



APPENDIX J1 - PRE-COMPLIANCE NOTICE

(30 JUNE 2025)

Prepared by: Department of Environmental Affairs and Development
Planning



REFERENCE: 14/1/1/E2/8/9/3/0894/24

ENQUIRIES: Yena Gunguluzi

BY EMAIL: warwick@alu-cab.co.za

WABD Investments (Pty) Ltd

Mr Warwick Leslie

Portion 54/516 of Farm Potteberg Estates

Infanta

5800

PRE-COMPLIANCE NOTICE

Dear Mr Warwick Leslie (In your capacity as a director)

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 54/516 of Farm Potteberg Estates by an Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 18 February 2025, which confirmed that you have commenced with the alleged illegal clearing of indigenous

vegetation and development within a distance of 100m inland of the high-water mark of the estuary without environmental authorisation.

34°22'43.60"S 20°42'58.37"E



Aerial map 1: Location of alleged illegal activity.



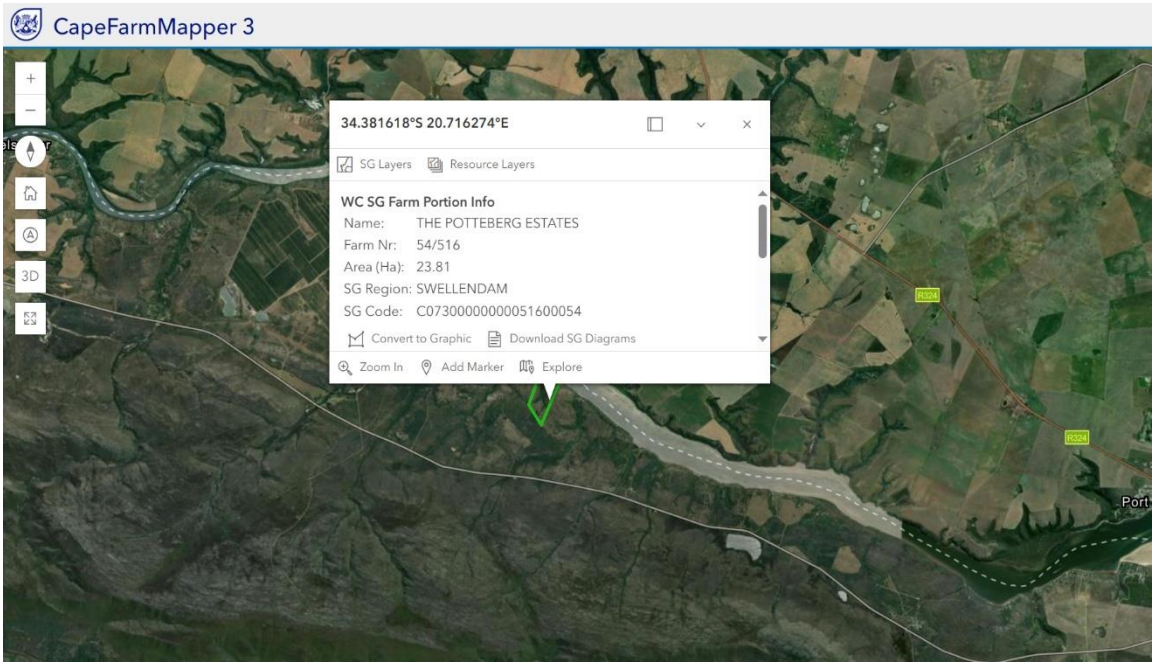
Aerial map 2: Location of alleged illegal activity November 2023.



Aerial map 3: Location of alleged illegal activity May 2024.



Aerial map 4: Location of the property in relation to nearest town



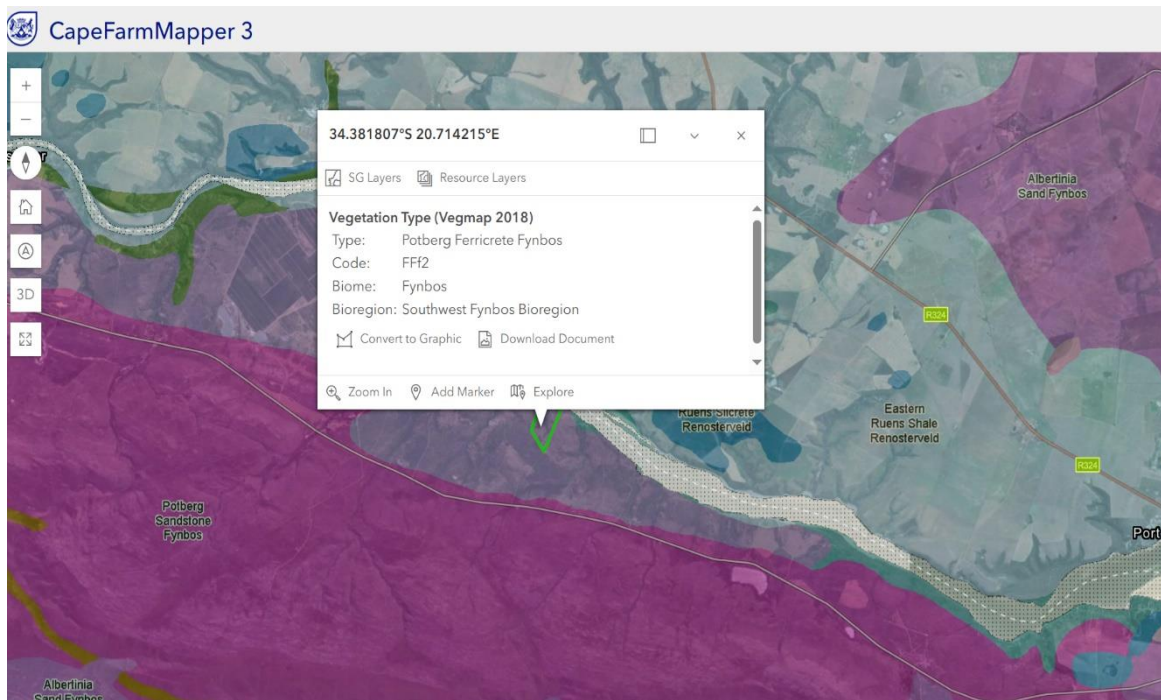
Aerial map 5: SG code and property details on Cape Farm Mapper.



