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Section 24G Application: Clearance of vegetation on Portion 10 of Farm 502, Stellenbosch (Spier)

Consultation Reference Number 14/2/4/1/B4/39/0017/25

Comments on S24G Draft Assessment Report of October 2025
13 November 2025

A Parameters laid down in 2020 and 2021

A.1 The various areas under discussion are reproduced in App 2.1, taken from the 2025 Draft Assessment Report (DAR) Appendix H1. This is a reproduction of the original "Agricultural and Conservation Map" of 2021. They are: Vineyard (blue), Buffer area (orange), Conservation site (green), Additional Conservation Area (yellow) and unlawful ploughing area of 2ha (cyan). The pins show waypoints of the 2025 Biodiversity Assessment which will be discussed separately.

A.2 The "orange" Buffer Area and the "yellow" Additional Conservation Area (see App 2.1) are the subject of the "SPECIFIC CONDITIONS" of the April 2021 DEADP authorisation (cf its Section E Item 22) and should by law therefore have been conserved since that time in additional to the "green" original conservatoin area to the west, while the "development area" constitutes the approved "blue" Vineyard polygon:

> *22. The remainder of the area north and east of the development site, the buffer area, the proposed conservation area and existing conservation areas must be entered into a minimum of a biodiversity agreement with CapeNature within one year of the clearing of the authorised area commencing.*

A.3 The DEADP condition E22 refers to a **conservation agreement between CapeNature and Spier** in which the latter apparently undertake to conserve these areas. As the Agreement was never included in any EAP documentation, no specifics are available to us, but there is no doubt that the "green", "orange" and "yellow" polygons fall under this agreement and the conservation undertakings of Spier.

A.4 Likewise, the **2020 Environmental Management Programme (EMPr)** states on Figure 2 Page 12: *The conservation and buffer areas proposed will be undertaken and managed in concert with the conservation initiatives which are currently implemented by Spier Estate, as detailed below . . .* , and in Section 10 Item 3: *The active conservation of other parts of Spier, Stellenbosch Municipality to actively encourage the return of natural Swartland Granite Renosterveld as opposed to simply leaving the land to lie fallow and to permit the dominance of such species as Stoebe plumosa (slangbos). Fire would be an important tool in this management process and controlled burns are advocated with permission from the relevant authorities.*

A.5 **Rehabilitation and the Holmes Restoration Plan**: Also explicitly required by the DEADP is rehabilitation, as mentioned throughout the Authorisation, including implementing the updated 2021 Holmes Restoration Plan (see DEADP Authorisation Heading "Management of Activities", Item 10). The Holmes Plan can be found in Appendix H2 of the October 2025 S24G DAR (incorrectly called "Rehabilitation Plan" by the EAP). **Important elements and recommendations of the Plan** include:

(a) The Plan applies to the "green" Conservation Area, the "yellow" Additional Conservation Area, and the "orange" Buffer Area, which she calls "Corridor Area": See Fig 2 in the Plan.

(b) Holmes divides the Buffer Area into three subareas as per the Plan's Figure 1, which are each subject to different restoration measures.

(c) Part of the measures are a controlled burn to stimulate regrowth and geophytes.

(d) App 1 below summarises the Holmes Plan's areawide measures and timeline for restoration, including control of kikuyu and kweek grass, control of alien and invasive trees, sowing and planting of restoration fynbos species after a controlled burn, and monitoring.

B Noncompliance: unlawful ploughing, but much more

We summarise this section as follows:
The Section 24G process must address not only the unlawful ploughing, but the implementation of the other activities and conservation measures which were explicitly required in the 2021 DEADP Authorisation. This section tries to raise some of the required measures which seem to have been implemented not at all or very incompletely. Our assessment is based on the incomplete information provided by the Applicant and EAP, which itself contravenes the rules of Public Participation.

B1 Additional areas ploughed

B1.1 The S24G application itself merely refers to "2 hectares" which have been unlawfully ploughed, as outlined in the cyan polygon in App 2.1; see also the airphotos in the Appendices below.

