

Duty of Care in Stellenbosch Municipal Nature Areas Who Cares?

HC Eggers

heggers@pm.me

fsmountain.org



FRIENDS OF STELLENBOSCH MOUNTAIN

19 January 2022

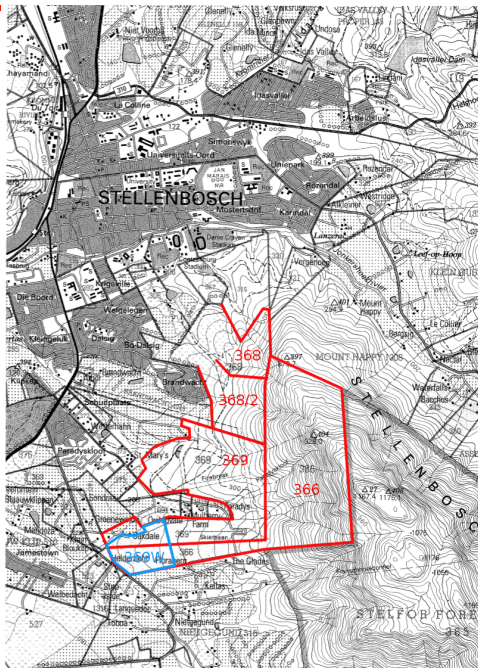
Public Talk given at the
Stellenbosch Invasive Species Forum
held under the auspices of Invasives South Africa

Part 1

Stellenbosch Mountain and its Friends

Part 2 later:
Stellenbosch Municipality and Duty of Care

Location and Ownership



368 University

368/2 Municipality
Renosterveld, denuded

369 Municipality
Renosterveld, Plantation

369W 50-year lease
Renosterveld, agriculture

366 Municipality
Mountain Catchment

365 Hottentotsholland
Nature Reserve

History and Activities

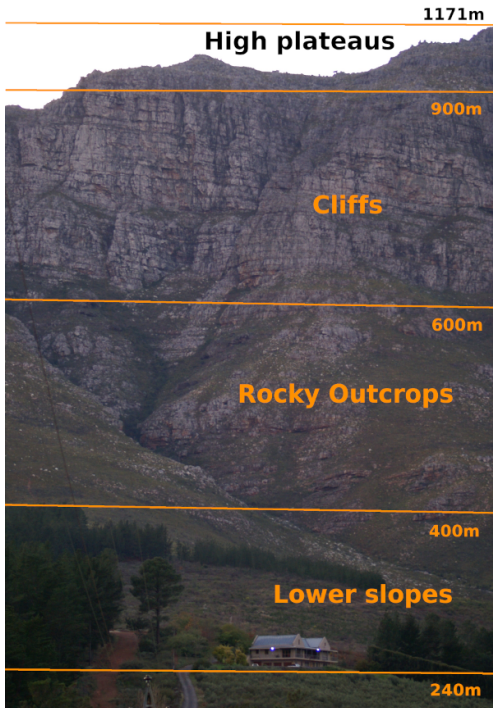
- **Friends of Stellenbosch Mountain selected timeline**

- 1996–2010 Small groups, golf estate, Ratepayers' Association
- 2003–2006 Early work with Working for Water
- 2008–2011 Informal hack groups
- 2011 FSM formal launch (Guy Preston)
- 2016 Section 18A Public Benefit Organisation
- 2002–2019 Excellent cooperation with Stellenbosch Municipality
- 2019–present Conflict (more later)

- **Physically removed** 150,000–200,000 invasives;

Prevented several million from growing,
but **numbers** are misleading.

- **Invasive species:** Acacia saligna, A. mearnsii, Hakea sericea, A. longifolia, A. melanoxylon, Pittosporum, Solanum etc
- High flexibility, minimal bureaucracy
- **Eyes and ears on the ground**
- System of **Regular Hacks** and **Special Hacks**



Case study: *Hakea sericea*

- **Until 2004**
Mountainside covered in hakea
- **March 2004**
Working for Water clears High Plateaus and Lower Slopes
- **April 2004**
Wildfire destroys hakea seed
- **2005–2010**
Almost no hakea found, attention diverted
- **2004–2018**
Small number of hakea in rocky outcrops repopulates mountain
- **2018–2022** Hakea Hunting
- **2022** one large patch left
- **2035 and beyond**
Who will look after the mountain?