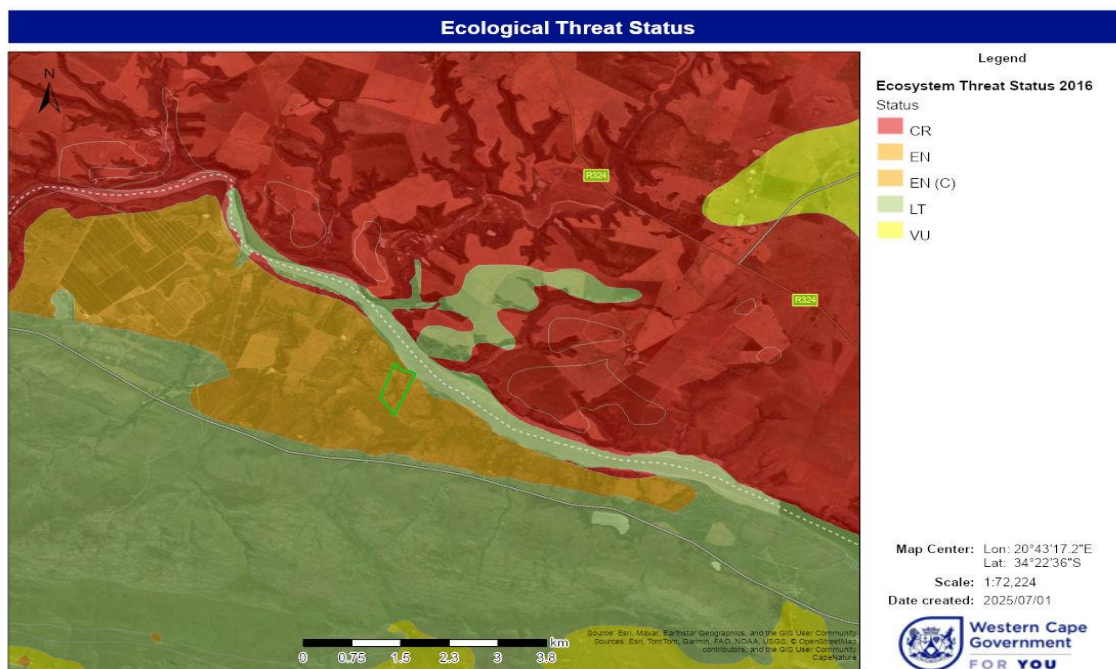
Aerial map 6: Location of property in relation to freshwater resources.



Aerial map 7: Location of property in relation to water resources, showing estuarine functional zone and floodplain wetland.



Aerial map 8: Vegetation type on the property is Potberg Ferricrete Fynbos.



Aerial map 9: Ecosystem Threat Status of the vegetation located on the property.

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 activities without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014:

Activity no.17:

Development—

- (i) *in the sea;*

- (ii) *in an estuary;***

- (iii) *within the littoral active zone;*

- (iv) *in front of a development setback; or*

(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;

in respect of—

- (a) fixed or floating jetties and slipways;
- (b) tidal pools;
- (c) embankments;
- (d) rock revetments or stabilising structures including stabilising walls; or
- (e) infrastructure or structures with a development footprint of 50 square metres or more —**

but excluding—

- (aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
- (bb) 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;
- (cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or
- (dd) where such development occurs within an urban area.

Listing Notice 1 of 2014:

Activity no.19A:

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—

(i) the seashore;

(ii) **the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater;** or

(iii) the sea; —

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

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.

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.

a. 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 expansion area adjacent to the existing dwelling where there was clearing of indigenous vegetation and excavation into the slope.



Photo 2: Alternate view of the site showing the existing dwelling and cleared areas located to the east and west of the dwelling.



Photo 3: Visible clearing down the slopes of the site.

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 activities;
 - 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. Should you inform the Department, in respect of paragraph 7 above that you intend to correct the non-compliance, **you must adhere to the following:**
 - 8.1 **cease the above listed activities** and confirm such in writing **within 7 (seven) calendar days** of receipt of this Pre-Compliance Notice; and
 - 8.2 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:
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 experienced 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: 30/06/2025

Cc: Angie Leslie [WABD Investments (Pty) Ltd]

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