



**Western Cape  
Government**

Environmental Affairs and  
Development Planning

**DIRECTORATE: ENVIRONMENTAL GOVERNANCE  
SUB-DIRECTORATE: RECTIFICATION**

**24G APPLICATION REF:** 14/2/4/2/2/E3/10/0013/20

**ENQUIRIES:** Shafeeq Mallick

The Managing Director  
TWK Chicks (Pty) Ltd.  
PO Box 208  
CALEDON  
7230

Email: rory.southend@gmail.com  
Tel: (028) 312 3408

**Attention: Rory Pringle**

Dear Sir

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL EXPANSION OF AN EXISTING CHICKEN FARM ON THE REMAINDER OF PORTION 18 OF FARM AVONTUUR NO. 238, STORMSVLEI, SWELLENDAM**

With reference to your application dated 20 August 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 included with the application dated 20 August 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

TWK Chicks Pty Ltd

c/o Mr Rory Pringle

PO Box 208

CALEDON

7230

Tel: (028) 312 3408

Fax: (028) 312 2252

Email: Rory.southend@gmail.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
<p><i>Government Notice No. R. 327 of 7 April 2017 -</i></p> <p><b>Activity Number: 27</b></p> <p><i>Activity Description: The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation</i></p>	<p>The clearance of vegetation included:</p> <p>Unit 11 (shed area) vegetation cleared 1700m<sup>2</sup></p> <p>Unit 9 (new pen area) vegetation cleared 3400m<sup>2</sup></p> <p>Buffer areas around existing pens wider than 5m (only applicable to Unit 4 and Unit 5) – additional vegetation cleared 6 599m<sup>2</sup></p>

<p>is required for—</p> <p>(i) the undertaking of a linear activity;</p> <p>or</p> <p>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	
<p>Government Notice No. R. 327 of 7 April 2017 -</p> <p><b>Activity Number: 40</b></p> <p>Activity Description: <i>The expansion and related operation of facilities for the concentration of poultry, excluding chicks younger than 20 days, where the capacity of the facility will be increased by-</i></p> <p>(ii) <i>More than 5000 poultry per facility situated outside an urban area.</i></p>	<p>The holder commenced with the intention of expanding the facility as per the new proposed Site Development Plan (SDP) and the expansion will include:</p> <ol style="list-style-type: none"> <li>1) one new farm shed of 800m<sup>2</sup> (unit 11),</li> <li>2) one new double laying pen of 2 560m<sup>2</sup> in total (unit 10),</li> <li>3) expansion of four authorised double laying pens by 560m<sup>2</sup> each (units 4,5,6, and 7),</li> <li>4) expansion of three authorised existing single pens by 280m<sup>2</sup> each (units 1, 2, and 3),</li> <li>5) construction of two new rearing pens of 1280m<sup>2</sup> each (units 8 and 9).</li> </ol> <p>The proposed expansion will result in additional vegetation clearance estimated at 4.5ha and additional road construction (approximately 630m new road proposed of between 4m and 8m wide; two new turning circles: ±1964m<sup>2</sup> each) in order to access the new Units.</p>
<p>Government Notice No. R. 327 of 7 April 2017 -</p> <p><b>Activity Number: 4</b></p> <p>Activity Description: <i>The development of a road wider than 4m with a reserve less than 13,5m.</i></p> <p>iii) <i>Western Cape</i></p>	<ol style="list-style-type: none"> <li>1) Between Unit 4 and Unit 5 (5m wide x 44m long) – joins existing road</li> <li>2) Between Unit 3 and Unit 4 (4m wide x 160m long)</li> <li>3) Between site office and biosecurity building (140m long x 5m wide)</li> <li>4) Between Unit 2 and Unit 4 (6m wide x</li> </ol>

<p>iv) Areas outside urban areas; (aa) areas containing indigenous vegetation.</p>	<p>193m long) 5) Between Unit 2 and the site office (5m wide x 89m long) 6) Access road to laying area from top road average width of approximately 20m and length of 313m. The total length of unlawful roads wider than 4 m relates to approximately 939m.</p>
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The abovementioned list is hereinafter referred to as “the listed activities/development/facility”.

