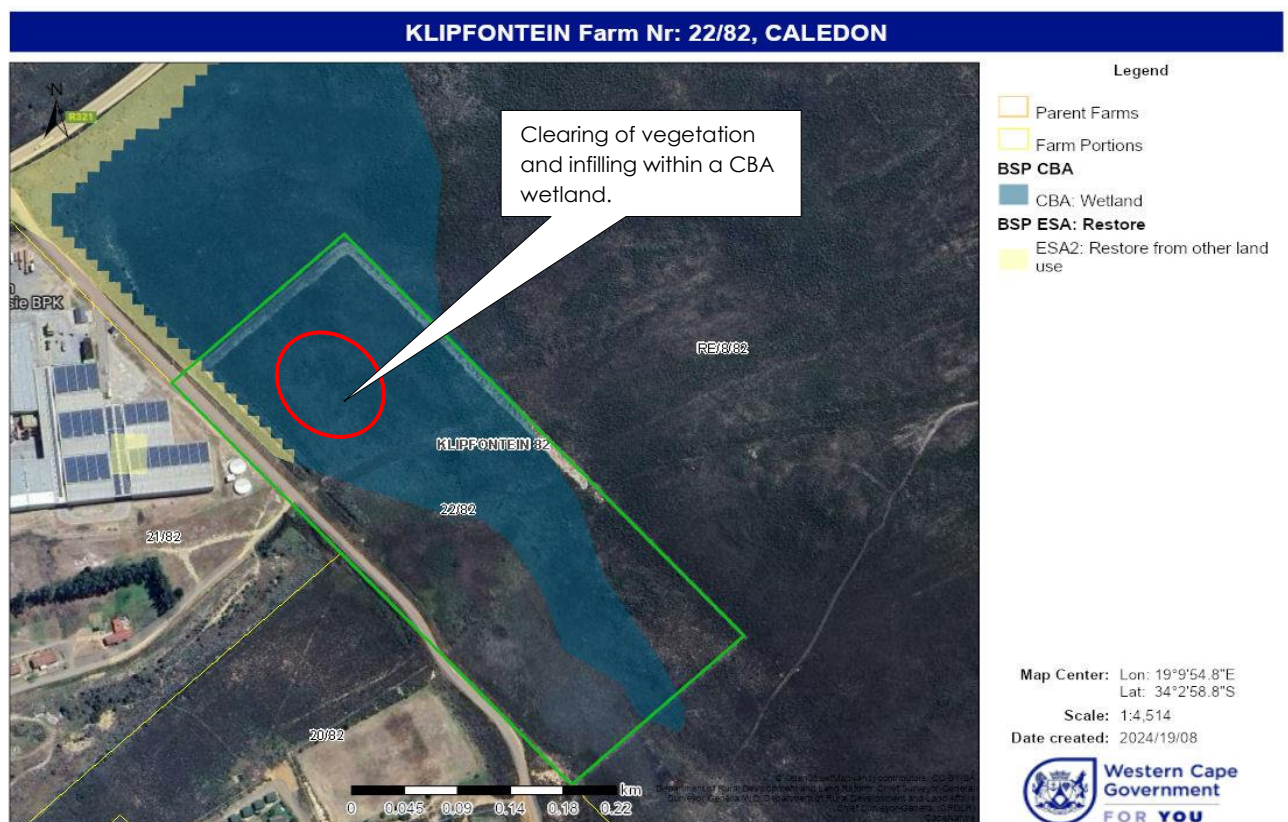
Map 5: Ecosystem Threat Status: The property and surrounding area is mapped to contain Critically Endangered Vegetation; Elgin Shale Fynbos, which is classified as Critically Endangered Vegetation according to the revised National List of Threatened Ecosystems GN No 2747 of 18 November 2022 of s52 of NEMBA.



Map 6: Vegetation Type is mapped as Elgin Shale Fynbos, which is classified as Critically Endangered Vegetation according to the amended National List of Threatened Ecosystems GN No 2747 of 18 November 2022 of s52 of NEMBA.



