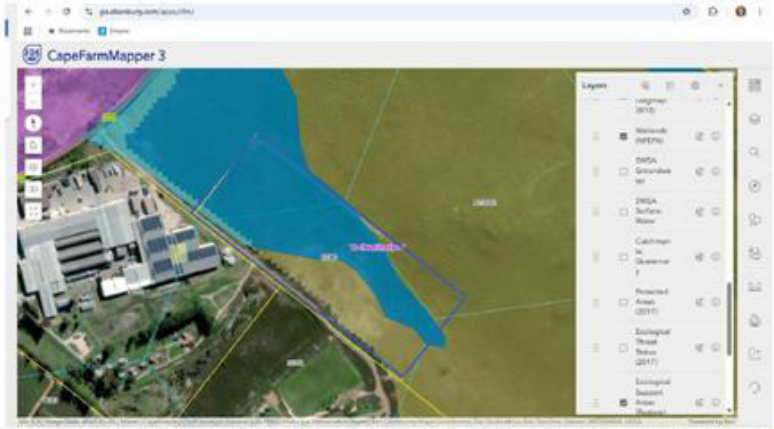
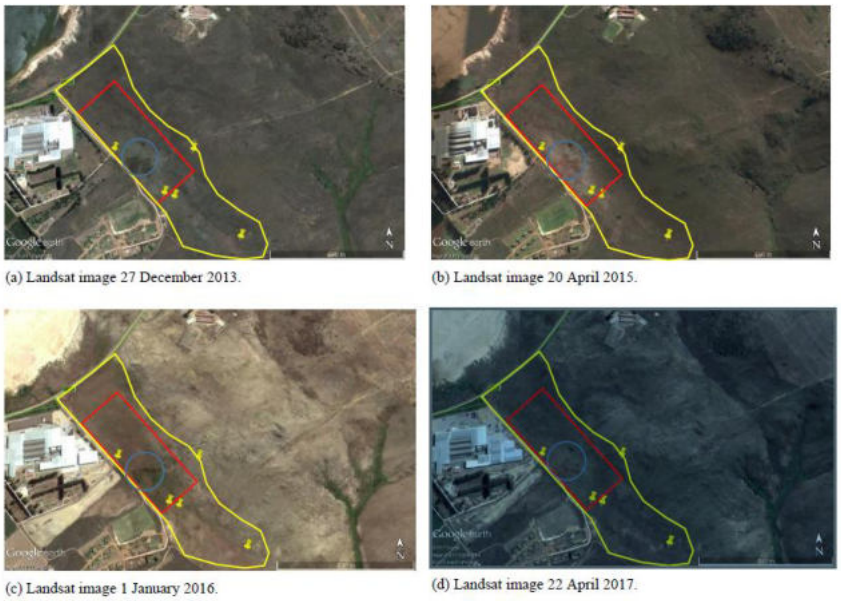
APPENDIX G4: COMMENTS & RESPONSE TABLE

UNAUTHORISED CLEARING OF INDIGENOUS VEGETATION ON PORTION 22 OF FARM 82 KLIPFONTEIN, VYEBOOM, VILLIERSDORP.

NO	COMMENT	RESPONSE	RESPONDENT
Comment period: **26 June – 28 July 2025 (Pre-application) Draft 24G Report.**			
	I&AP: Leandra Knoetze (CapeNature) – 15 August 2025		
1.1	**Desktop Information** According to the South African Vegetation Map (2018), the area surrounding the site supports Elgin Shale Fynbos and patches of Kogelberg Sandstone Fynbos (to the South-west of the property), both listed as Critically Endangered vegetation types as well as wetland areas.	Noted.	Jenna Theron – PHS Consulting
	The site is situated within a Critical Biodiversity Area (CBA 2: Degraded), according to the 2023 Biodiversity Spatial Plan (BSP). CBA2 include areas that may be degraded or secondary condition but are required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure. The CBA is mapped due to presence of the threatened vegetation types and for Water Source Protection (Breede River) and it is essential that these areas are maintained in a natural or near-natural state, with no further loss of natural habitat; degraded areas should be rehabilitated, and only low-impact, biodiversity-sensitive land-uses are appropriate.	Noted.	Jenna Theron – PHS Consulting
	The delineated natural NFEPA wetland area corresponds to the Aquatic Critical Biodiversity Area (CBA1) previously mapped in the 2017 BSP, which can be seen on Cape Farm Mapper (See Figure 1 below). Additionally, the site falls within a Strategic Water Source Area (SWSA) for Surface Water (Boland) and Groundwater (Southwestern Cape Ranges).	The full extent of the FEPA wetland indicated on the FEPA maps was not observed during either of the field visits. Only the prominent wetland area, as described and mapped in the Freshwater Report, was identified on site. It is common for wetlands delineated through desktop FEPA mapping to differ from the actual extent observed during field verification.	Jeanne Snyman – EverWater Freshwater Consulting Services

	 Figure 1: Map indicating the Aquatic CBA1 & NFEPA Wetland Area (Darker Blue), CBA2 (Green) and ESA2 (Light blue) areas within the property		
1.2	**Historical Activities & Background** The history of the site dates back to 2017 - there was unlawful digging of trenches on the property which was reported by CapeNature end of July 2017. The site investigation in August 2017, subsequent to the digging of trenches, revealed that there were significant volumes of water draining along the trench. The purpose of the trenches appears to have been to drain the wetland occurring on site and the drainage trench has been successful in drying up the wetland such that the extent of wetland had been significantly reduced. A wetland report was compiled by CapeNature's Freshwater Ecologist in October 2017 following the reporting of unlawful digging of trenches and is an important reference and comparison for the current condition of the wetland. Furthermore, it is important to note that the site was visited, and the wetland was ground-truthed and delineated prior to the wetland report. The ground-truthing, that was undertaken in June 2017 shortly before the trenches were dug, formed part of the wetland ground-truthing which informs the national wetland inventory. The delineated wetland is more extensive than the National Wetland Mapping, extending further upslope and encompassing most of the wetland area mapped for the freshwater assessment for this application (Refer to Appendix A: Klipfontein 22/82 – Wetland Report; Gouws, J.E., 2017).	The history of the site dates back much further than 2017. Please refer to Appendix N1 in which a timeline of Aerial Images indicates the disturbed nature of the property over time. In terms of historical aerial imagery, the area has been subject to ad hoc disturbances and the steady expansion of agriculture and agricultural supportive services overtime. In 1989 the existing packshed developed to the west and the existing school to the east of the site. A small dam was constructed on site which was used by farm workers for subsistence farming post 1989. This becomes clear on the 1997 aerial image. [The more recent fires have allowed the ground-truthing of the dam and the oral history around the site being used for agricultural purposes. A site visit was undertaken on the 17th February 2026 and the following became evident: 1. The location of the dam was confirmed SE of the application area i.e. dam wall and depression visible; and 2. Agricultural uses of the site evident i.e. irrigation infrastructure visible.] In 1997 the packshed development to the west is in operation and a road is constructed to the west of the site as a result of construction commenced on the 'hill' for staff housing. An additional road is visible across the property from east to west. This coincides with an electrical powerline servitude crossing the site as shown as "XY" on the SG Diagram. Furthermore, it is understood that excavations for a water pipeline were undertaken along this line. This is evident in the first colour aerial image (DWS) available which shows the extent of the servitude and the	Jenna Theron – PHS Consulting



(a) Landsat image 27 December 2013.

(b) Landsat image 20 April 2015.

(c) Landsat image 1 January 2016.

(d) Landsat image 22 April 2017.

Figure 2(a)-(f). Google Earth time series images of the preferred site (outlined in red) on the Klipfontien 22/82 property. Theewaterskloof area, from 2013 – 2017. The red rectangle more or less depicts the extent of the 22/82 Klipfontien property. The yellow pins are the sites that were assessed during ground-truthing. The blue lined circle indicates the wettest part of the wetland area. The yellow polygon indicates the general wetland and buffer area.

excavations undertaken of what is understood to be a channel for a water pipeline which bisects the site. This subsequently became a road across the site. Several new roads traverse the area during this time as well as a power line servitude. Furthermore, the road and staff housing is formalised and complete to the south (on the hill). A stormwater canal running parallel on both sides of the road from south to north is clearly visible.

It is our understanding that the position of the stormwater canal on site moved over time, initially the stormwater canal was ±25 m from the road on the subject site (note 2004 Aerial Image onwards), in later years a new canal appears much closer to the road (visible from 2012 onwards). Both these canals drained the site and the stormwater from the developed areas (in the west). Water was initially directed along the western side of the road, however, at some point, stormwater was also directed to the eastern side of the road and onto the site, resulting in wetter conditions over the years. This is clearly visible from 2004 onwards on aerial photos where a dark green wet area is visible, in the vicinity of a sump constructed (pre-2009) on the site to facilitate stormwater from the west. This coincides with the wetland area delineated by the Freshwater Specialist as part of the S24G.

It is also clear over the years that the site was a free draining system (1979) with more than one watercourse, whereby post development conditions resulted in the infilling of watercourses resulting in more post development water onto the site. The site was officially formed in 1992 as a 10-ha subdivision, with a purpose. Much like the similar size portions to the west, that fulfil a supportive role to agriculture. The above context also needs to be considered in studying the site.