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on the Remainder of Portion 18 of Farm 238 Avontuur, Stormsvlei, Swellendam.

The SG digit code is: C07300000000023800018

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 04' 30.31" South	20° 05' 25.46" East
2	34° 04' 21.79" South	20° 06' 05.08" East
3	34° 04' 18.00" South	20° 06' 25.78" East
4	34° 04' 12.17" South	20° 06' 59.75" East
5	34° 04' 36.62" South	20° 07' 02.40" East
6	34° 04' 28.12" South	20° 06' 41.72" East
7	34° 05' 14.36" South	20° 06' 50.20" East

8	34° 04' 58.82" South	20° 06' 22.26" East
9	34° 04' 44.84" South	20° 06' 12.01" East
10	34° 04' 34.61" South	20° 06' 01.04" East
11	34° 04' 52.21" South	20° 05' 41.39" East
12	34° 04' 46.67" South	20° 05' 32.84" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 04' 31.03" South	20° 05' 25.91" East
2	34° 04' 22.53" South	20° 06' 05.12" East
3	34° 04' 25.30" South	20° 06' 18.35" East
4	34° 04' 27.75" South	20° 06' 14.93" East
5	34° 04' 29.23" South	20° 06' 13.96" East
6	34° 04' 30.28" South	20° 06' 12.95" East
7	34° 04' 33.29" South	20° 06' 11.31" East
8	34° 04' 35.73" South	20° 06' 07.72" East
9	34° 04' 31.77" South	20° 06' 01.30" East
10	34° 04' 44.17" South	20° 05' 31.94" 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”)**

PHs Consulting

C/o Ms Amanda Fritz-Whyte

PO Box 1752

HERMANUS

7200

Tel: (028) 312 1734

Fax: (086) 508 3249

Email: Amanda@phsconsulting.co.za

## **F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN**

The unlawful expansion of an existing chicken farm on the remainder of portion 18 of Farm Avontuur no. 238, Stormsvlei, Swellendam.

There is an existing EA (Ref: E12/2/4/1-E3/9-2020/11) dated 25 November 2011 for the development of the original chicken laying and rearing facility. This was followed by an application for the expansion of the chicken rearing and laying facility for environmental authorisation of listed activities in terms of the EIA Regulations, 2014. The holder subsequently commenced with listed activities on site, not previously authorised, resulting in the submission of this section 24G application.

The unlawfully commencement on site include:

- Unit 11 (shed area) vegetation cleared 1 700m<sup>2</sup>
- Unit 9 (new pen area) vegetation cleared 3 400m<sup>2</sup>
- Buffer areas around existing pens wider than 5m (only applicable to Unit 4 and Unit 5) – additional vegetation cleared 6 599m<sup>2</sup>
- Total vegetation clearance equal to approximately 11 699m<sup>2</sup>

The roads joining the new pens include:

- Between Unit 4 and Unit 5 (5m wide x 44m long) – joins existing road
- Between Unit 3 and Unit 4 (4m wide x 160m long)
- Between site office and biosecurity building (140m long x 5m wide)
- Between Unit 2 and Unit 4 (6m wide x 193m long)

- Between Unit 2 and the site office (5m wide x 89m long)
- Access road to laying area from top road average width of approximately 20m and length of 313m.

Proposed expansion will include:

- One new farm shed of 800m<sup>2</sup> (unit 11),
- One new double laying pen of 2 560m<sup>2</sup> in total (unit 10),
- Expansion of four authorised double laying pens by 560m<sup>2</sup> each (units 4,5,6, and 7),
- Expansion of three authorised existing single pens by 280m<sup>2</sup> each (units 1,2, and 3),
- Construction of two new rearing pens of 1 280m<sup>2</sup> each (units 8 and 9).

