



REFERENCE: 14/1/1/E2/9/9/3/0808/23
ENQUIRIES: Najah Ben Jeddou

EMAIL: remkuil@ruens.co.za

Mr Johannes du Toit
Portion 7 of Farm Rietfontein No. 259
Caledon
7230

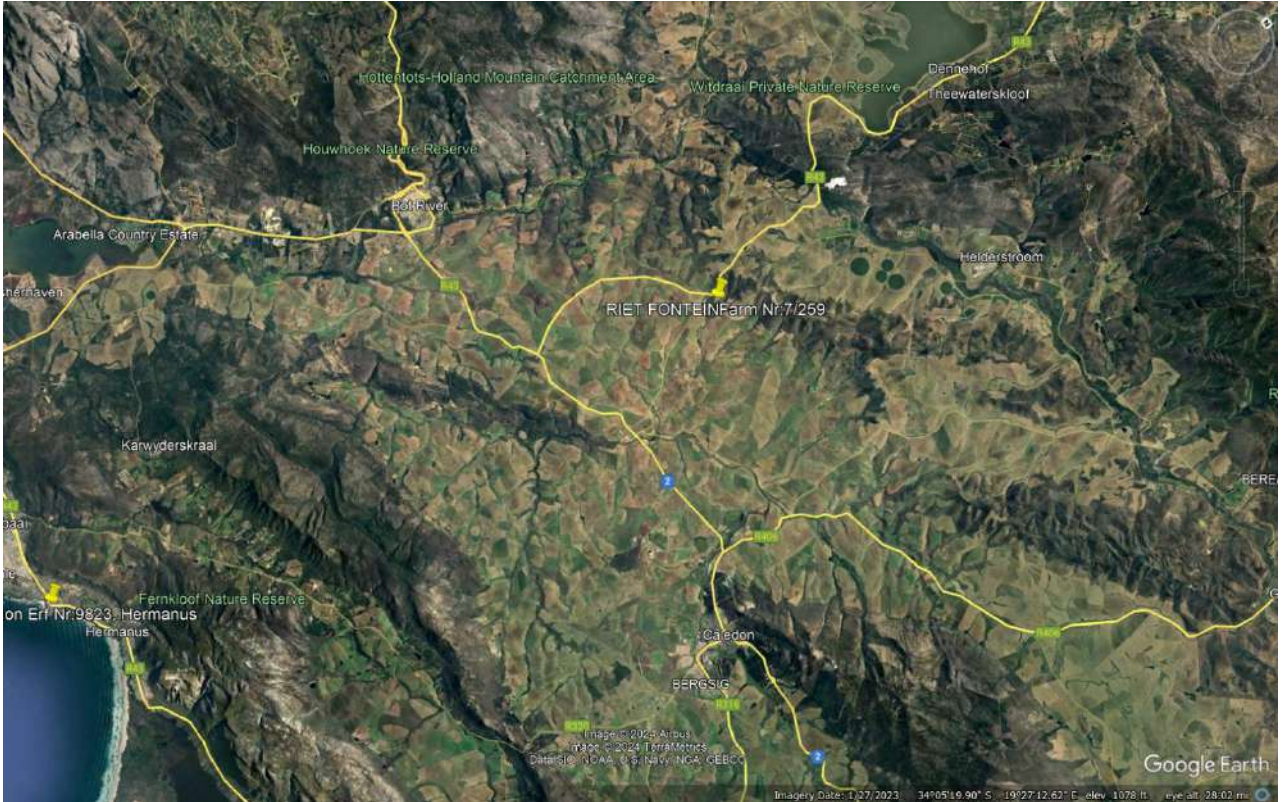
PRE-COMPLIANCE NOTICE

Dear Sir

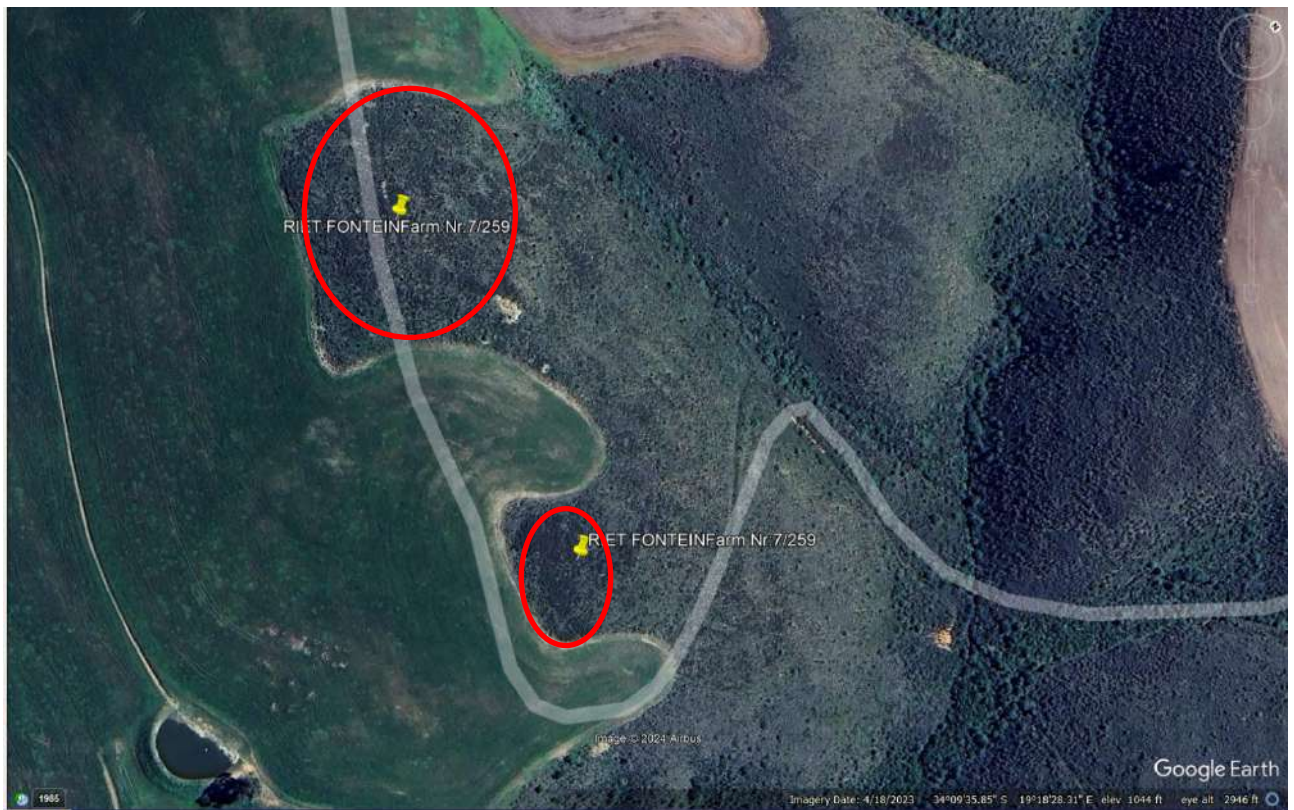
INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

1. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA"), a site inspection was conducted at Portion 7 of Farm Rietfontein 259, Caledon by an Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 15 November 2023, which confirmed that you have commenced with the clearing of indigenous vegetation without environmental authorisation.