- **Hakea case study conclusions**
 - Never be complacent
 - Twenty-year horizon, perseverance, follow-ups are essential
 - Focus on FSM strengths: low-density, high-quality work
 - Complementarity (split up work with Municipality and contractors)
 - Eradication methods differ from control methods
- **Combat invasives on their terms, not ours**
- **Exponential** invasives growth versus **linear** clearing work
 - Speed is essential: Invest massively **now**
 - Skimping on costs now is a recipe for disaster later
 - No room for incompetence and distractions
- Keep records, make photographs, teach newbies
- **Successful work on the ground depends on good governance**

Part 2

Stellenbosch Municipality and Duty of Care

Biodiversity Act (NEMBA) Section 73: Duty of Care

73(2) *A person who is the owner of land on which a listed invasive species occurs **must** – (a) notify any relevant competent authority, in writing, of the listed invasive species occurring on that land; (b) **take steps to control and eradicate the listed invasive species and to prevent it from spreading; and (c) take all the required steps to prevent or minimise harm to biodiversity.***

FSM Request for a NEMBA Directive, March 2021

For details see March 2021 on the [Monthly Blog](#) on our web page fsmountain.org as well as the FSM comments under May 2020.

Source	Amount	Years
NRM 2019 Contract	R14.26 million	2019,2020,2021
Tender BSM 7/19	R2.36 million	2019
Tender BSM 102/20	unknown	2020–
"Parks" budget item (?)	R1.80 million	2021/22
"Parks" MTREF item (?)	R11.74 million	2021,2022,2023?

- **NRM 2019 contract** was terminated amid secrecy and stonewalling.
- **Tender BSM 7/19:** based on NRM money, less than one year's funds used; now subject to one or more court cases
- **Tender BSM 102/20:** replacement for BSM 7/19, presumably municipal funds, more court cases
- **Disciplinary Cases:** secrecy, high financial and environmental costs
- **Subsequent issues and problems**
[Logging in municipal plantations 2020/21:](#) Supply Chain Management violations, Rand amounts R853,000 but possibly much more.
["Biomass removal":](#) more than R300,000 spent on trivial tasks

Letter to BSM 7/19 tender contractor, September 2020



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Administrative enquiries: D Jacobs

Tel: (021)-808 8137 e-mail: Daleel.Jacobs@stellenbosch.gov.za

JOEZ ROSE PROJECTS
41 Riverside, Pniel
Stellenbosch
7681

"Without Prejudice"

22 September 2020

Dear Sir/Madam,

Re: BSM 07/19 – Alien Clearing Tender

The above refers.

It has been established that there were discrepancies with the applicable rates on this tender. Thereafter, Stellenbosch municipality further engaged with our funding stakeholders i.e. Department of Environmental Affairs (DEA) in trying to find common ground. However, that process was unsuccessful and that led to a decision to cancel the current tender.

The reason for the cancellation is based on the fact that the tender specifications was not aligned with the Natural Resource Management (NRM) Memorandum of Agreement (MOA) from DEA. This discrepancy led to the grant funding being withdrawn and the tender of Alien Clearing being invalid.

Stellenbosch municipality has advertised Rates tender BSM102/20, and all participants are allowed to submit their bid submission as budget allocation has been granted within the municipality budget processes.

Therefore, you are hereby formally advised that the tender BSM 07/19 Alien Clearing Tender has been cancelled with immediate effect.

From the text of the letter:

Re: BSM 07/19 – Alien Clearing Tender

It has been established that there were discrepancies with the applicable rates on this tender. . . .

