

# FORMAL ADOPTION OF THE CBA MAPS FOR THE WESTERN CAPE - IS IT NECESSARY?

Alana Duffell-Canham, Kerry Maree & Rhett Smart  
Biodiversity Planning Forum May 2013



# Introduction

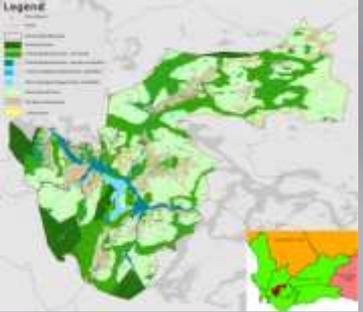
- ▣ Need for product to inform broader spatial planning as well reactive EA
- ▣ Informant needed to be fine-scaled and accurate enough to be used in site-specific decision making.
  - Critical Biodiversity Areas Map
- ▣ FSP worked alongside National Initiatives to ensure products met the requirements of the CBA map referred to in Listing Notice 3
- ▣ Defined by “Guidelines for Publishing of Bioregional Plans”



# Introduction cont.

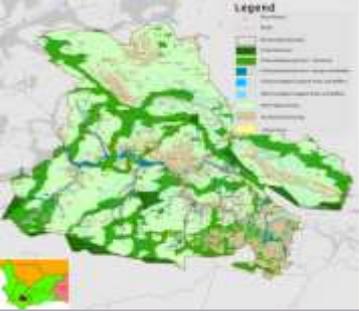
- ▣ 7 years after the mainstreaming of the CBA maps started and ~3 years after the official amendment to the regulations stipulating for special treatment of CBAs "adopted by the competent authority" - the FSP CBA still does not have the level of legal recognition it was intended to receive.
- ▣ The competent authority (W.Cape = DEADP) have still not defined what this adoption process is to entail i.e. they are not activating a clause in the EIA regulations which they stipulated for the W.Cape.





# Adoption of the CBA maps by the competent authority

- Will have implications for NEMA listing notice 3.
- Mainly Activities 5, 13 & 19.
- Activity 13 particularly relevant on W.Cape due to our highly fragmented and heterogeneous landscape.
- Every patch of natural vegetation cleared in a CBA will impede the overall CBA network.
- CapeNature requested that the minister publish an official notification.



# Adoption of the CBA maps by the competent authority

- ▣ Option of adopting the maps for certain time only e.g. next 5 years.
- ▣ Or adopt plans for 1 or 2 of the relevant listed activities only – activity 13 which represents biggest challenge.
- ▣ Drafting of Listing Notice 3 already subject to extensive PPP so no further PP needed now.
- ▣ Official adoption will have spin-off effects as it will be interpreted as formal endorsement → greater willingness to use products in other areas (agri, mining, LUPO etc.)

# Current Examples and Attitudes towards CBA Maps

“all remaining natural areas have been declared as CBA”

“CBA not recognised by competent authority and will run into problems with implementation... such as with the coastal setback line”

“why should we conduct a botanical study just because the site is in a CBA?”

“CapeNature is using the EIA process to verify their CBAs”

“CBAs are always where we want to mine”

“what’s stopping us from just clearing anyway as CBAs are not formally adopted?”

“we were not consulted about having a CBA on our property and we would have objected if we had been”