B1.2 An additional separate area of 0.22ha had been unlawfully ploughed in the northern part of Farm 501 Portion 10 already in October 2022, i.e. after the Vineyard application and authorisation in the south, but well before the 2024/2025 Solar Panel application (Ref No 16/3/3/1/B4/45/1086/24). Since then, it has been planted by something (vines, or by what?). It is visible already in the 2025 BARs for the Solar Panel process (Appendix B Site Development Plan, Fig 2; shown in App 2.2) and falls outside the area approved for that process.

B1.3 Listed Activity 12 of Listing Notice **does apply** to this additional area, because it must be **added** to the above 2 hectares.

B1.4 There has been no independent verification that the remainder of the area burnt in 2024 was not ploughed in other parts too (re the 2024 burn, see item "Fire" in subsection B2).

B2 Noncompliance with the 2021 DEADP Special Conditions

B2.1 **By the DEADP 2021 Authorisation, all of the measures and undertakings set out in Section A were legally required.** They should have been **implemented** by Spier, and should also all have been under continual monitoring by the 2021 Environmental Control Officer (ECO). Any deviations and violations should have been reported and rectified as per DEADP conditions.

B2.2 We are not referring to **promises for the future**, as again made by the 2025 DAR, but to implementation since 2021. Very little is said in the DAR on what has actually been done or achieved in the period 2021 to 2025. **Implementation** of past 2021 requirements is critical for assessment of the present DAR and its components, because **nonimplementation** of past promises and requirements is not only unlawful but implies that the 2025 DAR undertakings have no credibility.

B2.3 We are forced to make inferences on **implementation** during 2021 to 2025 based on circumstantial evidence such as the physical condition on the ground and the absence of information and references in the S24G DAR.

B2.4 We have no insight into the doings and communications of the 2021 Environmental Control Officer; no information was provided. It is unclear what Monitoring, Auditing and reporting to DEADP was done as per Section E Items 12 to 18 of the DEADP Authorisation.

B2.5 Based on what information we have, it appears that very little implementation was actually undertaken in 2021 to 2025 as set out below. If the Applicant and EAP want to dispute this, then full details of the ECO reports and audits must be made public.

B2.6 **Nonimplementation or partial implementation of Holmes, CapeNature Agreement**

(a) Not one of the documents in the S24G DAR mention or consider any of the specific **implementation** of restoration measures within the Holmes Plan. Were the Plan's restoration measures of App 1 applied in full? What evidence is there for that? Why were those implementations not mentioned anywhere in the S24G reports? We can only infer that very little or nothing was **implemented**.

(b) Why does the 2025 **2025 Biodiversity Assessment** not refer to the **implementaton** of the Holmes Plan and CapeNature agreement and its specific areas and consequences? We infer that much of the Plan was never implemented.

(c) The **2025 EMPr** likewise makes no mention of **implementation** of restoration work done under the Holmes Plan in the time 2021 to 2025, as undertaken by the 2020 EMPr and required by the 2021 DEADP authorisation.

(d) The previous 2020 EMPr lists "Rehabilitation Plan" as Section 11 in its Table of Contents and refers to it, but Section 11 itself is missing. Clearly it was not considered important. The 2020 BAR also never provides details of the Spier-CapeNature agreement and its mandatory requirements.

B2.7 **Nonimplementation of Alien Clearing**

There is zero information on **alien clearing** of invasive species in all the S24G DAR reports. The air photos appended below show that even in 2025 many large pines survive in the "conserved" areas. Also, the Biodiversity Assessment makes a big deal of the invasive species still found there, meaning that no measures were taken during 2021-2025 to combat these as per Holmes Plan.

The Biodiversity Assessment does not criticise or even notice nonimplementation of the 2021 alien clearing promises, but merely recommends *conducting ongoing alien plant control, and integrating the cleared area into the estate's conservation agreement with CapeNature as per the Environmental Authorisation dated April 2021.*

The same goes for the 2025 EMPr and DAR main report: no mention of the fact that the purported dire state of the area is due to nonimplementation during 2021-2025, followed by promises for the future which therefore have no credibility.