The proposed expansions will result in additional vegetation clearance estimated at 4.5ha and the additional road construction will result in approximately 630m road proposed of between 4m and 8m wide and two new turning circles: ±1 964m<sup>2</sup> each) in order to access the new units.

## 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 alternatives described in the application and assessment report dated 20 August 2020 on the site as described in Section D above (see Annexure 2; Sie Plan).
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 **five 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 the listed activities/development.
  - 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.

## **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 3;
    - 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 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 draft Construction and Operational Environmental Management Programmes ("C&OMPr") of June 2020 respectively compiled by PHS Consulting and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

10. The C&OMPr must be included in all contract documentation for all relevant phases of implementation.

## **PART V**

### **Monitoring**

11. The holder must appoint a suitably experienced Environmental Control Officer (“ECO”) or site agent where appropriate, before continuation of commencement of any land clearing or development or rehabilitation activities to ensure compliance with the C&OMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, C&OMPr, 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 C&OMPr and submit Environmental Audit Reports to the competent authority annually and 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. 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.

16. 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.
17. Offloading of feed should not be done while parked in the road reserve.
18. In the event of an avian influenza or a similar outbreak, the Directorate: Pollution & Chemical Management must be notified immediately and the recommended procedure from the Department must be followed.
19. A record of quantities, dates of removal and recipients of the manure must be retained by the Licence Holder during the operational lifespan of the Facility. This information must be made available to Departmental officials in the event of an avian influenza outbreak or if requested for any other purpose.
20. Records of all septic tanks, referred to in the Operational Environmental Management Programme (OEMPr) being emptied at wastewater treatment works must be retained for every five years and made available to the Department upon request.

## **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 C&OMPr 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 C&OMPr is as follows:  
Amendments to the C&OMPr, 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 C&OMPr 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, 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

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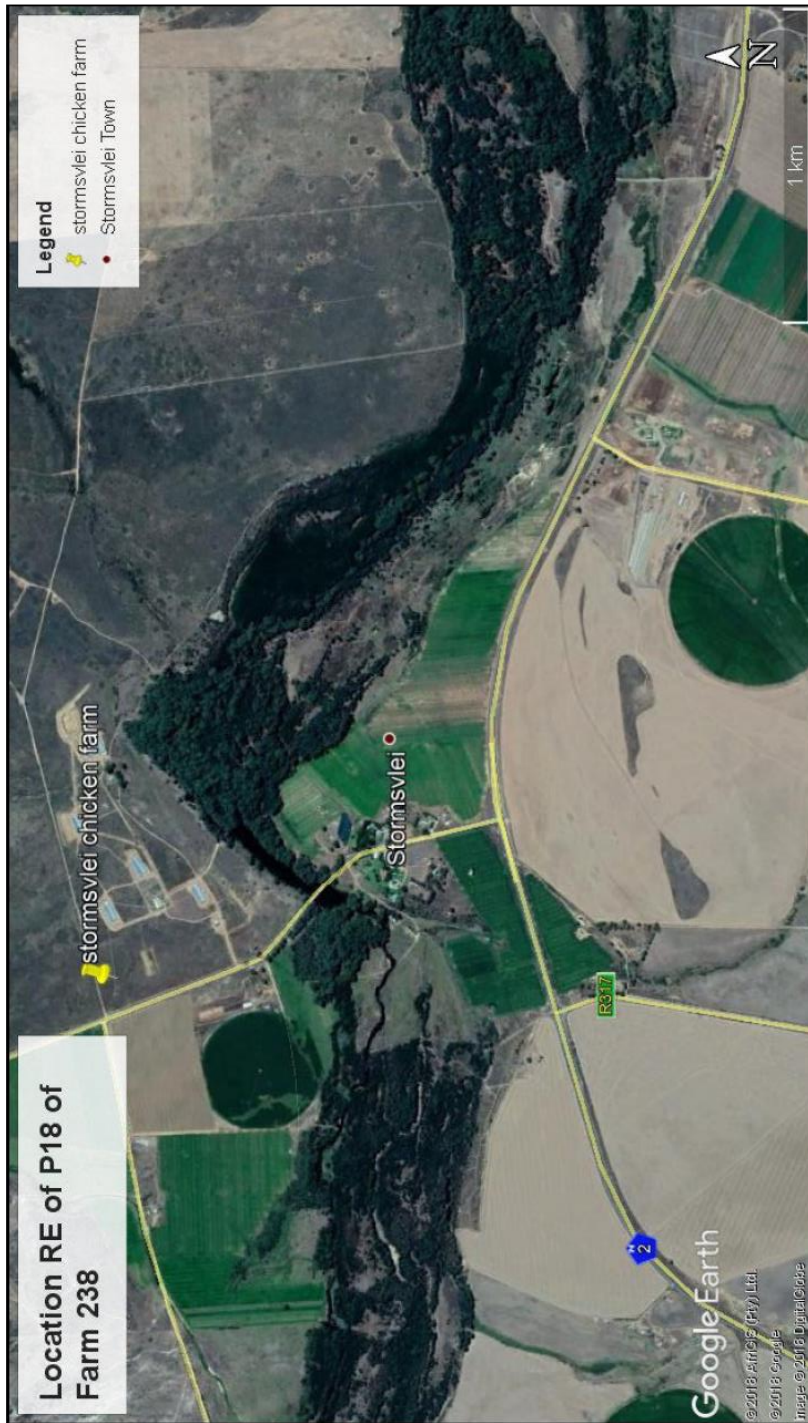
**ADV. CHARMAINE MARÉ**