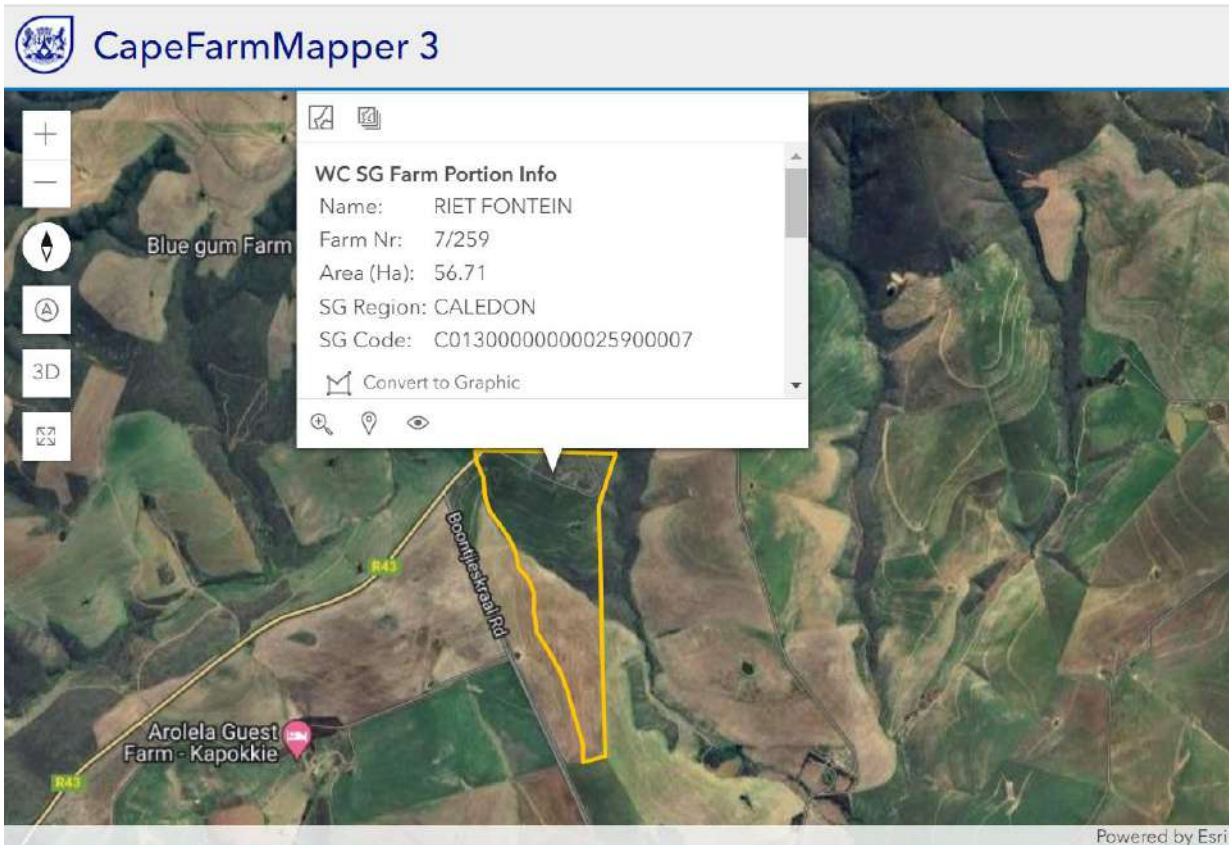
34° 9'37.30"S 19°18'31.32"E



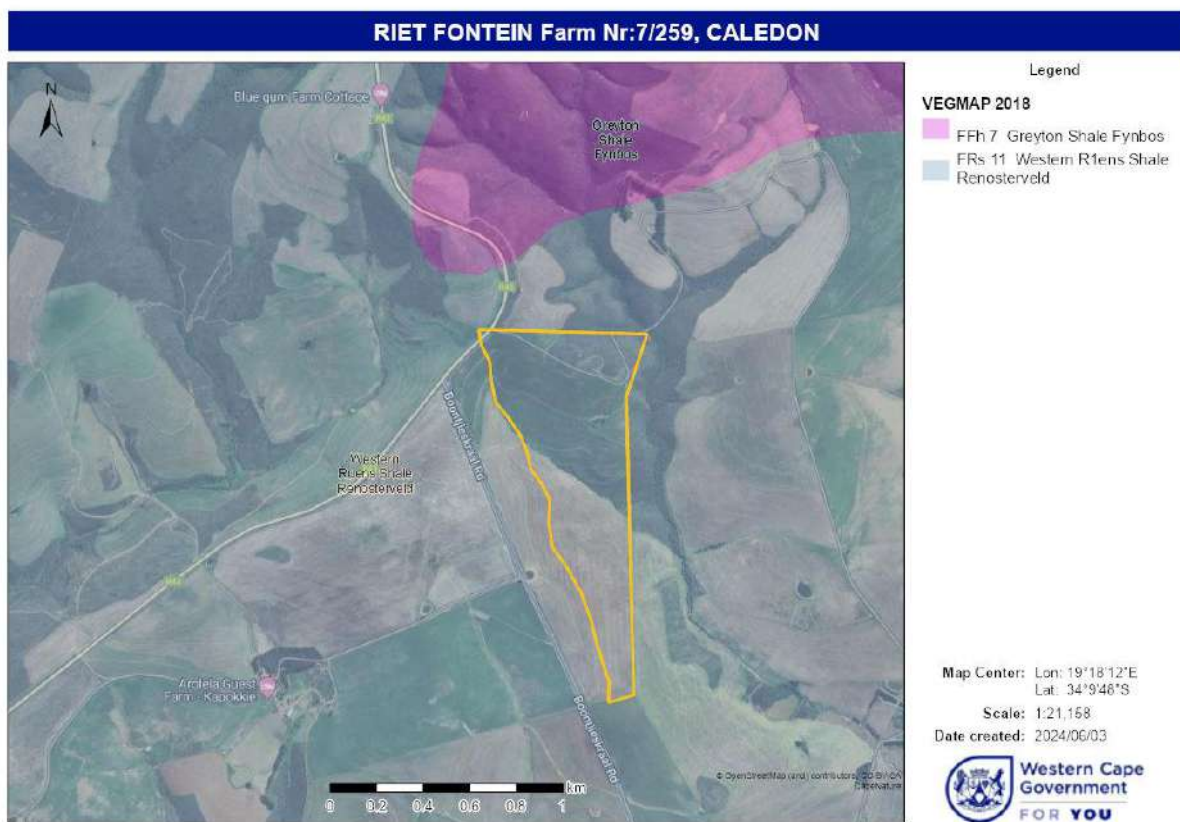
Aerial map 1: Location of alleged illegal clearing of indigenous vegetation.