Map 7: Water Resources Map of the property and surrounding area. The site is located within a Wetland.



Map 8: Critical Biodiversity Areas and wetland map on the property: clearing occurred within a CBA Wetland.

2. In terms of section 24F of the NEMA, no activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 and 3 of 2014 may commence without environmental authorisation from the competent authority.
3. On considering the evidence before me, there are reasonable grounds to believe that you have commenced the following listed activity without environmental authorisation:

Listing Notice 1 of the EIA Regulation, 2014.

Activity no. 12

The development of—

(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or

(ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs;

(a) within a watercourse;

(b) in front of a development setback; or

(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse

excluding—

(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;

(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;

(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;

(dd) where such development occurs within an urban area;

(ee) where such development occurs within existing roads, road reserves or railway line reserves; or

(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.

Activity no. 19

The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

- (a) will occur behind a development setback;
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.

Activity no. 27

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except 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.

EIA Regulations Listing Notice 3 of 2014:

Activity no. 12:

The clearance of an area of 300 square metres or more of indigenous vegetation

except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

Western Cape

- i. ***Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA*** or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
- ii. ***Within critical biodiversity areas identified in bioregional plans;***
- iii. *Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;*
- iv. *On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or*
- v. *On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.*



Photo 1: View of the excavation and infilling within a wetland.



Photo 2: Closer view of the wetland on the property, where excavation and infilling within a wetland took place- note the presence of water and saturated soil in this area.



Photo 3: View of the cleared area and infilling within a wetland took place for the construction of platform.



Photo 4: Overview of the cleared area for the construction of platform/hard surfaced area.



Photo 5: View of heaps of removed vegetation and topsoil as a result of the clearing.



Photo 6: Alternative view of heaps of removed vegetation and topsoil.



Photo 7: View of the platform constructed on the cleared area with a wetland.



Photo 8: View facing South showing intact indigenous vegetation adjacent to the cleared area, an indication of the vegetation type that has been removed.

4. In terms of section 49A of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
5. As such, you are hereby given notice of the Department's intention to issue you with a Compliance Notice in terms of section 31L of the NEMA, which will instruct you to:
 - 5.1 immediately cease the above listed activity;
 - 5.2 investigate, assess and evaluate the impact that the listed activity has / has had on the environment;
 - 5.3 rehabilitate the entire site to its original condition;
 - 5.4 carry out any other measure necessary to rectify the effects of the unlawful activity; and
6. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of failing to comply with a Compliance Notice is liable to a maximum fine of R5 million or 5 years imprisonment or both such fine and such imprisonment.
7. You are afforded a period of **7 (seven) calendar days** from the date of receipt of this Pre-Compliance Notice to make written representations to the Department as to why a Compliance Notice should not be issued.
8. If you inform the Department, in respect of paragraph 7 above that you intend to rectify the non-compliance, you must submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Compliance Notice, a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
 - 8.1 assessment and evaluation of the impact on the environment;
 - 8.2 identification of proposed remedial and/or mitigation measures;

9. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.
10. Approval of the above report by the Department does not remedy the unlawful commencement of the above activity, which remains unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA.
11. If you wish to continue with the listed activity, you may apply for environmental authorisation by way of a section 24G ("s24G") application. However, such application does not constitute permission to continue with the listed activity, which remains unlawful unless environmental authorisation is granted.
12. Should you choose to apply in terms of s24G on the NEMA, you must submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Compliance Notice, a project schedule compiled by a suitably qualified and experience independent environmental assessment practitioner. The project schedule must clearly stipulate the time frames in terms of the s24G process and by when a s24G application will be submitted to the Sub-Directorate: Rectification.
13. Notwithstanding the section 24G application, the Department may issue a Compliance Notice and/or commence criminal proceedings should circumstances so require.



Mr A. Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 05/09/2024

Cc:

Mr. Paul Slabbert (PHS Consulting)

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