The reason for the cancellation is based on the fact that the tender specifications was not aligned with the Natural Resource Management (NRM) Memorandum of Agreement (MOA) from DEA.

. . .

DFFE should get to the bottom of these claims. What is the **real reason for the termination of the 2019 NRM contract? Why did Stellenbosch Municipality throw away R14.26 million in NRM grant money?**

Stellenbosch Municipality Budgets: no Duty of Care

- **June 2021 3-year budget totals** (MTREF)
 - Operational Budget 2021/22: **R2018 million**
 - Capital Budget 2021/22: **R406 million**
- Stellenbosch **Environmental Policy** is well developed, eg
 - Stellenbosch Environmental Management Framework
 - Alien Invasive Plants Management Plan
 - Paradyskloof Nature Area Environmental Management Plan
 - Fire Management Plan
 - ... and more to come
- However, **Environmental Implementation** is much neglected.
Environmental Plans are approved but not funded.
- **Minimal capital budget allocations (not even R2 million)** for environmental work. There is **"no money"** for four-by-fours, no trucks, no chipper, no chainsaws ... Instead, investment in **office refurbishment**.
- **Minimal allocation of operational budget**; less than **R 4 million** per year for *all* environmental projects.
- **Minimal human resources** available for environmental management.

Part of the 2017 Stellenbosch Municipality Organogram

Organogram runs over 110 pages; contains several thousand posts.

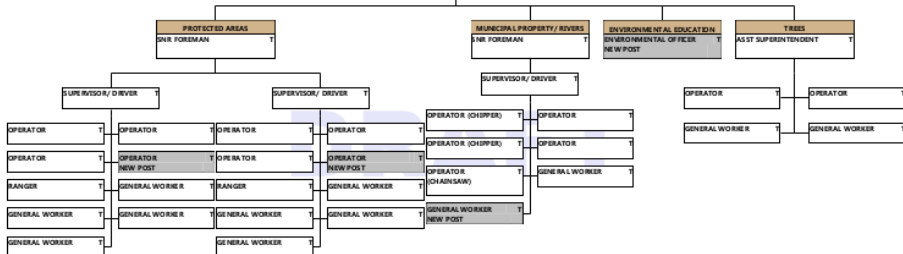
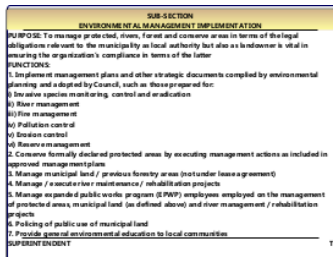
Subsection “Environmental Management Implementation”

Signature

/ 2017

Signature _____

1 (2017)



Posts, Funding and Budgets

- Total permanent posts in subsection Environmental Management Implementation: **37 permanent posts** (2017).
- Posts in other Subsections: **8 permanent posts**.
- March 2019 HR report shows only **18 permanent posts filled** plus **2 posts vacant**.
- **What happened to the other 17 posts?**
- **Community Services** as a whole has about **208 permanent posts**, of which **192 posts** are filled (2019).

Departmental Human Resources:	2018	2018	2018	2018	2018	2018	2019	2019	2019
STAFF COMPLEMENT (CURRENT PERMANENT)	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR
Community Service offices	5	5	5	5	5	5	5	6	6
Urban Forestry	5	5	5	5	5	5	5	5	5
Ornamental Horticulture	20	20	20	20	20	20	20	20	20
Nature Conservation	19	19	19	19	19	18	18	18	18
Sport And Facilities	33	33	33	33	33	33	33	33	29
Halls	17	17	17	17	17	17	16	16	16
Parks Stellenbosch and Cemeteries	49	49	49	49	49	49	46	34	34
Libraries	35	35	35	35	35	35	35	35	35
Workshop	2	2	2	2	2	2	2	2	2
TOTAL	194	194	194	194	194	194	191	192	192

