



REFERENCE: 14/2/4/2/2/B4/45/0008/19

ENQUIRIES: Ziyaad Allie

**REGISTERED MAIL**

The Director  
Hidden Valley Wines (Pty) Ltd  
PO Box 12334  
DIE BOORD  
7613

Tel: (021) 880 2646  
Fax: (021) 880 2645  
Email: riaan@hiddenvalliewines.co.za

**Attention: Mr Riaan Stassen**

Dear Sir

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL DEVELOPMENT OF A RESTAURANT, FLOATING DECK, RAMP, KITCHEN AND ABLUTION BLOCK AT HIDDEN VALLEY WINES, FARM 571, GROENE RIVER, STELLENBOSCH**

With reference to your application dated 18 April 2019 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 as described in the application and environmental assessment dated 18 April 2019.

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

Hidden Valley Wines (Pty) Ltd.

c/o Mr Riaan Stassen

P.O. Box 12334

DIE BOORD

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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
<p><i>Government Notice No. R. 327 of 4 December 2014–</i></p> <p><b>Activity Number: 12</b></p> <p>Activity Description:</p> <p><i>The development of—</i>  <i>dams or weirs, where the dam or weir,</i>  <i>including infrastructure and water surface</i>  <i>area, exceeds 100 square metres; or</i></p>	<p>The overall size of the development, inclusive of the floating deck, is approximately 300m<sup>2</sup>. The Deck restaurant and associated facilities are</p>

<p><i>infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs—</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback; or</i></p> <p><i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</i></p>	<p>located on, and adjacent to an instream dam, located within a tributary of the Groene River. The construction of the pillars on which The Deck restaurant rests were undertaken directly within the streambed downstream of the dam wall. Construction commenced in December 2016 and was completed by March 2017.</p>
<p>Government Notice No. R. 327 of 4 December 2014–</p> <p><b>Activity Number: 19</b></p> <p>Activity Description:</p> <p><i>The infilling or depositing of any material of more than 10 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; 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>The construction of the pillars likely disturbed approximately 4m<sup>3</sup> of material, however, it is possible that the disturbance in the streambed exceeded 10m<sup>3</sup>. Construction commenced in December 2016 and was completed by March 2017.</p>

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

#### **D. PROPERTY DESCRIPTION AND LOCATION**

The listed activities commenced on Portion 7 of Farm No. 571, Groene Rivier, Annandale Road, Stellenbosch.

The SG digit code is: C0670000000057100007

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 1' 11.75" South	18° 51' 1.51" East
2	34° 1' 12.96" South	18° 50' 59.21" East
3	34° 1' 23.95" South	18° 50' 59.11" East
4	34° 1' 25.57" South	18° 51' 8.89" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 1' 12.49" South	18° 51' 13.12" East
2	34° 1' 12.12" South	18° 51' 13.20" East
3	34° 1' 12.17" South	18° 51' 13.58" East
4	34° 1' 12.27" South	18° 51' 14.74" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

Herein-after referred to as "the site".

## **E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")**

Cornerstone Environmental Consultants (Pty) Ltd

*C/o* Mr Pieter de Villiers/ Anèl Dannhauser

P.O. Box 12606

DIE BOORD

7613

Tel: (021) 887 9099

Fax: (086) 435 2174

Email: [pieter@cornerstoneenviro.co.za](mailto:pieter@cornerstoneenviro.co.za)

## **F. DETAILS OF THE ACTIVITIES UNDERTAKEN**

The development entailed the construction of a small restaurant with toilet facilities, a floating deck and associated infrastructure. These activities occurred adjacent to a farm dam, which lies within the upper portion of a small tributary of the Groene River. The construction activities commenced in December 2016 and was completed by March 2017.

The kitchen area of the Deck restaurant was constructed on pillars, above and adjacent to the existing dam wall, i.e. the overflow area. Although some pillars were pre-existing, various new pillars were also constructed within the watercourse. Ablution facilities, including the installation of a conservancy tank was constructed adjacent to and a few steps down from the kitchen platform. The floating deck rests on air filled drums. The overall size of the development, inclusive of the floating deck is approximately 300m<sup>2</sup>.

## **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 activities specified in Section C above in accordance with and restricted to the implemented alternative described in the application and assessment report dated 18 April 2019 on the site as described in Section D above.
2. 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.
3. 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**

### **Notification and administration of an appeal**

4. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 4.1 notify all registered Interested and Affected Parties ("I&APs") of –
    - 4.1.1 the outcome of the application;
    - 4.1.2 the reasons for the decision as included in Annexure 3;
    - 4.1.3 the date of the decision; and
    - 4.1.4 the date when the decision was issued.
  - 4.2 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.
  - 4.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
  - 4.4 provide the registered I&APs with:
    - 4.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 4.4.2 name of the responsible person for this Environmental Authorisation;
    - 4.4.3 postal address of the holder;
    - 4.4.4 telephonic and fax details of the holder;
    - 4.4.5 e-mail address, if any, of the holder; and
    - 4.4.6 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*.
5. 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 III**

#### **Management of the activity/development**

6. The Combined Environmental Management Programme and Maintenance Management Plan ("EMPr") dated 24 April 2019, compiled by the EAP and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
  
7. The EMPr must be included in all contract documentation for all phases of implementation.

### **PART IV**

#### **Monitoring**

8. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, audit reports and compliance monitoring reports must be kept at the site of the authorised activity/ies, and must be made available to anyone on request, including a publicly accessible website (if applicable).
  