**DIRECTOR: ENVIRONMENTAL GOVERNANCE**

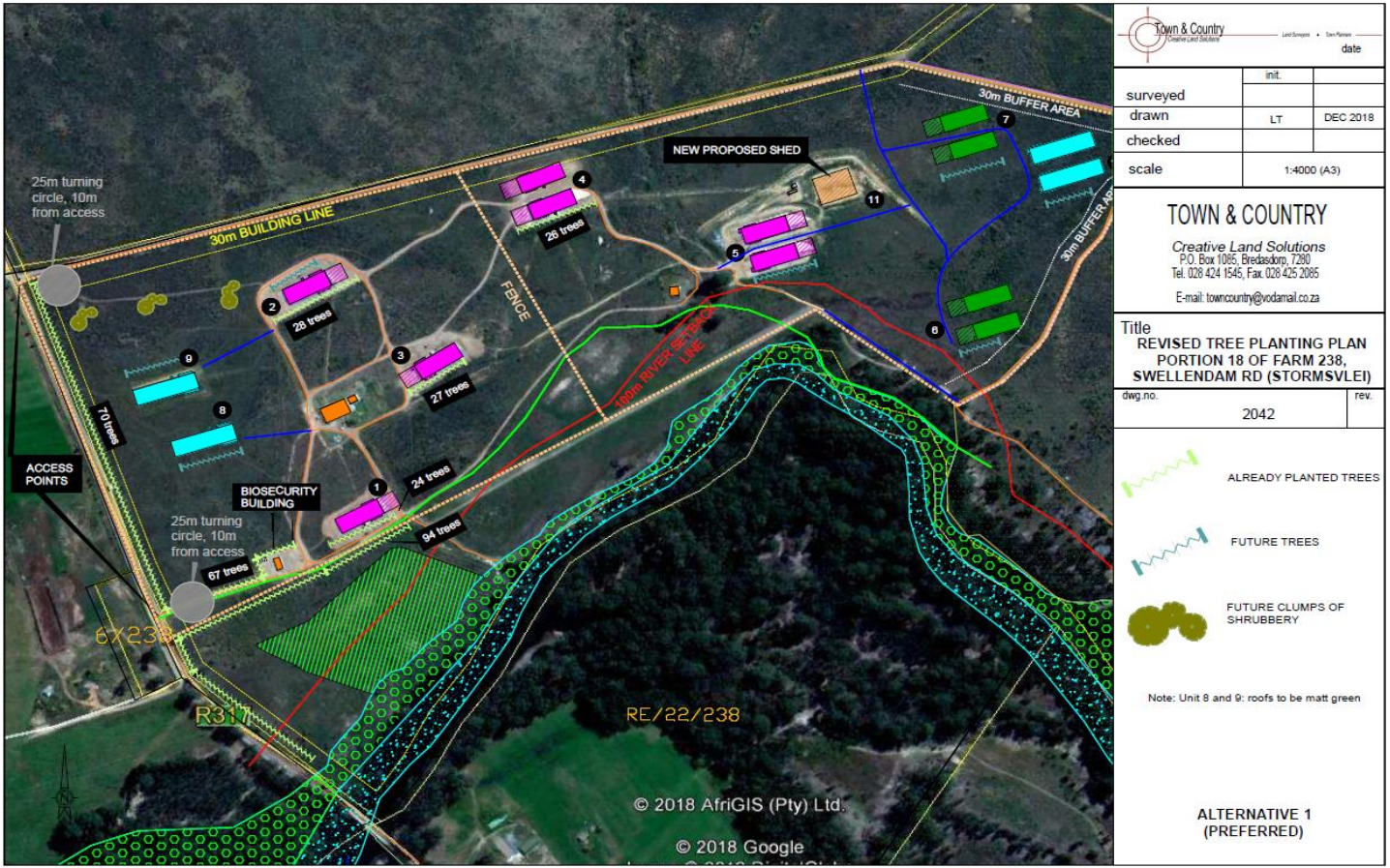
CC: (1) Amanda Fritz-Whyte (EAP)