Furthermore, in July 2014, Toni Belcher from Blue Science undertook a Freshwater Impact Assessment within the area for the "PROPOSED ESKOM LONGDOWN SUBSTATION AND ASSOCIATED VYEBOOM TURN-IN LINES". It is important to note that this report was undertaken prior to the trenching in 2017. According to the report: "*The freshwater assessment is based on a site visit undertaken in June 2014. Three aquatic features (Figure A below) were assessed and are described in this section in terms of their ecological condition, importance and sensitivity, that is:*

		1. The drainage feature that flows adjacent to Site B and then transects Site A; ***2. The small wetland area into which the drainage feature discharges that is located to the north of Site A****; and* *3. The wetland features adjacent to Theewaterskloof Dam near the fruit processing facility."* <u>Point 2 is applicable to this study in that it aligns with EverWater's delineation of the Wetland on site in 2022 & 2025.</u> In comparison to the Freshwater Assessment undertaken by Cape Nature dated October 2017, the Blue Science Report would be a better comparison of the condition of the site (and area) pre-2017 activities. CN states that the digging of trenches in July 2017 resulted in significant water draining however, this needs to be substantiated. Considering aerial imagery assisting in providing clarity on the history the site, evidence of constant draining and changes within the surrounding areas, the lack of mentioning the historical trench and sump found on the site, as well as the findings of the 2014 Freshwater Impact Assessment undertaken by Blue Science this comment does not appear to consider all the facts. Furthermore, in accordance with Cape Natures Freshwater Assessment (Appendix A to CN Comment), the majority of the soil auger test points (indicated by the red triangles in Figure 1) for the ground-truthing of the wetland on site was in fact mostly undertaken off-site. Only 1 auger point falls in close proximity to the site and is located along the road/ western boundary, within the historical trench that has existed on site post 2000. The report states that the site was in a "fairly undisturbed condition at the time that the image was taken [Figure 1(a)]." Firstly, the date of the image is not provided, the image is of a poor quality and therefore not legible, and lastly none of the history, as per above, was considered or mentioned. Most importantly, reference to the historical trench traversing the site which has been draining the site since 2000 or that a sump was constructed receiving stormwater from the west etc. The site therefore did have a level of disturbance pre-2017.	

		In Figure 2 of the report, it stated that "The blue lined circle indicates the wettest part of the wetland area" and the "yellow polygon indicates the general wetland and buffer area". These statements are based on an area of "apparent" wetness visible in all images, especially in Figure 2(c) due to fire, that resulted in the demarcation of the yellow-lined polygon and which appears to be the wettest on the site is encircled in blue in all images. The report fails to confirm why the auger sites were selected resulting in a much larger wetland than the initial NFEPA. One would have expected that more samples were taken opposed to using aerial photography to confirm the extent. Furthermore, references to "large volumes of water" in the report are not substantiated, the canal parallel to the road has been on site since the development to the west in the 1990's, when the catchment was drained in order to make the area developable. The subject site subdivided for development in the 1990's and is the lowest point that receives large volumes of post development run-off from the west and the south. There is no substantial proof that the wetland area occurred within the yellow area, as none of the wetland indicators (such as transitional/hydrophytic vegetation or hydromorphic soils were found within this area in any of the former studies). In addition, please refer to the additional 'Wetland Verification based on Soil Augering' Report Appendix H3 as well as the Freshwater Rehabilitation Plan (Appendix I2).	Jeanne Snyman – EverWater Freshwater Consulting Services



Figure A: Freshwater features sourrounding the substation sites. The small wetland area into which the drainage feature discharges that is located to the north of Site A (marked 2) aligns with EverWaters Wetland delineation.

1.3	A rehabilitation plan was compiled (by EnviroAfrica) in accordance with the Compliance Notice issued in order the rehabilitate the site to its original condition (DEA&DP ref. no. 14/1/1/E2/5/9/3/0336/17). The rehabilitation plan in terms of the Compliance Notice required that the site be rehabilitated to its original condition which previously supported a wetland. No further applications should be considered until the rehabilitation in terms of the Compliance Notice is complete. The trenches were infilled – but no confirmation was received that the final rehabilitation/audit report was received and that the site was adequately restored. In 2022, the current owners undertook a Basic Assessment, to apply for the clearing of vegetation to construct a platform or truck parking area on site. The Pre-Application draft Basic Assessment Report (BAR) was prepared by Cornerstone Environmental Consultants. CapeNature objected to this application and also recommended that a hydropedological assessment be undertaken to inform the application. The wetlands are partly groundwater fed and the large volumes of water that drained into the trenches further indicated the importance of the subsurface drainage within the wetland system. A hydropedological assessment is more appropriate for this case than a general geohydrological study, as it is focused on subsurface flow of water through the soil layers, and can assist in informing the freshwater assessment. Similar studies have been required for other cases of channel incision (whether through erosion or digging) and drainage of wetlands. Following the commenting period on the Pre-Application BAR, the applicant proceeded (in 2023) with the clearing of 1 ha of Critically Endangered Elgin Shale Fynbos, the construction of a 2500m2 concrete platform, as well as clearing out the central and historic trench without any Environmental Authorization. These specific trenches were required to be rehabilitated by the Compliance Notice, and the site should have been returned to its original condition.	The Compliance Notice received from DEA&DP provided the option of <u>rehabilitation</u> OR a <u>retrospective application (S24G)</u>, the new owner has opted for a retrospective application, considering the history of the site and his subsequent rights. DEA&DP, as the Competent Authority in this regard has agreed to a section 24G process being followed. A new Freshwater Rehabilitation Plan has been drafted and included as Appendix I2 based on the outcome of the 24G Report. DEA&DP, as the Competent Authority in this regard has agreed to a section 24G process being followed. The findings of the 24G Report and Process needs to be considered going forward. This includes: • Aerial imagery, which provides clarity on the history of the site, evidence of constant draining, changes and development within the site and surrounding areas. • The 2014 Freshwater Impact Assessment undertaken by Blue Science (Appendix N3). • The February 2025 Freshwater Impact Assessment undertaken by EverWater (Appendix H2). • The February 2026 Wetland Verification Based on Soil Augering Report by EverWater (Appendix H3). • The December 2025 Freshwater Rehabilitation Plan by EverWater (Appendix I2). As stated, the Compliance Notice received from DEA&DP provided the option of rehabilitation OR a retrospective application (S24G), the new owner has opted for a retrospective application, considering the history of the site and his subsequent rights. DEA&DP, as the Competent Authority in this regard has agreed to a section 24G process being followed. <u>Please Note:</u> For the initial Botanical Report in early 2025, satellite imagery dated 27 January 2023 was used to inform the assessment and mapping. No Google Earth imagery of the site subsequent to the clearing was available (which took place after February 2023). However, in 2026 the Google Earth imagery was updated, and imagery from April 2025 is now available. It is evident from this imagery that the cleared area is ± 1.5ha in	Jenna Theron – PHS Consulting Jenna Theron – PHS Consulting

		extent (not ±1ha). Polygon areas were calculated using Google Earth. After the area of the wetland is to be rehabilitated the total footprint of the preferred alternative would be ±1.4ha.	
1.4	**Botanical Impact Assessment** The botanical impact assessment verifies that the vegetation type occurring throughout the property is Elgin Shale Fynbos which is a highly threatened vegetation type and is of high conservation value. This vegetation type is in fact one of the twenty most heavily transformed in the entire country, having lost about 94% of its original extent. With only 6% of its original extent remaining, and an unreachable national conservation target of 30% of original total extent, all remaining viable patches of this habitat are regional and national conservation priorities, and no further loss of habitat should be allowed. Elgin Shale Fynbos is gazetted as Critically Endangered on a national scale, and any significant loss of intact habitat will thus have a High negative impact. It is however noted that the botanical impact assessment only refers to the 1 ha area where the development of the platform took place, albeit that the botanical sensitivity map indicates the development footprint as medium sensitivity and the remainder of the site as very high sensitivity. We further wish to note that there was a botanical assessment undertaken in 2017 and 2022 to assess the impact of the trenching and in the previous assessment there was no differentiation regarding the botanical sensitivity or conservation value of the site. It is likely that impacts of the trenches in terms of draining of the wetlands has also impacted on the vegetation composition, in particular the wetland species, and hence also the botanical sensitivity.	The Botanical Specialist concludes that if all mitigation is implemented, "*the post mitigation impact of the unauthorised clearing could be reduced to Low negative, from Low to Medium negative prior to mitigation*". The Botanical Impact Assessment dated 2025 states that: "*The cleared area was dominated – prior to clearing - by just a few weedy species typical of disturbed soils, including Pennisetum macrourum, Seriphium plumosum, Passerina corymbosa, Tenaxia stricta, Anthospermum aethiopicum and Imperata cylindrica. No plant Species of Conservation Concern (SoCC) were recorded in the subject area"* it is further confirmed that *"No plant Species of Conservation Concern are likely to have occurred in the cleared area, and the sensitivity of the vegetation in that area was relatively low*". The Botanical Impact Assessment dated 2022 states that "*The proposed development area is deemed to be of Medium botanical conservation value, as it has only low plant diversity, dominated by a few widespread species, and no plant Species of Conservation Concern. It is possible that this area was once cultivated, but that would have been prior to 1980, judging by the available satellite imagery*." We have enquired about the history of the site and apparently the area was used by farmworkers to produce vegetables for subsistence farming. Water was obtained from a small dam located in the delineated wetland. This has been ground-truthed and the evidence to support the oral history	Jenna Theron – PHS Consulting