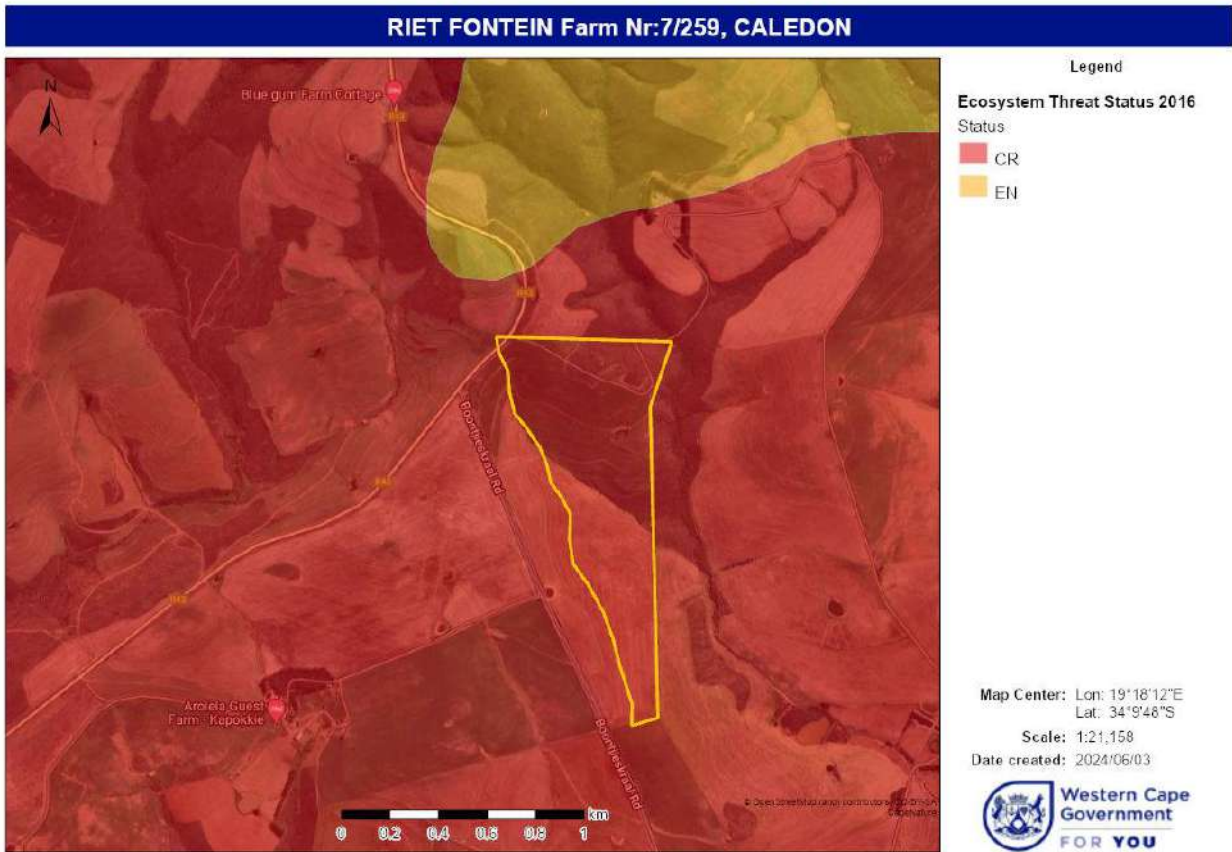
Aerial map 2: Zoomed in aerial image of the areas where clearing took place (areas circled in red).



