



**Western Cape
Government**

Environmental Affairs and
Development Planning

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

REFERENCE NUMBER: 14/2/1/B3/14/ERF 73/27, GOUDA

ENQUIRIES: Shafeeq Mallick

The Managing Director
Quantum Foods (Pty) Ltd
P. O. Box 1183
WELLINGTON
7655

BY REGISTERED MAIL

Tel: (021) 864 8600

Fax: (021) 873 5619

Attention: Mr Frikkie Human

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF AN ACTIVITY: UNLAWFUL EXPANSION OF THE TYDSTROOM MOREDOUW POULTRY FARM AT FARM HALFGWAAGD, ERF 73/27, GOUDA

With reference to your application received on 2 December 2012 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 Environmental Impact Report ("EIR") dated 4 April 2017.

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

Quantum Foods (Pty) Ltd
 c/o Mr Frikkie Human
 P. O. Box 1183
 WELLINGTON
 7655

Tel: (021) 864 8600
 Fax: (021) 873 5619
 Email: Ronald.Jones@quantumfoods.co.za

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. R. 983 of 4 December 2014 Activity Number: 5 Activity Description: "The development and related operation of facilities or infrastructure for the concentration of — more than 5 000 poultry per facility situated outside an urban area, excluding chicks younger than 20 days;..."	The farm was bought by Pioneer foods in 2001 and had 4 poultry houses already built. Later in that same year, the last 8 houses were constructed. Approval was only granted for the first 4 as the plans for the other 8 houses were misplaced during the approval process. Each chicken house contains approximately 8000 chickens.
Government Notice No. 983 of 4 December 2014 -	The farm was bought by Pioneer foods in 2001 and had 4 poultry houses already

<p>Activity Number: 40 Activity Description: "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) more than 1 000 poultry where the facility is situated within an urban area; or (ii) more than 5 000 poultry per facility situated outside an urban area."</p>	<p>built. Later in that same year, the last 8 houses were constructed.</p> <p>Approval was only granted for the first 4 as the plans for the other 8 houses were misplaced during the approval process. Each chicken house contains approximately 8000 chickens.</p>
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The abovementioned list is hereinafter referred to as "the listed activities".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Erf 73/27, Gouda.

The SG digit code is: C0750000000007300027

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 17' 35.426" South	18° 58' 51.877" East
2	33° 17' 41.971" South	18° 58' 12.368" East
3	33° 17' 39.408" South	18° 58' 26.235" East
4	33° 17' 57.44" South	18° 58' 21.652" 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")

SIVEST ENVIRONMENTAL

C/o Ms Michelle Nevette

P. O. Box 1899

UMHLANGA ROCKS

4320

Tel: (031) 581 1500

Fax: (031) 566 2371

Email: MichelleN@sivest.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The farm was bought by Pioneer foods in 2001 and had 4 poultry houses already built. Later in that same year, the last 8 houses were constructed. Approval was only granted for the first 4 as the plans for the other 8 houses were misplaced during the approval process. Each chicken house contains approximately 8000 chickens.

Associated infrastructure developed includes:

1 x Bulk LPG Tank (4.5m³); 1x Above-ground diesel tank (2.2m³); office buildings; laundry; sanitization warehouses; mortality pit; dirt roads; water purification plant and loading bays.

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 all Alternative 1 recommendations as described in the EIR dated 4 April 2017 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 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.
4. 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 in order 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

5. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of activities.
 - 5.1 The notice must make clear reference to the site details and 24G Reference number given above.
 - 5.2 The notice must also include proof of compliance condition 6.

PART III

Notification and administration of an appeal

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
 - 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.

6.2 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.

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

6.4 provide the registered I&APs with:

- 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
- 6.4.2 name of the responsible person for this Environmental Authorisation;
- 6.4.3 postal address of the holder;
- 6.4.4 telephonic and fax details of the holder;
- 6.4.5 e-mail address, if any, of the holder; and
- 6.4.6 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*.

7. 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

8. The draft Environmental Management Programme ("EMPr") dated 23 November 2016 compiled by Sivest Environmental and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

9. The EMPr must be included in all contract documentation for all phases of implementation.

PART V**Monitoring**

10. The holder must appoint a suitably experienced Environmental Control Officer ("ECO"), before continuation of commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
11. A copy of the Environmental Authorisation, EMPr, 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.
12. 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**

13. 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 EMPr 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**

14. 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.

