



REFERENCE: 16/6/B3/28/1225/23
DATE: 22 JUNE 2023

The Board of Directors
Riverstone Wine Estate
Excelsior Road
FRANSCHHOEK
7680

Attention: **Ms Janita Burger**
Tel: 084 373 8757
E-mail: Janitaburger3@gmail.com

Dear Madam,

SECTION 30A DIRECTIVE

DIRECTIVE IN TERMS OF SECTION 30A OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") IN RESPECT OF AN EMERGENCY SITUATION: PROPOSED TEMPORARY EMERGENCY EMBANKMENT PROTECTION MEASURES DUE TO EXCESSIVE FLOODING OF THE WATERCOURSE ON RIVERSTONE WINE ESTATE ON FARM NO. 1611, PAARL

A. INTRODUCTION

1. The following has reference:
 - 1.1. On 15 June 2023, a written request for an emergency directive was received by this Directorate from Mr. Pieter De Villiers, representing the Riverstone Wine Estate (Pty) Ltd.
2. The emergency situation which gave rise to the request for an emergency directive was as a result of substantial rainfall which caused significant flooding of the watercourse on Farm No. 1611, Paarl. Constant excessive rainfall during June 2023 in this area has caused major river flooding with high water levels and velocities, which is washing away the embankment.
3. The nature, scope and possible impacts of the emergency situation are as follows:
 - (a) The current state of the flooding of the watercourse on Farm No. 1611, Paarl poses a risk that a larger portion of the existing river embankment will be washed away, resulting in the loss of more vineyards on the site.

- (b) With the predicted rainfall, the probability and risk of this happening remains high and should the flooding conditions be exacerbated, the farm road along the river embankment will also be at risk. This will hinder safe access to the vineyards by staff workers.
 - (c) The river has also transported large volumes of sediment and debris from upstream and if more of the river embankment washes away, more sediment and debris will be transported, which in turn will cause more harm and damage downstream.
 - (d) Without remedial repairs, the risk of the impact on human health and well-being includes:
 - (i) further damage that will occur during future flood events;
 - (ii) access and mobility on the farm will be affected, posing a safety risk to the staff/workers; and
 - (iii) hindering of the daily activities on the farm due to the erosion of the river embankment.
4. The proposed measures to prevent or to contain the emergency situation; or to prevent, contain or mitigate the effects of the emergency situation are as follows:
- (a) Temporarily placing small groups of 1m³ bulk bags filled with rocks (sourced on site) in strategic positions along the river (i.e., where erosion is expected on the outside of a bend).
 - (b) This will address the washing away of the river embankment and transportation of large volumes of sediment and debris downstream.
 - (c) The bulk bags will reduce the flow velocity along the river embankments and temporarily push the fast-flowing current back to the middle of the watercourse.

The cost of undertaking these temporary measures to restore the river to its original condition, is unknown.

B. DIRECTIVE

I, **Mare-Liez Oosthuizen**, in my capacity as **acting Director: Development Management (Region 1)**, in the employ of the Western Cape Government: Department of Environmental Affairs and Development Planning and duly delegated, having considered the information submitted by the requester, hereby issue the—

Riverstone Wine Estate,
duly represented by **Ms Janita Burger** in her capacity as
Project Manager,

with a written Directive in terms of Section 30A of the NEMA in order for the Riverstone Wine Estate to carry out listed activities identified in terms of the NEMA Environmental Impact Assessment (“EIA”) Regulations, 2014 (as amended), related to the implementation of interventions to address the current emergency situation taking place on Farm No. 1611, Paarl, Western Cape Province, set out in the request for the “PROPOSED TEMPORARY EMERGENCY EMBANKMENT PROTECTION MEASURES DUE TO EXCESSIVE FLOODING OF THE WATERCOURSE ON RIVERSTONE WINE ESTATE ON FARM NO. 1611, PAARL ”, dated 16 June 2023.

The **Riverstone Wine Estate** is the holder of the directive (hereinafter referred to as "**the Holder**").

I confirm that you may commence with emergency measures or interventions which fall within the ambit of the listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) Listing Notices set out in **Appendix 1** hereto attached and subject to the terms and instructions/conditions set out below.

C. CONDITIONS / INSTRUCTIONS

Scope of the Directive and emergency work to be undertaken

1. This Section 30A Directive shall remain in effect (from the date of issue) until **30 June 2024**, which is the date on which the implementation of all the listed activities as it relates to the emergency situation described above, including post-construction rehabilitation and monitoring requirements, must be concluded at the site.
2. The listed activities authorised herein are to be undertaken exclusively in response to the emergency situation described above and in terms of the conditions/instructions in this Directive. The proposed emergency works must fall within the ambit of the listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) as set out in Appendix 1, attached to this Directive.
3. Any changes to, or deviations from, the project description set out in this Directive must be approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such approval or not, a Competent Authority may request such information as it deems necessary 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 regulations pertaining to environmental impact assessments under sections of the NEMA.
4. The Holder shall be responsible for ensuring compliance with the Directive and the conditions thereof, by any person acting on its behalf, including but not limited to, an agent, sub-contractor, employee or any person rendering a service to the Riverstone Wine Estate.