		is provided in Appendix N1: Historical Imagery & Timeline. Note this dam has not been mentioned in the CN wetland reports although it is visible on aerial photos (clearly visible on the 1997 Aerial Image). <u>The 2017 botanical report is noted in the references of the 2022 and 2025 reports as "unpublished". Furthermore, it has been included as Appendix J3 in the 24G Report.</u> The approx. 1.5 ha area was previously disturbed and therefore the findings of the botanical report are valid. There is the possibility that the drainage of this area could have led to some loss of wetland and subsequent vegetation composition. But as in the case of the hydromorphic soils – none of this was clearly assessed prior to drainage channels, and thus there is no "control" to work from. However, it is the professional opinion of the Freshwater Specialist that the additional soil augering investigation undertaken provides sufficient and reliable evidence to delineate the wetland boundary in accordance with accepted South African practice, and that the delineation as indicated in the 2025 Freshwater Assessment (EverWater, 2025) is accurate. Furthermore, the findings of the 24G Report and Process needs to be considered going forward. This includes: • Aerial imagery, which provides clarity on the history of the site, evidence of constant draining, changes and development within the site and surrounding areas. • The 2014 Freshwater Impact Assessment undertaken by Blue Science (Appendix N3). • The February 2025 Freshwater Impact Assessment undertaken by EverWater (Appendix H2). • The February 2026 Wetland Verification Based on Soil Augering Report by EverWater (Appendix H3). • The December 2025 Freshwater Rehabilitation Plan by EverWater (Appendix I2).	Jeanne Snyman – EverWater Freshwater Consulting Services

		<u>Please Note:</u> For the initial Botanical Report in early 2025, satellite imagery dated 27 January 2023 was used to inform the assessment and mapping. No Google Earth imagery of the site subsequent to the clearing was available (which took place after February 2023). However, in 2026 the Google Earth imagery was updated, and imagery from April 2025 is now available. It is evident from this imagery that the cleared area is ± 1.5ha in extent (not ±1ha). Polygon areas were calculated using Google Earth. After the area of the wetland is to be rehabilitated the total footprint of the preferred alternative would be ±1.4ha.	
1.5	**Freshwater Assessment** The freshwater assessment includes a wetland delineation which was based on a combination of desktop and ground-truthing methodology and was evaluated based on the current site condition. The assessment does not take into account the trenches for draining of the wetland and only refers to this as an activity which has been rehabilitated. The delineated wetland occupies the majority of the site upslope of the trenches, however there is no wetland delineated downslope of the trenches. The delineated wetland differs significantly from the National Wetland Mapping with few areas of overlap, indicating likely change in the wetland's extent due to the unauthorised activities which occurred on the site. The wetland is further described as a valley bottom wetland which receives water from both surface and groundwater sources and was assessed to have a present ecological state (PES) of largely natural, and the ecological importance and sensitivity (EIS) is high. Due to the pristine state and high conservation value of the wetland, the recommendation is that there is no loss of wetland and that a buffer of no development of 50 m is applied to the wetland.	The first Freshwater Impact Assessment was undertaken with the understanding that the drainage channels had been rehabilitated by the previous landowners, in accordance with a rehabilitation plan. Therefore, rehabilitation did not form part of the Basic Assessment application as it was understood to be complete. However, we are now aware that the Rehabilitation Plan was not signed off. Furthermore, at that stage the wetland assessment was confined to the proposed project area and property boundaries. The following additional reports have since been generated/ included as part of the 24G Process and needs to be considered: • Aerial imagery, which provides clarity on the history of the site, evidence of constant draining, changes and development within the site and surrounding areas. • The 2014 Freshwater Impact Assessment undertaken by Blue Science (Appendix N3). • The February 2025 Freshwater Impact Assessment undertaken by EverWater (Appendix H2). • The February 2026 Wetland Verification Based on Soil Augering Report by EverWater (Appendix H3). • The December 2025 Freshwater Rehabilitation Plan by EverWater (Appendix I2).	Jeanne Snyman – EverWater Freshwater Consulting Services Jenna Theron – PHS Consulting
1.6	**Conclusion:** The Wetland delineation in Figure 3 of the Section 24G Report does not correspond to the NFEPA Wetland mapping (Figure 1 above) and CapeNature's 2017 Wetland Field Report (Attached as Appendix A). We therefore do not agree with the	As noted above, FEPA wetland mapping often differs from conditions observed on site. If the full extent of the area mapped as FEPA wetland were ground-truthed and delineated using soil auguring prior to the	Jeanne Snyman – EverWater Freshwater

	statement "All the activities fall outside the delineated wetland found on site. Therefore, the activities do not take place within a wetland or watercourse." Listing Notice 1, Activity 19 is triggered by the unlawful activities, and these activities took place within a wetland. Based on the above, CapeNature objects to this application and requests that the structures (concrete platform) be removed, the trenches and wetland areas be rehabilitated to its original condition and the Elgin Shale Fynbos vegetation be actively rehabilitated and success thereof monitored for at least three years.	development, this should constitute the pre-development delineation. This was not undertaken, however, in comparison to the Freshwater Assessment undertaken by Cape Nature dated October 2017, the Blue Science Report (2014) would be a better comparison of the condition of the site (and area) pre-2017 activities. However, in addition, please refer to the additional 'Wetland Verification based on Soil Augering' Report under by the Freshwater Specialist in Appendix H3 as well as the Freshwater Rehabilitation Plan (Appendix I2). The Applicant has property rights. The site was subdivided in 1992 for a purpose most likely similar to the same size portions west of the site, that support the agricultural sector. The Applicant did not construct the trenches, as a matter of fact less trenching is required than implemented by the previous landowner in 2017. The vegetation impact of the area cleared concludes that if all mitigation is implemented, the post mitigation impact of the unauthorised clearing could be reduced to **Low negative**, from Low to Medium negative prior to mitigation. Furthermore, the history of the site dates back much further than 2017. Please refer to Appendix N1 in which a timeline of Aerial Images indicates the disturbed nature of the property over time. In terms of historical aerial imagery, the area has been subject to ad hoc disturbances and the steady expansion of agriculture and agricultural supportive services overtime. In 1989 the existing packshed developed to the west and the existing school to the east of the site. A small dam was constructed on site which was used by farm workers for subsistence farming post 1989. This becomes clear on the 1997 aerial image. [The more recent fires have allowed the ground-truthing of the dam and the oral history around the site being used for agricultural purposes. A site visit was undertaken on the 17th February 2026 and the following became evident: 1. The location of the dam was confirmed SE of the application area i.e. dam wall and depression visible; and 2. Agricultural uses of the site evident i.e. irrigation infrastructure visible.] In 1997 the packshed development to the west is in operation and a road is constructed to the west of the site as a result of construction commenced on the 'hill' for staff housing. An additional road is visible across the property from east to west. This coincides with an electrical	Consulting Services Jenna Theron – PHS Consulting

		powerline servitude crossing the site as shown as “XY” on the SG Diagram. Furthermore, it is understood that excavations for a water pipeline were undertaken along this line. This is evident in the first colour aerial image (DWS) available which shows the extent of the servitude and the excavations undertaken of what is understood to be a channel for a water pipeline which bisects the site. This subsequently became a road across the site. Several new roads traverse the area during this time as well as a power line servitude. Furthermore, the road and staff housing is formalised and complete to the south (on the hill). A stormwater canal running parallel on both sides of the road from south to north is clearly visible. It is our understanding that the position of the stormwater canal on site moved over time, initially the stormwater canal was ±25 m from the road on the subject site (note 2004 Aerial Image onwards), in later years a new canal appears much closer to the road (visible from 2012 onwards). Both these canals drained the site and the stormwater from the developed areas (in the west). Water was initially directed along the western side of the road, however, at some point, stormwater was also directed to the eastern side of the road and onto the site, resulting in wetter conditions over the years. This is clearly visible from 2004 onwards on aerial photos where a dark green wet area is visible, in the vicinity of a sump constructed (pre-2009) on the site to facilitate stormwater from the west. This coincides with the wetland area delineated by the Freshwater Specialist as part of the S24G. It is also clear over the years that the site was a free draining system (1979) with more than one watercourse, whereby post development conditions resulted in the infilling of watercourses resulting in more post development water onto the site. The site was officially formed in 1992 as a 10-ha subdivision, with a purpose. Much like the similar size portions to the west, that fulfil a supportive role to agriculture. The above context also needs to be considered in studying the site. Furthermore, in July 2014, Toni Belcher from Blue Science undertook a Freshwater Impact Assessment within the area for the “PROPOSED ESKOM LONGDOWN SUBSTATION AND ASSOCIATED VYEBOOM TURN-IN LINES”. It	

		is important to note that this report was undertaken prior to the trenching in 2017. According to the report: "*The freshwater assessment is based on a site visit undertaken in June 2014. Three aquatic features (Figure A below) were assessed and are described in this section in terms of their ecological condition, importance and sensitivity, that is:* *1. The drainage feature that flows adjacent to Site B and then transects Site A;* ***2. The small wetland area into which the drainage feature discharges that is located to the north of Site A**; and* *3. The wetland features adjacent to Theewaterskloof Dam near the fruit processing facility."* <u>Point 2 is applicable to this study in that it aligns with EverWater's delineation of the Wetland on site in 2022 & 2025.</u> In comparison to the Freshwater Assessment undertaken by Cape Nature dated October 2017, the Blue Science Report would be a better comparison of the condition of the site (and area) pre-2017 activities. CN states that the digging of trenches in July 2017 resulted in significant water draining however, this needs to be substantiated. Considering aerial imagery assisting in providing clarity on the history the site, evidence of constant draining and changes within the surrounding areas, the lack of mentioning the historical trench and sump found on the site, as well as the findings of the 2014 Freshwater Impact Assessment undertaken by Blue Science this comment does not appear to consider all the facts. Furthermore, in accordance with Cape Natures Freshwater Assessment (Appendix A to CN Comment), the majority of the soil auger test points (indicated by the red triangles in Figure 1) for the ground-truthing of the wetland on site was in fact mostly undertaken off-site. Only 1 auger point falls in close proximity to the site and is located along the road/ western boundary, within the historical trench that has existed on site post 2000. The report states that the site was in a "fairly undisturbed condition at the time that the image was taken [Figure 1(a)]." Firstly, the date of the image is not provided, the image is of a poor quality and therefore not legible, and lastly none of the history, as per above, was considered or mentioned.	