15. Care must be taken to ensure that no water from the poultry house cleaning process enters the watercourse and moves freely to the evaporation ponds.

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. 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 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: Jaap de Villiers
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 Jaap de Villiers (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: Jaap.DeVilliers@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 Jaap.DeVilliers@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 Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eacdp>.

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, 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

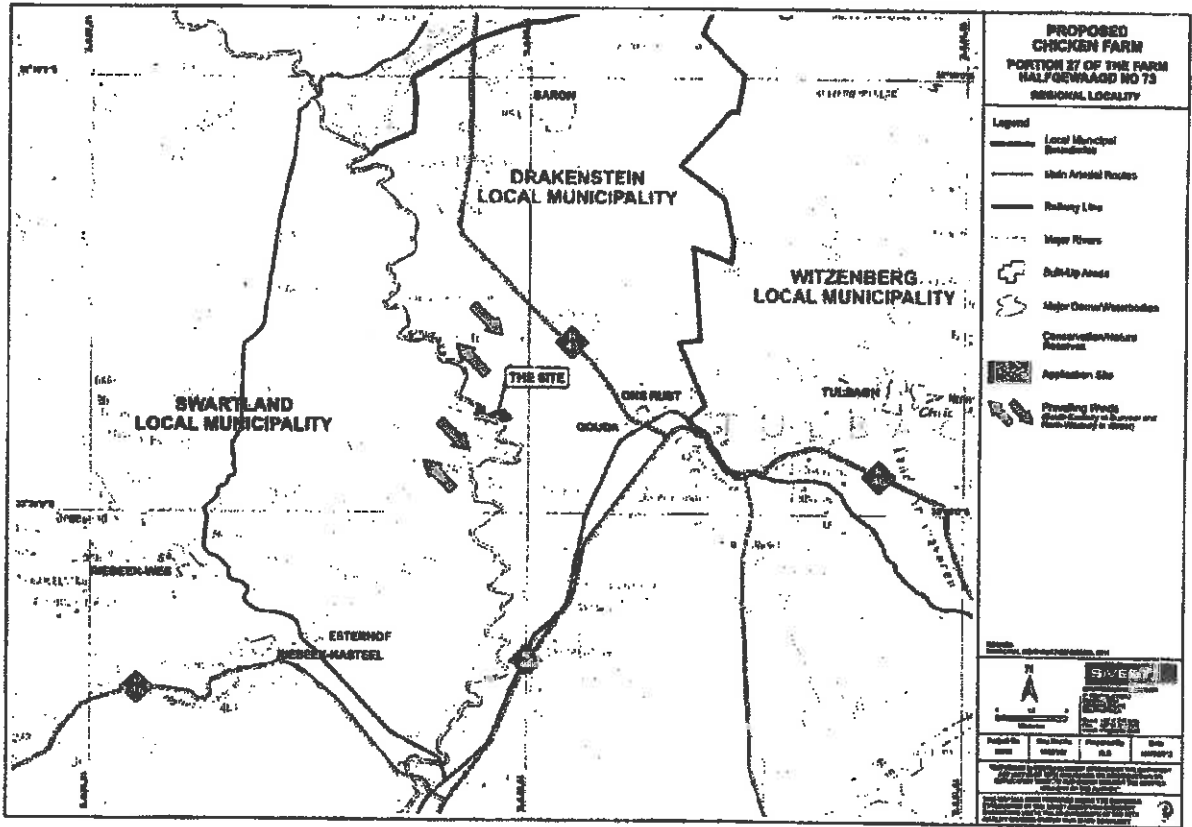
DATE OF DECISION: 27 September 2018

CC: (1) Kate Le Roux (SIVEST Environmental)