Aerial map 3: SG Code and property details on CapeFarmMapper.



Aerial map 4: Vegetation type on the property and surrounding areas- mapped as Western Ruens Shale Renosterveld, a Critically Endangered Vegetation.



Aerial map 5: Ecosystem threat status on the property and surrounding areas, mapped as Critically Endangered Ecosystem.



Aerial map 6: aerial image obtained from SAEON – (South African Environmental Observation Network) dated 20 August 2023 depicting vegetation is intact.



Aerial map 7: Zoomed in Aerial image dated 20 August 2023, showing no activity at this date.



Aerial map 8: image dated 27 August 2023 indicating clearing of vegetation is visible.

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

EIA Regulations Listing Notice 1 of 2014:

Activity no. 27:

The clearance of an area of 1 hectares or more but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) *the undertaking of a linear activity; or*
- (ii) *maintenance purposes undertaken in accordance with a maintenance management plan.*

EIA Regulations Listing Notice 3 of 2014:

Activity no. 12:

The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

Western Cape

- i. ***Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;***

- ii. **Within critical biodiversity areas identified in bioregional plans;**
- iii. *Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;*
- iv. *On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or*
- v. *On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.*



Photo 1: Overview of the cleared area on the property.



Photo 2: An alternative of the cleared vegetation on the property. Showing the remnant of bulldozed indigenous vegetation.



Photo 3: View of the undisturbed indigenous vegetation shown by blue arrow and the cleared area towards the south.



Photo 4: View of cleared vegetation within a critically endangered vegetation – note the intact vegetation on the side, an indication of the vegetation that was cleared on the property.



Photo 5: closer view of the roots of disturbed indigenous vegetation on the property.



Photo 6: view of the bulbs on the cleared area.

4. In terms of section 49A of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

5. As such, you are hereby given notice of the Department's intention to issue you with a Compliance Notice in terms of section 31L of the NEMA, which will instruct you to:
 - 5.1 immediately cease the above listed activities;
 - 5.2 investigate, assess and evaluate the impact that the listed activity has / has had on the environment;
 - 5.3 rehabilitate the entire site to its original condition; and

- 5.4 carry out any other measure necessary to rectify the effects of the unlawful activity.
6. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of failing to comply with a Compliance Notice is liable to a maximum fine of R5 million or 5 years imprisonment or both such fine and such imprisonment.
7. You are afforded a period of **7 (seven) calendar days** from the date of receipt of this Pre-Compliance Notice to make written representations to the Department as to why a Compliance Notice should not be issued.
8. If you inform the Department, in respect of paragraph 7 above that you intend to rectify the non-compliance, you must undertake the following:
- 8.1. cease the continuation of the above listed activities on the abovementioned property, and confirm such **within 7 (seven) calendar days** of receipt of this notice; and
- 8.2. submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Directive, a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
- 8.2.1. assessment and evaluation of the impact on the environment; and
- 8.2.2. identification of proposed remedial and/or mitigation measures.
9. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.
10. Approval of the above report by the Department does not remedy the unlawful commencement of the above activity, which remains unlawful in terms of section 49A (1) (a) and/or (d) of the NEMA.

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



Mr A. Bassier
Director: Environmental Law Enforcement
Grade 1 Environmental Management Inspector
Date: 15/03/2024