Email: [amanda@phsconsulting.co.za](mailto:amanda@phsconsulting.co.za)

# ANNEXURE 1: LOCALITY MAP



# ANNEXURE 2: SITE PLAN



SITE PLAN SHOWING AREAS OF VEGETATION REMOVAL (BLUE ARROWS 1-4) AND CONSTRUCTION OF ROADS WIDER THAN 4M (RED ARROWS 1-6)



**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE:**

**14/2/4/2/2/E3/10/0013/20**

**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 R250 000 (Two hundred and 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 20 August 2020 with supporting environmental impact assessment and mitigation measures.
- b) The Construction and Operational Environmental Management Programmes (C&OMPr) of June 2020, respectively, submitted for the application.
- c) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- d) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- e) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- f) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- g) The site visit conducted on 9 December 2020 attended by officials of the Directorate: Environmental Governance.

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 3 June 2020 and 13 November 2020 respectively.
- the placing of a newspaper advertisement in the Langeberg Bulletin on 4 June 2020.

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

The following organs of state provided comment on the application:

- Transport & Public Works (TPW)
- CapeNature (CN)
- Swellendam Local Municipality (SLM)
- Heritage Western Cape (HWC)
- Overberg District Municipality (ODM)
- This Department's Pollution and Chemicals Management (PCM) and Waste Management (WM)

The TPW indicated that the current gate is not very wide and highlighted the concern that 20-ton trucks are normally double articulated vehicles and might have difficulty entering the farm unless they make a wide turn. TPW requested that the access to be looked at a bit more closely in the next stage of the EIA process in terms of getting the vehicles in and out safely. TPW cannot allow or approve of a vehicle standing in the road reserve and offloading feed and recommended allowing for an on-site offloading of feed.

The Site Development Plan was subsequently updated to include a turning circle within the development site of the facility.

