



LORNAY
ENVIRONMENTAL CONSULTING

PROOF OF PUBLIC PARTICIPATION

Clearance of Indigenous vegetation for the establishment of a Nut grove on
Portion 57 of the Farm Rocklands No. 633, Caledon RD,

16 April 2026

Consultant:

Michelle Naylor | Env. Consultant | M.Sc., Pr. Sci. Nat., EAPASA
cell: 083 245 6556 | michelle@lornay.co.za | www.lornay.co.za
Unit 5/1F Hemel en Aarde Wine Village, Hermanus, 7200
Lornay Environmental Consulting Pty Ltd | Reg 2015/445417/07

CONTENTS

CONTENTS..... 2

1. INTRODUCTION 3

2. LIST OF INTERESTED AND AFFECTED PARTIES AND ORGANS OF STATE 4

3. WRITTEN NOTICE TO I&APS AND ORGANS OF STATE OF DRAFT BAR: 5

4. PROOF OF NOTICE TO I&APS AND ORGANS OF STATE 9

5. NEWSPAPER ADVERTISEMENT 10

6. NOTICEBOARDS..... 11

7. COMMENTS AND RESPONSE REPORT AND REGISTER FOR I&APS..... 13

8. COMMENTS RECEIVED DURING DRAFT / PRE-APPLICATION PUBLIC PARTICIPATION 45

1. INTRODUCTION

The Public Participation Process was conducted in terms of the Environmental Impact Assessment (EIA) regulations as promulgated in the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) (as amended) and the 2014 NEMA EIA Regulations promulgated in Government Gazette No. 38282 and Government Notice R983, R984 and R985 on 4 December 2014 (as amended). All potential interested and affected parties (I&APS) and applicable organs of state were notified of the Draft Section 24G Report. The 24G report was made available for a 30-day period to I&APS and organs of state, to register and comment. Noticeboards were placed on site and a newspaper advertisement was placed in the local newspaper. All comments were recorded in a comments and response report and a register for I&APS was opened. Once the 30-day public participation on the Report was complete, all comments made were attended to and the FINAL 24G report was amended as required.

2. LIST OF INTERESTED AND AFFECTED PARTIES AND ORGANS OF STATE

In line with the requirements of NEMA, all potential Interested and Affected Parties (I&APS) were notified of the project and provided with an opportunity to comment. This included applicable organs of state. See list of I&AP's identified for the project:

DRAFT PUBLIC PARTICIPATION	
DEADP Zaidah Toefy, Fahd Said, Yena Gunguluzi Private Bag X9086 Cape Town 8000 Utilitas Building 1 Dorp Street 8001 Cape Nature Rhett Smart Private Bag x5014 Stellenbosch 7599 landuse@capenature.co.za Overstrand Municipality Penelope Aplon / Stanford Ward councillor dcoetzee@overstrand.gov.za	BOCMA R. le Roux / F. Smith 0233468000 rleroux@bocma.co.za fsmith@bocma.co.za Dept of Agriculture Cor vd Walt corvdw@elsenburg.com B. Layman Brandon.Layman@westerncape.gov.za Overberg District Municipality Private Bag x 22 Bredasdorp 7280 rvolschenk@odm.org.za R. Volschenk
Portion 3 of 633 SEE-EIKE TRUST (PTY) LTD mari@plusacc.co.za Portion 4 of 633 CORPCLO 2732 CC anthonybishop01@gmail.com Portion 35 of 633 MOUNTAIN FALLS ESTATE (PTY) LTD accounts@mountainfalls.co.za Portion 17 of 633 MONCARLEY TRUST dmandy@iafrica.com Portion 18 of 633 ROSKEEN FAMILY TRUST andrian@joblaw.co.za Portion 22 of 633 ROSKEEN FAMILY TRUST	

andrian@joblaw.co.za

Portion 23 of 633

NTHABISENG TRUST

sonja.vr@axemail.co.za

Portion 21 of 633

MOHAU TRUST

clark345@mweb.co.za

Remainder portion 632

GRANTON TRUST

PO BOX 1810

HERMANUS

7200

3. WRITTEN NOTICE TO I&APS AND ORGANS OF STATE OF DRAFT BAR:

The I&AP's identified above were given written notice of the proposed development, via registered mail or courier, as appropriate. The written notice included details of the applicable legislation, the proposed expansion and means to provide comment or register as I&AP. See written notice below:

michelle@lornay.co.za

From: michelle@lornay.co.za
Sent: Wednesday, 22 May 2024 13:11
To: 'fahd.said@westerncape.gov.za'; 'yena.gunguluzi@westerncape.gov.za'; Zaidah Toefy; Rhett Smart; 'info@bocma.co.za'; 'Rafeeq le Roux'; Fabion Smith; Cor Van der Walt; 'Brandon.Layman@westerncape.gov.za'; Rulien Volschenk; Penelope Aplon; 'dcoetzee@overstrand.gov.za'
Subject: Notice of public participation | Portion 57 of the Farm 633, Caledon Rd | Retrospective EA
Attachments: Notice of 24G PPP 57 of 633.pdf

Dear Interested and Affected Party and / or Organ of State

DEADP Ref No. 14/1/1/E2/7/9/3/0733/22

Please see attached notice of commenting opportunity for above mentioned case file. Documents are available for download on our website or upon requested.

Should you have no further comment, please ignore this notice.

Kind regards



LORNAY

ENVIRONMENTAL CONSULTING

Michelle Naylor

M.Sc.; Pr.Sci.Nat. 400327/13., EAPASA. 2019/698, Cand. APHP., IAIAA

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PO Box 1990, Hermanus, 7200, South Africa

T +27 (0) 83 245 6556

E michelle@lornay.co.za | W www.lornay.co.za

Reg No. 2015/445417/07

michelle@lornay.co.za

From: michelle@lornay.co.za
Sent: Wednesday, 22 May 2024 13:14
To: 'mari@plusacc.co.za'; 'anthonybishop01@gmail.com'; 'accounts@mountainfalls.co.za';
'dmandy@iafrica.com'; 'Paul Buley'; 'andrian@joblaw.co.za'; 'sonja.vr@axemail.co.za';
'clark345@mweb.co.za'
Subject: Notice of public participation | Portion 57 of the Farm 633, Caledon Rd | Retrospective
EA
Attachments: Notice of 24G PPP 57 of 633.pdf

Dear Interested and Affected Party and / or Organ of State

DEADP Ref No. 14/1/1/E2/7/9/3/0733/22

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Should you have no further comment, please ignore this notice.

Kind regards



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Reg No. 2015/445417/07

michelle@lornay.co.za

From: michelle@lornay.co.za
Sent: Wednesday, 22 May 2024 13:22
To: 'carlo@joblaw.co.za'
Subject: FW: Notice of public participation | Portion 57 of the Farm 633, Caledon Rd | Retrospective EA
Attachments: Notice of 24G PPP 57 of 633.pdf

Dear Interested and Affected Party and / or Organ of State

DEADP Ref No. 14/1/1/E2/7/9/3/0733/22

Please see attached notice of commenting opportunity for above mentioned case file. Documents are available for download on our website or upon requested.

Should you have no further comment, please ignore this notice.

Kind regards



LORNAY
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Reg No. 2015/445417/07

4. PROOF OF NOTICE TO I&APS AND ORGANS OF STATE

Written notice was provided to I&APs and Organs of State via registered mail or courier, as indicated in the proofs below:



23 May 2024

**NOTICE OF SECTION 24 G PUBLIC PARTICIPATION
THE UNLAWFUL CLEARANCE OF VEGETATION ON PORTION 57 OF THE FARM 633, CALEDON RD**

DEA&DP Ref. No.: 14/1/1/E2/7/9/3/0733/22
Lornay Ref. No.: IS-24G

Notice is hereby given in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), the Environmental Impact Assessment (EIA) Regulations 2014 (as amended) and Section 24 G Fine Regulations 2017 (Government Notice No. R 698), for the following:

Section 24 G Retrospective Environmental Authorisation Application for the removal of vegetation for agricultural purposes on a portion of Portion 57 of the Farm 633, Caledon RD

Location: Portion 57 of the Farm 633, between Stanford and Hermanus, Caledon RD

Applicant: Prof. I. Sibert

Activities unlawfully commenced with: Removal of vegetation for agricultural purposes

Environmental Authorisation is required in terms of NEMA. The applicant is applying for *ex post facto* Environmental Authorisation for the following commenced listed activities in terms of:

Listing Notice 1 of 2014 (As amended): (27)

Listing Notice 3 of 2014 (As amended): (12)

Interested and affected Parties (I&AP's) are hereby invited to register as I&AP's and / or provide comment on the application. Only registered I&AP's will be notified during the remainder of the public participation process. Requests and / or comments must be submitted via email or post on / or before **24 June 2024** via the following contact details:

LORNAY ENVIRONMENTAL CONSULTING

ATT. Michelle Naylor

Tel. 083 245 6556

Email. michelle@lornay.co.za | Website. www.lornay.co.za

Michelle Naylor | Env. Consultant | M.Sc., Pr. Sci. Nat., EAPSA
cell: 083 245 6556 | tel: 028 316 1769 | fax: 086 585 2461 | michelle@lornay.co.za | www.lornay.co.za
PO Box 1990, Hermanus, 7200 | Unit 3A, Hemel and Aarde Wine Village
Lornay Environmental Consulting Pty Ltd | Reg 2015/445417/07

5. NEWSPAPER ADVERTISEMENT

An advertisement was placed in the local newspaper, the Hermanus Times, regarding the proposed development:

2 Hermanus Times NLUUS NEWS

First sod turned for sport pavilion

The prospective multi-purpose sports facility in Hawston has passed a significant milestone following the sod-turning for the grandstand sport pavilion last week.

Overstrand Municipality stated that the target date for completion of this project that will cost in the region of R34 million project is envisaged to be in 2027, subject to further funding approval.

The netball and tennis courts as well as the change rooms, cricket oval, soccer field, grass athletic track and rugby fields with spotlights, are already in use. Boreholes, said the municipality, are also investigated to supply irrigation water for the sports fields.

OM municipal manager Dean O'Neill stated that the new pavilion "will provide a high-quality viewing experience for spectators and the grandstand will offer concrete seating for ±1 000 people and additional seating facing towards the athletics track."

The construction will be split into four phases and includes change rooms, ablution facilities, storerooms, a kiosk, offices, and boardrooms. The entire pavilion will be covered with a structural steel roof on either side of the pavilion.

O'Neill added: "Just over R12 million (excl VAT) has been set aside for the construction of Phase 1 which comprises the partial construction of the grandstand pavilion to seat roughly 500 people.

"The structural component of the pavilion will consist of reinforced concrete foundations, columns, and beams. The civil engineering construction will include site clearance, bulk earthworks, water supply, conservancy tanks and stormwater drainage. Additionally, construction of the concrete seating, access staircase and ablution facilities in Phase 1 will enable spectators to enjoy various sporting codes."

Speaking at the sod-turning ceremony, Overstrand Executive Mayor, Dr Annelie Rabie, said she was very excited about this project because "Hawston is, in our view, the next hub Hermanus needs to develop."

She said apart from the new school that opened its doors in Fisherhaven at the beginning of this year, a private housing development consisting of 1 600 properties on the mountain side of the town has been approved. "We are also pushing hard for development of sea farms in this area to create job opportunities."

Rabie said she is extremely grateful for the contribution of ±R9 million from the Western Cape Municipal Infrastructure Grant (MIG) towards this phase of the project.

The improved sports grounds go a long way towards the promotion of sport, and it is also a massive investment in quality of life for the people of Hawston. The Mayor encouraged the community to take ownership of this facility as ownership fosters a sense of pride and responsibility.