- **What are the Municipality's priorities? Who cares?**

Mismatch between Responsibilities and Resources

Functions/Duties of Superintendent: Environmental Management Implementation

- Implement management plans:
 - Invasives (monitoring, control and eradication)
 - Fire, pollution, erosion
 - Reserve management, protected areas, forest plantations
 - River maintenance, rehabilitation
- Law enforcement (“policing of public use”)
- Environmental education

Mismatch between responsibilities and resources

- More than 3000 hectares of municipal nature areas
- Large variety of responsibilities
- Only 18 of 37 permanent posts filled
- Backwater for career advancement
- Tiny allocations within capital and operational budgets

Stellenbosch Municipality Sloppiness Example: CITP

Stellenbosch 2021 Comprehensive Integrated Transport Plan:

Table 12.1: Project Budget Totals per Category

Project Category	Project Budgets Per FY in Million Rands R'000 000					
	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Integrated Planning	R4.00	R3.80	R5.60	R22.60	R1.70	R37.70
Public Transport	R36.80	R15.25	R27.00	R18.50	R7.50	R105.05
NMT (Walk/Cycle)						R126.30
Road Infrastructure	R25.31	R244.40	R242.40	R758.20	R112.10	R1 382.41
TOTALS (Millions Rands)	R66.11	R263.45	R275.00	R799.30	R121.30	R1 525.16

Note project costs are in Million Rands.

- **R2 million** spent on consultant for very sloppy work
- 20-year funding summary **“just forgot” R126 million** in NMT funds
- The summary also **“just forgot” R780 million** in parking funding.
- 73 road projects envisaged at total cost of **R7 billion to R10 billion**
- **Stellenbosch Municipality claims it cannot fund Environmental Implementation.**

The question asked in the title of this talk was:

Duty of Care
in Stellenbosch Municipal Nature Areas
Who Cares?

The answer is:

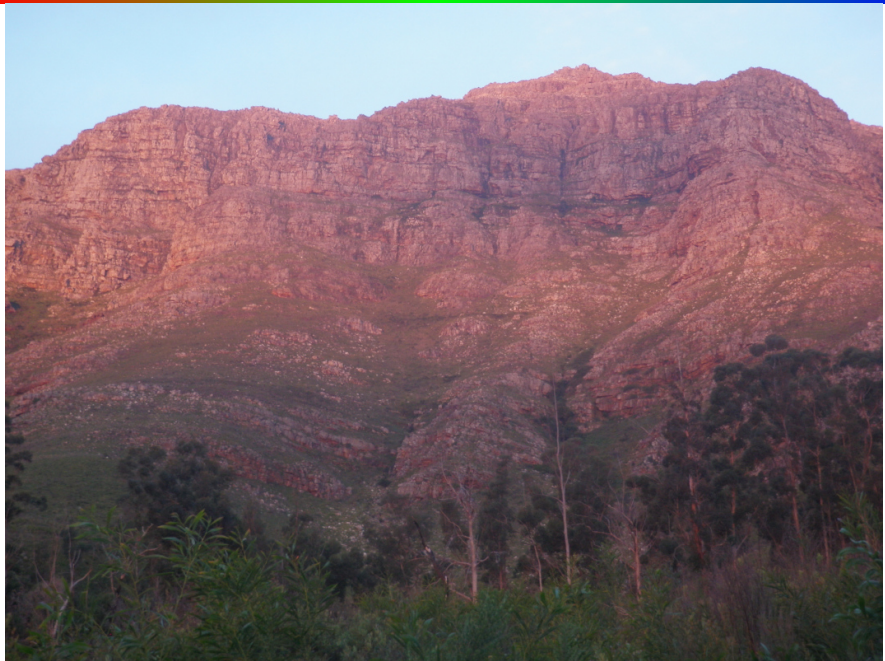
FSM and others have demonstrated Duty of Care
Currently, Stellenbosch Municipality does NOT Care
DFFE should enforce Duty of Care