B2.8 **Fire**

(a) While the Holmes Plan does recommend that a controlled burn be conducted, the S24G DAR and Appendices does not consider at all the effect of any past fires; again, it only makes promises with regard to future fire management.

(b) The S24G DAR and all its appendices fail to even mention that apparently there **was** a wildfire, just about at the time when the unlawful ploughing was done in January or February 2024. See photos in App 2.4 (Situation in January 2024), App 2.5 and App 2.6 (a month later in February 2024) and App 2.7 (October 2025).

(c) In the result, the DAR fails to provide critical information to DEADP and the public. It must explain whether that fire was a controlled burn or an accident. It and the Biodiversity Assessment must then explain the consequences of that fire in relation to the DEADP Special Condition E 22.

B2.9 **The 2025 Biodiversity Assessment (DAR Appendix H1)**

(a) To start with the positive: 2025 Biodiversity Assessment is a big improvement over the assessments by Dr McDonald, using, amongst others, a detailed Natural Land Cover Map, the 2021 SANBI

Threatened Ecosystems, the Western Cape Spatial Biodiversity Spatial Plan of 2023 and even inaturalist. All of those were missing in Dr McDonald's work.

(b) The 2025 Assessment remains deficient in the number of waypoints (see below) and sample days (only one) but at least did their work during spring.

(c) It is not incorrect to say that strictly only the cyan polygon (ploughed areas) should be assessed in the Section 24G process, because by definition of ploughing, little or nothing of importance would be found there anyway.

(d) The 2025 Assessment fails in the critical issue of awareness of implementation or nonimplementation of the DEADP Special Conditions and taking those as pointers where to look and what to look for in terms of the botany.

(e) For example, the 2025 Biodiversity Assessment should have made a point of looking at the restoration plants, including geophytes, and the results of the 2024 fire. Omission of those amounts to failure to answer critical questions on the state of the area.

(f) Hence: Why did the Assessment not sample those areas inside the orange and yellow polygons in which conservation and restoration were supposed to have been implemented 2021-2025? Compare the Waypoints in App 2.3 and ask why the Biodiversity Assessment bothered to sample the green polygon (which was hardly mentioned by Holmes et al), while completely neglecting the yellow polygon north of the Vineyard area and looking only at Buffer Area (orange polygon) waypoints in the its extreme east?

(g) **Species List and Species of Conservation Concern:** Why did the Biodiversity Assessment not take into account the information within the 2021 CapeNature comments (App 2.8) and complementary species lists (App 2.3? Again, the argument that these did not all fall into the ploughed areas does not invalidate the fact that Species of Conservation Concern *were* found by these previous assessments, very close to the present assessment's waypoints. The 2025 Assessment claims there are no SCC is biased in not taking such information into account.

C Arguments in aggravation of Section 24G fines

C.1 We shall repeat our statements on nonimplementation in Section D below. Nonimplementation is a highly aggravating argument which must influence fines (but not only fines).

By the DEADP 2021 Authorisation, all of the measures and undertakings set out in Section A were legally required. They should have been implemented by Spier, and should also all have been under continual monitoring by the 2021 Environmental Control Officer (ECO). Any deviations and violations should have been reported and rectified as per DEADP conditions.

If all these measures and undertakings by Spier, the EAP and even the ECO were not implemented,

C.2 The additional area of 0.22ha referred to in Section B was not mentioned or added to the unlawful ploughing which is the subject of the 2025 Section 24G process. Also its present and future legal status must be determined: is this just the start of an unlawful vineyard or plantation?

C.3 If on investigation it becomes clear that any one or more of the conditions of the 2021 DEADP authorisation (eg Condition E 22, the Holmes Restoration Plan, the regular ECO reports and audits etc) were not complied with, that must count heavily in determining an appropriate sanction and may even be a criminal transgression.