She acknowledged the hard work of the previous and present Ward 8 councillors, Arnie Africa and Elnora Gillion, as well as the Hawston Sport Committee who represent the different sport codes, and the respective municipal departments who are contributing to the project.

On completion this will be one of the leading sporting facilities in the Overberg District to cater for various sporting events and tournaments.

8 Mei 2024

This is how the front of the new stadium will look.



Concrete foundations, columns, and beams. The civil engineering construction will include site clearance, bulk earthworks, water supply, conservancy tanks and stormwater drainage. Additionally, construction of the concrete seating, access staircase and ablution facilities in Phase 1 will enable spectators to enjoy various sporting codes."

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75 Years Ago

Council proposes meeting with ratepayers executive – public opinion also to be tested: At a special meeting of the Hermanus Town Council held on Monday, the Town Clerk was instructed to delay sending a letter to the Provincial Administration declining to accept the loan of £25,000 for a new main road until after the Town Council had arranged a meeting with the Executive Committee of the Hermanus Ratepayers Association when alternative routes for the proposed road would be laid before the Ratepayers Executive for consideration.

It was further decided that subsequent to this meeting a public meeting of all ratepayers would be called so that the position might be fully explained to them. The special meeting was called to give consideration to a motion put forward by Cr. R. M. Spence that the Council's resolution taken on October 24th relative to the £25,000 loan for the Proposed New Main Road be revoked and that the loan be accepted.

Spence's motion, The meeting opened with the reading of the motion put forward by Cr. R. M. Spence "that the Council's resolution taken on the 24th October 1949, relative to the Loan £25,000 for the proposed New Main Road be revoked.

AfriForum dink groen



Die Harderbaai-marienereservaat pronk met nuwe kennisgewings ter beskerming van natuurlewe en dit alles te danke aan AfriForum se Overstrand-tak.

Die Harderbaai-marienereservaat pronk met nuwe kennisgewings ter beskerming van natuurlewe, en dit alles te danke aan AfriForum se Overstrand-tak.

"'n Geproklameerde marienereservaat in Harderbaai lok jaarliks baie besoekers. AfriForum se Overstrand-tak het egter 'n probleem geïdentifiseer wat 'n bedreiging vir die veiligheid van die natuurlewe in die reservaat inhou – die gebrek aan kennisgewingshorde en bakens," vertel Jacques Benade, AfriForum se distrikskoördineerder vir die Boland.

Volgens hom het dit 'n aansienlike uitdaging vir die departement van bosbou, visserye en die omgewing gestel, wat verantwoordelik is vir die veiligheid van die natuurlewe in die gebied.

"On hierdie probleem op te los, het die Overstrand-tak met die departement saamgewerk om nuwe kennisgewingshorde en bakens in die reservaat op te rig. Die projek was 'n sukses omdat besoekers aan die gebied opnuut kennis dra van die moens en moenies ter beskerming van die natuurlewe en hul eie veiligheid."

Die samewerking tussen AfriForum en die departement is 'n uitstekende voorbeeld van hoe

gemeenskapsgebaseerde organisasies met die regering kan saamwerk om natuurlike hulpbronne te beskerm.

"Dit is van kardinale belang dat ons aanhou werk om ons natuurlike hulpbronne te beskerm om te verseker dat dit nog daar is vir toekomstige geslagte om te geniet. Die pogings van AfriForum se Overstrand-tak en die departement dien as 'n herinnering dat ons almal 'n rol het om te vervul vir die beskerming van ons omgewing," se Benade.

"Besoekers aan die marienereservaat moet kennis neem van die nuwe kennisgewingshorde en bakens en die riglyne volg wat deur die departement uiteengesit is. Hierdie riglyne bestaan om die veiligheid van besoekers en die natuurlewe in die gebied te verseker. Deur hierdie riglyne te volg, kan besoekers die skoonheid van die reservaat geniet terwyl hulle ook hul deel doen om die omgewing te beskerm," sluit Benade af.

• Lede van die gemeenskap word aangemoedig om by AfriForum se Overstrand-tak en Alfa-buurtwag betrokke te raak. Besoek www.worldld.co.za.

NOTICE OF SECTION 24 G PUBLIC PARTICIPATION: THE UNLAWFUL REMOVAL OF VEGETATION ON PORTION 57 OF THE FARM 633, CALEDON RD Ref: 14/1/12/7/13/0753/22

Notice is hereby given in terms of the National Environmental Management Act, 2998 (Act No. 107 of 1998) (NEMA), the Environmental Impact Assessment (EIA) Regulations 2014 (as amended) and Section 24 G Fine Regulations 2017 (Government Notice No. R 698), for the following:

Section 24 G Retrospective Environmental Authorisation Application for the removal of vegetation for agricultural purposes on portions of Portion 57 of the Farm Rocklands, No. 633, Caledon RD

Activities unlawfully commenced with: Removal of vegetation without necessary Environmental Authorisation

Location: Portion 57 of the Farm 633, between Stanford and Hermanus, Caledon RD

Applicant: Prof. I. Solbert

Environmental Authorisation is required in terms of NEMA. The applicant is applying for ex post facto Environmental Authorisation for the following commenced listed activities:

Listing Notice 1 of 2014 (As amended): [27]

Listing Notice 3 of 2014 (As amended): [12]

Interested and affected Parties (I&APs) are hereby invited to register as I&APs and / or provide comment on the application. Only registered I&APs will be notified during the remainder of the public participation process. Requests and / or comments must be submitted via email or post on / or before 7 June 2024 via the following contact details:

LORNEY ENVIRONMENTAL CONSULTING
For Attn: Michelle Naylor
PO Box 1791, Hermanus, 7200
Tel: 083 245 6556 Email: michelle@lornay.co.za | www.lornay.co.za

CONTACT US/KONTAK ONS 028 312 3717

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Olivia Dickson (oliviadickson@hermanustimes.co.za)

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Gedrukte/Printed/Classified Yolande Pistor (yolande.pistor@hermanustimes.co.za)

LETTERS/BRUWE Letters may be edited for clarity and style. We cannot supply reasons for non-publication. Shorter letters are preferred. Briefers kan verskyn in verskeie woorde. Briefers word nie verskyn in verskeie woorde. Briefers word nie verskyn in verskeie woorde.

OMBUDSMAN Contact Hermanus Times' ombudsman with reader complaints. Any complaints, queries or suggestions about content in Hermanus Times may be sent to our ombudsman, George Claassen, on 021 851 3232 or at george.claassen@medi24.com.

Stuur enige klagtes, navraag of voorstelle oor die inhoud van Hermanus Times aan ons ombudsman, George Claassen by 021 851 3232 of george.claassen@medi24.com.



6. NOTICEBOARDS

Noticeboards were placed on site, as required in terms of the legislation:





7. COMMENTS AND RESPONSE REPORT AND REGISTER FOR I&APS

A Register was opened during the first round of public participation, to list all I&APs which wished to be registered as such. The Register included contact details, date and comment made.

A Comments and Response report was also opened at the onset of the public participation. This report contains the comment made by the I&AP, as well as formal response by the Environmental Assessment Practitioner (EAP).



REGISTER FOR INTERESTED AND AFFECTED PARTIES						
PROJECT: Andre Wessels						
NAME:	ORGANISATION:	POSTAL ADDRESS:	TEL:	EMAIL:	COMMENT:	DATE & REF:
Arian Claasen	-	-	-	arianclaasen41@gmail.com	Email dated 9 May 2024 For Att. Michelle Naylor Hi Michelle hope you are well.I would like to now the process regarding the removal of the vegetation and registered of I&AP `s.Have a blessed day further. Kind regards Arian	09/05/24
Anthony Bishop	-	-	-	anthonybishop01@gmail.com	Email dated 23 May 2024 Hi Michelle How can we register to comment? Please supply documentation or link to register Regards Anthony Bishop	23/05/24

Anthony Bischoep				anthonybishop01@gmail.com	Email dated 28/05/2024 Hi Michelle I just want to add that in previous years that piece of property was covered in hakia and alien vegetation, I am sure if the macadamia nuts were not planted that piece of property would have been covered with aliens once again. I cannot believe that there were any rare or endangered fynbos in that area. It's like saying there are rare fynbos in any alien infested area, just make sure the fynbos that is not affected, is cleared of aliens on a regular basis. Regards Anthony	28/05/24
Gregg Goddard			082 7839737	gregg@ggarch.co.za jointexco@see-eike.co.za	Email dated 04/06/2024 Dear Michelle Naylor LORNAY ENVIRONMENTAL CONSULTING Email to : michelle@lornay.co.za REF : 14/1/1/E2/7/9/3/0733/22 : REQUEST TO REGISTER SEE-EIKE TRUST (PTY) LTD AS AN I&AP I refer to your notice of a Section 24 G Public Participation in respect of the Section 24 G Retrospective Environmental Authorisation Application for the removal of vegetation for agricultural purposes on portions of Portion 57 of the Farm Rocklands, No 633, Caledon RD. I write as a Director of the company See-Eike Trust (Pty) Ltd who owns property directly to the North of the applicant property, and request that See-Eike Trust (Pty) Ltd be registered as an I&AP, and request further that we be included in any further notifications during the remainder of the public participation process as well as the outcome of this application.	04/06/24

					Notifications can be directed via my direct email address as below, and I will undertake to keep our other Directors and members informed. Kindly acknowledge receipt of this email. Kind Regards,	
Rhett Smart	Cape Nature			rsmart@capenature.co.za	Email dated 28/06/2024 Draft NEMA Section 24G Rectification Report for the Unlawful Clearing of Vegetation for Establishment of a Macadamia Orchard, Portion 57 of Farm Rocklands 633, Hermanus (DEA&DP ref. no.: 14/1/1/E2/7/9/3/0733/22) CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application. The disturbance footprint is occupied by Critical Biodiversity Area 2 (CBA) as mapped in the Western Cape Biodiversity Spatial Plan (WCBSP). We wish to note that the WCBSP has been revised and is currently available for public comment. The mapping for this site has not changed in the draft revision. The vegetation occurring on the footprint is mapped as Elim Ferricrete Fynbos in the northern and central sections and Agulhas Limestone Fynbos in the southern section. These ecosystems are classified as endangered and critically endangered respectively. There are non-perennial rivers mapped either side of the disturbance footprint and a seep wetland along the south-eastern boundary. We note that the National Web-based Screening Tool has not been used to inform the required specialist studies. The results of the Screening Tool as downloaded by CapeNature indicate a very high sensitivity for terrestrial biodiversity and aquatic biodiversity, high sensitivity for animal species and medium sensitivity for plant species. A site sensitivity verification report	28/06/24