		Most importantly, reference to the historical trench traversing the site which has been draining the site since 2000 or that a sump was constructed receiving stormwater from the west etc. The site therefore did have a level of disturbance pre-2017. There is no substantial proof that the wetland area occurred within the yellow area, as none of the wetland indicators (such as transitional/hydrophytic vegetation or hydromorphic soils were found within this area in any of the former studies). In addition, please refer to the additional 'Wetland Verification based on Soil Augering' Report Appendix H3 as well as the Freshwater Rehabilitation Plan (Appendix I2). It is clear that the NFEPA mapping report did not conduct sufficient ground-truthing.	
I&AP: Naadiya Wookey (Department of Environmental Affairs and Development Planning) – 08 August 2025			
2.1	Please be advised that the *Section 24G Fine Regulations (GN. No. 698 of 20 July 2017* (hereafter referred to as "the fine regulations") were published on 20 July 2017. The fine regulations require that public participation be conducted **prior** to the submission of an application and that an application must include the representations as set out in Annexure A of the fine regulations.	Noted.	Jenna Theron – PHS Consulting
2.2	You are advised that since this draft section 24G application form has been submitted simultaneously with initial advertisement in terms of the Regulation 8 of the fine regulations, a non-application reference has been assigned to this submission. Therefore, you are further advised that the draft section 24G application be re-submitted with proof of prior public participation requirements in terms of the fine regulations and allow for additional 30-day public participation. This Directorate will subsequently assign the relevant application reference accordingly. Further details are provided in paragraph 16 herein. In light of the above, this correspondence will constitute an information requirements letter with respect to the requirements for the processing of a Section	Noted.	Jenna Theron – PHS Consulting

	24G application in terms of the Section 24G Fine Regulations and the NEMA EIA Regulations, 2014 (as amended).		
2.3	Please be advised that submission of a section 24G application shall in no way derogate from an investigation of any transgression in terms of the National Environmental Management Act,1998 (Act 107 0F 1998) ("NEMA") nor from the National Prosecuting Authority's legal authority to institute criminal proceedings.	Noted.	Jenna Theron – PHS Consulting
2.4	You are reminded that a Registered EAP must take full responsibility for the compilation and submission of the application / documents and must hold primary responsibility for the planning, management, coordination or review of environmental impact assessments (EIAs) and associated EMPrs in terms of the Section 24H Regulations of the NEMA.	Noted.	Jenna Theron – PHS Consulting
2.5	**Listed activities that are being applied for:** A section 24G application is only relevant to listed activities that has commenced without the pre-requisite environmental authorisation. Only those activities applied for will be considered for environmental authorisation. The applicant is thus required to ensure that all the applicable listed activities are included in the application to be submitted. In this regard, the timeframe of commencement of the listed activity and the relevant Environmental Impact Assessment legislative period / regime is of particular importance. Please also ensure that the similarly listed activities in terms of the current Environmental Impact Assessment Regulations, 2014 (as amended) are applied for should the listed activities not have commenced within this period. The appointed EAP is required to provide a detailed explanation as to why the unlawfully commenced activity is still similarly listed in terms of the NEMA. <u>Commencement of listed activities</u> In accordance with the information contained in the draft section 24G application form (dated 28 March 2025), the following listed activities have been triggered by the unlawful commencement of the development activities, i.e.:	Noted. The relevant listed activities are addressed in 'SECTION B: ACTIVITY INFORMATION' of the 24G Report. The delineated wetland in accordance with the Freshwater Impact Assessment (2025) plays a major role in the determination of the listed activities. The following activities are listed: **Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended)** Activity Number: 12 Activity Number: 27 **Listing Notice 3 of the NEMA EIA Regulations, 2014 (as amended)** Activity Number: 12 Activity Number: 14	Jenna Theron – PHS Consulting

	Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended) Activity Number: 12 Activity Description: *"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, [or] 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 Number: 19 Activity Description: *"The infilling or depositing of any material of more than [5] 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 Number: 27 Activity Description: *"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."* **Listing Notice 3 of the NEMA EIA Regulations, 2014 (as amended)** Activity Number: 12 Activity Description: *"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.* *i. 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."* Activity Number: 14 Activity Description: *"The development of-* *(i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or* *(ii) infrastructure or structures with a physical footprint of 10 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 has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;* *excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.* *<u>i. Western Cape</u>* *i. Outside urban areas:* *(aa) A protected area identified in terms of NEMPAA, excluding conservancies;* *(bb) National Protected Area Expansion Strategy Focus areas;* *(cc) World Heritage Sites;* *(dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;* *(ee) Sites or areas listed in terms of an international convention;* *(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;* *(gg) Core areas in biosphere reserves; or* *(hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined."*		
2.6	**Minimum requirements for every application for environmental authorisation:** You are reminded that section 24G is an application for environmental authorisation and thus an applicant must comply with the requirements of the NEMA in relation to the submission of an application for environmental authorisation and any other relevant information (section 24(1A)(e) of the NEMA). Section 24(4)(a) of the NEMA specifies the "procedures for the investigation, assessment and communication of the potential consequences or impacts of the activities on the environment" that every application for environmental authorisation must comply with. Taking the above into consideration, together with the information requirements of Annexure A, Section C, Part 1 of the fine regulations related to the environmental impacts and representations to be completed by an Environmental Assessment Practitioner ("EAP"); and to be submitted together with the section 24G application;	Noted.	Jenna Theron – PHS Consulting

	you are hereby advised that the application be informed by an environmental impact assessment. When conducting such environmental impact assessment, the applicant/EAP must take into account the applicable guidelines developed by the Department, which may be downloaded from the Department's website (see above). In particular, the following are applicable: • Guideline for Environmental Management Plans; • Guideline on Public Participation • Guideline on Alternatives • Guideline on Need and Desirability • Departmental guideline series for involving specialist assessments		
	This Directorate notes the Site Sensitivity Verification Report ("SSVR") (dated 26 June 2025) provided in Appendix M2 of the draft section 24G application assessment report. You are advised that this Directorate largely agrees with the findings of the EAP. • Please note that should reasonable concerns arise from any potential interested and affected parties that require additional assessment, such assessment may be required. • Please note that where a specialist assessment is required, but no specific environmental theme protocol has been prescribed, the level of assessment must be based on the findings of the site sensitivity verification and must comply with Appendix 6 of the NEMA EIA Regulations, 2014 (as amended).	Noted.	Jenna Theron – PHS Consulting
	Based on the information contained in the draft section 24G application assessment report, please note the following: • Since the proposed use of the unlawfully commenced activities is for the parking of heavy vehicles and storage of crates / pallets within a watercourse (i.e. wetland) and a high veld fire risk area, the potential impacts on groundwater resources, pollution prevention and fire vulnerabilities / risks must be assessed as part of the environmental impact assessment. • In accordance with the Freshwater Assessment (compiled by everWater Freshwater Consulting Services and dated February 2025), the wetland delineation is limited to the south-eastern portion of the property. It is further	The specialist freshwater report confirmed that the development is **<u>outside</u>** of a wetland/ watercourse. This was addressed in the Freshwater Impact Assessment: "*Due to the nature of the proposed use of the developed area, which is primarily to be used as a parking lot for trucks and stacking of fruit bins, polluted runoff from the parking area towards the surrounding wet areas is a very probable future impact, especially during the wet rain season. Should the 50m buffer zone be re-instated through the proposed rehabilitation proposed above, this will have a long-term Low to Negligible impact on the wetland area. If not, this impact would increase to being of a Medium-Low negative nature*" (Appendix H2). In addition, please refer to:	Jenna Theron – PHS Consulting