Summary and Conclusions

- FSM has a long and consistent **track record**
Minimal resources, maximal impact
- **The quality of control and eradication methods** is non-negotiable
- Our **common enemies** are
 - **Alien Invasives**
 - Complacency, Incompetence, Greed, Corruption
 - Waste of natural resources
 - Poverty
 - **Climate Change**
- **Stellenbosch Municipality is not poor**
It is only a matter of priority, of **caring**
- **DFFE should rigorously enforce NEMBA and Duty of Care**
- **We must cooperate, not fight.**
Too much time and energy is spent on unnecessary conflict.
- **Maak reg wat verkeerd is ... then ... let's get on with the job.**

Additional Slides

Stellenbosch Mountain western slopes (2010)



Case study *Hakea sericea*

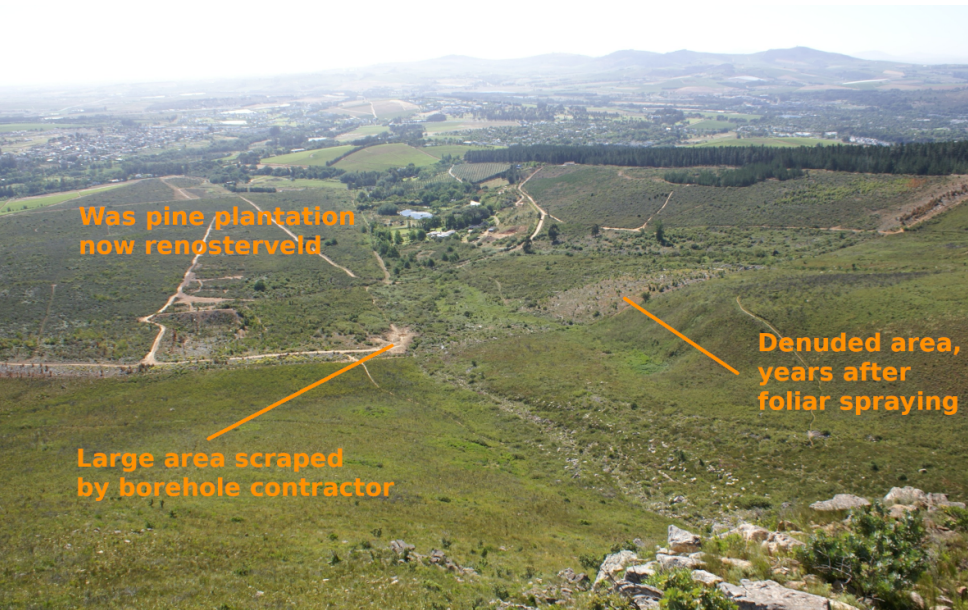
• Wildfires on Stellenbosch Mountain

1975	???	Feb 2009	large areas
1996	controlled burn	May 2015	large areas
Apr 2004	Mountain, Paradyskloof forest, smallholdings	Feb 2021	Jonkershoek; Western Slopes saved

• *Hakea sericea* properties

- Accumulates seeds (pods walnut size)
 - Seed pods open 1-2 weeks after fire
 - Generally within 25m but wide dispersal possible
 - Multiplication rate of 1000 possible
 - Biological control slows hakea down but does not stop it
- System of **Regular Hacks** and **Special Hacks** evolved from hakea experience (see next slide)

Borehole (2017) and foliar spraying (2013?)



Was pine plantation
now renosterveld

Denuded area,
years after
foliar spraying

Large area scraped
by borehole contractor

Dept Community Services Monthly Report (Oct 2019)