					should be provided with reference to the Screening Tool results and the specialist studies undertaken. A terrestrial plant species assessment has been undertaken to inform the application. In this regard, a 30 m area surrounding the orchard was surveyed in order to inform the likely condition and conservation value of the habitat before it was removed. The habitat has been classified into categories according to level of disturbance ranging from intact which consists of pristine fynbos to transformed where there is no natural vegetation remaining. The footprint was historically subject to dense infestation of alien invasive species however the site was cleared between 2009 and 2012 and has remained relatively clear since then, as indicated in the assessment. The neighbouring properties in the south-western section has remained infested. It is noted that the introduction states that the terrestrial plant species assessment aims to address the plant species theme, but not the terrestrial biodiversity theme. The classification and discussion of the habitat on site as described above is more relevant to the terrestrial biodiversity theme than the plant species theme. Two Plant Species of Conservation Concern (SCCs) were encountered however there is not much discussion regarding the plant species albeit that a species list is provided as an appendix. It is noted that the mapping of the vegetation types according to the National Vegetation Map is accepted. We note that many of the species listed are prevalent in Overberg Sandstone Fynbos which is mapped upslope of the site, including the two SCCs. The determination of the vegetation type will not have any influence on the listed activities however as the options are either critically endangered (Agulhas Limestone Fynbos, Hangklip Sand Fynbos) or endangered (Elim Ferricrete Fynbos, Overberg Sandstone Fynbos). We further wish to note that there have been several botanical reports which have disputed the National Vegetation Map mapping around the Klein River Estuary and that the geology mapping on CapeFarmMapper for the site indicates Peninsula, Pakhuis and Cederberg Formations	
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				which are part of the Table Mountain Sandstone group. We are not disputing the mapping, but request that confirmation is provided. Although Overberg Sandstone Fynbos and Elim Ferricrete Fynbos are both endangered, the latter is lower in remaining extent and percentage protected and at higher risk of loss due to agriculture, and is therefore targeted for protected area expansion. Two of the five localities which are described in more detail located along the eastern boundary support wetland vegetation as indicated in the description with several of the species listed constituting wetland obligate species. The description under water resources reveals that the extent of the seep wetland according to the National Wetland Map is under-represented based on the site assessment and recommends that more accurate delineation is required. CapeNature supports this recommendation and further wishes to refer to the very high sensitivity indicated in the Screening Tool for aquatic biodiversity. It is possible that the orchards encroached into the wetland and may have constituted infilling of a wetland. The clearing of the dense, tall gum stands is likely to increase the extent of wetlands due to the high volumes of water used by these alien invasive species. We therefore recommend that an aquatic biodiversity assessment is required to inform the application. The Section 24G Report motivates that the clearing of vegetation which took place consisted of brush-cutting and did not include any earthworks. Brush-cutting would not constitute clearing of vegetation according to the NEMA definition, however it is assumed that the applicant has accepted that transgressions were committed as an S24G process has been pursued. The evidence does not however support that only brush-cutting took place. The photographs taken by CapeNature in reporting the activity indicate mainly exposed soil within the disturbance footprint which would not result from only brush-cutting. The photographs in the photo report in Appendix C on pages 10 - 14 also provide evidence that earthworks took place. There is clear evidence that rows of bunds were created upon which the macadamia trees were planted with rocks piles on the	
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				edges (typically removed during ploughing) and therefore there was disturbance to the topsoil. The Section 24G Report also stated that the macadamia trees were planted in between the fynbos however these photos illustrate that this is not the case and there is no such reference in the terrestrial plant species assessment. We request that the initial Pre-Compliance Notice is provided as a record of the evidence from the site inspection by the environmental law enforcement officials with regards to the above. It is further noted from the photographs referred to above that drip irrigation is used for the orchard. The Section 24G Report indicates that there is no Water Use License in place. We therefore recommend that the Breede Olifants Catchment Management Agency is consulted to determine the authorisation requirements in terms of the National Water Act. The aquatic biodiversity impact assessment referred to above should address the requirements of the National Water Act. The site ecological importance (SEI) for the plant SCCs has been accurately calculated in accordance with the Species Environmental Assessment Guideline (SANBI 2020). The SEI is evaluated as high, calculated using the conservation importance, functional integrity, biodiversity importance and receptor resilience. The very high conservation importance is accurate based on “any area of natural habitat of a critically endangered ecosystem” assuming the mapping of the Agulhas Limestone Fynbos is accurate. <i>Serruria rubricaulis</i> is listed as vulnerable with an extent of occurrence (EOO) of 2735 km² and therefore is not below the threshold of <10 km² EOO for very high conservation importance and therefore qualifies for high conservation importance (Rebelo et al 2020). The SEI is therefore higher than the Screening Tool for plant species. The impact assessment rates the impact of the loss of habitat as medium both before and after mitigation and the loss of the plant SCCs as medium before mitigation and very low after mitigation. We wish to query if the proposed mitigation measures for the SCCs would result in the level of reduction suggested and recommend that more detailed and specific	
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					measures would be required in order to ensure this rating is valid. With regards to the medium negative significance after mitigation, we wish to note that the National Biodiversity Offset Guidelines state that a biodiversity offset is required if the residual impact after implementing the mitigation hierarchy is medium significance or higher. As indicated, the impact has already occurred and therefore the options of avoidance and minimisation are no longer available. Other mitigation measures which would reduce the significance are also not available, apart from generic environmental best practice measures. CapeNature therefore recommends that a biodiversity offset must be investigated in accordance with the National Biodiversity Offset Guidelines. We wish to note that there is a large proportion of site which consists of natural vegetation mapped as CBA 1 which would be available as an offset, although it may not be enough to meet the offset ratio requirements. Modifiers can be used for the offset ratios based on factors such as habitat condition e.g. degraded habitat. In conclusion, CapeNature recommends that: • A site sensitivity verification report is compiled to motivate the specialist studies undertaken in relation to the Screening Tool. • Based on the available evidence an aquatic biodiversity impact assessment will be required in addition to the terrestrial plant species assessment as a minimum. • The potential presence of animal species flagged as high sensitivity should be evaluated as a minimum. • A biodiversity offset study must be undertaken to determine an appropriate biodiversity offset to remedy the loss of habitat and in the process, confirmation should be provided regarding the queries related to the terrestrial plant species assessment above. CapeNature reserves the right to revise initial comments and request further information based on any additional information	
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					that may be received.	
Lwazi Tshekela	BOCMA			itshekela@bocma.co.za	Email dated 03/07/2024 COMMENTS ON NEMA S24G: UNLAWFUL CLEARANCE OF VEGETATION ON PORTION 57 OF FARM 633, CALEDON, WESTERN CAPE The Breede-Olifants Catchment Management Agency (BOCMA) has received the submission of the above-mentioned report on 28 May 2024 and the comments are as follows: 1. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for the auditing of water use authorisations issued to water users as well as identifying unlawful water users. 2. The BOCMA has noted that the activity that is exercised at portion 57 of farm 633, Caledon might trigger the following sections of the National Water Act ("NWA"), 1998 (Act 36 of 1998): • Section 21 (c): Impeding or diverting the flow of water in a watercourse. • Section 21 (i): Altering the bed, banks, course or characteristics of a watercourse. The area with cleared or removed vegetation for agricultural purposes (Annexure A) seems to be close to the two non-perennial streams passing through the plot. The activity might be within the regulated area of a watercourse, which in terms of the Government Gazette No. 40229, Notice 509 of 2016 means: • The outer edge of the 1 in 100-year flood line and/or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, lake or dam; • In the absence of a determined 1 in 100-year flood line or riparian area the area within 100m from the edge of a watercourse where the edge of the watercourse is the first identifiable annual bank fill flood bench or • A 500m radius from the delineated boundary (extent) of any wetland or pan.	03/07/24

					3. The BOCMA has no records of a water use authorisation confirmed in terms of the National Water Act (Act 36 of 1998) for the clearance of vegetation on portion 57 of farm 633, Caledon. 4. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit will conduct a compliance investigation at portion 57 of farm 633, Caledon to ensure compliance to the National Water Act (Act 36 of 1998). 5. This office would like to bring to your attention that no water use activities may commence without an authorisation in terms of the NWA. 6. Your attention is drawn to Section 22 (1) of the National Water Act, which states: <i>22. (1) A person may only use water</i> <i>(a) without a licence if that water use is permissible under Schedule 1;</i> <i>(i) if that water use is permissible as a continuation of an existing lawful use; or</i> <i>(ii) if that water use is permissible in terms of a general authorisation issued under section 39;</i> <i>(b) if the water use is authorised by a licence under this Act; or</i> <i>(c) if the responsible authority has dispensed with a licence requirement under subsection (3)</i> 7. The BOCMA reserves the right to revise initial comments and request further information based on any additional information that may be received. 8. The onus remains with the registered property owner to ensure adherence to any other relevant legislation that the activities might trigger and/or need authorization.	
Brandon Layman	DOA			Brandon.Layman@westerncape.gov.za	Email dated 16/07/24 SECTION 24G APPLICATION	16/07/24

					PROPOSED REMOVAL OF VEGETATION FOR AGRICULTURAL PURPOSES: DIVISION CALEDON PORTION 57 OF THE FARM NO. 633 Your application of 23 May 2024 has reference. S24G application is made for the unauthorised removal of 9ha vegetation for cultivation purposes. <i>Maracadamia</i> nut trees are currently cultivated in the cleared land with natural vegetation in the open spaces. The Western Cape Department of Agriculture: Land Use Management has the following comments: 1. The department has no objection to the S24G process to rectify the unlawfulness of the activities commenced with prior to obtaining approval. 2. Please note that an Application to Cultivate in terms of the Conservation of Agricultural Resources Act 43 of 1983 must be submitted to the Department of Agriculture, Land Reform and Rural Development to obtain the cultivation permit for the cultivated land. Please note: • Kindly quote the above-mentioned reference number in any future correspondence in respect of the application. • The Department reserves the right to revise initial comments and request further information based on the information received.	
Rhett Smart	Cape Nature			rsmart@capenature.co.za	Biodiversity Offset for the NEMA Section 24G Process for the Unlawful Clearing of Vegetation for Establishment of a Macadamia Orchard, Portion 57 of Farm Rocklands 633, Hermanus (DEA&DP ref. no.: 14/1/1/E2/7/9/3/0733/22) CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. CapeNature commented on the Draft NEMA Section 24G Report in which concerns were raised including:	18/03/26