	noted that the site inspections undertaken by the freshwater specialist took place on 25 May 2022 (prior to the wetter seasons) and 29 January 2025 (i.e. mid dry summer season). – Confirmation as to whether these time of conducting site inspection are optimal for wetland delineation purposes considering the mapping of the National Freshwater Ecosystem Priority Areas Wetlands layer depicting a wetland flat traversing a large portion of the cadastral property.	• The 2014 Freshwater Impact Assessment undertaken by Blue Science (Appendix N3). • The February 2026 Wetland Verification Based on Soil Augering Report by EverWater (Appendix H3). • The December 2025 Freshwater Rehabilitation Plan by EverWater (Appendix I2). Although the timing of the field visits would not be considered optimal for seasonal wetlands, within higher rainfall areas such as this, the remnants of hydrophilic vegetation from the previous wet season are typically still evident in undisturbed areas, indicating seasonally wet conditions. These should still have been visible during January. No such indicators were observed during either of the field visits. Furthermore, aspects around fire management have been addressed in the EMPr (Appendix I). Section 5.1 (c) and Goal 3: Implement suitable fire risk management addresses Fire Management.	Jeanne Snyman – EverWater Freshwater Consulting Services
2.7	**<u>Public Participation Process:</u>** <u>Preliminary Advertisement</u> Kindly note the requirements of Regulation 8 and Annexure A, Section D of the fine regulations which stipulate that when submitting an application form, the applicant must attach proof that the application has been advertised in at least one local newspaper in circulation in the area in which the activity was commenced, and on the applicant's website, if any. Please note further that the advertisement must state that the applicant commenced a listed/ specified/ waste management activity(ies) without the necessary environmental authorisation and/or waste management licence and is now applying for ex post facto approval. The advertisement must include (a) the date, (b) the location, (c) the applicable legislative provision contravened, (d) and the listed activity(ies) commenced with without the required authorisation. Interested and affected parties (I&APs) must be provided with the details of where they can register as an I&AP and submit their comment. Please be advised that at least 20 days must be provided in which to do so. Proof of compliance with	Noted. Please refer to Appendix G.	Jenna Theron – PHS Consulting

	Regulation 8 of the fine regulations must be submitted together with your application. Should you decide to compile a draft section 24G Application and of your own accord make it available for comment, it is recommended that the draft section 24G Application report be made available simultaneously with the Preliminary Advertisement requirement.		
2.8	**Public Participation Process:** <u>Section 24O consultation with organs of state/State departments</u> Kindly note that any public participation undertaken prior to submission of the section 24G Application report, does not exempt from compliance with section 24O of the NEMA. According to Section 24 O (2) of NEMA, upon submission of the complete and signed application to this Department, it is the responsibility of the EAP to consult with every organ of state that administers a law relating to a matter affecting the environment. Proof of consultation must be included as part of the final report submitted to this Department. You are required to submit a list of organs of state to be consulted in terms of section 24O together with the complete duly dated and signed application. The list of organs of state must be include their contact details with fax/email and the relevant contact person. Based on the information provided, you are advised that the following State departments / organs of state must be included: • This Department's Directorate: Pollution and Chemicals Management. • This Department's Directorate: Coastal and Biodiversity Management. Copies of the section 24G application may be made available for comment to the relevant organs of state upon simultaneous submission of the application to the Department. **Note:** this does not qualify as the Regulation 8 public participation requirement which is required to be conducted prior to submission of an application.	Noted. Proof of PPP is included in Appendix G.	Jenna Theron – PHS Consulting

	In terms of the public participation process ("PPP") to be undertaken, kindly be advised that you/the EAP must record and respond to all comments received during the public participation process. The comments and responses must be captured in a Comment and Response Report (C&RR) and must also include a description of the PPP followed. Following the initial 30-day commenting period, the application and the C&RR must be made available to registered Interested and Affected Parties and State Departments for an additional 21 days for review and/or comment, if any, advising them how their comments and concerns have been addressed, before it is submitted to the Department for consideration. Proof of notification of the additional 21-day commenting period must be appended to the final C&RR.	THIS DOCUMENT.	
2.9	It is noted that your activity/development may require a water use licence. Please provide proof of submission of the application to the relevant authority together with your section 24G application form.	The activities trigger S21 (c) and (i) water uses. An authorisation process has been initiated with BOCMA on e-WULAA. Please refer to the proof of submission in Annexure M3.	Jenna Theron – PHS Consulting
2.10	This Directorate notes that the intended section 24G application for Portion 22 of Farm Klipfontein No. 82, Villiersdorp is associated with previous administrative enforcement actions and a prospective application for environmental authorisation in terms of the NEMA EIA Regulation, 2014 (as amended). You are hereby requested to provide further details regarding the prospective application, the subsequent unlawful commencement of listed activities, and to include relevant information from the prior public participation process, insofar as it pertains to the section 24G application, for consideration by the Competent Authority.	Noted. Please refer to the following additional Annexures included in the 24G Application: • Appendix N1: Historical Imagery & Timeline • Appendix N2: Summary of Application History • Appendix J3: Botanical Assessment Submitted (Nick Helme, 2017).	Jenna Theron – PHS Consulting
2.11	The Environmental Management Programme ("EMPr") contents must meet the requirements outlined in Section 24N (2) & (3) of the NEMA (as amended) and Appendix 4 of the NEMA EIA Regulations, 2014 (as amended). The EMPr must address the environmental impacts of the activity throughout the development life cycle including an auditing protocol for the assessment of the effectiveness of monitoring and management arrangements after implementation.	Noted. Please refer to the EMPr (Appendix I).	
2.12	The EAP must ensure that the section 24G application be submitted as a standalone document, separate to the accompanying appendices, and that each of the	Noted.	Jenna Theron – PHS Consulting

<table>
<tr><td></td><td>appendices is saved separately (in PDF format) and not scanned / merged into a single document.</td><td></td><td></td></tr>
<tr><td>2.13</td><td>Reports must be submitted via email to the case officer, with attached pdf versions of the report or, if too large to attach to an email, to be made available via an electronic link provided in the email that is accessible by the Directorate. The Directorate may require that a hard copy of the reports also be submitted to the Department by a certain date but will advise you accordingly.</td><td>Noted.</td><td>Jenna Theron – PHS Consulting</td></tr>
<tr><td>2.14</td><td>You are reminded that it is an offence in terms of section 49A of the NEMA to commence with a listed activity unless the competent authority has granted environmental authorisation for the undertaking of the activity, and it is an offence to fail to comply with a directive issued in terms of NEMA. A person convicted of an offence is liable to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</td><td>Noted.</td><td>Jenna Theron – PHS Consulting</td></tr>
<tr><td colspan="2">I&AP: Pieter de Villiers (Cornerstone Environmental Consultants) – 31 July 2025</td><td></td><td></td></tr>
<tr><td>3.1</td><td>It has come to my attention yesterday, 30 July 2025, that PHS Consulting is assisting Cropmax with a S24G process. As you know I was the EAP previously involved with this.

I had a very quick look at your S24G Report and I strongly disagree with various statements made. Below are some examples:
Pg. 12:
2. APPLICATION HISTORY
(Cross out the appropriate box "☒" and provide a description where required).
<table><tr><td>Has any national, provincial or local authority considered any development applications on the property previously?</td><td>Yes</td><td>No</td></tr><tr><td colspan="3">If so, please give a brief description of the type and/or nature of the application/s as well as a reference number, if applicable: (In instances where there was more than one application, please attach a list of these applications)</td></tr><tr><td colspan="3">A Basic Assessment was undertaken in 2022, and a pre-application draft BAR was prepared by Cornerstone Environmental Consultants for Cropmax Business Trust. The pre-application BAR was submitted in October 2022; however, the Environmental Authorisation process was never completed. The 2022 BAR process should however not have been allowed to proceed as the Law Enforcement case was still open against the previous landowner (Mr Muller) who had commenced with activities in 2017.</td></tr><tr><td colspan="3">Which authority considered the application:</td></tr></table></td><td>Noted. For the record PHS Consulting had no intent to “misrepresent” any information, we worked with what we had, however for the next report we will engage with the various parties to ensure we have the correct information.

Part 1 - Section A2 and Part 2 – Section C3, have been updated in consultation with Cornerstone, as follows:

<u>Part 1 (Section A2) – Application History:</u>
<table><tr><th>Date</th><th>Activity and/or Event</th><th>Appendix No.</th></tr><tr><td>2017
[Landowner: Mr Miller]</td><td>Unauthorised clearance of vegetation, excavation of 4 trenches and infilling within wetland.</td><td>Appendix N1</td></tr><tr><td>7 September 2017</td><td>Pre-Compliance Notice issued by DEA&DP REF: 14/1/1/E2/5/9/3/03361/17</td><td></td></tr><tr><td>26 October 2017</td><td>Botanical Assessment Submitted (Nick Helme, 2017)</td><td>Appendix J3</td></tr></table></td><td>Paul Slabbert – PHS Consulting