C.4 Fines of up to R10million are allowed. Given the very large annual income of Spier Estates, the maximum fine would be appropriate.

D Legal imperative: Environmental remedying of unauthorised environmental activities

D.1 To repeat our central claim in these comments: The Section 24G process must address not only the unlawful ploughing, but the implementation of all the other activities and conservation measures which were explicitly required in the 2021 DEADP Authorisation.

D.2 A mere fine is not enough, because then noncompliance would in effect be accepted and amount to (*ex post facto* authorisation of unlawful activities). The DEADP decision and conditions must ensure that the environmental damage is addressed also with environmentally relevant measures.

D.3 The above "must" is imperative. Refer specifically to NEMA Section 24G, subsection (1)(c)(aa)(C) which reads (quoting only the relevant passages):

> *(1) On application by a person who . . . (c) is in control of or successor in title to land on which a person . . . (i) has commenced with a listed or specified activity without an environmental authorisation, the Minister (aa)* ***MUST*** *direct the applicant to . . . (C) remedy any adverse effects of the activity on the environment.*

where DEADP is of course acting under delegation of the Minister or MEC.

D.4 Furthermore, the conditions to be imposed by DEADP in this S24G application cannot be limited to just the ploughed areas only, but must encompass the entire eastern area of Portion 10 of Farm 502 and noncompliance with the 2021 Authorisation plus all environmental measures required in it, as per its own 2021 Authorisation. All the items in Section A must be implemented and monitored: Conservation and Restoration on the green, orange and yellow polygons.

D.5 If the Applicant and EAP want to dispute our claim that most of the 2021 DEADP Special Condition 22 were never implemented, then full details of the ECO reports and audits must be made public, and the second Public Participation Process must allow for comment on that additional information.

E The Vineyard, S24G and Solar Panel applications constitute "phased activities"

E.1 We repeat here that the present Section 24G process is linked to the Solar Panel application (Ref No 16/3/3/1/B4/45/1086/24) and that both should be assessed and judged in conjunction as *phased activities*.

E.2 See Item 7 in Section D.3 in our Appeal dated 29 September 2025, where we quoted the definition of *phased activity* in the 2017 EIA Regulations:

> "phased activities" means an activity that is developed in phases over time on the same or adjacent properties to create a single or linked entity, but excludes any activity for which an environmental authorisation has been obtained in terms of the Act

E.3 The Solar Panel application area, the Vineyard area and the Section 24G area all fall "on the same property" being Portion 10 of Farm 502. They constitute a "linked entity" in that they are in the same biodiversity area and they are in close physical proximity of one another. And no "'environmental authorisation in terms of the Act" was ever given for any activity except the Vineyard before the Solar Panel application was brought.

E.4 We reject the assessment of the claim (as made in the 20 October comments on the FSM Appeal by a DEADP officer) that *there is no functional or operational link between the cultivation activity and the development of the solar facility*. Of course vines are not solar panels, but the underlying nature areas are very much linked physically. Linking does not refer exclusively to linked land use, but can and does refer to the land itself.

E.5 The situation is not changed by the 20 October 2025 Appeal Comments on the interpretation of the term "Geographic Area" in Activity 26 of Listing Notice 3. Both the S24G area and the Solar Panel area fall into the same "geographic area" if that is taken to be "Western Cape".

E.6 We therefore repeat that the footprints of the two 2024/25 activities (ploughing as per S24G and the Solar Panel application) must therefore be considered in unison, that they together exceed 20 hectares.