					• A site sensitivity verification report should be compiled to motivate the specialist studies undertaken relative to the screening tool results. There is clear evidence of a wetland adjacent to the orchard therefore an aquatic biodiversity specialist study was considered necessary. • A biodiversity offset specialist study must be compiled to remedy the loss of habitat. A biodiversity offset study was compiled and provided to CapeNature for comment. We provided an initial response via email and there have been direct engagements with the landowner and environmental assessment practitioner. A revised NEMA Section 24G Report has not been provided for comment, therefore this comment only pertains to the biodiversity offset. We wish to refer to Section 7.7 of the National Biodiversity Offset Guideline which pertains to the Biodiversity Offset Report. It states: "It is strongly advised that a Biodiversity Offset Report is prepared by a specialist, or specialists, with the appropriate skills and experience, in collaboration with the EAP." A list of minimum requirements is stated which will be referred to. It is acknowledged that some of these would not be applicable to a NEMA S24G process, as the activity has already taken place and therefore the initial stages of the mitigation hierarchy are forfeited. The threat status of the ecosystem has a bearing on the offset ratios used. The terrestrial plant species assessment which informed the Draft S24G Report indicated the mapping of ecosystems present in accordance with the National Vegetation Map (NVM), namely that the northern and central sections of the orchards (± two thirds) consisted of Elim Ferricrete Fynbos (listed as endangered) and the south-eastern section of the orchards (± one third) consisted of Agulhas Limestone Fynbos (listed as critically endangered). Due to various other cases where botanists have disputed the NVM in the area between Hermanus and Stanford, both south and north of the Klein River	
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					Estuary, we requested confirmation from the botanical specialist that the mapping of the ecosystems is accurate. An addendum to the original terrestrial plant species report was compiled by a different specialist and submitted with the Biodiversity Offset Report. The addendum report indicates that most of the vegetation on the southern sections of the property consists of Agulhas Sand Fynbos which is listed as critically endangered. As a result, according to the revised mapping, approximately 80-90% of the orchard footprint consisted of Agulhas Sand Fynbos with the remainder consisting of Elim Ferricrete Fynbos. We wish to raise concern however that no motivation is provided for the revised mapping of the NVM. An informal protocol was developed between DEA&DP and CapeNature (developed for Region 3 but implemented throughout the province) regarding the procedure to follow in cases where the NVM is queried. In this regard the specialist must provide clear evidence based primarily on the plant species occurring on site (including dominant species), but also supplemented by other information such as geology, soils and climate to motivate that the NVM is not accurate. CapeNature further requests that experience, qualifications and accreditations of the specialist who undertook the addendum report should be provided. We wish to note that Hangklip Sand Fynbos and Agulhas Sand Fynbos are ecosystems which occur on the same/similar substrate. In Mucina & Rutherford, it states that the eastern extent of Hangklip Sand Fynbos is Hermanus and the western extent of Agulhas Sand Fynbos is the lower Uilkraals River near Gansbaai, however with unmapped patches to Hermanus in the west (Rebelo et al 2006). The text further states that Agulhas Sand Fynbos is more extensive than mapped, however adequate field surveys to map the extent accurately are lacking. More detailed information regarding the vegetation occurring on site (and which is predicted to have occurred) using recognised phytosociological methodology is therefore required to verify the ecosystem classification.	
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					Section 7.2 of the national guideline refers to the required size of the offset and offset ratios. The basic offset ratio is informed by the ecosystem threat status, remaining extent and protection levels. The starting ratio according to threat status is: critically endangered – 30:1; endangered – 10:1; and vulnerable – 5:1. Taking all criteria into account, Annexure A of the national guideline indicate a ratio of 30:1 for Agulhas Limestone Fynbos, Agulhas Sand Fynbos and Hangklip Sand Fynbos, and a ratio of 10:1 for Elim Ferricrete Fynbos and Overberg Sandstone Fynbos. The biodiversity offset requirements have been calculated based on the loss of 9 ha for the establishment of the orchard using a ratio of 30:1, resulting in a quantum of 270 ha which needs to be conserved. Based on a basic measurement on CapeFarm Mapper the 9 ha estimate appears to be accurate. It is assumed that the 9 ha are based on the area indicated in Figure 2 of the report. Motivation is provided to reduce the ratios due to the degraded condition of the impacted area prior to ploughing. The historical dense infestation of gum trees was mentioned in our comments on the Draft S24G Report. The ratio is therefore proposed to be amended to 5:1. The proposed biodiversity offset is to conserve the remainder of the property which has not been developed. The property size is 62.9675 ha according to the title deed which can be rounded off to ± 63 ha for the purposes of the offset study, in which case there is ± 54 ha which is available on site for the proposed biodiversity offset. The ratio would therefore be 6:1. The national guideline states that the standard approach is not binding and the competent authorities must apply their minds to each case. Provision is made for province-specific approaches to determining offset ratios and scenarios where the ratio can be considered for increase or decrease. A draft provincial guideline for biodiversity offsets has been drafted, however it has never been finalized or formalised, with the most recent revision dated 2015. The ratios specified for ecosystems would not be relevant as the 2022 revised list of threatened ecosystems used a different methodology and the threat statuses have changed. However, it states that the following	
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					attributes can be used to amend the offset ratios: • The condition of the affected habitat and potential offset site(s); • The presence of any threatened species; • The presence of any special habitats; • The role of the affected area in the bigger landscape with regard to ecological processes; • The role of the affected area in delivering ecosystem goods and/or services of socioeconomic value to local human communities and/or society as a whole; • The timing of implementing the offset; and • The level of risk or uncertainty associated with the offset. With regards to the first attribute, the provincial guideline refers to the offset ratios for three categories of habitat condition, namely good, moderate and degraded. The basic offset ratio would apply for good and moderate condition habitat, however for degraded habitat it can be reduced by as much as 50%. Based on our interpretation, the habitat that was lost would have been classified as degraded and therefore the offset ratios can be reduced to 1:15 for Agulhas Limestone Fynbos, Agulhas Sand Fynbos and Hangklip Sand Fynbos and 1:5 for Elim Ferricrete Fynbos and Overberg Sandstone Fynbos if the provincial guideline is applied. We therefore recommend that the calculation of the offset requirements need to be revised and refined as per the national and provincial guidelines. Clarification is required regarding the accurate mapping of the vegetation types, following which the offset requirement must be calculated per vegetation type which occupied the orchard footprint. We do however acknowledge that it is very seldom possible to find an exact match between the offset requirements and a receptor site, however the existing calculations must still be refined. The proposal for conserving the remainder of the property was presented to the CapeNature Stewardship Review Committee on 24 February 2026, whereby it was decided that the proposed conservation area is worthy of being declared as a nature	
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					reserve in terms of the National Environmental Management: Protected Areas Act (NEM:PAA) based on the biodiversity value. A key factor in this regard is the connectivity to existing nature reserve such as Waterfall Nature Reserve and Maanschynkop Nature Reserve. We wish to note that concern was raised in the stewardship review that the proposed offset did not meet the offset ratio requirements (although not captured in the minutes). The two options which are recommended for securing biodiversity offsets according to the national guideline are NEM:PAA protected areas or conservation servitudes (Section 7.4.2). Further negotiations are underway with the landowner in this regard. In terms of the contents of the Biodiversity Offset Report we wish to highlight the following minimum requirements for inclusion (Section 7.7 of the national guideline): • “An explicit statement on the required size of the biodiversity offset to remedy the residual negative biodiversity impacts, applying the basic offset ratio and adjustments as appropriate. • The portfolio of candidate biodiversity offset sites, including the likelihood of each site’s availability and feasibility. • A description of the biodiversity offset site, and the reasons for the selection of that site from the portfolio of candidate biodiversity offset sites. • The required biodiversity outcomes on the biodiversity offset site. • The management measures that would need to be employed as part of the biodiversity offset for a defined period, for which the applicant would be responsible. It is recommended in this guideline that this period is not less than 30 years, and is longer if the impacting activity, or activities, will last beyond 30 years. • The comments received from commenting authorities and interested and affected parties on the draft Biodiversity Offset Report as well as responses to	
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					those comments.” The applicant has indicated that they are not willing to consider an off-site offset to supplement an on-site offset as currently proposed to meet the offset ratio requirements (take note of the text box on page 137 of the national guideline regarding on-site offsets). The Biodiversity Offset Report must however be revised to refine the offset requirements as described above in accordance with the national and provincial guidelines, as well as indicate the extent to which the proposed offset meets the offset requirements. Once the report has been finalized, any potential shortfall can be identified and stipulated which can then be evaluated by the competent authority. We further wish to note that it is the responsibility of the offset specialist to identify and negotiate any off-site offset. Also, a NEM:PAA protected area will require a Protected Area Management Plan (PAMP) which will fulfil the requirements of a Biodiversity Offset Management Plan. CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.	
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COMMENTS AND RESPONSE REPORT			
PROJECT: Portion 57 of the Farm 633 Rocklands			
DRAFT SECTION 24G REPORT / PRE-APPLICATION			
NAME:	COMMENT:	RESPONSE:	DATE & REF:
Arian Claasen	Email dated 9 May 2024 For Att. Michelle Naylor Hi Michelle hope you are well. I would like to know the process regarding the removal of the vegetation and registered of I&AP`s. Have a blessed day further. Kind regards Arian	Registered as I&APs.	
Anthony Bishop	Email dated 23 May 2024 Hi Michelle How can we register to comment? Please supply documentation or link to register Regards Anthony Bishop	Registered as I&AP	

Anthony Bischoep	Email dated 28/05/2024 Hi Michelle I just want to add that in previous years that piece of property was covered in hakia and alien vegetation, I am sure if the macadamia nuts were not planted that piece of property would have been covered with aliens once again. I can not believe that there were any rare or endangered fynbos in that area. It's like saying there are rare fynbos in any alien infested area, just make sure the fynbos that is not affected, is cleared of aliens on a regular basis. Regards Anthony	Noted. No actions required.	
Gregg Goddard	Email dated 05/06/2024 Dear Michelle Naylor LORNAY ENVIRONMENTAL CONSULTING Email to : michelle@lornay.co.za REF : 14/1/1/E2/7/9/3/0733/22 : REQUEST TO REGISTER SEE-EIKE TRUST (PTY) LTD AS AN I&AP I refer to your notice of a Section 24 G Public Participation in respect of the Section 24 G Retrospective Environmental Authorisation Application for the removal of vegetation for agricultural purposes on portions of Portion 57 of the Farm Rocklands, No 633, Caledon RD. I write as a Director of the company See-Eike Trust (Pty) Ltd who owns property directly to the North of the applicant property, and request that See-Eike Trust (Pty) Ltd be registered as an I&AP, and request further that we be included in any further notifications during the remainder of the public participation process as well as the outcome of this application. Notifications can be directed via my direct email address as below, and I will undertake to keep our other Directors and members informed. Kindly acknowledge receipt of this email.	Registered as I&AP.	

	Kind Regards,		
Cape Nature – Rhett Smart	Email dated 28/06/2024 Draft NEMA Section 24G Rectification Report for the Unlawful Clearing of Vegetation for Establishment of a Macadamia Orchard, Portion 57 of Farm Rocklands 633, Hermanus (DEA&DP ref. no.: 14/1/1/E2/7/9/3/0733/22) CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application. The disturbance footprint is occupied by Critical Biodiversity Area 2 (CBA) as mapped in the Western Cape Biodiversity Spatial Plan (WCBSP). We wish to note that the WCBSP has been revised and is currently available for public comment. The mapping for this site has not changed in the draft revision. The vegetation occurring on the footprint is mapped as Elim Ferricrete Fynbos in the northern and central sections and Agulhas Limestone Fynbos in the southern section. These ecosystems are classified as endangered and critically endangered respectively. There are non-perennial rivers mapped either side of the disturbance footprint and a seep wetland along the south-eastern boundary. We note that the National Web-based Screening Tool has not been used to inform the required specialist studies. The results of the Screening Tool as downloaded by CapeNature indicate a very high sensitivity for terrestrial biodiversity and aquatic biodiversity, high sensitivity for animal species and medium sensitivity for plant species. A site sensitivity verification report should be provided with reference to the Screening Tool results and the specialist studies undertaken. A terrestrial plant species assessment has been undertaken to inform the application. In this regard, a 30 m area surrounding the orchard was surveyed in order to inform the likely condition and conservation value of the habitat before it was removed. The habitat has been classified into categories according to level of disturbance ranging from intact which consists of pristine fynbos to transformed where there is no natural vegetation remaining. The footprint was historically subject to dense infestation of alien invasive species however the site was cleared between 2009 and 2012 and has remained relatively clear since then, as indicated in the assessment.	The updated specialist report was informed by the National Web-based Screening Tool. A Site Sensitivity Verification Report was prepared and is attached as Appendix K. Noted.	