CN noted that activities within the primary rights of the zoning of a cadastre are only exempted from approval in terms of the planning legislation. This does not exempt the primary rights from NEMA authorisation should any listed activities be triggered. They were satisfied with the response provided by the botanical specialist regarding the acceptability of the development of the 40m<sup>2</sup> of vegetation not previously ploughed. CN is satisfied that buffers and no-go areas have been adequately addressed. They are satisfied with the proposed rehabilitation measures for the internal roads as contained within the C&OMPr. They are also satisfied that there will be no further watercourse crossings by roads within the development area.

In response to the request for a freshwater specialist study, the EAP has indicated that according to CapeFarmMapper, the only freshwater feature is a drainage line between units 4 and 5. They do however wish to alert that the areas referred to in CapeNature's comment are indicated as Aquatic Critical Biodiversity Areas (CBAs) on the Western Cape Biodiversity Spatial Plan and would be for freshwater features which need to be conserved, which is also represented on CapeFarmMapper. It should further be noted that these same areas are indicated as wetlands on the Land Cover layers on CapeFarmMapper based on remote sensing imagery and was the basis for the designation of these wetlands on the WCBSP. The only building footprint which is encompassed by the aquatic CBA is the new shed. As indicated in the second botanical assessment and spring survey, the footprint has been cleared of vegetation and contains no wetland habitat. In terms of wetland function, this could be accounted for with appropriate stormwater design, should the mapping be accurate. Stormwater management has been addressed in the Operational Phase EMP and the response to BGCMA and associated measures as specified must be implemented. The EAP indicated that the proposed new Unit 11 lies more than 150m from the drainage line. Thus, the EAP is of the opinion that no freshwater ecological study is required.

CapeNature further commented that they are satisfied that the botanical spring survey was undertaken and confirmed that there are only common, disturbance-tolerant species present within the development footprints. They would further wish to query with the botanical specialist whether search and rescue for this case would contribute in terms of conservation value and to provide project recommendations accordingly.

They are also satisfied that the proposed management of manure will not impact on any terrestrial or freshwater environments on site. Concerns related to wash-water are addressed in the response to the BGCMA.

There were however two additional matters which must be raised:

It was noted that there was clearing vegetation to the north east of the development area between 2014 and 2017 within the section identified as high conservation value in the botanical assessment for the original Basic Assessment process and also confirmed in the second botanical assessment for this process. The clearing is evident on the aerial photograph underlying the site layout in Appendix B, consisting of linear clearing interspersed with excavations. Further investigation is required of these activities in terms of NEMA triggers and potential contravention.

The property has been identified as a provincial priority for protected area expansion by CapeNature. It was therefore recommended that the section of property identified as higher conservation value in the original report (Section B) is evaluated for formal protection. Further to this they wish to quote the opening sentence of the recommendations for the second botanical assessment "*Portion 18 of Farm 238, Stormsvlei falls within an area of extremely high botanical and conservation value*". They therefore recommend that CapeNature is approached regarding the options for formal protection, which may include options provided by conservation partners. This would be an additional important mitigation measure for the development on site.

With regards to the recommendation to investigate an offset/conservation set-aside as mitigation, CN copied in the EAP to provide feedback. There was a meeting with the Conservation Off Reserve Manager in this regard. The implementation of a biodiversity offset as potential incentive for fine reduction was discussed and commented.

The SLM indicated the requisite approvals to be secured in term of the Municipal By-Law on Municipal Land Use Planning, prior to implementation. It is understood that a town planner has been appointed to drive this process. The SLM highlighted their on-site comment relating to landscaping, and that a line / row of trees located on the site boundary adjacent to the road is not the best mitigation measure to reduce visual impact in this instance. It would be better to plant clusters of indigenous shrub, which are located on-site intermittently / at informal staggered distances, from the road and sheds etc.

HWC indicated that the ROD issued by HWC dated 5 April 2018 still applies.

