



REFERENCE NUMBER: 14/2/4/2/1/A6/16/0020/19

ENQUIRIES: Shafeeq Mallick

REGISTERED MAIL

The Director
Eagles' Nest Wines (Pty) Ltd
PO Box 535
CONSTANTIA
7848

Tel: (021) 794 4095
Fax: (021) 794 7113
Email: jonathan@orca-sa.com

Attention: Mr Jonathan Mylrea

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): EXPANSION OF A WINE TASTING ROOM AND ASSOCIATED PICNIC AREA INFRASTRUCTURE, CONSTRUCTION OF ADDITIONAL TOILETS, A COVERED OPEN-AIR PICNIC PAVILION AND A COVERED OPEN-AIR PAVED WALKWAY; CONSTRUCTION OF A PIPE CULVERT PROVIDING PEDESTRIAN ACCESS ACROSS A CANALIZED STREAM; UPGRADE AND BANK RETENTION OF A PARKING AREA. SITUATED AT THE LOWER PORTION OF ERF 11568, EAGLE'S NEST WINE ESTATE, OFF CONSTANTIA MAIN ROAD, CONSTANTIA.

With reference to your application dated 18 February 2020 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to

continue with the listed activities specified in Section C below in accordance with the preferred alternative as described in the application and environmental assessment dated 18 February 2020.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Eagles' Nest Wines (Pty) Ltd

c/o Mr Jonathan Mylrea

PO Box 535

CONSTANTIA

7848

Tel: (021) 794 4095

Fax: Fax: (021) 794 7113

Email: jonathan@orca-sa.com

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Government Notice No. R386 of 2006 – Activity Number: 4 Activity Description: <i>"The dredging, excavation, i, removal or moving of soil, sand or rock exceeding 5 cubic metres</i>	The construction of a pipe culvert overlain with fill (comprising of earth and gravel), by way of placing 2 concrete pipes 0.45m each in diameter on the bed of the

<p><i>from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland."</i></p>	<p>stream, overlain with sub-base and topsoil and planted with lawn. The footprint of the culvert crossing covers an extent of 18 square meters.</p>
<p>Government Notice No. R544 of 18 June 2010 – Activity Number: 18 Activity Description: <i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:</i> <i>(i) a watercourse;</i> <i>(ii) the sea;</i> <i>(iii) the seashore;</i> <i>(iv) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater</i> <i>but excluding where such infilling, depositing, dredging, excavation, removal or moving;</i> <i>(a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</i> <i>(b) occurs behind the development setback line.</i></p>	<p>The construction and expansion of the wine tasting room and associated parking areas.</p>
<p>Government Notice No. R544 of 18 June 2010 – Activity Number: 40 Activity Description: <i>The expansion of</i> <i>(i) jetties by more than 50 square metres;</i> <i>(ii) slipways by more than 50 square metres; or</i> <i>(iii) buildings by more than 50 square metres</i> <i>(iv) infrastructure by more than 50 square metres</i></p>	<p>The expansion of an existing farm shed to create a wine tasting room. Further expansion occurred in 2015 (see below).</p>

<p><i>within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, but excluding where such expansion will occur behind the development setback line.</i></p>	
<p>Government Notice No. R. 983 of 4 December 2014 Activity Number: 19 Activity Description: <i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-</i> <i>(i) a watercourse;</i> <i>(ii) the seashore; or</i> <i>(iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater-</i></p> <p><i>But excluding where such infilling, depositing, dredging, excavation, removal or moving-</i> <i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.</i></p>	<p>The construction of a pipe culvert overlain with fill (comprising of earth and gravel), by way of placing 2 concrete pipes 0.45m each in diameter on the bed of the stream, overlain with sub-base and topsoil and planted with lawn. The footprint of the culvert crossing covers an extent of 18 square meters.</p>
<p>Government Notice No. 983 of 4 December 2014 - Activity Number: 48 Activity Description: <i>The expansion of-</i> <i>(i) canals where the canal is expanded by 100 square metres or more in size;</i> <i>(ii) channels where the channel is expanded by 100 square metres or more in size;</i> <i>(iii) bridges where the bridge is expanded by 100 square metres or more in size;</i> <i>(iv) dams, where the dam, including infrastructure and water surface area, is</i></p>	<p>The expansion of the pre-existing wine tasting room by adding additional toilets, a covered and paved walkway, a covered and paved picnic pavilion, Sections of paving within the adjacent picnic area, paving of the associated parking area and installation of a retaining block wall to support the eastern edge of the parking area.</p>

expanded by 100 square metres or more in size;