9. 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 V**

#### **Auditing**

10. 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 and the EMPr and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. 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 VI**

#### **Activity/ Development Specific Conditions**

11. Should any heritage remains be exposed during excavations 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.

## **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 EMPr may render the holder liable to criminal prosecution.
3. 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.

4. The manner and frequency for updating the EMPr is as follows:  
Amendments to the EMPr 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](mailto: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](mailto: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](mailto: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 EMPr 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 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: 30 January 2020

Copied to: (1) Anel Dannhauser/ Pieter de Villiers (EAP)  
(2) Johan Grobbelaar (Landowner)  
(3) Schalk van Der Merwe (Municipality)

Email: [pieter@cornerstoneenviro.co.za](mailto:pieter@cornerstoneenviro.co.za)

Email: [johangrobbelaar@outlook.com](mailto:johangrobbelaar@outlook.com)

Email: [Schalk.VanderMerwe@stellenbosch.gov.za](mailto:Schalk.VanderMerwe@stellenbosch.gov.za)

**ANNEXURE 1: LOCALITY MAP**





ANNEXURE 2: SITE PLAN



**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE: 14/2/4/2/2/B4/45/0008/19**

### **ANNEXURE 3: 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 April 2019 as received by the competent authority on 26 April 2019 and the Combined Environmental Management Programme and Maintenance Management Plan ("EMPr") dated 24 April 2019 submitted together with the application.
- 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 -  
Date: 27 August 2019  
Attended by: Officials from 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:

- An advertisement was placed in the **Eikestadnuus** newspaper on 15 November 2018;
- A site notice was erected; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 22 February 2019.
- I&APs were afforded the opportunity to provide comments on the application.

### 1.1 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")
- This Department's Directorate: Development Management ("DM")

At the end of the public participation process, comments were received from CN and DM. A summary of the comments and responses thereto follows below.

#### CapeNature

CN stated that they note that the area around the dam has been landscaped with indigenous vegetation which is supported. However, they recommended that advice should be sought in order to ensure that none of the species used could hybridize and affect the genetic pool of the species in the adjacent natural vegetation. The EAP responded by stating that the landscaping was undertaken under the guidance of a horticulturist. CN concluded by stating that they do not consider that the activities applied for had a significant impact on biodiversity and that no additional rectification measures are necessary.

#### Development Management

DM requested confirmation regarding the applicability of Activity 17 of Listing Notice 3 and whether it was applicable to the listed activities. The EAP responded by stating

that the activities undertaken was for development and not for expansion related activities.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

## **2. Alternatives**

### 2.1 Location/Site/Activity Alternatives

#### Alternative 1 (Herewith authorised)

The construction/development includes a small restaurant with toilet facilities and a floating deck. These activities occurred adjacent to a farm dam, which lies within the upper portion of a small tributary of the Groene River.

The kitchen area of the Deck restaurant was constructed on pillars, above and adjacent to the existing dam wall, i.e. the overflow area. Although some pillars were pre-existing, various new pillars were also constructed within the watercourse. Ablution facilities, including the installation of a conservancy tank was constructed adjacent to and a few steps down from the kitchen platform. The floating deck rests on air filled drums. The overall size of the development, inclusive of the floating deck is approximately 300m<sup>2</sup>.

No other design or layout alternatives were considered as the activity has already been completed. Hidden Valley Wines (Pty) Ltd procured the farm in 1999 with the intention as using it as a wine farm with value added facilities. Any alternatives other than to continue with the current activities was not considered by the Holder.

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

Hidden Valley Wines have already invested heavily into the operations of the farm, including the construction and operation of The Deck restaurant, as such, it is not considered viable to cease their operations/activities at this restaurant. According to the EAP, decommissioning the Deck restaurant is also likely to have more negative impacts and would result in an unnecessary waste of resources and generation of waste materials.

### **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. Activity Need and Desirability

The property is zoned as Agricultural Zone II, which includes consent use for tourist facilities and this the Deck restaurant fits in with the current land use.

#### 3.2. Regional/ Planning Context

The current land use of the site falls within the Spatial Development Framework and the current zoning for the property. The location of the Deck restaurant within the property is favourable in terms of the landscape and was constructed in such a manner as to blend in with the surroundings. It is also sufficiently close to other buildings on the farm, which required minimal extension of services. The location of the Deck restaurant is not visible from surrounding properties or public spaces and as such does not impact on the sense of place.

#### 3.3. Biophysical and Biodiversity Impacts

The Deck restaurant is located within the extent of a watercourse – the pillars on which the kitchen deck rests is within the watercourse downstream of a dam wall, while the ramp and seating deck floats on the instream dam. The river corridor is mapped as an Ecological Support Area (ESA). Although the Deck restaurant is located in an ESA, no vegetation clearance was undertaken, and no natural vegetation was affected by the development. The activities which were undertaken occurred on previously disturbed agricultural land as depicted in aerial photography dated as far back as 1938, as provided for in the application.



According to the freshwater specialist, the national Freshwater Ecosystem priority Areas (FEPA) initiative has not mapped any important wetlands in the vicinity of the site nor is the stream located within a FEPA catchment with the dam on the site being mapped as artificial. Furthermore, the freshwater specialist concluded that no aquatic features would be impacted by the development.

#### 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 EMPr, 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-----



**Nabeelah Khan**

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## Nabeelah Khan

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**Nabeelah Khan**

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