	The neighbouring properties in the south-western section has remained infested. It is noted that the introduction states that the terrestrial plant species assessment aims to address the plant species theme, but not the terrestrial biodiversity theme. The classification and discussion of the habitat on site as described above is more relevant to the terrestrial biodiversity theme than the plant species theme. Two Plant Species of Conservation Concern (SCCs) were encountered however there is not much discussion regarding the plant species albeit that a species list is provided as an appendix. It is noted that the mapping of the vegetation types according to the National Vegetation Map is accepted. We note that many of the species listed are prevalent in Overberg Sandstone Fynbos which is mapped upslope of the site, including the two SCCs. The determination of the vegetation type will not have any influence on the listed activities however as the options are either critically endangered (Agulhas Limestone Fynbos, Hangklip Sand Fynbos) or endangered (Elim Ferricrete Fynbos, Overberg Sandstone Fynbos). We further wish to note that there have been several botanical reports which have disputed the National Vegetation Map mapping around the Klein River Estuary and that the geology mapping on CapeFarmMapper for the site indicates Peninsula, Pakhuis and Cederberg Formations which are part of the Table Mountain Sandstone group. We are not disputing the mapping, but request that confirmation is provided. Although Overberg Sandstone Fynbos and Elim Ferricrete Fynbos are both endangered, the latter is lower in remaining extent and percentage protected and at higher risk of loss due to agriculture, and is therefore targeted for protected area expansion. Two of the five localities which are described in more detail located along the eastern boundary support wetland vegetation as indicated in the description with several of the species listed constituting wetland obligate species. The description under water resources reveals that the extent of the seep wetland according to the National Wetland Map is under-represented based on the site assessment and recommends that more accurate delineation is required. CapeNature supports this recommendation and further wishes to refer to the very high sensitivity indicated in the Screening Tool for aquatic biodiversity. It is possible that the orchards encroached into the wetland and may have constituted infilling of a wetland. The clearing of the dense, tall gum stands is likely to increase the extent of wetlands due to the high volumes of water used by these alien invasive species. We therefore recommend that an aquatic biodiversity assessment is required to inform the application.	Noted. The species are listed under Appendix 3 of the Terrestrial Biodiversity Impact Assessment, refer to Appendix F1. Noted. The Aquatic Biodiversity Assessment was undertaken.	
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	The Section 24G Report motivates that the clearing of vegetation which took place consisted of brush-cutting and did not include any earthworks. Brush-cutting would not constitute clearing of vegetation according to the NEMA definition, however it is assumed that the applicant has accepted that transgressions were committed as an S24G process has been pursued. The evidence does not however support that only brush-cutting took place. The photographs taken by CapeNature in reporting the activity indicate mainly exposed soil within the disturbance footprint which would not result from only brush-cutting. The photographs in the photo report in Appendix C on pages 10 - 14 also provide evidence that earthworks took place. There is clear evidence that rows of bunds were created upon which the macadamia trees were planted with rocks piles on the edges (typically removed during ploughing) and therefore there was disturbance to the topsoil. The Section 24G Report also stated that the macadamia trees were planted in between the fynbos however these photos illustrate that this is not the case and there is no such reference in the terrestrial plant species assessment. We request that the initial Pre-Compliance Notice is provided as a record of the evidence from the site inspection by the environmental law enforcement officials with regards to the above. It is further noted from the photographs referred to above that drip irrigation is used for the orchard. The Section 24G Report indicates that there is no Water Use License in place. We therefore recommend that the Breede Olifants Catchment Management Agency is consulted to determine the authorisation requirements in terms of the National Water Act. The aquatic biodiversity impact assessment referred to above should address the requirements of the National Water Act. The site ecological importance (SEI) for the plant SCCs has been accurately calculated in accordance with the Species Environmental Assessment Guideline (SANBI 2020). The SEI is evaluated as high, calculated using the conservation importance, functional integrity, biodiversity importance and receptor resilience. The very high conservation importance is accurate based on "any area of natural habitat of a critically endangered ecosystem" assuming the mapping of the Agulhas Limestone Fynbos is accurate. <i>Serruria rubricaulis</i> is listed as vulnerable with an extent of occurrence (EOO) of 2735 km² and therefore is not below the threshold of <10 km² EOO for very high conservation importance and therefore qualifies for high conservation importance (Rebelo et al 2020). The SEI is therefore higher than the Screening Tool for plant species. The impact assessment rates the impact of the loss of habitat as medium both before and after mitigation and the loss of the plant SCCs as medium before mitigation and very low after mitigation. We wish to query if the proposed mitigation measures for	Noted. A PCN is attached. BOCMA has been notified and their correspondence is attached below. The mitigation measures recommended by the specialist will, as evident from the current site, have been seem valid	
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	the SCCs would result in the level of reduction suggested and recommend that more detailed and specific measures would be required in order to ensure this rating is valid. With regards to the medium negative significance after mitigation, we wish to note that the National Biodiversity Offset Guidelines state that a biodiversity offset is required if the residual impact after implementing the mitigation hierarchy is medium significance or higher. As indicated, the impact has already occurred and therefore the options of avoidance and minimisation are no longer available. Other mitigation measures which would reduce the significance are also not available, apart from generic environmental best practice measures. Cape Nature therefore recommends that a biodiversity offset must be investigated in accordance with the National Biodiversity Offset Guidelines. We wish to note that there is a large proportion of site which consists of natural vegetation mapped as CBA 1 which would be available as an offset, although it may not be enough to meet the offset ratio requirements. Modifiers can be used for the offset ratios based on factors such as habitat condition e.g. degraded habitat.	as much of the indigenous vegetation had reestablished on the property. CapeNature's comment regarding the residual medium impact and the potential requirement for a biodiversity offset in terms of the National Biodiversity Offset Guidelines (2023) is acknowledged. Engagement with CapeNature has already been initiated through the Stewardship Programme, and the conservation potential of the property has been discussed at Stewardship Review Committee level. The property qualifies for Cape Nature Stewardship Programme, and therefore, the applicant prefers Level 2- Biodiversity Agreements for securing the remaining natural areas on the property. Instead of implementing a conventional biodiversity offset, the applicant proposes the in-situ conservation of approximately 53 hectares of remaining natural vegetation on the property through a formal stewardship agreement, subject to CapeNature's approval. This approach is considered ecologically appropriate given the size of the property, the extent of remaining natural habitat, and the landscape context within which the property is situated. The remaining natural portions of the property are mapped as Critical Biodiversity Area 1 (CBA1) and retain high conservation value. The property is located adjacent to the Waterfall Private Nature Reserve, and securing the remainder of the property under stewardship would strengthen ecological connectivity between conserved areas and contribute to landscape-level biodiversity conservation outcomes. This would ensure the long-term protection and management of a substantially larger area than that affected by the unauthorised vegetation clearance. Specialist assessments further confirm that natural vegetation recovery is already occurring in previously disturbed areas, supported by the applicant's ongoing alien invasive clearing, habitat rehabilitation, and regenerative	
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	In conclusion, CapeNature recommends that: • A site sensitivity verification report is compiled to motivate the specialist studies undertaken in relation to the Screening Tool. • Based on the available evidence an aquatic biodiversity impact assessment will be required in addition to the terrestrial plant species assessment as a minimum. • The potential presence of animal species flagged as high sensitivity should be evaluated as a minimum.	farming practices. These measures are improving ecological integrity on the property and demonstrate the applicant's commitment to responsible environmental management and long-term conservation outcomes. Given that the agricultural activity has already been completed and mitigation measures are currently being implemented, the conservation of the remainder of the property through stewardship represents a practical and ecologically sound alternative to a traditional biodiversity offset. This approach aligns with the principles of the mitigation hierarchy by securing long-term conservation benefits within the same ecological landscape where impacts occurred. The applicant will continue to engage with CapeNature to secure the remaining natural areas of the property under an appropriate stewardship or conservation mechanism, which may be formalised as a condition of Environmental Authorisation if required by the Competent Authority. • An SSVR has been compiled. • The terrestrial impact assessment has been undertaken. • The comment is acknowledged. The potential presence of animal species of conservation concern was evaluated as part of the Terrestrial Biodiversity and Terrestrial Species Assessment (Crabtree, 2025), which included a site survey and verification of habitat suitability. The specialist confirmed that no animal species of conservation concern were observed on the property during the field assessment. While the National Web-based Environmental Screening Tool identified the Animal Species Theme as High Sensitivity due to the broader regional distribution ranges of certain species, the site-specific survey findings indicate that the current habitat conditions	
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		within the developed agricultural area are unlikely to support these species on a permanent basis. The transformation of portions of the site through historical agricultural activities and the establishment of the macadamia orchard have reduced the suitability of the affected areas for sensitive fauna. The motivation supporting the low likelihood of occurrence of the flagged species is further detailed in the Site Sensitivity Verification Report (SSVR), which confirms that the screening tool sensitivity does not translate into confirmed presence on site. Remaining natural areas on the property continue to provide habitat for common fauna and will be maintained under ongoing conservation management. No additional specialist animal species assessment is therefore considered necessary, as the requirement to evaluate the potential presence of species of conservation concern has been adequately addressed through the specialist studies already undertaken. CapeNature's comment regarding the need for a biodiversity offset study is acknowledged. However, it is respectfully submitted that a formal biodiversity offset is not considered the most appropriate mechanism in this instance. Instead, the applicant proposes the conservation of the remainder of the property through CapeNature's Stewardship Programme as a more practical and ecologically meaningful alternative.	
BOCMA Lwazi 03-07-2024	• A biodiversity offset study must be undertaken to determine an appropriate biodiversity offset to remedy the loss of habitat and in the process, confirmation should be provided regarding the queries related to the terrestrial plant species assessment above. CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.		
	Email dated 03/07/2024 COMMENTS ON NEMA S24G: UNLAWFUL CLEARANCE OF VEGETATION ON PORTION 57 OF FARM 633, CALEDON, WESTERN CAPE The Breede-Olifants Catchment Management Agency (BOCMA) has received the		

	submission of the above-mentioned report on 28 May 2024 and the comments are as follows: 7. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for the auditing of water use authorisations issued to water users as well as identifying unlawful water users. 8. The BOCMA has noted that the activity that is exercised at portion 57 of farm 633, Caledon might trigger the following sections of the National Water Act (“NWA”), 1998 (Act 36 of 1998): • Section 21 (c): Impeding or diverting the flow of water in a watercourse. • Section 21 (i): Altering the bed, banks, course or characteristics of a watercourse. The area with cleared or removed vegetation for agricultural purposes (Annexure A) seems to be close to the two non-perennial streams passing through the plot. The activity might be within the regulated area of a watercourse, which in terms of the Government Gazette No. 40229, Notice 509 of 2016 means: • The outer edge of the 1 in 100-year flood line and/or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, lake or dam; • In the absence of a determined 1 in 100-year flood line or riparian area the area within 100m from the edge of a watercourse where the edge of the watercourse is the first identifiable annual bank fill flood bench or • A 500m radius from the delineated boundary (extent) of any wetland or pan. 9. The BOCMA has no records of a water use authorisation confirmed in terms of the National Water Act (Act 36 of 1998) for the clearance of vegetation on portion 57 of farm 633, Caledon. 10. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit will conduct a compliance investigation at portion 57 of farm 633, Caledon to ensure compliance to the National Water Act (Act 36 of 1998). 11. This office would like to bring to your attention that no water use activities may commence without an authorisation in terms of the NWA. 12. Your attention is drawn to Section 22 (1) of the National Water Act, which states: <i>22. (1) A person may only use water</i>	Application for the WULA is underway. Noted. As above. Noted. Noted.	
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	(d) without a licence if that water use is permissible under Schedule 1; (j) if that water use is permissible as a continuation of an existing lawful use; or (ii) if that water use is permissible in terms of a general authorisation issued under section 39; (e) if the water use is authorised by a licence under this Act; or (f) if the responsible authority has dispensed with a licence requirement under subsection (3) 7. The BOCMA reserves the right to revise initial comments and request further information based on any additional information that may be received. 8. The onus remains with the registered property owner to ensure adherence to any other relevant legislation that the activities might trigger and/or need authorization.		
Brandon Layman DOA	Email dated 16 07 24 SECTION 24G APPLICATION PROPOSED REMOVAL OF VEGETATION FOR AGRICULTURAL PURPOSES: DIVISION CALEDON PORTION 57 OF THE FARM NO. 633 Your application of 23 May 2024 has reference. S24G application is made for the unauthorised removal of 9ha vegetation for cultivation purposes. <i>Maracadamia</i> nut trees are currently cultivated in the cleared land with natural vegetation in the open spaces. The Western Cape Department of Agriculture: Land Use Management has the following comments: 3. The department has no objection to the S24G process to rectify the unlawfulness of the activities commenced with prior to obtaining approval. 4. Please note that an Application to Cultivate in terms of the Conservation of Agricultural Resources Act 43 of 1983 must be submitted to the Department of Agriculture, Land Reform and Rural Development to obtain the cultivation permit for the cultivated land. Please note: • Kindly quote the above-mentioned reference number in any future	Noted. The Proof of CARA Application is attached as Appendix L.	