Jenna Theron – PHS Consulting</td></tr>
</table>

10 October 2019	Compliance Notice Issued DEA&DP REF: 14/1/1/E2/5/9/3/03361/17	Appendix J1
10 October 2019	Directive issued DEA&DP REF: 14/1/1/E2/5/9/3/03361/17	Appendix J2
26 October 2017	Botanical Assessment Submitted (Nick Helme, 2017)	Appendix J3
2021-2022 [Landowner: Mr Miller sells the property to Cropmax Trust]	In 2021 a Rehabilitation Plan was compiled by EnviroAfrica who was appointed by Mr Miller to rehabilitate the unlawful trenches on the property, in response to the DEA&DP: Law Enforcement's Pre-Compliance Notice and Pre-Directive, both dated 7 September 2017. Although the content and the status of the Rehabilitation Plan is unclear, there is evidence of a Close-out Report undertaken by EnviroAfrica during March 2022. However, it appears that the Rehabilitation undertaken was not completely successful.	
25 October 2022 [Landowner: Cropmax Trust]	Cornerstone Environmental Consultants were appointed to undertake a Basic Assessment Process. The Draft BAR is advertised to I&APS including DEA&DP. DEA&DP REF: 16/3/3/6/7/1/E4/27/1387/22	
3 October 2023	Najah Ben Jeddou from DEA&DP Law Enforcement confirmed that "No closure audit report was submitted (by Muller); hence the case was not closed"	
21 November 2023	Najah Ben Jeddou from DEA&DP Law Enforcement confirmed that "…the new owner can apply in terms of s24G of NEMA for rectification of unlawful activities conducted my Mr. Miller, since the rehabilitation work has not been completed and still in non-compliance."	
2024	Cropmax cleared and reinstated 2 of the 4 trenches and built a concrete platform without authorisation	
5 September 2024	Pre-Compliance Notice issued DEA&DP REF: 14/1/1/E2/9/9/3/0845/24	Appendix J4
26 September 2024	Compliance Notice issued DEA&DP REF: 14/1/1/E2/9/9/3/0845/24	Appendix J5
2025	PHS Consulting was appointed by Cropmax and DEA&DP confirms that Rehabilitation was not finalised and therefore a 24G Process is to be followed. A Draft Section 24G Application (Pre-application) was advertised for public comment during: 26 June – 28 July 2025. DEA&DP REF: 14/1/1/E2/9/9/3/0845/24	CURRENT PROCESS/ APPLICATION
November 2025 -	Additional Reports are undertaken: The December 2025 Freshwater Rehabilitation Plan by EverWater	Appendix I2 Appendix H3

Pg. 77 (refer specifically to the yellow highlights):

Index	Any other relevant information that the applicant would like to be considered.
	The Applicant purchased the site from the previous landowner (Mr Muller) who had already commenced with excavation of surface drains and vegetation removal, with the intent to develop approx. 1 ha of the site. Cropmax was under the impression that the site is developable considering that disturbance of the area already took place. In 2022 Cropmax started a NEMA process (BAR) after being advised by EAP's that they need to apply in terms of NEMA for an EA to develop the site. However, they were not advised that a pending Law Enforcement case was still outstanding and that a BAR process cannot be followed. This process had significant financial implications on the Applicant who should have been advised upfront that a BAR process could not be followed. When the Applicant found out well into the process that this was the incorrect process to follow, they cleared the 1 ha area based on the botanical report dated August 2022 which stated that the 1 ha is likely suitable for development. The land use rights indicate the site is identified for agricultural purposes. It was available in the open market numerous times with no conservation purchaser interested. Since early years the site has been used and drained. The Applicants intent was purely to construct a platform to store trucks and fruit crates within a portion of the site identified as an area suitable for development.

Please note that this project has a complex history, with EnviroAfrica being involved prior to my involvement.

Kindly register me as an I&AP for this process, and include my comments, as well as your responses, in the Comments and Responses Report for this project, once you proceed again, albeit that the comment period ended on 28 July 2025.

February 2026	The February 2026 Wetland Verification Based on Soil Augering Report by EverWater.	
March 2026	BOCMA approves Freshwater Rehabilitation Plan	
September 2026	BOCMA official site visit. It was concluded that a General Authorisation for the Section 21(c) and (i) water uses is acceptable.	

PART 3 (Section C: Quantum of the Section 24G Fine):

The current Applicant (Cropmax) purchased the site from the previous landowner (Mr Muller) who had already commenced with excavation of surface drains and vegetation removal, with the intent to develop approx. 1 ha of the site. Cropmax was under the impression, albeit incorrectly, that the site is developable considering that disturbance of the area already took place. In 2022 Cropmax appointed EAP's to obtain the necessary environmental approvals and a NEMA Basic Assessment (BA) process was initiated. This process did not continue. However, during further investigation, through DEA&DP Law Enforcement, it has come to light that as a pending Law Enforcement case was still open (i.e. rehabilitation or a 24G process was not completed) a BAR process could not be followed and a S24G process is required if Cropmax wants to apply for retrospective authorisation.

This process to date had significant financial implications on the Applicant who should have been advised upfront by DEA&DP that a BAR process could not be followed. This led to frustration and the Applicant continued with the work Mr Muller started and cleared ±1.5 ha area based on his understanding of the botanical report dated August 2022.

The Applicants property rights must also be considered. The site was subdivided in 1992 for a purpose most likely similar to the same size portions west of the site, that support the agricultural sector (site is zoned Agriculture). The Applicants intent was purely to construct a platform to store trucks and fruit crates within a portion of the site (10%) identified as an area potentially suitable for development. The Applicant did not construct the trenches, as a matter of fact less trenching is required than implemented by the previous landowner in 2017. The vegetation impact of

		the area cleared concludes that if all mitigation is implemented, the post mitigation impact of the unauthorised clearing could be reduced to Low negative, from Low to Medium negative prior to mitigation. Furthermore, the history of the site dates back much further than 2017. Please refer to Appendix N1 in which a timeline of Aerial Images indicates the disturbed nature of the property over time. In terms of historical aerial imagery, the area has been subject to ad hoc disturbances and the steady expansion of agriculture and agricultural supportive services overtime. In 1989 the existing packshed developed to the west and the existing school to the east of the site. A small dam was constructed on site which was used by farm workers for subsistence farming post 1989. This becomes clear on the 1997 aerial image. (The more recent fires have allowed the ground-truthing of the dam and the oral history around the site being used for agricultural purposes. A site visit was undertaken on 17th February 2026 and the following became evident: 1. The location of the dam was confirmed SE of the application area i.e. dam wall and depression visible; and 2. Agricultural uses of the site evident i.e. irrigation infrastructure visible.) In 1997 the packshed development to the west is in operation and a road is constructed to the west of the site as a result of construction commenced on the 'hill' for staff housing. An additional road is visible across the property from east to west. This coincides with an electrical powerline servitude crossing the site as shown as "XY" on the SG Diagram. Furthermore, it is understood that excavations for a water pipeline were undertaken along this line. This is evident in the first colour aerial image (DWS) available which shows the extent of the servitude and the excavations undertaken of what is understood to be a channel for a water pipeline which bisects the site. This subsequently became a road across the site. Several new roads traverse the area during this time as well as a power line servitude. Furthermore, the road and staff housing is formalised and complete to the south (on the hill). A stormwater canal running parallel on both sides of the road from south to north is clearly visible. It is our understanding that the position of the stormwater canal on site moved over time, initially the stormwater canal was ±25 m from the road on the subject site (note 2004 Aerial Image onwards), in later years a new	

		canal appears much closer to the road (visible from 2012 onwards). Both these canals drained the site and the stormwater from the developed areas (in the west). Water was initially directed along the western side of the road, however, at some point, stormwater was also directed to the eastern side of the road and onto the site, resulting in wetter conditions over the years. This is clearly visible from 2004 onwards on aerial photos where a dark green wet area is visible, in the vicinity of a sump constructed (pre-2009) on the site to facilitate stormwater from the west. This coincides with the wetland area delineated by the Freshwater Specialist as part of the S24G. It is also clear over the years that the site was a free draining system (1979) with more than one watercourse, whereby post development conditions resulted in the infilling of watercourses resulting in more post development water onto the site. The site was officially formed in 1992 as a 10-ha subdivision, with a purpose. Much like the similar size portions to the west, that fulfil a supportive role to agriculture. The above context also needs to be considered in this regard.	
I&AP: Pieter de Villiers (Cornerstone Environmental Consultants) – 04 August 2025			
3.2	Our telephonic discussion on 31 July 2025 refers. I appreciate and thank you for your apology. We have agreed that you will change the stated wording in the S24G report and provide me an opportunity to review these before you circulate it for the next round of PP. However, after consideration, I still believe that you have misrepresented some of the facts, and that these should be retracted from the S24G Report and a public statement should be made in this regard.	Noted. The Draft S24G Report has been amended as per our response to Point 3.1 above in consultation with Cornerstone. We hereby acknowledge and take note of your objection of the opinions expressed in our Draft 24G Report. We hereby also formally apologise for any misrepresentation of information and the use of Cornerstones name within the Draft 24G Report. It was not our intention to in any way attack your professional integrity or judgement. To our knowledge the revised 24G Report is a true reflection of the facts to date.	Jenna Theron – PHS Consulting