Appendices

App 1 2021 Holmes Restoration Plan annual operations

Summary of Appendix 1 of the 2021 Restoration Plan by Prof Patricia Holmes:

Table of annual operations for the conservation areas:

2020 to 2021 (pre-burn year)

1 Control of Kikuyu (if needed)

2 Initial control of invasive alien trees and shrubs

3 Identify source sites for SGR species to be re-introduced and plan for seed and cutting collecting field trips.

4 Collect seed and cuttings for propagation

5 Map most degraded areas in block for targeted sowing and planting

6 Pre-treat seeds and prepare seed mixes

From pre-burn year onwards

7 Conduct prescribed burn

8 Cynodon dactylon control patches planned for sowing (spot herbicide spraying before indigenous species emerge)

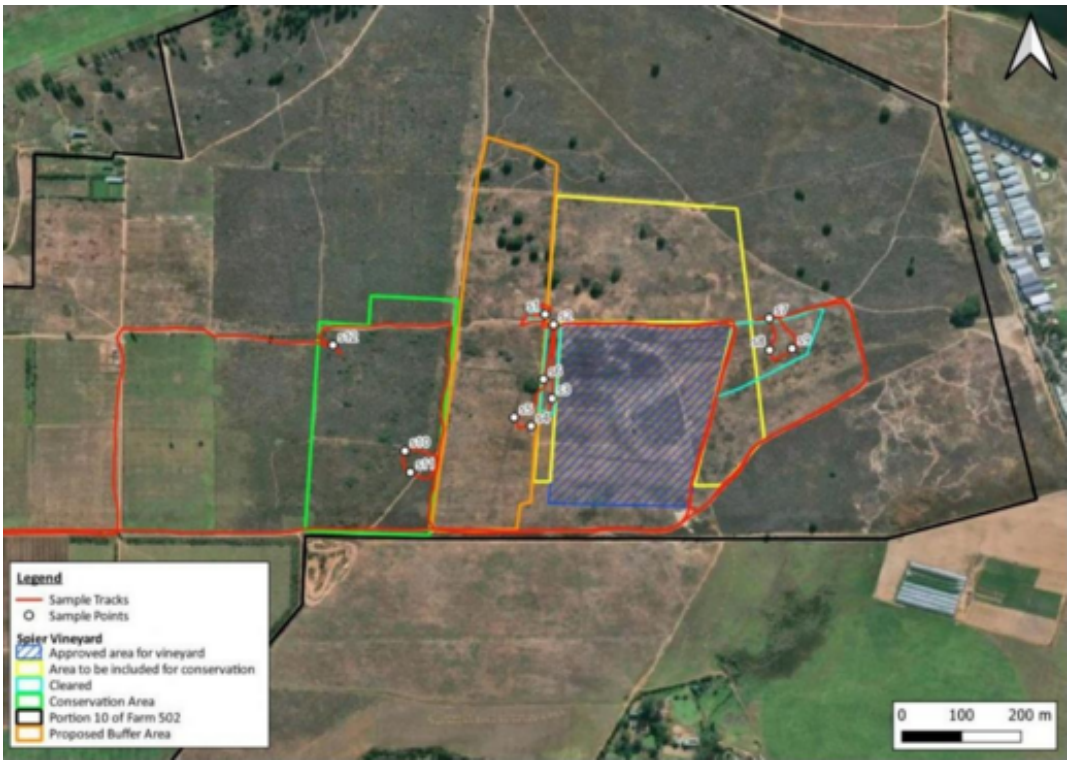
9 Sow pre-treated seed mixes in predetermined areas; embed in soil (rake in or provide cover by applying sparse wood chip mulch)

10 Plant hardened-off rooted material in mixed clumps in predetermined areas once soil moist

11 Monitor sown and planted areas according to objectives (repeat following year); recommend further interventions if needed

App 2 Historical air photos 2020-2025

App 2.1 2021 Polygons, 2025 Biodiversity Assessment



Updated polygons as of 2021 Agricultural and Conservation Map, reproduced in Biodiversity Assessment (DAR Appendix H1): Vineyard (blue), Buffer area (orange), conservation site (green), additional conservation area (yellow) and unlawful ploughing area of 2ha (cyan). The pins show waypoints of the 2025 Biodiversity Assessment.

App 2.2 October 2022: Additional ploughed site (0.22ha) in the north

Additional area ploughed in the north in October 2022 (khaki), along with Phase 1 of the Solar Panel project (blue). (Fig 2 of Appendix B, 2025 FBAR for solar panels).