	correspondence in respect of the application. The Department reserves the right to revise initial comments and request further information based on the information received.		
Rhett Smart (Cape Nature)	Comment dated 18 March 2026 Biodiversity Offset for the NEMA Section 24G Process for the Unlawful Clearing of Vegetation for Establishment of a Macadamia Orchard, Portion 57 of Farm Rocklands 633, Hermanus (DEA&DP ref. no.: 14/1/1/E2/7/9/3/0733/22) CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. CapeNature commented on the Draft NEMA Section 24G Report in which concerns were raised including: - A site sensitivity verification report should be compiled to motivate the specialist studies undertaken relative to the screening tool results. There is clear evidence of a wetland adjacent to the orchard therefore an aquatic biodiversity specialist study was considered necessary. - A biodiversity offset specialist study must be compiled to remedy the loss of habitat. A biodiversity offset study was compiled and provided to CapeNature for comment. We provided an initial response via email and there have been direct engagements with the landowner and environmental assessment practitioner. A revised NEMA Section 24G Report has not been provided for comment, therefore this comment only pertains to the biodiversity offset. We wish to refer to Section 7.7 of the National Biodiversity Offset Guideline which pertains to the Biodiversity Offset Report. It states: "It is strongly advised that a Biodiversity Offset Report is prepared by a specialist, or specialists, with the appropriate skills and experience, in collaboration with the EAP." A list of minimum requirements is stated which will be referred to. It is acknowledged that some of these would not be applicable to a NEMA S24G process, as the activity has already taken place and therefore the initial stages of the mitigation hierarchy are forfeited. The threat status of the ecosystem has a bearing on the offset ratios used. The terrestrial plant species assessment which informed the Draft S24G Report indicated	The Biodiversity Offset Application has been updated as per Cape Nature's recommendation and agreed calculations. The The Terrestrial Biodiversity Impact Assessment Addendum was compiled by a qualified botanical specialist who	18/03/26

	the mapping of ecosystems present in accordance with the National Vegetation Map (NVM), namely that the northern and central sections of the orchards ($\pm$ two thirds) consisted of Elim Ferricrete Fynbos (listed as endangered) and the south-eastern section of the orchards ($\pm$ one third) consisted of Agulhas Limestone Fynbos (listed as critically endangered). Due to various other cases where botanists have disputed the NVM in the area between Hermanus and Stanford, both south and north of the Klein River Estuary, we requested confirmation from the botanical specialist that the mapping of the ecosystems is accurate. An addendum to the original terrestrial plant species report was compiled by a different specialist and submitted with the Biodiversity Offset Report. The addendum report indicates that most of the vegetation on the southern sections of the property consists of Agulhas Sand Fynbos which is listed as critically endangered. As a result, according to the revised mapping, approximately 80-90% of the orchard footprint consisted of Agulhas Sand Fynbos with the remainder consisting of Elim Ferricrete Fynbos. We wish to raise concern however that no motivation is provided for the revised mapping of the NVM. An informal protocol was developed between DEA&DP and CapeNature (developed for Region 3 but implemented throughout the province) regarding the procedure to follow in cases where the NVM is queried. In this regard the specialist must provide clear evidence based primarily on the plant species occurring on site (including dominant species), but also supplemented by other information such as geology, soils and climate to motivate that the NVM is not accurate. CapeNature further requests that experience, qualifications and accreditations of the specialist who undertook the addendum report should be provided. We wish to note that Hangklip Sand Fynbos and Agulhas Sand Fynbos are ecosystems which occur on the same/similar substrate. In Mucina & Rutherford, it states that the eastern extent of Hangklip Sand Fynbos is Hermanus and the western extent of Agulhas Sand Fynbos is the lower Uilkraals River near Gansbaai, however with unmapped patches to Hermanus in the west (Rebelo et al 2006). The text further states that Agulhas Sand Fynbos is more extensive than mapped, however adequate field surveys to map the extent accurately are lacking. More detailed information regarding the vegetation occurring on site (and which is predicted to have occurred) using recognised phytosociological methodology is therefore required to verify the ecosystem classification. Section 7.2 of the national guideline refers to the required size of the offset and	confirmed the vegetation type onsite. Therefore, we as the EAP, accept the botanical specialist findings as accurate. Therefore, the offset requirements was calculated based on impacted vegetation types onsite. The botanical specialist addendum compiled by Crabtree in 2025 is an addendum to the Terrestrial Plant Species Assessment compiled by van Rensburg, which provides clear evidence of the plant species present onsite. The Motivation for the revised mapping is provided under section 3 of the Biodiversity Offset Report. The Assessment also includes reference to the geology soils and climate. Therefore, such information in these report is considered sufficient. The EAP as required ito NEMA must appoint specialists to inform the application. We therefore need to accept these findings of the specialists. As above.	
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	offset ratios. The basic offset ratio is informed by the ecosystem threat status, remaining extent and protection levels. The starting ratio according to threat status is: critically endangered – 30:1; endangered – 10:1; and vulnerable – 5:1. Taking all criteria into account, Annexure A of the national guideline indicate a ratio of 30:1 for Agulhas Limestone Fynbos, Agulhas Sand Fynbos and Hangklip Sand Fynbos, and a ratio of 10:1 for Elim Ferricrete Fynbos and Overberg Sandstone Fynbos. The biodiversity offset requirements have been calculated based on the loss of 9 ha for the establishment of the orchard using a ratio of 30:1, resulting in a quantum of 270 ha which needs to be conserved. Based on a basic measurement on Cape Farm Mapper the 9 ha estimate appears to be accurate. It is assumed that the 9 ha are based on the area indicated in Figure 2 of the report. Motivation is provided to reduce the ratios due to the degraded condition of the impacted area prior to ploughing. The historical dense infestation of gum trees was mentioned in our comments on the Draft S24G Report. The ratio is therefore proposed to be amended to 5:1. The proposed biodiversity offset is to conserve the remainder of the property which has not been developed. The property size is 62.9675 ha according to the title deed which can be rounded off to ± 63 ha for the purposes of the offset study, in which case there is ± 54 ha which is available on site for the proposed biodiversity offset. The ratio would therefore be 6:1. The national guideline states that the standard approach is not binding and the competent authorities must apply their minds to each case. Provision is made for province-specific approaches to determining offset ratios and scenarios where the ratio can be considered for increase or decrease. A draft provincial guideline for biodiversity offsets has been drafted, however it has never been finalized or formalised, with the most recent revision dated 2015. The ratios specified for ecosystems would not be relevant as the 2022 revised list of threatened ecosystems used a different methodology and the threat statuses have changed. However, it states that the following attributes can be used to amend the offset ratios: • The condition of the affected habitat and potential offset site(s); • The presence of any threatened species; • The presence of any special habitats; • The role of the affected area in the bigger landscape with regard to ecological processes; • The role of the affected area in delivering ecosystem goods and/or services of socioeconomic value to local human communities and/or society as a whole;	The Addendum report specifically indicated that the vegetation type that has been impacted on is mostly Agulhas Sand Fynbos. We as the EAP accept the botanist findings. The Biodiversity Offset has been updated. The values are in line with discussions with Cape Nature and we as the EAP support the end result. The landowner is a key conservation champion in the area and a important role player for future current and future conservation efforts in the larger area. The biodiversity Offset Report has been updated as per the Cape Nature recommendations.	
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	• The timing of implementing the offset; and • The level of risk or uncertainty associated with the offset. With regards to the first attribute, the provincial guideline refers to the offset ratios for three categories of habitat condition, namely good, moderate and degraded. The basic offset ratio would apply for good and moderate condition habitat, however for degraded habitat it can be reduced by as much as 50%. Based on our interpretation, the habitat that was lost would have been classified as degraded and therefore the offset ratios can be reduced to 1:15 for Agulhas Limestone Fynbos, Agulhas Sand Fynbos and Hangklip Sand Fynbos and 1:5 for Elim Ferricrete Fynbos and Overberg Sandstone Fynbos if the provincial guideline is applied. We therefore recommend that the calculation of the offset requirements need to be revised and refined as per the national and provincial guidelines. Clarification is required regarding the accurate mapping of the vegetation types, following which the offset requirement must be calculated per vegetation type which occupied the orchard footprint. We do however acknowledge that it is very seldom possible to find an exact match between the offset requirements and a receptor site, however the existing calculations must still be refined. The proposal for conserving the remainder of the property was presented to the CapeNature Stewardship Review Committee on 24 February 2026, whereby it was decided that the proposed conservation area is worthy of being declared as a nature reserve in terms of the National Environmental Management: Protected Areas Act (NEM:PAA) based on the biodiversity value. A key factor in this regard is the connectivity to existing nature reserve such as Waterfall Nature Reserve and Maanschynkop Nature Reserve. We wish to note that concern was raised in the stewardship review that the proposed offset did not meet the offset ratio requirements (although not captured in the minutes). The two options which are recommended for securing biodiversity offsets according to the national guideline are NEM:PAA protected areas or conservation servitudes (Section 7.4.2). Further negotiations are underway with the landowner in this regard. In terms of the contents of the Biodiversity Offset Report we wish to highlight the following minimum requirements for inclusion (Section 7.7 of the national guideline): • “An explicit statement on the required size of the biodiversity offset to remedy the residual negative biodiversity impacts, applying the basic offset ratio and adjustments as appropriate. • The portfolio of candidate biodiversity offset sites, including the likelihood	The Calculations of the offset requirements have been updated in the Biodiversity Offset Report and are in line with the various discussions with Cape Nature, the entire remainder of the site will be put into conservation and has qualified for the highest tier of the Stewardship Programme as per the outcomes of the Stewardship Review committee meeting in February 2026. It is important to highlight since it has been agreed that the site qualifies for Cape Nature Stewardship as well as the botanical specialist recommendation for preservation of the remainder of the property currently not developed to offset the impact of habitat destruction/loss. The calculations of the offset requirements have been revised and refined, accordingly. It is important to highlight that the preferred offset option for the property is for the remainder of the property to be assigned under Cape Nature Stewardship for the entire remainder of the site.	
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	of each site's availability and feasibility. • A description of the biodiversity offset site, and the reasons for the selection of that site from the portfolio of candidate biodiversity offset sites. • The required biodiversity outcomes on the biodiversity offset site. • The management measures that would need to be employed as part of the biodiversity offset for a defined period, for which the applicant would be responsible. It is recommended in this guideline that this period is not less than 30 years, and is longer if the impacting activity, or activities, will last beyond 30 years. • The comments received from commenting authorities and interested and affected parties on the draft Biodiversity Offset Report as well as responses to those comments." The applicant has indicated that they are not willing to consider an off-site offset to supplement an on-site offset as currently proposed to meet the offset ratio requirements (take note of the text box on page 137 of the national guideline regarding on-site offsets). The Biodiversity Offset Report must however be revised to refine the offset requirements as described above in accordance with the national and provincial guidelines, as well as indicate the extent to which the proposed offset meets the offset requirements. Once the report has been finalized, any potential shortfall can be identified and stipulated which can then be evaluated by the competent authority. We further wish to note that it is the responsibility of the offset specialist to identify and negotiate any off-site offset. Also, a NEM:PAA protected area will require a Protected Area Management Plan (PAMP) which will fulfil the requirements of a Biodiversity Offset Management Plan. CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.	Noted – this is detailed in the Biodiversity Offset Report. The National Biodiversity Offset provides mechanisms for offsetting, in which conservation servitude becomes one of them. In the case of this project and its general context on the landscape, the property abuts Waterfall Private Nature Reserve to the East and Maanschynkop Nature Reserve to the north, which then makes the remainder of the property reasonably suitable to be preserved and managed. The applicant preferred that the remainder of the property be designated under Level 2 - Biodiversity Agreements.	
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8. COMMENTS RECEIVED DURING DRAFT / PRE-APPLICATION PUBLIC PARTICIPATION



CONSERVATION INTELLIGENCE

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reference LS14/2/6/1/7/2/633-57_S24G_Hermanus
date 27 June 2024

Lornay Environmental Consulting
P.O. Box 1990
Hermanus
7200

Attention: Michelle Naylor
By email: michelle@lornay.co.za

Dear Michelle

Draft NEMA Section 24G Rectification Report for the Unlawful Clearing of Vegetation for Establishment of a Macadamia Orchard, Portion 57 of Farm Rocklands 633, Hermanus (DEA&DP ref. no.: 14/1/1/E2/7/9/3/0733/22)

CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.