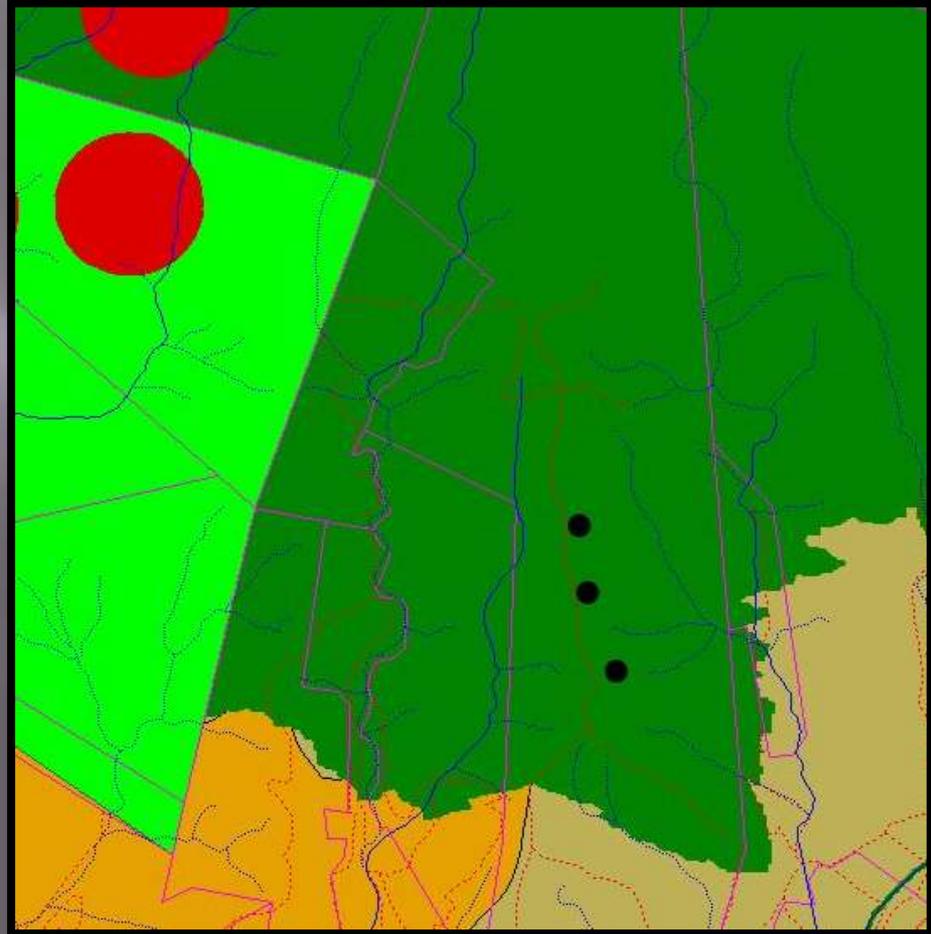




# Case Studies

## Case Study 1: Tourist Development on a portion of Farm 23 near Robertson.

- ▣ 6 cottages, tourism facilities, tractor ride etc.
- ▣ Fire prone environment
- ▣ Vulnerable & LT veg
- ▣ Activity 5 would be triggered if CBAs adopted.
- ▣ CN had to rely on LUPO process to allow input.

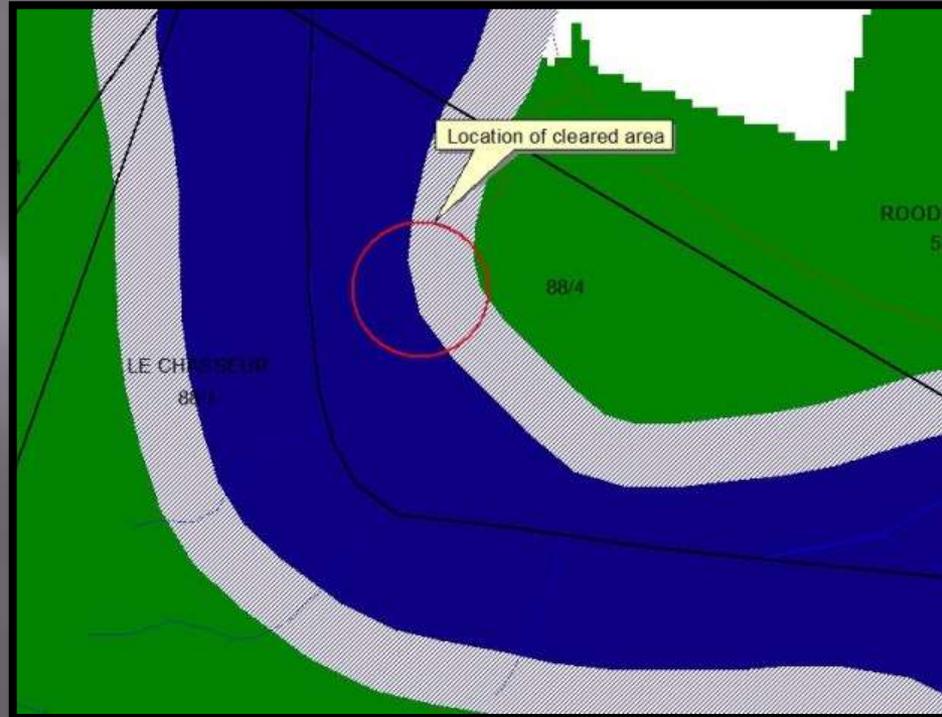




# Case Studies cont.

## Case Study 2: Cultivation on Farm 88/4, Robertson.

- Many similar examples.
- Original area owner wished to clear = just under 5ha
- Breede Alluvium Renosterveld (VU).
- Within aquatic & terrestrial CBA.
- EIA process not triggered.
- CN had to rely on LandCare to inform and give opportunity to advise.