	Comments and Responses Report: I request that you indicate these changes in the C&RR and include that Cornerstone rejected the previous statements as not being a true reflection of their involvement in the project and BA process. You should also please inform all the previously notified and registered I&APs of our opinion (that we did not agree with some of your statements) and the corrections made.	Noted. It is hereby included. Noted. All I&APs (not only registered I&APs) will be informed of the revised Draft 24G Report. Through the C&R Report we hereby inform all I&APs of the Cornerstones opinion and the corrections made.	
I&AP: Johan Viljoen (Theewaterskloof Municipality) – 25 June 2025			
4	Correspondence received. Noted.	Thank you.	Jenna Theron – PHS Consulting
I&AP: Rulien Volschenk (Overberg District Municipality) – 29 July 2025			
5.1	The Environmental Management Services Department of the Overberg District Municipality take cognisance of the S24G Report for the unlawful clearance of vegetation on portion 22 of the farm 82.	Thank you.	Jenna Theron – PHS Consulting
5.2	Based on the Western Cape Biodiversity Spatial Plan of 2023 the cleared area falls within Critical Biodiversity Areas (Degraded). With reference to the Overberg District Municipality's Spatial Development Framework of 2022, CBAs is classified as Core 2 under the Spatial Planning Categories. These areas must be maintained in a natural or near-natural state, with no further loss of habitat. Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land-uses are appropriate.	Noted.	Jenna Theron – PHS Consulting
5.3	In terms of Section 28 of the National Environmental Management Act (Act No. 107 of 1998), the property owner bears a legal duty of care to take reasonable measures to prevent, minimize, and rectify environmental degradation. This obligation applies irrespective of whether environmental authorisation has been granted. Accordingly, the mitigation measures proposed in the Aquatic and Terrestrial Biodiversity Impact Assessments are supported. Priority should be given to the	Noted.	Jenna Theron – PHS Consulting

	rehabilitation of highly sensitive wetland areas and the prevention of further ecological degradation.		
I&AP: Nolutando Ndlumbini (BOCMA) – 30 July 2025			
6.1	The pre-application section 24G report by PHS Consulting states that in 2017, the previous landowner re-excavated the existing / historic trench along the south-western boundary of the property and excavated additional trenches across the centre of the property and along a portion of the northern boundaries. of water. These activities took place within close proximity to a wetland and approx. 2500m2 of indigenous vegetation was cleared along the historic and central trench areas. The subsoil drainage system / trench was approximately 900m in length. In 2024, the Applicant cleaned out the previously excavated drainage systems across the middle of the property and on the south-western boundary. The Applicant cleared approximately a further 1ha of indigenous vegetation and infilled a portion of this area with concrete to build a hardstand. The report highlighted the work to be completed included the rehabilitation of the wetland.	Noted. Please refer to additional reports undertaken by EverWater including: • The February 2026 Wetland Verification Based on Soil Augering Report by EverWater (Appendix H3); and • The December 2025 Freshwater Rehabilitation Plan by EverWater (Appendix I2).	Amanda Fritz-Whyte – PHS Consulting
6.2	Based on BOCMA CME investigation process in this matter, the requirements for the issued notice have not yet fully achieved.	The requirement for a rehabilitation plan is noted and was agreed with BOCMA CME to form part of the second round of PPP for the S24G process. Therefor the S24G process and the BOCMA CME requirements will run concurrently. Please refer to the Freshwater Rehabilitation Plan now included in Appendix I2.	Amanda Fritz-Whyte – PHS Consulting
6.3	The above-mentioned activities conducted within a regulated area of a watercourse triggered water use in terms of section 21(c) – impeding or diverting the flow of water in a watercourse and section 21(i) – altering the bed, banks, course or characteristics of a watercourse of the National Water Act, 1998 (“NWA”) (Act 36 of 1998).	Agreed. The activities trigger S21 (c) and (i) water uses. An authorisation process has been initiated with BOCMA on e-WULAA. Please refer to the proof of submission in Annexure M3.	Amanda Fritz-Whyte – PHS Consulting
6.4	Water use authorisation in terms of the NWA should have been attained before commencement of the water use activities undertaken within a regulated area of a watercourse.	Noted and agreed.	Amanda Fritz-Whyte – PHS Consulting

6.5	Section 22(1) of NWA provides that: A person may only use water – without a licence –if that water use is permissible under Schedule 1; if that water use is permissible as a continuation of an existing lawful use; if that water use is permissible in terms of a general authorisation issued under section 39; if the water use is authorised by a licence under this Act; or if the responsible authority has dispensed with a licence requirement under subsection (3).	Noted. The activities trigger S21 (c) and (i) water uses. An authorisation process has been initiated with BOCMA on e-WULAA. Please refer to the proof of submission in Appendix M3.	Amanda Fritz-Whyte – PHS Consulting
6.6	A regulated area of a watercourse referred to above as defined in Government Gazette 49833 no 208 dated 8 December 2023 means: (a) The outer edge of the 1 in 100-year flood line or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, dams and lakes; (b) In the absence of a determined 1 in 100-year flood line or riparian area as contemplated in (a) above the area within 100m distance from the edge of a watercourse where the edge of the watercourse (excluding flood plains) is the first identifiable annual bank fill flood bench (subject to compliance to section 144 of the National Water Act 36 of 1998); (c) In respect of a wetland: a 500 m radius around the delineated boundary (extent) of any wetland or pan.	Noted.	Amanda Fritz-Whyte – PHS Consulting
6.7	Please note that, due to the unlawful water use activities and pending fulfilment of the issue notice as indicated above, this matter will be referred to the CME investigation officer for further handling to ensure compliance. As such, no further comments will be provided in relation to this Section 24G application.	Noted.	Amanda Fritz-Whyte – PHS Consulting
6.8	All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.	Noted. The activities trigger S21 (c) and (i) water uses. An authorisation process has been initiated with BOCMA on e-WULAA. Please refer to the proof of submission in Appendix M3.	Amanda Fritz-Whyte – PHS Consulting
6.9	Please be advised that no activities may commence without the appropriate approvals/authorisations, where needed, from the responsible authority. The onus remains with the registered property owner to confirm adherence to any relevant legislation that such activities might trigger and/or need authorisation for.	Noted. The activities trigger S21 (c) and (i) water uses. An authorisation process has been initiated with BOCMA on e-WULAA. Please refer to the proof of submission in Appendix M3.	Amanda Fritz-Whyte – PHS Consulting

<table>
<tr><th colspan="4"><u>Additional comment received:</u>
27 March 2026 (Pre-application) Draft 24G Report.</th></tr>
<tr><th colspan="2">I&AP: Pieter de Villiers (Cornerstone Environmental Consultants) – 27 March 2026</th><th></th><th></th></tr>
<tr><td>7.1</td><td>This letter serves to provide the necessary history, facts and comments associated with the following document compiled by PHS Consulting, dated March 2026, titled: NEMA Section 24G Application UNAUTHORISED CLEARING OF INDIGENOUS VEGETATION ON PORTION 22 OF KLIPFONTEIN FARM 82, VILLIERSDORP. DEADP Ref: 14/1/1/E2/9/9/3/0845/24.

The document was sent to the undersigned by e-mail on 23 March 2026.
The input provided below relates to specific sections and pages from the above-mentioned document (S24G Report), as are indicated below.
<u>We request that you revise the S24G Report by including our comments below and carry this over into the Comments and Responses Report, which is included as Appendix G5, where relevant.</u></td><td>Noted. The S24G Report has been revised, where applicable, and comments have been included in the C&R Table (THIS DOCUMENT).</td><td>Jenna Theron – PHS Consulting</td></tr>
<tr><td>7.2</td><td>1. Section 24G Application Report Section A.2: Application History (pages 12 and 13):
➢ <u>Extract from page 12 of the Section 24G Application Report:</u>
<table><tr><td>2021</td><td>Rehabilitation Plan compiled by EnviroAfrica. It is unclear to what extent the Rehabilitation Plan was implemented or the status thereof, however all indications are that rehabilitation was not completed.</td><td></td></tr></table>The above statement from the Section 24G Application Report is incorrect.

EnviroAfrica was appointed by the previous owner, Mr. Miller, to rehabilitate the unlawful trenches on the property, in response to the Department of Environmental Affairs and Development Planning (DEA&DP): Law Enforcement’s Pre-Compliance Notice and Pre-Directive, both dated 7 September 2017. See Appendix A attached for a letter dated 17 August 2020 from EnviroAfrica to Ms. Naja Ben Jeddou. The letter states the following:</td><td>Noted and thank you for the additional information providing further clarity. The relevant section of the Section 24G Application has been revised as follows:

“A Rehabilitation Plan was compiled by EnviroAfrica who was appointed by Mr Miller to rehabilitate the unlawful trenches on the property, in response to the DEA&DP: Law Enforcement’s Pre-Compliance Notice and Pre-Directive, both dated 7 September 2017. Although the content and the status of the Rehabilitation Plan is unclear, there is evidence of a Close-out Report undertaken by EnviroAfrica during March 2022. However, it appears that the Rehabilitation undertaken was not completely successful.”