The disturbance footprint is occupied by Critical Biodiversity Area 2 (CBA) as mapped in the Western Cape Biodiversity Spatial Plan (WCBSP). We wish to note that the WCBSP has been revised and is currently available for public comment. The mapping for this site has not changed in the draft revision. The vegetation occurring on the footprint is mapped as Elim Ferricrete Fynbos in the northern and central sections and Agulhas Limestone Fynbos in the southern section. These ecosystems are classified as endangered and critically endangered respectively. There are non-perennial rivers mapped either side of the disturbance footprint and a seep wetland along the south-eastern boundary.

We note that the National Web-based Screening Tool has not been used to inform the required specialist studies. The results of the Screening Tool as downloaded by CapeNature indicate a very high sensitivity for terrestrial biodiversity and aquatic biodiversity, high sensitivity for animal species and medium sensitivity for plant species. A site sensitivity verification report should be provided with reference to the Screening Tool results and the specialist studies undertaken.

A terrestrial plant species assessment has been undertaken to inform the application. In this regard, a 30 m area surrounding the orchard was surveyed in order to inform the likely condition and conservation value of the habitat before it was removed. The habitat has been classified into categories according to level of disturbance ranging from intact which consists of pristine fynbos to transformed where there is no natural vegetation remaining. The footprint was historically subject to dense infestation of alien invasive species however the

The Western Cape Nature Conservation Board trading as CapeNature

Board Members: Ms Marguerite Loubser (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Mr Mervyn Burton, Prof Denver Hendricks, Dr Colin Johnson, Mr Paul Slack

site was cleared between 2009 and 2012 and has remained relatively clear since then, as indicated in the assessment. The neighbouring properties in the south-western section has remained infested.

It is noted that the introduction states that the terrestrial plant species assessment aims to address the plant species theme, but not the terrestrial biodiversity theme. The classification and discussion of the habitat on site as described above is more relevant to the terrestrial biodiversity theme than the plant species theme. Two Plant Species of Conservation Concern (SCCs) were encountered however there is not much discussion regarding the plant species albeit that a species list is provided as an appendix.

It is noted that the mapping of the vegetation types according to the National Vegetation Map is accepted. We note that many of the species listed are prevalent in Overberg Sandstone Fynbos which is mapped upslope of the site, including the two SCCs. The determination of the vegetation type will not have any influence on the listed activities however as the options are either critically endangered (Agulhas Limestone Fynbos, Hangklip Sand Fynbos) or endangered (Elim Ferricrete Fynbos, Overberg Sandstone Fynbos). We further wish to note that there have been several botanical reports which have disputed the National Vegetation Map mapping around the Klein River Estuary and that the geology mapping on CapeFarmMapper for the site indicates Peninsula, Pakhuis and Cederberg Formations which are part of the Table Mountain Sandstone group. We are not disputing the mapping, but request that confirmation is provided. Although Overberg Sandstone Fynbos and Elim Ferricrete Fynbos are both endangered, the latter is lower in remaining extent and percentage protected and at higher risk of loss due to agriculture, and is therefore targeted for protected area expansion.

Two of the five localities which are described in more detail located along the eastern boundary support wetland vegetation as indicated in the description with several of the species listed constituting wetland obligate species. The description under water resources reveals that the extent of the seep wetland according to the National Wetland Map is under-represented based on the site assessment and recommends that more accurate delineation is required. CapeNature supports this recommendation and further wishes to refer to the very high sensitivity indicated in the Screening Tool for aquatic biodiversity. It is possible that the orchards encroached into the wetland and may have constituted infilling of a wetland. The clearing of the dense, tall gum stands is likely to increase the extent of wetlands due to the high volumes of water used by these alien invasive species. We therefore recommend that an aquatic biodiversity assessment is required to inform the application.

The Section 24G Report motivates that the clearing of vegetation which took place consisted of brush-cutting and did not include any earthworks. Brush-cutting would not constitute clearing of vegetation according to the NEMA definition, however it is assumed that the applicant has accepted that transgressions were committed as an S24G process has been pursued. The evidence does not however support that only brush-cutting took place. The photographs taken by CapeNature in reporting the activity indicate mainly exposed soil within the disturbance footprint which would not result from only brush-cutting. The photographs in the photo report in Appendix C on pages 10 - 14 also provide evidence that earthworks took place. There is clear evidence that rows of bunds were created upon which the macadamia trees were planted with rocks piles on the edges (typically removed during ploughing) and therefore there was disturbance to the topsoil. The Section 24G Report also stated that the macadamia trees were planted in between the fynbos however these photos illustrate that this is not the case and there is no such reference in the terrestrial plant species

assessment. We request that the initial Pre-Compliance Notice is provided as a record of the evidence from the site inspection by the environmental law enforcement officials with regards to the above.

It is further noted from the photographs referred to above that drip irrigation is used for the orchard. The Section 24G Report indicates that there is no Water Use License in place. We therefore recommend that the Breede Olifants Catchment Management Agency is consulted to determine the authorisation requirements in terms of the National Water Act. The aquatic biodiversity impact assessment referred to above should address the requirements of the National Water Act.

The site ecological importance (SEI) for the plant SCCs has been accurately calculated in accordance with the Species Environmental Assessment Guideline (SANBI 2020). The SEI is evaluated as high, calculated using the conservation importance, functional integrity, biodiversity importance and receptor resilience. The very high conservation importance is accurate based on "any area of natural habitat of a critically endangered ecosystem" assuming the mapping of the Agulhas Limestone Fynbos is accurate. *Serruria rubricaulis* is listed as vulnerable with an extent of occurrence (EOO) of 2735 km² and therefore is not below the threshold of <10 km² EOO for very high conservation importance and therefore qualifies for high conservation importance (Rebelo *et al* 2020). The SEI is therefore higher than the Screening Tool for plant species.

The impact assessment rates the impact of the loss of habitat as medium both before and after mitigation and the loss of the plant SCCs as medium before mitigation and very low after mitigation. We wish to query if the proposed mitigation measures for the SCCs would result in the level of reduction suggested and recommend that more detailed and specific measures would be required in order to ensure this rating is valid.

With regards to the medium negative significance after mitigation, we wish to note that the National Biodiversity Offset Guidelines state that a biodiversity offset is required if the residual impact after implementing the mitigation hierarchy is medium significance or higher. As indicated, the impact has already occurred and therefore the options of avoidance and minimisation are no longer available. Other mitigation measures which would reduce the significance are also not available, apart from generic environmental best practice measures. CapeNature therefore recommends that a biodiversity offset must be investigated in accordance with the National Biodiversity Offset Guidelines. We wish to note that there is a large proportion of site which consists of natural vegetation mapped as CBA I which would be available as an offset, although it may not be enough to meet the offset ratio requirements. Modifiers can be used for the offset ratios based on factors such as habitat condition e.g. degraded habitat.

In conclusion, CapeNature recommends that:

- A site sensitivity verification report is compiled to motivate the specialist studies undertaken in relation to the Screening Tool.
- Based on the available evidence an aquatic biodiversity impact assessment will be required in addition to the terrestrial plant species assessment as a minimum.
- The potential presence of animal species flagged as high sensitivity should be evaluated as a minimum.
- A biodiversity offset study must be undertaken to determine an appropriate biodiversity offset to remedy the loss of habitat and in the process, confirmation

The Western Cape Nature Conservation Board trading as **CapeNature**

Board Members: Ms Marguerite Loubser (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Mr Mervyn Burton, Prof Denver Hendricks, Dr Colin Johnson, Mr Paul Slack

should be provided regarding the queries related to the terrestrial plant species assessment above.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely



Rhett Smart
For: Manager (Landscape Conservation Intelligence)

References:

Rebelo, A.G., Mtshali, H. & von Staden, L. 2020. *Serruria rubricaulis* R.Br. National Assessment: Red List of South African Plants version . Accessed on 2024/06/27 . <http://redlist.sanbi.org/species.php?species=807-82>

South African National Biodiversity Institute (SANBI). 2020. *Species Environmental Assessment Guideline. Guidelines for the Implementation of the Terrestrial Fauna and Terrestrial Flora Species Protocols for Environmental Impact Assessments in South Africa*. South African National Biodiversity Institute, Pretoria. Version 3.1. 2022.



Corner Mountain Mill & East Lake Roads, Worcester, 6850 | Private Bag X3055 Worcester 6850

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E-mail: Ltshekela@bocma.co.za

Reference: 4/10/3/G40L/FARM 633/57, CALEDON

Lornay Environmental Consulting (Pty) Ltd

Michelle Naylor

PO Box 1990

Hermanus

7200

Email: michelle@lornay.co.za

Attention: Michelle Naylor

COMMENTS ON NEMA S24G: UNLAWFUL CLEARANCE OF VEGETATION ON PORTION 57 OF FARM 633, CALEDON, WESTERN CAPE

The Breede-Olifants Catchment Management Agency (BOCMA) has received the submission of the above-mentioned report on 28 May 2024 and the comments are as follows:

1. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for the auditing of water use authorisations issued to water users as well as identifying unlawful water users.
2. The BOCMA has noted that the activity that is exercised at portion 57 of farm 633, Caledon might trigger the following sections of the National Water Act ("NWA"), 1998 (Act 36 of 1998):
 - Section 21 (c): Impeding or diverting the flow of water in a watercourse.
 - Section 21 (i): Altering the bed, banks, course or characteristics of a watercourse.

The area with cleared or removed vegetation for agricultural purposes (**Annexure A**) seems to be close to the two non-perennial streams passing through the plot.

The activity might be within the regulated area of a watercourse, which in terms of the Government Gazette No. 40229, Notice 509 of 2016 means:

- The outer edge of the 1 in 100-year flood line and/or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, lake or dam;
 - In the absence of a determined 1 in 100-year flood line or riparian area the area within 100m from the edge of a watercourse where the edge of the watercourse is the first identifiable annual bank fill flood bench or
 - A 500m radius from the delineated boundary (extent) of any wetland or pan.
3. The BOCMA has no records of a water use authorisation confirmed in terms of the National Water Act (Act 36 of 1998) for the clearance of vegetation on portion 57 of farm 633, Caledon.
 4. The BOCMA through the Compliance Monitoring and Enforcement (CME) unit will conduct a compliance investigation at portion 57 of farm 633, Caledon to ensure compliance to the National Water Act (Act 36 of 1998).
 5. This office would like to bring to your attention that no water use activities may commence without an authorisation in terms of the NWA.
 6. Your attention is drawn to Section 22 (1) of the National Water Act, which states:

22. (1) A person may only use water
 - (a) without a licence if that water use is permissible under Schedule 1;*
 - (i) if that water use is permissible as a continuation of an existing lawful use; or*
 - (ii) if that water use is permissible in terms of a general authorisation issued under section 39;*
 - (b) if the water use is authorised by a licence under this Act; or*
 - (c) if the responsible authority has dispensed with a licence requirement under subsection (3)*
 7. The BOCMA reserves the right to revise initial comments and request further information based on any additional information that may be received.

8. The onus remains with the registered property owner to ensure adherence to any other relevant legislation that the activities might trigger and/or need authorization.

Yours faithfully

P.P. 