Departmental Human Resources:	2018	2018	2018	2018	2018	2018	2019	2019	2019
STAFF COMPLEMENT (CURRENT PERMANENT)	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR
Community Service offices	5	5	5	5	5	5	5	6	6
Urban Forestry	5	5	5	5	5	5	5	5	5
Ornamental Horticulture	20	20	20	20	20	20	20	20	20
Nature Conservation	19	19	19	19	19	18	18	18	18
Sport And Facilities	33	33	33	33	33	33	33	33	29
Halls	17	17	17	17	17	17	16	16	16
Parks Stellenbosch and Cemeteries	49	49	49	49	49	49	46	34	34
Libraries	35	35	35	35	35	35	35	35	35
Workshop	2	2	2	2	2	2	2	2	2
TOTAL	194	194	194	194	194	194	191	192	192
FUNDED VACANCIES	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR
Urban Forestry	0	0	0	0	0	0	0	0	0
Ornamental Horticulture	2	2	2	2	2	2	2	2	2
Nature Conservation	0	1	1	1	1	2	2	2	2
Sport And Facilities	3	3	3	3	3	4	5	5	5
Halls	2	2	2	2	2	2	2	2	2
Parks, Rivers	2	2	2	2	2	0	2	2	2
Libraries	1	1	1	1	1	1	1	1	1
Cemeteries	1	1	1	1	1	1	1	1	1
Workshop	1	1	1	1	1	1	1	1	1
TOTAL	12	12	12	12	12	12	16	16	16

Parks, Open Spaces and Environment



Cleaning of rivers

Area/s	Comment/s
WC024 (Greater Stellenbosch)	<p>The River Stewardship Programme is an on-going programme that tries to address issues (removal of general waste / clearing of invasive alien plants / establishment of locally-indigenous aquatic and riparian vegetation) surrounding rivers within the WCO24.</p> <p>Because the municipality is mostly limited to working on municipal owned land in this regard, private landowners are invited to become part of the River Stewardship Programme.</p>

Parks

Area/s	Comment/s
Jamestown and Paryskloof	<p>On the current budget cycle no provision has been made for fencing of Paradyskloof Nature area.</p> <p>The tender for fire break preparation and maintenance and de-bushing of invasive species within WCO24 has been awarded. The contractor will go on site within the next fourteen days. At this stage the main priority is the clearing of fire breaks.</p> <p>The available budget for the current financial year is R1,8 million. The budget approved for the next three financial years are R11 740 000.</p>

Municipality Organogram and the Environment

Highly Hierarchical Management Structure: Municipal Manager

- ▶ Director: Community and Protection Services
 - ▶ Senior Manager: Community Services
 - ▶ **Manager: Environmental Management**

Manager: Environmental Management

- ▶ Senior Environmental Planner (3 posts; not important in our context)
- ▶ Superintendent: Small Plant Maintenance (2 posts; not important)
- ▶ **Superintendent: Environmental Management Implementation**

Stellenbosch Municipality Organogram (continued)

Superintendent: Environmental Management Implementation

- ▶ Protected Areas (Senior Foreman): 21 posts including Foreman
- ▶ Municipal Property/Rivers (Senior Foreman): 9 posts in all
- ▶ Environmental Education Officer: 1 post in all
- ▶ Trees (Assistant Superintendent) (“Urban Forestry”): 5 posts

Temporary employees and posts within Municipality

- ▶ EPWP workers (about 60; varies)
- ▶ Other temporary workers

External contractors

- ▶ EPWP workers (many, if in NRM programme)
- ▶ Other contractor's workers

Functions of Superintendent: Implementation

PURPOSE: To manage protected, rivers, forest and conserve areas in terms of the legal obligations relevant to the municipality as local authority but also as landowner is vital in ensuring the organization's compliance in terms of the latter

FUNCTIONS:

1. Implement management plans and other strategic documents complied by environmental planning and adopted by Council, such as those prepared for:
 - i) Invasive species monitoring, control and eradication
 - ii) River management
 - iii) Fire management
 - iv) Pollution control
 - v) Erosion control
 - vi) Reserve management
2. Conserve formally declared protected areas by executing management actions as included in approved management plans
3. Manage municipal land / previous forestry areas (not under lease agreement)
4. Manage / execute river maintenance / rehabilitation projects
5. Manage expanded public works program (EPWP) employees employed on the management of protected areas, municipal land (as defined above) and river management / rehabilitation projects
6. Policing of public use of municipal land
7. Provide general environmental education to local communities