App 2.3 Species identified, CapeNature 12 October 2021

The pins shown include species of conservation concern. Compare to the above image with waypoints of the 2025 Biodiversity Assessment as per App 2.1Compare also the CapeNature species list in App 2.9 to the list of the 2025 Biodiversity Assessment. According to the CapeNature comment of App App 2.8, there is an additional CREW species list.

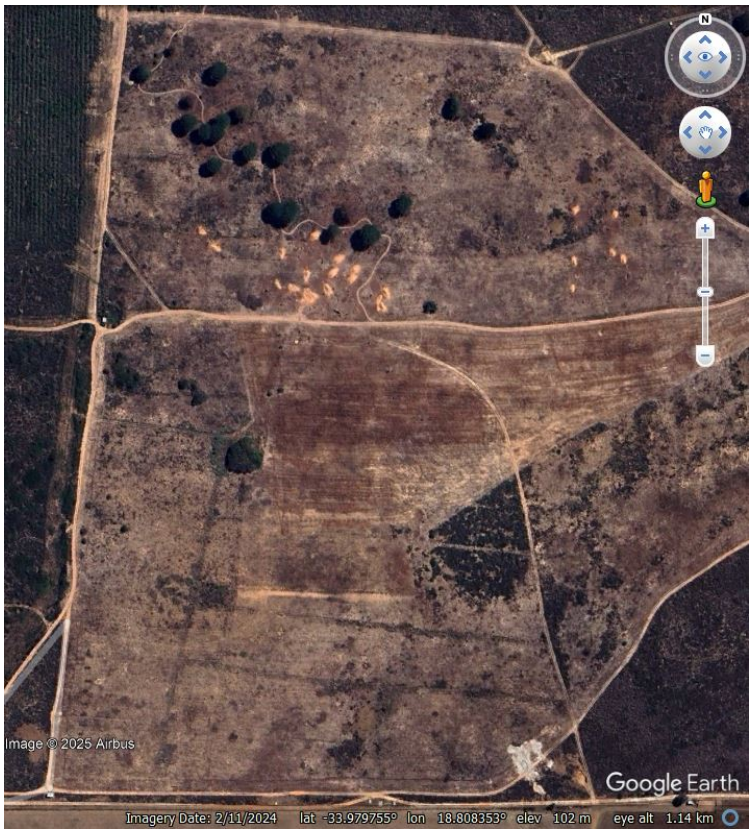
App 2.4 January 2024 airphoto

January 2024, **before** the "fire" over about 36ha. ploughing.

App 2.5 February 2024 airphoto

February 2024, **after** the "fire" (about 36ha) including ploughed area.

App 2.6 February 2024 zoomed airphoto



February 2024 zoomed view, showing ploughing of part of the authorised Vineyard plus the unlawful ploughing on the northeast side.

App 2.7 October 2025 airphoto

October 2025 status: Full Vineyard area ploughed; all burnt unploughed areas recovered well: Buffer (orange), Additional conservation area (yellow) as per App 2.1.

CapeNature

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Mische Molife
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By email: mische@groenbergenviro.co.za

Dear Ms Molife

RE: Proposed clearance of vegetation for the establishment of a vineyard on the remaining extent of portion 10 of Farm 502 (Spier), Stellenbosch – Draft Basic Assessment Report.
DEA&DP Ref: 16/3/3/6/7/1/B4/45/1140/20

CapeNature would like to thank you for the opportunity to comment on the Draft Basic Assessment Report (DBAR) and wish to make the following comments:

1. The preferred development site for a new vineyard on Spier (farm 502/10) is located within an area which has been mapped as Swartland Granite Renosterveld. Given that Swartland Granite Renosterveld has less than 12% of its original extent remaining (which is well below the conservation threshold of 26%), this area has been identified as a priority conservation area in the past and as a Critical Biodiversity Area more recently, it was decided to do further investigation of the site from a species and condition perspective. The site was visited by myself and Arnelle Collison from CapeNature as well as botanist Stuart Hall on the 5th of October 2020. The application area as well as some of the surrounding area was quite thoroughly surveyed on foot and by vehicle.