The ODM acknowledged that the process had been amended from a basic assessment process to a 24G application process due to the commencement of

certain activities prior to approval. The proposed expansion activities remained the same and therefore based on the information received the ODM, have no objection towards this application.

The D: PCM does not anticipate any significant pollution impacts to the environment as a result of the unlawful expansion activities and has no further comment at this stage of the application.

The following additional comments were provided:

1. It was noted that all chicken manure will continue to be collected from site by local farmers to be used as fertiliser. It was requested that all contractual agreements with neighbouring farmers be retained for a minimum of five years. In addition, a record of quantities, dates of removal and recipients of the manure must be retained by the Licence Holder during the operational lifespan of the Facility. This information must be made available to Departmental officials in the event of an avian influenza outbreak or if requested for any other purpose.
2. In the event of avian influenza or a similar outbreak, the D: PCM must be notified immediately and the recommended procedure from the Department must be followed.
3. Records of all septic tanks, referred to in the Operational Environmental Management Programme (OEMPr), being emptied at wastewater treatment works must be retained for five years and made available to the Department upon request.
4. It was noted that chicken carcasses (non-infectious in nature) will still be disposed of to the existing mortality pit. And that the mortality pit is located in the 30m buffer zone at the edge of the property.
5. Section F 2 (a) of the Report specifically requests that any waste be stated, and a quantity be estimated per waste type. Kindly fill in the required information as required in the BAR.
6. The OEMPr must be strictly adhered to regarding waste management.
7. The Department requests that points 2.1-2.3 of the comments letter be inserted in the OEMPr.
8. It is highlighted that animal waste, when disposed of, has a high potential risk to create health risks to waste pickers, odour, flies and other vector nuisances and stability or leachate problems due to its moisture content. For these reasons this waste should be treated with technologies such as rendering, anaerobic digestion, and even controlled composting. The disposal of animal waste should only be considered as a last resort, where alternative treatment options are not viable or practical.

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 C&OMPr 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 C&OMPr.

## **2. Alternatives**

### 2.1 Location/Site/Property Alternatives

#### Alternative 1 (Herewith authorized)

The proposed project is for the expansion of the existing chicken rearing facility, which has been "contained" to 'Section A' of the farm (as previously identified and depicted in the First Botanical report) and the unlawful listed activities within Section A (vegetation removal and road construction). There are no location alternatives as all the expansion will be within this Section A, with a change in layout of the proposed new units.

The Second Botanical Report assessed the impact of the location of each of the new units in relation to Section A as a site and in proximity to 'Section B' which is largely untransformed. The assessment was on the Site Development Plan (SDP) with the incorporation of the recommendations to decrease the impact on the vegetation in 'Section A', which was found to be of low conservation value by the botanist. Section B of the farm with high conservation value remains untouched.

The relocation of Unit 10 allows for a 30m buffer between the unit and the intact vegetation of Section B using the perimeter fence between the two sections as the marker. The expansion of Unit 4 on its Westerly side (Preferred Alternative 1) as opposed to its Easterly side allows for the expansion away from the drainage line on site. Closure and rehabilitation of unused service roads decreases the overall impact on the site.

## 2.2 Activity Alternatives

There are no activity alternatives. The site is an existing chicken rearing and laying facility and the proposed project is for the expansion of that facility with similar impacts.

## 2.3 Design/ Layout alternatives

### Alternative 1 (Herewith authorized)

There are no location alternatives as all the expansion will be within Section A as previously described, with a change in layout of the proposed new units. Where possible existing units were expanded on to minimise the need to build additional units.

The Second Botanical Report assessed the impact of the location of each of the new units in relation to Section A with existing infrastructure, and also in proximity to Section B which is largely untransformed. The assessment was on the SDP with the incorporation of the recommendations to decrease the impact on the high conservation value vegetation in Section B.