Monitoring and Reporting requirements

5. The reporting requirements associated with this Directive are limited to measures or interventions that constitute a listed activity in terms of the NEMA EIA Regulations, 2014 (as amended).
6. The Holder must, for the period for which the Section 30A Directive remains valid, ensure that the compliance with the conditions of the Directive is monitored and reported to the Competent Authority on a monthly basis, during the period of implementation of the emergency measures as described above.

7. The emergency works must be done under the supervision of a suitably qualified Site Agent or Environmental Control Officer ("ECO").
8. The Holder must appoint a suitably experienced Site Agent or an Environmental Control Officer for the duration of the project.

The Site Agent / ECO must—

- 8.1. be appointed prior to commencement of the emergency works;
 - 8.2. monitor the works and ensure that the implementation is within the scope of this Directive and effect is given to Section 28(1) of NEMA;
 - 8.3. keep record of all activities on site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the Site Agent / ECO;
 - 8.4. remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation;
 - 8.5. compile and submit compliance reports to the Competent Authority on a monthly basis, during the emergency work period.
9. Compliance Reports must—
 - 9.1. be prepared by the ECO or Site Agent;
 - 9.2. be submitted to the Competent Authority every month, as reckoned from the date of when emergency works commences;
 - 9.3. indicate the date on which the emergency works was commenced with at the site that form part of the report;
 - 9.4. indicate the progress of the emergency works;
 - 9.5. provide verifiable findings, in a structured and systematic manner, on—
 - (a) the level of compliance with the conditions of the Section 30A Directive; and
 - 9.6. include a photographic record of the site applicable to the report.
 10. Written notification must be given to the Competent Authority before commencement of emergency works.
 11. The Holder must prepare and submit a Completion Report to the Competent Authority. The Completion Report must —
 - 11.1. be submitted to the Competent Authority within **30 calendar days** from the date of completion of all measures or interventions implemented to address the emergency situation, and such report must be submitted by no later than **31 July 2024**;
 - 11.2. include a description of the environmental compliance with this Directive;

D. PROCEDURAL ARRANGEMENTS

1. In terms of section 43 of NEMA, a person is entitled to lodge an appeal against this Directive. Such appeal must be lodged in accordance with the Appeal Regulations, 2014 and should be directed to the Appeals Authority set out in **APPENDIX 2** hereto attached.
2. The necessary reports and post-implementation requirements must be submitted to the competent authority within the specified timeframes.
3. Non-compliance with a condition of this Directive is an offence in terms of section 49A(1)(g) and may result in criminal prosecution.

On conviction, such non-compliance may result in a fine and / or imprisonment not exceeding R10 million and / or 10 years' imprisonment.

Any queries with regard to the contents of this written Directive may be directed to:

WCG: Department of Environmental Affairs & Development Planning:
Directorate Development Management (Region 1)
Contact person(s): Ms Mare-Liez Oosthuizen
Mobile: 082 776 5454
E-mail: Mare-Liez.Oosthuizen@westerncape.gov.za

4. Notwithstanding this Section 30A Directive, the Riverstone Wine Estate must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
5. Please note that Section 28 of the NEMA remains applicable to all interventions to be implemented. Section 28 states the following:

"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."

Your interest in the well-being of the environment is appreciated.

Yours faithfully,

MS. MARE-LIEZ OOSTHUIZEN

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

WCG: DEPARTMENT ENVIRONMENT AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 22 JUNE 2023

CC: (1) Mr P De Villiers (Conerstone Environmental Consultants)

E-mail: pieter@cornerstoneenviro.co.za

APPENDIX 1

The proposed emergency works falls within the ambit of the following listed activities in terms of the Environmental Impact Assessment Regulations, 2014 (as amended):

ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS LISTING NOTICE 1 OF 2014 (Government Notice No. R.983 as amended by Government Notice No. R.327 of 7 April 2017)

Activity Number: **12**

The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or
- (ii) infrastructure or structures with a physical footprint of 100 square metres or more;

where such development 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 development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
- (bb) where such development 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 development occurs within an urban area;
- (ee) where such development occurs within existing roads, road reserves or railway lines; or
- (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.

Activity Number: **19**

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—

- (a) will occur behind a development setback;
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (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.

APPENDIX 2

Appeals

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date on which notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date on which the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organs of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organs 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. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs
and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 2659)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority 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 Appeal Authority at: Tel. (021) 483 2659, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.