2. In addition to Species of Conservation Concern (SCC) recorded by CREW, several other species were identified on site (these are indicated in Figure 1 below). In addition, parts of the site, although supporting a lot of secondary vegetation, can still be considered as important habitat and there is a possibility that the diversity on site would increase following a fire. Several insect species were observed as well as some small mammal burrows. Overall, the northern part of the study area was more densely covered and SCC were identified in this area. The eastern part of the study area was

observed to be wetter and also supported some SCC. These areas are considered to have conservation value and should not be developed.

3. From a biodiversity perspective, alternative 2 located in the old plum orchards would be strongly preferred. However, we understand that this is not truly a viable option due to previous ploughing practices having changed the soil structure significantly.

4. Thus, if it is determined that it is necessary to establish an additional vineyard on Farm 502/10, Figure 1 below indicates the area that is acceptable from a biodiversity impact perspective as it is more heavily degraded, very little indigenous vegetation representative of Swartland Granite Renosterved remains and no SCC were located on the site.

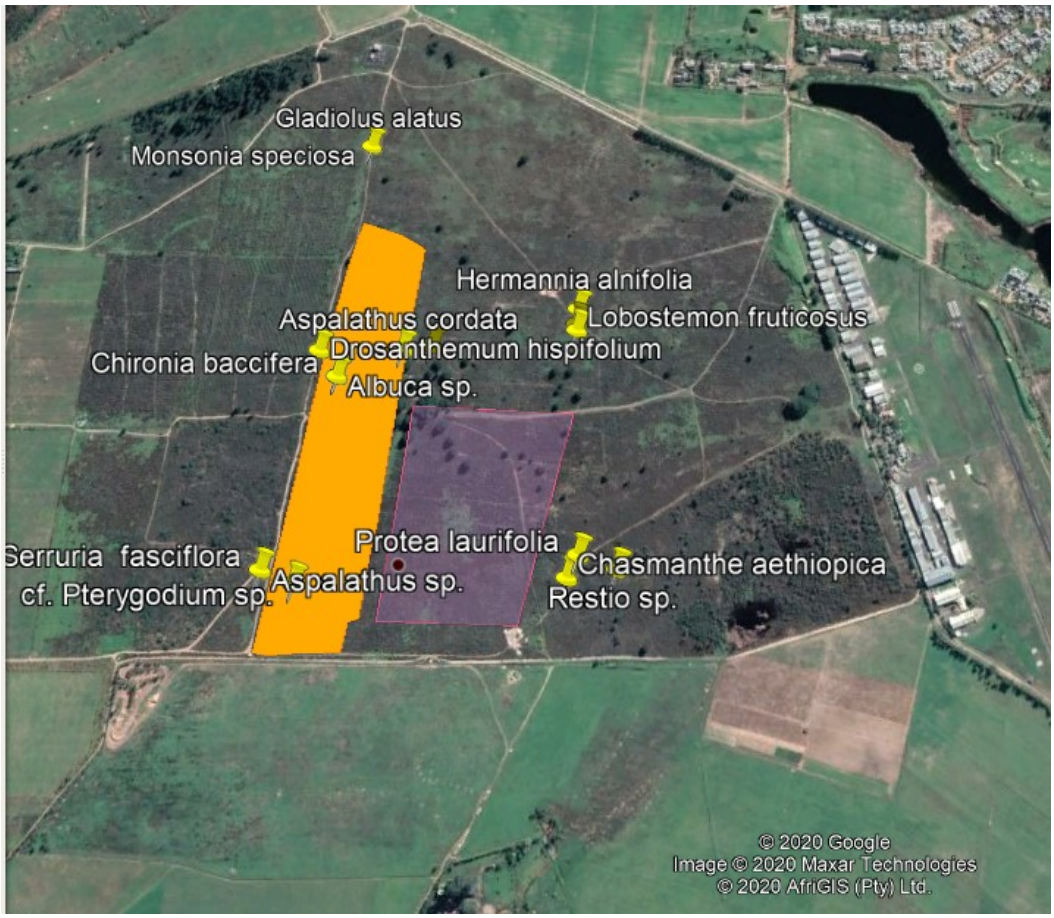

Figure 1: Extract from Google Earth imagery dated July 2020: The yellow pins indicate locations of SCC found on 05/10/2020. The light pink shaded area is the area which was determined to be of lower conservation importance in which the vineyard could be located (approx. 10ha). The orange area is the area identified in the DBAR as a buffer area. The area north of the pink shaded area is considered conservation worthy as well as the area to the east which is wetter.

5. Even developing within the "acceptable area" indicated in Figure 1 will still result in loss of biodiversity both directly on site and indirectly through edge effects and cause loss of ecological connectivity. However, if the remainder of the site is formally conserved this will mitigate for these impacts to some extent and help to ensure persistence of the remaining habitat in the long term. Therefore conditions should include the remainder