PHS was not aware of the Close- out Report as all communications between DEA&DP and the Applicant (Cropmax) have indicated that rehabilitation</td><td></td></tr>
</table>

	"Please note that EnviroAfrica will undertake the detailed Rehabilitation Plan as required in the Department's Directive dated 10 October 2019 and Appeal Decision dated 03 July 2020". Rehabilitation was subsequently completed, as was confirmed in the Close-out Report issued by EnviroAfrica during March 2022. Refer to Appendices B and C respectively for the Close-out Report cover letter addressed to DEA&DP: Law Enforcement, and the Close-out Report itself. ➢ <u>Extract from page 13 of the Section 24G Application Report:</u> 3 October 2023 — Najah Ben Jeddou from DEA&DP Law Enforcement confirmed that "No closure audit report was submitted (by Muller); hence the case was not closed". The above statement is incorrect, according to our understanding. It is our understanding that EnviroAfrica did submit the Close-out Report to Ms Ben Jeddou on 25 April 2022. See Appendix B for a cover letter addressed to the DEA&DP: Law Enforcement. ➢ <u>Extract from page 13 of the Section 24G Application Report:</u> 21 November 2023 — Najah Ben Jeddou from DEA&DP Law Enforcement confirmed that "…the new owner can apply in terms of s24G of NEMA for rectification of unlawful activities conducted my Mr. Miller, since the rehabilitation work has not been completed and still in non-compliance." The above statement is incorrect as it was indicated in the Close-out Report issued by EnviroAfrica that the trenches were indeed rehabilitated.	was not completed, however this could indicate that although rehabilitation measures were put in place they were not completed successfully or followed up and audited. Noted. However, this is a direct quote from DEA&DP, and we can only presume that the Close-out Report was not received, required additional information or did not fulfil the role of a closure audit. This section of the report cannot be amended as it represents relevant communication from DEA&DP to the Applicant. Noted. However, this is a direct quote from DEA&DP, and we can only presume that the Close-out Report was not received, required additional information or did not fulfil the role of a closure audit. This section of the report cannot be amended as it represents relevant communication from DEA&DP to the Applicant. Although rehabilitation measures were put in place, according to the Close-out report, these were not completely successful, followed up or audited.	
7.2	**2. Section 24G Application Report Section C: Quantum of the Section 24G Fine, Part 3 (pages 83 to 84):** ➢ <u>Extract from page 83 of the Section 24G Application Report:</u> *"Cropmax was under the impression, albeit incorrectly, that the site is developable considering that disturbance of the area already took place. In 2022 Cropmax appointed EAP's to obtain the necessary environmental approvals and a NEMA Basic Assessment (BA) process was initiated. This process did not continue. However, during further investigation, through DEA&DP Law Enforcement, it has come to light*		

	that as a pending Law Enforcement case was still open (i.e. rehabilitation or a 24G process was not completed) a BAR process could not be followed and a S24G process is required if Cropmax wants to apply for retrospective authorisation." The above statement is misleading, since Cropmax did know that their proposed project required authorisation. Furthermore, EnviroAfrica was appointed by the previous owner, Mr. Miller, to do the rehabilitation of the trenches in response to the DEA&DP's Pre-Compliance Notice and Pre-Directive, both dated 7 September 2017. See Appendix A. This letter was cc'd to Marius Venter and Nithzaam Albertyn, both from DEA&DP, who can perhaps be contacted to confirm if they ever received the information regarding the rehabilitation from EnviroAfrica. The Rehabilitation Close-out report (Appendix C attached) prepared by EnviroAfrica confirms the period of the closeout activities to be 28 February 2022 to 11 March 2022. It is our understanding that EnviroAfrica submitted the Close-out Report to Ms. Naja Ben Jeddou on 25 April 2022. See Appendix B for cover letter addressed to the DEA&DP: Law Enforcement. Upon a recent request for proof of submission of the Close-Out Report to DEA&DP: Law Enforcement, EnviroAfrica could not provide such proof as Mr. De Witt had subsequently passed away and his colleagues are not able to access communication sent by Mr. De Witt. But it was clear from the reporting from EnviroAfrica that the rehabilitation measures were undertaken and completed, in accordance with an approved Rehabilitation Plan. Based on this rehabilitation that took place, it was clear that Mr. Miller's intention was to rehabilitate the trenches and not proceed illegally with any activities. An Applicability Checklist, dated August 2021, which Mr. de Witt forwarded to me on 9 February 2022, was also prepared by EnviroAfrica, on behalf of Cropmax, with Mr. Billy Muller indicated as the name of person in control of the land. It is therefore assumed that Cropmax did not own the land at that stage. The following was stated in the checklist: *"The site is relatively flat with a gradual slope towards the Theewaterskloof Dam. Soils, associated with the study area, may be described as deep, loamy sands with underlying shales. As per the Botanical Assessment (Appendix J), perched water may be present in the area and sub-surface water (i.e., groundwater) was observed in*	Please note that while the Applicant had knowledge of the procedure at the time, the clearing undertaken in May 2024 was a result of administrative confusion regarding the status of the "open" Law Enforcement file and the belief that the site was "historically disturbed" and thus eligible for development to a productive use. The specific section of land was already identified by specialists as having lower sensitivity compared to the rest of the farm. PHS was not aware of the Close-out Report as all communications between DEA&DP and the Applicant (Cropmax) have indicated that rehabilitation was not completed, however this could indicate that although rehabilitation measures were put in place they were not completed successfully or followed up and audited. As indicated, EnviroAfrica could not provide proof of submission to DEA&DP as Mr. De Witt has subsequently passed away and his colleagues are not able to access communication sent by Mr. De Witt. Therefore, we need to rely on and adhere to the requests of the Competent Authority who has indicated that no closure audit was submitted and the rehabilitation was not completed. This section of the report has been amended focusing on the historical disturbance of the site that needs to be taken into consideration.	

	certain sections of the alleged illegally cleared vegetation and excavated channels within the wetland (present within the property). *A Rehabilitation Plan (Appendix I) was compiled for the alleged illegal (i) clearance of vegetation within the Elgin Shale Fynbos (Critically Endangered) and Koeberg Sandstone Fynbos (Least Threatened) vegetation types, and (ii) excavation of channels within a wetland on the property. The Rehabilitation Plan was submitted to the DEA&DP on the 16th April 2021. The above matter refers to a Compliance Notice (14/1/1/E2/5/9/3/0336/17) and Directive (14/1/1/E2/5/9/3/0336/17) issued by the DEA&DP as well as subsequent correspondence between the EAP, DEA&DP, Botanical Specialist, and/or the landowner regarding the status of these alleged illegal activities."* (our emphasis) The checklist reiterated the fact that a rehabilitation plan was submitted to the DEA&DP. It is unknown whether the checklist was ever submitted to the DEA&DP, but the intention by Cropmax was clear. They knew that they required Environmental Authorisation for their proposed development of the platform. For some reason, Cropmax felt that EnviroAfrica was no longer able to assist them with the environmental process, whereafter they contacted Cornerstone Environmental Consultants (Pty) Ltd. in November 2021. Based on the information available at the time there was no reason to advise Cropmax to do a rectification process on something that was in the process of being rehabilitated, as per EnviroAfrica. The Pre-application Basic Assessment process that was commenced in October 2022 did not continue into the Application Phase because the Applicant, Cropmax, did not want to appoint a specialist to undertake the hydropedological assessment recommended by CapeNature at the time. They indicated that they would pursue the project "**using other tools and consultants and hopefully it might be successful**". ➢ Extract from page 83 of the Section 24G Application Report:	Please note that only after the close-out audit submission to DEA&DP and their acceptance of said report is the Law enforcement file closed. PHS checked if the file was closed and DEA&DP confirmed that the file is still open. PHS also observed on site that rehabilitation was not successfully completed, confirming to us that its most likely still an open file. Based on DEA&DP's response we advised Cropmax about their options to either complete rehabilitation or the apply for a S24G. PHS was not aware of the Close-out Report as all communications between DEA&DP and the Applicant (Cropmax) have indicated that rehabilitation was not completed, however this could indicate that although rehabilitation measures were put in place they were not completely successful or followed up and audited. As indicated, EnviroAfrica could not provide proof of submission to DEA&DP as Mr. De Witt has subsequently passed away and his colleagues are not able to access communication sent by Mr. De Witt. Therefore, we need to rely on and adhere to the requests of the Competent Authority who has indicated that no closure audit was submitted and the rehabilitation was not completed.	

	"This process to date had significant financial implications on the Applicant who should have been advised upfront by DEA&DP that a BAR process could not be followed. This led to frustration and the Applicant continued with the work Mr Muller started and cleared ± 1.5 ha area based on his understanding of the botanical report dated August 2022 (Appendix H1) which stated that the ±1 ha is likely suitable for development." The above statement is factually incorrect. Looking at the unfolding of events, Mr. Miller's intention was to rehabilitate and not to carry on, and Cropmax knew this. ➢ <u>Extract from page 83 of the Section 24G Application Report:</u> *"The Applicants property rights must also be considered. The site was subdivided in 1992 for a purpose most likely similar to the same size portions west of the site, that support the agricultural sector (site is zoned Agriculture). The Applicants intent was purely to construct a platform to store trucks and fruit crates within a portion of the site (10 - 15%) identified as an area potentially suitable for development. The Applicant did not construct the trenches, as a matter of fact less trenching is required than implemented by the previous landowner in 2017. The vegetation impact of the area cleared concludes that if all mitigation is implemented, the post mitigation impact of the unauthorised clearing could be reduced to Low negative, from Low to Medium negative prior to mitigation."* (our emphasis) The applicant was aware that development of the platform required Environmental Authorisation before construction, hence the commencement of the Pre-application Basic Assessment process during October 2022. The applicant therefore decided to knowingly carry on unlawfully. You are welcome to contact the undersigned, should you have any questions or require any additional information.	This section of the report has been amended to further illustrate the extent of the history of activity on the site. The clearing conducted by the Applicant in May 2024 was as a result of administrative confusion regarding the status of the "open" Law Enforcement file and the belief that the site was "historically disturbed" and thus eligible for development to a productive use. The mere fact that Cropmax is applying for S24G is an indication that they understand the consequence of their actions. But the culmination of events must be considered in the application as mitigation when the fine is determined. Facts are stated and the competent authority will evaluate this as part of decision making in this case.	