(v) weirs, where the weir, including infrastructure and water surface area, is expanded by 100 square metres or more in size;

(vi) bulk storm water outlet structures where the bulk storm water outlet structure is expanded by 100 square metres or more in size; or

(vii) marinas where the marina is expanded by 100 square metres or more in size;

where such expansion or expansion and related operation occurs-

(a) within a watercourse;

(b) in front of a development setback; or

(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;

excluding-

(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;

(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;

(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;

(dd) where such expansion occurs within an urban area; or

(ee) where such expansion occurs within existing roads or road reserves.

As similarly listed in Government Notice No. 327 of 07 April 2017 -

Activity Number: 19

Activity Description: The infilling or depositing of any material of more than 10

The construction of a pipe culvert overlain with fill (comprising of earth and gravel), by way of placing 2 concrete pipes 0.45m each in diameter on the bed of the

<p><i>cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i></p> <p><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></p> <p><i>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></p>	<p>stream, overlain with sub-base and topsoil and planted with lawn.</p> <p>The footprint of the culvert crossing covers an extent of 18 square meters.</p> <p>The recommendations, as included in the section 24G application, indicates that the culvert will removed and the channel of the watercourse restored to its previous condition.</p>
--	--

The abovementioned list is hereinafter referred to as "the listed activities".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Erf 11568, Constantia Main Road, Constantia.

The SG digit code is: C01600110001156800000

The co-ordinates for the site are:

Point	Latitude (S)	Longitude (E)
1	34° 0' 57.49" South	18° 24' 51.29" East

Refer to Annexure 1: Locality Plan

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (“EAP”)

Cameron Consulting
c/o Mr Ross Cameron
29 Christiaan Street
HOUT BAY
7806

Tel: (021) 790 1532

Fax: (086) 546 7986

Email: ross@cybersmart.co.za / Cameron.consulting1@gmail.com

F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN

Expansion of a wine tasting room and associated picnic area infrastructure, construction of additional toilets, a covered open-air picnic pavilion and a covered open-air paved walkway; construction of a pipe culvert providing pedestrian access across a canalized stream; upgrade and bank retention of a parking area. Situated at the lower portion of Erf 11568, Eagle’s Nest Wine Estate, off Constantia Main Road, Constantia.

An existing building on the property was converted into a wine tasting facility and included various expansions and additions on the site.

The original expansion of the building occurred in 2010 - 2011 and further expansions were done sometime in 2015. The Wine Tasting Room was expanded to include an office, kitchenette/washing-up room, additional toilets, an open-air walkway and an open-air covered picnic pavilion annexed to the main building.

The kitchen/ablution facilities drain to a set of three conservancy tanks, fitted with an alarm system that alerts the need to have the tanks pumped out. Steps were constructed from the patio to a large, open expanse of a lawn picnic area furnished with tables and benches. Some of these are set out on brick-paved platforms, while others are placed directly on the lawn, on either side of a near-perennial mountain stream which bisects the picnic area.

A pipe culvert and pedestrian crossing approximately 4.5m wide was constructed over the stream by installing two pipes of 0.45m diameter onto the stone-lined bed of the

stream. Downstream of the culvert, the pipes discharge above and into an unlined channel adjacent paved parking area.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activity/ies specified in Section C above in accordance with and restricted to the preferred alternative described in the application and assessment report dated 18 February 2020 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision.
3. The development must be concluded within 2 years from the date of continuation of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

PART II

Written notice to the competent authority

6. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of construction activities.

6.1 The notice must make clear reference to the site details and 24G Reference number given above.

6.2 The notice must also include proof of compliance with condition 7 of this Environmental Authorisation.

PART III

Notification and administration of an appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—

7.1 notify all registered Interested and Affected Parties ("I&APs") of –

7.1.1 the outcome of the application;

7.1.2 the reasons for the decision as included in Annexure 2;

7.1.3 the date of the decision; and

7.1.4 the date when the decision was issued.

7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.

7.3 draw the attention of all registered I&APs to the manner in which they may access the decision.