of the study area being declared and managed as a conservation area. This should include the buffer area (which must be extended northwards), the existing conservation area and the areas north and east of the “acceptable area” indicated in Figure 1 above. These areas should also be burnt prior to a new vineyard being established.

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

Yours sincerely

Alana Duffell-Canham

App 2.9 2020 Species list by CapeNature and Dr Hall

2020/10/05 10:51	S33.97815 E18.81074	102 m	Cyphia	volubilis		
2020/10/05 10:54	S33.97822 E18.81019	104 m	Aspalathus	cordata		
2020/10/05 11:20	S33.97787 E18.81344	95.8 m	Lobostemon	fruticosus		
2020/10/05 11:21	S33.97776 E18.81343	93.9 m	Ischyrolepis	sp.		
2020/10/05 11:23	S33.97750 E18.81344	93.1 m	Phylica	cf. thunbergiana	EN	
2020/10/05 11:23	S33.97750 E18.81344	93.1 m	Hermannia	alnifolia		
2020/10/05 11:47	S33.98188 E18.81353	88.6 m	Chasmanthe	aethiopica		
2020/10/05 11:58	S33.98153 E18.81371	92.7 m	Protea	laurifolia		
2020/10/05 12:03	S33.98175 E18.81442	90.0 m	Drosera	trinervia		
2020/10/05 12:03	S33.98175 E18.81442	90.0 m	Restio	sp.		
2020/10/05 12:03	S33.98175 E18.81442	90.0 m	Aspalathus	ericifolia		
2020/10/05 12:17	S33.97868 E18.80902	103 m	Chironia	baccifera		Buffer site?
2020/10/05 12:17	S33.97868 E18.80902	103 m	Albuca	sp.		Buffer site?
2020/10/05 12:19	S33.97823 E18.80862	102 m	Drosanthemum	hispifolium	VU	Outside of footprint?
2020/10/05 12:30	S33.97446 E18.80908	88.1 m	Monsonia	speciosa	EN	Outside of footprint
2020/10/05 12:30	S33.97446 E18.80908	88.1 m	Gladiolus	alatus		Outside of footprint
2020/10/05 12:54	S33.98177 E18.80806	93.6 m	Serruria	fasciflora	NT	Within conservation site
2020/10/05 12:54	S33.98177 E18.80806	93.6 m	Aspalathus	sp.		Within conservation site
2020/10/05 12:57	S33.98198 E18.80867	93.4 m	cf. Pterygodium sp.			Buffer site?
			Aristea	africana		
			Eriocephalus	africanus		
			Helichrysum	petiolare		
			Athanasia	trifurcata		
			Osteospermum	moniliferum		
			Stoebe	plumosa		
			Elytropappus	rhinocerotus		
			Senecio	hastatus		
			Passerina	corymbosa		
			Geissorhiza	aspera		