The following points informed the preferred layout:

- 1) The relocation of Unit 10 allows for a 30m buffer between the unit and the intact vegetation of Section B in the form of a 30m buffer incorporating this vegetation.
- 2) Unit 4 exists within 100m of the drainage line to its East. The expansion of Unit 4 on its westerly side allows for expansion away from the drainage line between Unit 4 and 5 on site, in order to minimise the effect of the existing Unit 4 on the drainage line. This expansion is outside of the regulated area of the drainage line.
- 3) The units are required to be placed a certain distance from each other for bio-security reasons (minimum 180m)
- 4) Closure and rehabilitation of unused service roads decreases the overall impact on the site.

## 2.4 Technology alternatives

There are no technology alternatives as the proposed expansion project is a continuation of an existing activity with existing technology.

## 2.5 Operational alternatives

There are no operational alternatives as the proposed expansion project is the continuation of an existing activity with existing operational measures in place.

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

The No-Go option was evaluated as an alternative, where the existing facility continues as is and no expansion is put in place. The status quo remains and the property is not developed further with the already authorised units constructed as per previous EA (Ref: E12/2/4/1-E3/9-2020/11), with total chickens on site to be 55 000 as authorised. Operations on site will continue as at present and existing roads are used for access to units. Unlawful expansion activities are rehabilitated, and the proposed expansion of the site is not pursued.

The company needs to expand its chicken laying and rearing operations to meet the growing demand in the market for more affordable protein, which makes the option of the No-Go not economically viable. If this proposed expansion were to become a project on another site, the cost implications would make it unfeasible to the company. Rehabilitation of the unlawful road construction and vegetation clearance also does not make economic sense, as these activities were materially linked to the expansion of the site.

## **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 proposed activity gives rise to positive socio-economic impacts in the form of enhanced and sustainable agricultural activities with associated job creation (both short term during the construction phase) and long term during the operational phase. The total jobs created by this operation is 453 from the starting point (rearing) to delivery to the abattoir. The increased production of food from the proposed expansion will also enable enhanced food security in the distribution areas. The applicant is one of the largest contributors in this agricultural sector in the Western Cape and has a good track record in terms of general compliance.



### 3.2. Biodiversity Impacts

The vegetation on site is classified as critically endangered vegetation according to CapeFarmMapper. The vegetation cleared was in an area previously impacted by agricultural activities with low botanical and low conservation value (Johns 2011; Privett 2018) referred to as 'Section A' of the farm. Section A is characterized by resilient plant species typical of old disturbed agricultural lands, and the low species. Diversity and high habitat disturbance make the vegetation in Section A of low botanical sensitivity and low conservation value. Given that very little of the indigenous vegetation remains and that rehabilitation of Section A would be extremely difficult, the conservation value was rated as being low (Privett 2018). Thus, it can be argued that the original mapping on the CapeFarmMapper, where the vegetation is listed as critically endangered vegetation (Central Ruens Shale Renosterveld) cannot be applied to Section A.

### 3.3. Sense of Place &/ or Heritage Impact Index; and

The site is an established chicken farm operation operated without impacting the area's sense of place, therefore the expansion is unlikely to change the status. A Notice of Intent to Develop (NID) was submitted to HWC in 2011 for the original development and HWC confirmed that no further study was required, and the development could proceed. Further to this another NID was submitted to HWC for the proposed expansion BAR in 2018 and once again HWC confirmed that there is no reason to believe the proposed expansion project will impact on any heritage resources. An additional NID was submitted for this S24G process to HWC and confirmed that there is no anticipated impact from the project.

### 3.4. Pollution Impact Index.

The site has not given rise to any pollution to date. It is in the applicant's own biosecurity interest not to pollute, and the manure is seen as a valuable commodity to be removed from site and used elsewhere. A river buffer in excess of 100m in places has been established to avoid any form of pollution. The impact assessment for the proposed expansion identified possible surface water pollution from washing of the units through surface water runoff into the Riviersonderend river, with a LOW rating.

#### 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 C&OMPr, 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.

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