7.4 provide the registered I&APs with:

7.4.1 the name of the holder (entity) of this Environmental Authorisation;

7.4.2 name of the responsible person for this Environmental Authorisation;

7.4.3 postal address of the holder;

7.4.4 telephonic and fax details of the holder;

7.4.5 e-mail address, if any, of the holder; and

7.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

8. The listed activities, including site preparation, may not continue to commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

PART IV

Management of the activity/development

9. The method statement for removal of the pipe culvert and reinstatement of the affected area ("method statement") dated October 2019 compiled by Cameron Consulting and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

10. The method statement must be included in all relevant phases of implementation.

PART V

Monitoring

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before commencement of any land clearing or construction activities to ensure compliance with the method statement and the conditions contained herein.

12. A copy of the Environmental Authorisation, method statement, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and must be made available to anyone on request.

13. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

PART VI

Auditing

14. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the method statement and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VII

Activity/ Development Specific Conditions

15. The installation of the free spanning bridge and reinstatement of the stream channel must be done in accordance with the method statement dated October 2019.
16. Results of the restoration of the canal must be reported to Heritage Western Cape within one year of practical completion of the work.
17. Should any heritage remains be exposed during the above-mentioned work, or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

18. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can

only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.

H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or method statement may render the holder liable to criminal prosecution.
3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

4. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed

or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

5. The manner and frequency for updating the method statement is as follows:

Amendments to the method statement must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Marius Venter
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or method statement may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, the Municipality, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully



ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 3 September 2020

Copied to: (1) Mr. Ross Cameron (EAP)

Fax: (086) 546 7986

Email: ross@cybersmart.co.za / Cameron.consulting1@gmail.com

ANNEXURE 1: LOCALITY MAP



FOR OFFICIAL USE ONLY:

S24G REFERENCE:

14/2/4/2/1/A6/16/0020/19

ANNEXURE 2: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R50 000 (Fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 18 February 2020 with supporting environmental impact assessment and mitigation measures, as well as the information contained within the method statement for the removal of the pipeline of October 2019.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on 08 June 2020
Attended by: Officials of this Department

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 08 October 2019.
- the placing of a newspaper advertisement in the **Bulletin** on 08 August 2019.

Dr Horst Prader, a registered I&AP, highlighted issues relating to the servitude road and the impact of traffic into the property and using the servitude:

- Additional traffic due to the wine tasting facility
- Additional traffic due to the expansion of the wine tasting facility
- Additional parking that was created
- Concerns regarding one of the partners opening a tourism facility on site

The EAP indicated that the tourism facility Basic Assessment application is separate from the Section 24G application, both of which are dealt with by Environmental Affairs. The application for a tourism facility triggered the requirement for the applicant to address traffic issues, in particular, the entrance located on Constantia Mist's property and to engage with engineers, namely, JG Afrika to develop a design that will meet the Provincial Road's authority requirements.

Dr Horst additionally commented:

"We have no objection to the part of the 24g application which deals with the extension of the tasting room to within 32 meters of the Eagles Nest stream as well as the removal of the small culvert over the stream at the tasting room. It is unfortunate that the 74 page application has to deal with so many related matters – or in my opinion unrelated matters - where inaccurate, wrong and misleading statements have been made, to which I thought I had to comments if I am given this document.

It would have been cleared for me if I had to make these comments rather in connection with the Town Planning Application for a tourist facility.

So if you need a confirmation to withdraw our objection to the extension of the tasting room to within 32 meters of the Eagles Nest stream as well as the removal of the small culvert over the stream at the tasting room, I am quite happy to do this I just do not know how this can be separated from the rest of the voluminous application.

We are happy to withdraw the objection provided we get the indemnity and it must also be made clear that the traffic impact study must take into consideration that we will eventually make use again of our original entrance which we wanted to start using in 2018 but decided not to make use of it as it might have been potentially dangerous, because of the traffic from and to the Eagles Nest tasting room." sic

The EAP responded, indicating that the traffic engineers who prepared the traffic impact assessment have been tasked with reviewing the study to account for possible future use of the original entrance, and such is the subject of ongoing discussion with the City of Cape Town and Provincial Department.

Mr. John Schooling, the representative of Eagles Nest Property Investments Pty Ltd, owner of the neighbouring property (Remainder of Erf 917), indicated supported for the proposals of the 24G application.

Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- CapeNature (CN)
- Heritage Western Cape (HWC)
- City of Cape Town (CoCT)
- Department of Water and Sanitation (DWS)
- Table Mountain National Parks (TMNP)

CN indicated that the impact assessment, as evaluated in the freshwater assessment, must be taken into consideration in evaluating the application. CN also supports the proposed method statement for the removal of the pipe culvert. The foot bridge must be designed to ensure it spans the watercourse and minimizes impacts during the construction phase. The EAP indicated that the intention is to design the proposed foot bridge to be a spanned structure which entirely avoids the stream bed and which straddles the banks of the stream on either side of it. The method statement will be implemented should it be approved as part of the application.

HWC indicated that, should heritage resources be discovered during the execution of the activities, all works must be stopped immediately, and Heritage Western Cape must be informed without delay.

The CoCT Integrated Urban Management: Land Use Management highlighted the fact that present structures and usage thereof on this portion of the Farm might be unlawful land use under the Municipal Zoning Scheme.

The EAP indicated that this will be addressed within the ambit of the planning application submitted to the City by the consulting town planners.

The CoCT Environmental Management Department: Environmental Management Section (EMS) confirmed that the infilling of the stream to create a bridge is an unnecessary means to an end. THE CoCT EMS therefore agrees with the outcomes and recommendations of the Freshwater Impact Assessment.

DWS indicated that a retrospective General Authorisation (GA) in terms of the NWA will be required prior to removal of the bridge and reinstatement of the affected area as this constitutes work in a watercourse and is considered to be a sufficiently significant impact to warrant the need for a GA. In addition, a method statement must be prepared for the removal of the existing bridge and reinstatement of the affected area and for the installation of a new bridge. This must accompany the submission of the application for a GA, which should be submitted electronically via the DWS departmental system.

The EAP indicated that the GA for the stream crossing rehabilitation was granted and both the GA and method statement has been included as part of the 24G application.

TMNP indicated that the proposal falls on a section of the property that has no bearing on the TMNP.

2. Alternatives

2.1 Activity Alternatives

Alternative 1

Retain all the existing infrastructure in its present form.

Alternative 2

Retain all the existing infrastructure in its present form, apart from the pipe culvert, which should be removed, and the affected area rehabilitated.

Alternative 3

The 'No go' alternative: remove all infrastructure which has been added without authorization or approval and reinstate the footprint and any surrounding affected area accounted for by the added infrastructure.

Alternative 4 (preferred) (herewith authorised)

Retain all the existing infrastructure in its present form, apart from the pipe culvert, which should be removed, and the affected area rehabilitated. Thereafter, construct a spanning foot-bridge over the stream with no construction or structures within the stream-bed to preclude impacting the stream's hydrological and ecological function.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

This would pertain to alternative three listed above ('no-go alternative'). The findings of the assessment indicate that the activity (in terms of expansion of the wine tasting room) has not had a significant negative impact on the receiving environment from a biophysical or social economic perspective and find that there is no substantive reason in terms of environmental impacts which would merit obliging the applicant and owner to remove the added infrastructure and rehabilitate the areas covered by the added footprint. It is evident that the construction of the pipe culvert has had a limited negative impact on the hydraulic flow regime of the stream, and for which reason this application includes the proposal to remove the culvert and rehabilitate the affected area.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Biophysical Impacts

The ecological impacts associated with this activity is limited to the ability of bridge structure pipes to allow passage of high flows. There was no indication of high flow damage events downstream of the bridge structure.

3.2. Biodiversity Impacts

Biodiversity impacts were linked only to the deconstruction of the bridge. In this regard, the work to be undertaken will be done during no-flow conditions. Impacts associated with the deconstruction will be limited to minor water quality impacts from unpreventable wash-off of soils into the stream. This would in all probability be a fraction of the normal erosive soil load borne by the stream during a typical year.

3.3. Heritage / Archaeological / Built Environment Aspects

No impacts have occurred to historical buildings, but part of the stone-lined channel has been covered by the new bridge structure. Although the impact is not of high significance, it is still deemed preferable that the entire channel remain exposed as originally intended. The constructed bridge will therefore be removed and replaced with a free span bridge that does not impact the river channel.

4. NEMA Principles

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;

- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the method statement, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

-----END-----