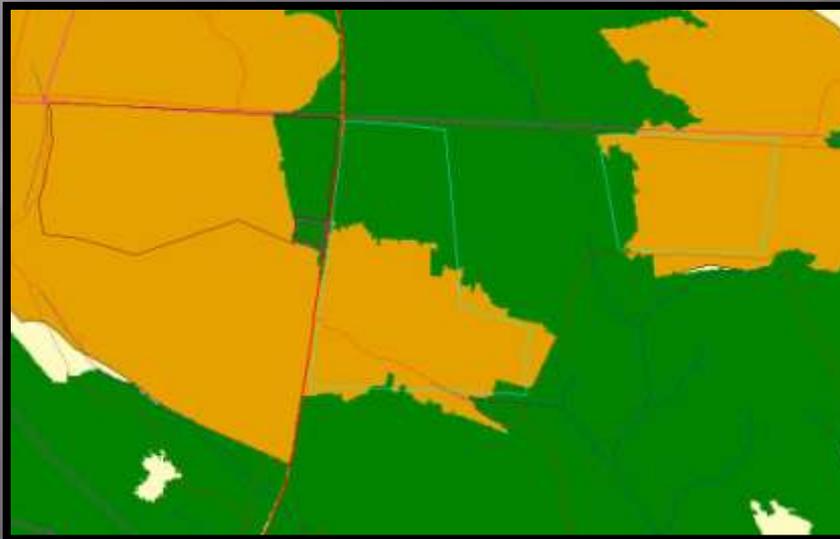




# Case Studies cont.

## Case Study 3: Clearing of natural vegetation and rooibos strips

- ▣ Portion of a farm in the Sandveld area proposed for solar farm.
- ▣ Adjacent and within CBA (NB corridor)
- ▣ Original app. was to develop in rooibos strips only (>200ha) but later deemed necessary to clear all vegetation (140ha)
- ▣ Leipoldtville Sand Fynbos (now VU, was EN)





# Case Studies cont.

## Case Study 3 cont.

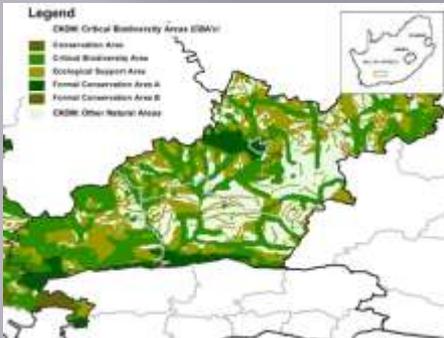
- ❑ Applicant realised no listed activity stopping them from clearing.
- ❑ Only fact that EIA already commenced meant they could not go ahead as commencement would have constituted illegal activity.
- ❑ Would still have needed authorisation from DoA but were unaware of implications of CARA.





# Response from DEADP regarding formal adoption of CBAs

- Response received earlier this year that CBA maps will not be adopted by DEADP at this stage (no indication of when given)
- DEADP suggested a more strategic and proactive approach be taken to ensure CBA maps taken into account.
- Should be mainstreamed into Municipal SDFs and EMFs.



# Reasons provided from DEADP

- ❑ Public Participation still needs to take place.
- ❑ Other listed activities are sufficient to cover activities that would be triggered by adopting CBAs.
  - E.g. LN 3 activity 12 referring to CE & E ecosystems – but CBAs not restricted to CE & E ecosystems and conservation targets need to be met for VU & LT as well.
  - E.g. LN 3 , activities 5, 13, 16, 24 & 26 referring to Pas but CN can not prioritise all CBAs for stewardship.
  - E.g. LN 3, activities 13, 16, 18, 24 & 26 referring to EMFs.
- ❑ Cultivation of virgin land is adequately covered by CARA.
- ❑ That CBA maps are not accurate enough and adoption will not allow for groundtruthing.



# Alternatives to formal adoption of CBAs

- ▣ LUPO regs., SDFs, EMFs etc.
  - LUPO aims to ensure that land use is consistent with it's zoning.
  - Sectoral plans aim to determine and manage growth patterns and development.
  - Some success with uptake of CBAs into SDFs and EMFs but it must be remembered that these documents neither give nor take away development rights; and
  - Cannot be considered a replacement for a detailed assessment of potential impacts on biodiversity such as would be required by an EIA process.



# Alternatives to formal adoption of CBAs cont.

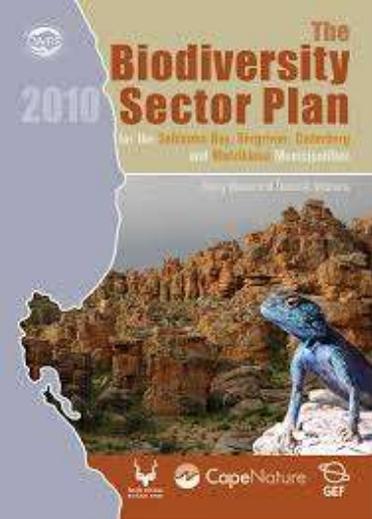
## □ CARA & Dept. Agriculture

- CARA aims to control the utilisation of the country's natural agricultural resources and provides some protection to the natural environment.
- Ploughing permits need to be obtained for the cultivation of virgin soil under CARA.
- When a listed activity is triggered both DoA and DEA&DP have to provide a decision.
- Study by B. Niemand (2011) - at least 52 applications not received by DEADP in an 8 year period (1589ha)
- Applications (and illegal activities) on the increase and at least some must fall within CBA.
- No provision in CARA to force decision-makers to consider CBAs.



# Conclusions

- ▣ Formal adoption of the CBAs will afford a much higher level of protection for these areas.
- ▣ Applicants and consultants will take the products more seriously.
- ▣ Adoption by DEADP will encourage other state departments to use these products in their planning and decision-making.
- ▣ CBAs may not be ready for formal adoption now but competent authorities must stipulate what the process for adoption in the future needs to entail.



# Thank you

## Questions/Comments?