MR. JAN VAN STADEN

CHIEF EXECUTIVE OFFICER (ACTING)

DATE: 27/06/2024.....



Western Cape
Government

Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/959
YOUR REFERENCE : IS-24G
DEA7DP REFERENCE : 14/1/1/E2/7/9/3/0733/22
ENQUIRIES : Cor van der Walt/Fadwa Mohammed

Lornay Environmental Consulting
PO Box 1990
HERMANUS
7200

Att: Michelle Naylor

SECTION 24G APPLICATION

PROPOSED REMOVAL OF VEGETATION FOR AGRICULTURAL PURPOSES: DIVISION CALEDON PORTION 57 OF THE FARM NO 633

Your application of 23 May 2024 has reference.

S24G application is made for the unauthorized removal of 9ha of indigenous vegetation for cultivation purposes. Macadamia nut trees are currently cultivated on the cleared land with natural vegetation in the open spaces.

The Western Cape Department of Agriculture: Land Use Management has the following comments:

1. The Department has no objection to the S 24G process to rectify the unlawfulness of the activities commenced with prior to obtaining approval.
2. Please note that an Application to Cultivate in terms of the Conservation of Agricultural Resources Act 43 of 1983 must be submitted to Department of Agriculture, Land Reform and Rural Development to obtain the cultivation permit for the cultivated land.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.



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Western Cape Department of Agriculture



- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely



Mr. CJ van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2024-07-12

Copies:

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Cape Town
8000

Theewaterskloof Municipality
PO Box 24
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CONSERVATION INTELLIGENCE: SOUTH

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reference LS14/2/6/1/7/2/633-57_S24G_Hermanus
date 18 March 2026

Lornay Environmental Consulting
P.O. Box 1990
Hermanus
7200

Attention: Michelle Naylor
By email: michelle@lornay.co.za

Dear Ms Naylor

**Biodiversity Offset for the NEMA Section 24G Process for the Unlawful Clearing of Vegetation for Establishment of a Macadamia Orchard, Portion 57 of Farm Rocklands 633, Hermanus
(DEA&DP ref. no.: 14/1/1/E2/7/9/3/0733/22)**

CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments.

CapeNature commented on the Draft NEMA Section 24G Report in which concerns were raised including:

- A site sensitivity verification report should be compiled to motivate the specialist studies undertaken relative to the screening tool results. There is clear evidence of a wetland adjacent to the orchard therefore an aquatic biodiversity specialist study was considered necessary.
- A biodiversity offset specialist study must be compiled to remedy the loss of habitat.

A biodiversity offset study was compiled and provided to CapeNature for comment. We provided an initial response via email and there have been direct engagements with the landowner and environmental assessment practitioner. A revised NEMA Section 24G Report has not been provided for comment, therefore this comment only pertains to the biodiversity offset.

We wish to refer to Section 7.7 of the National Biodiversity Offset Guideline which pertains to the Biodiversity Offset Report. It states: "It is strongly advised that a Biodiversity Offset Report is prepared by a specialist, or specialists, with the appropriate skills and experience, in collaboration with the EAP." A list of minimum requirements is stated which will be referred to. It is acknowledged that some of these would not be applicable to a NEMA S24G process, as the activity has already taken place and therefore the initial stages of the mitigation hierarchy are forfeited.

The Western Cape Nature Conservation Board trading as **CapeNature**

Board Members: Mr Tom Blok, Ms Reyhana Gani, Dr Colin Johnson, Ms Ayanda Mvandaba, Prof Nicolaas Olivier, Ms Chwayita Shude-Mareka, Dr Razeena Omar

The threat status of the ecosystem has a bearing on the offset ratios used. The terrestrial plant species assessment which informed the Draft S24G Report indicated the mapping of ecosystems present in accordance with the National Vegetation Map (NVM), namely that the northern and central sections of the orchards ($\pm$ two thirds) consisted of Elim Ferricrete Fynbos (listed as endangered) and the south-eastern section of the orchards ($\pm$ one third) consisted of Agulhas Limestone Fynbos (listed as critically endangered). Due to various other cases where botanists have disputed the NVM in the area between Hermanus and Stanford, both south and north of the Klein River Estuary, we requested confirmation from the botanical specialist that the mapping of the ecosystems is accurate.

An addendum to the original terrestrial plant species report was compiled by a different specialist and submitted with the Biodiversity Offset Report. The addendum report indicates that most of the vegetation on the southern sections of the property consists of Agulhas Sand Fynbos which is listed as critically endangered. As a result, according to the revised mapping, approximately 80-90% of the orchard footprint consisted of Agulhas Sand Fynbos with the remainder consisting of Elim Ferricrete Fynbos.

We wish to raise concern however that no motivation is provided for the revised mapping of the NVM. An informal protocol was developed between DEA&DP and CapeNature (developed for Region 3 but implemented throughout the province) regarding the procedure to follow in cases where the NVM is queried. In this regard the specialist must provide clear evidence based primarily on the plant species occurring on site (including dominant species), but also supplemented by other information such as geology, soils and climate to motivate that the NVM is not accurate. CapeNature further requests that experience, qualifications and accreditations of the specialist who undertook the addendum report should be provided.

We wish to note that Hangklip Sand Fynbos and Agulhas Sand Fynbos are ecosystems which occur on the same/similar substrate. In Mucina & Rutherford, it states that the eastern extent of Hangklip Sand Fynbos is Hermanus and the western extent of Agulhas Sand Fynbos is the lower Uilkraals River near Gansbaai, however with unmapped patches to Hermanus in the west (Rebelo *et al* 2006). The text further states that Agulhas Sand Fynbos is more extensive than mapped, however adequate field surveys to map the extent accurately are lacking. More detailed information regarding the vegetation occurring on site (and which is predicted to have occurred) using recognised phytosociological methodology is therefore required to verify the ecosystem classification.

Section 7.2 of the national guideline refers to the required size of the offset and offset ratios. The basic offset ratio is informed by the ecosystem threat status, remaining extent and protection levels. The starting ratio according to threat status is: critically endangered – 30:1; endangered – 10:1; and vulnerable – 5:1. Taking all criteria into account, Annexure A of the national guideline indicate a ratio of 30:1 for Agulhas Limestone Fynbos, Agulhas Sand Fynbos and Hangklip Sand Fynbos, and a ratio of 10:1 for Elim Ferricrete Fynbos and Overberg Sandstone Fynbos.

The biodiversity offset requirements have been calculated based on the loss of 9 ha for the establishment of the orchard using a ratio of 30:1, resulting in a quantum of 270 ha which needs to be

conserved. Based on a basic measurement on CapeFarmMapper the 9 ha estimate appears to be accurate. It is assumed that the 9 ha are based on the area indicated in Figure 2 of the report. Motivation is provided to reduce the ratios due to the degraded condition of the impacted area prior to ploughing. The historical dense infestation of gum trees was mentioned in our comments on the Draft S24G Report. The ratio is therefore proposed to be amended to 5:1.

The proposed biodiversity offset is to conserve the remainder of the property which has not been developed. The property size is 62.9675 ha according to the title deed which can be rounded off to ± 63 ha for the purposes of the offset study, in which case there is ± 54 ha which is available on site for the proposed biodiversity offset. The ratio would therefore be 6:1.

The national guideline states that the standard approach is not binding and the competent authorities must apply their minds to each case. Provision is made for province-specific approaches to determining offset ratios and scenarios where the ratio can be considered for increase or decrease. A draft provincial guideline for biodiversity offsets has been drafted, however it has never been finalized or formalised, with the most recent revision dated 2015. The ratios specified for ecosystems would not be relevant as the 2022 revised list of threatened ecosystems used a different methodology and the threat statuses have changed. However, it states that the following attributes can be used to amend the offset ratios:

- The condition of the affected habitat and potential offset site(s);
- The presence of any threatened species;
- The presence of any special habitats;
- The role of the affected area in the bigger landscape with regard to ecological processes;
- The role of the affected area in delivering ecosystem goods and/or services of socioeconomic value to local human communities and/or society as a whole;
- The timing of implementing the offset; and
- The level of risk or uncertainty associated with the offset.

With regards to the first attribute, the provincial guideline refers to the offset ratios for three categories of habitat condition, namely good, moderate and degraded. The basic offset ratio would apply for good and moderate condition habitat, however for degraded habitat it can be reduced by as much as 50%. Based on our interpretation, the habitat that was lost would have been classified as degraded and therefore the offset ratios can be reduced to 1:15 for Agulhas Limestone Fynbos, Agulhas Sand Fynbos and Hangklip Sand Fynbos and 1:5 for Elim Ferricriete Fynbos and Overberg Sandstone Fynbos if the provincial guideline is applied.

We therefore recommend that the calculation of the offset requirements need to be revised and refined as per the national and provincial guidelines. Clarification is required regarding the accurate mapping of the vegetation types, following which the offset requirement must be calculated per vegetation type which occupied the orchard footprint. We do however acknowledge that it is very seldom possible to find an exact match between the offset requirements and a receptor site, however the existing calculations must still be refined.

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The proposal for conserving the remainder of the property was presented to the CapeNature Stewardship Review Committee on 24 February 2026, whereby it was decided that the proposed conservation area is worthy of being declared as a nature reserve in terms of the National Environmental Management: Protected Areas Act (NEM:PAA) based on the biodiversity value. A key factor in this regard is the connectivity to existing nature reserve such as Waterfall Nature Reserve and Maanschynkop Nature Reserve. We wish to note that concern was raised in the stewardship review that the proposed offset did not meet the offset ratio requirements (although not captured in the minutes).

The two options which are recommended for securing biodiversity offsets according to the national guideline are NEM:PAA protected areas or conservation servitudes (Section 7.4.2). Further negotiations are underway with the landowner in this regard.

In terms of the contents of the Biodiversity Offset Report we wish to highlight the following minimum requirements for inclusion (Section 7.7 of the national guideline):

- “An explicit statement on the required size of the biodiversity offset to remedy the residual negative biodiversity impacts, applying the basic offset ratio and adjustments as appropriate.
- The portfolio of candidate biodiversity offset sites, including the likelihood of each site's availability and feasibility.
- A description of the biodiversity offset site, and the reasons for the selection of that site from the portfolio of candidate biodiversity offset sites.
- The required biodiversity outcomes on the biodiversity offset site.
- The management measures that would need to be employed as part of the biodiversity offset for a defined period, for which the applicant would be responsible. It is recommended in this guideline that this period is not less than 30 years, and is longer if the impacting activity, or activities, will last beyond 30 years.
- The comments received from commenting authorities and interested and affected parties on the draft Biodiversity Offset Report as well as responses to those comments.”

The applicant has indicated that they are not willing to consider an off-site offset to supplement an on-site offset as currently proposed to meet the offset ratio requirements (take note of the text box on page 137 of the national guideline regarding on-site offsets). The Biodiversity Offset Report must however be revised to refine the offset requirements as described above in accordance with the national and provincial guidelines, as well as indicate the extent to which the proposed offset meets the offset requirements. Once the report has been finalized, any potential shortfall can be identified and stipulated which can then be evaluated by the competent authority. We further wish to note that it is the responsibility of the offset specialist to identify and negotiate any off-site offset. Also, a NEM:PAA protected area will require a Protected Area Management Plan (PAMP) which will fulfil the requirements of a Biodiversity Offset Management Plan.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Regards

**Rhett
Smart**

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by Rhett Smart
Date: 2026.03.18
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Rhett Smart

For: Manager: Landscape Conservation Intelligence South

References:

Rebelo, A.G., Boucher, C., Helme, N., Mucina, L. & Rutherford, M.C. (2006). Fynbos Biome. in Mucina, L. & Rutherford, M.C. 2006. (eds.) The Vegetation of South Africa, Lesotho & Swaziland. *Strelitzia* 19. South African National Biodiversity Institute, Pretoria