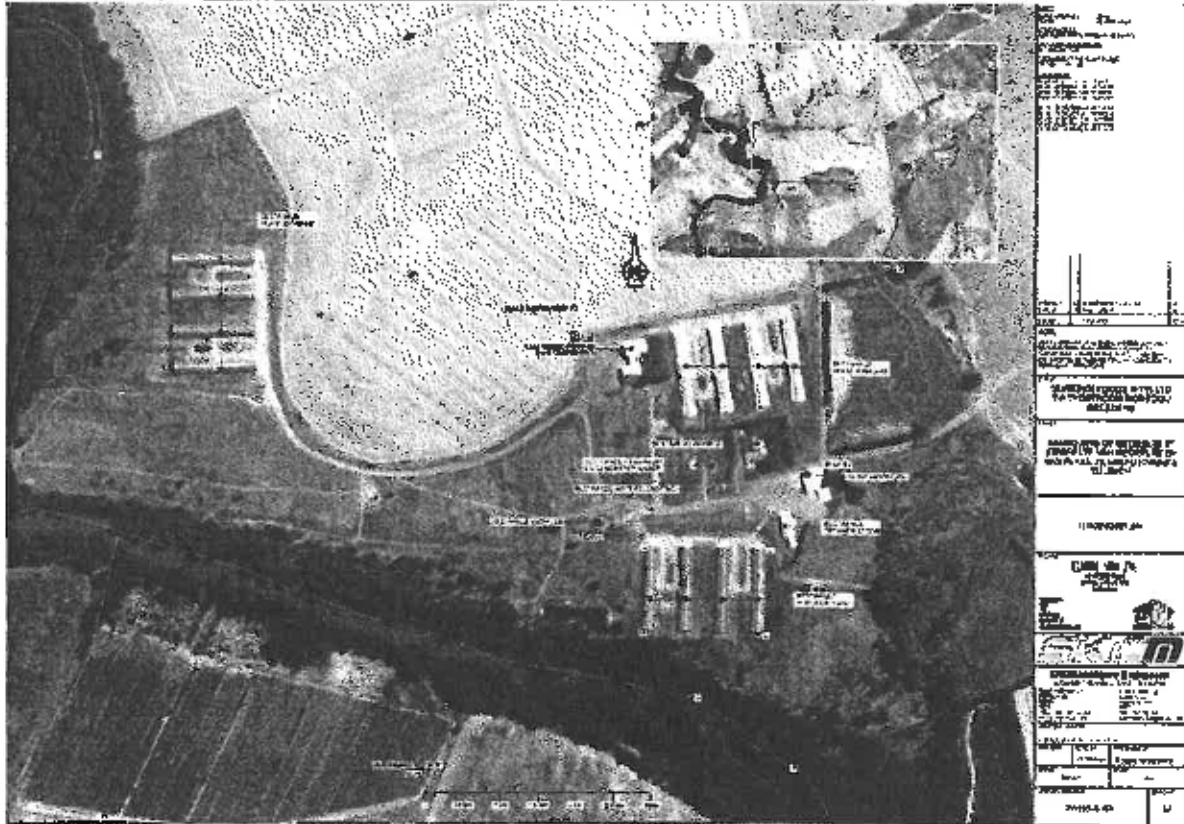
Fax: (031) 566 2371

Email: kateleroux01@gmail.com

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

24G REFERENCE:

14/2/1/B3/14/ERF 73/27, GOUDA

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 updated application form dated 27 March 2017, the Environmental Impact Report (EIR) received by the competent authority on 5 April 2017 and the Environmental Management Programme ("EMPr") submitted together with the EIR.
- 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 18 March 2018 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 on 13 September 2014.
- 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 19 October 2014.
- the placing of a newspaper advertisement in the **Die Burger** on 17 September 2014.

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)
- Department of Water and Sanitation (DWS)
- Heritage Western Cape (HWC)
- Department of Agriculture (DA)
- Drakenstein Municipality (DM)

The DWS requested a freshwater assessment and 1:100-year flood line delineation be compiled. Additionally, it was indicated that a water use authorization and registration was not completed and therefore not yet authorized. However, the current water use from the Berg River is seen as lawful under general usage, as water abstraction occurred since 2001.

CN were concerned with overflow during flood events which may cause river contamination. It was requested that a better waste water treatment system be installed. A conservancy tank would be best practice regarding potential impacts of waste water from the chicken houses. However, the freshwater assessment indicated

that this would not be necessary due to the limited water usage and no flooding occurred in the past.

DM requested clarification regarding the disposal of sludge. The EAP confirmed that no sludge was produced by the chicken houses. Additionally, DM requested how potential odour from the facility will be managed. The assessment indicated that no smell was identified in six months of observation period of operation of the facility. All by-laws relating to the application will be adhered to.

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

Alternative 1 (Herewith authorized)

The applicant required poultry houses with a certain capacity in order to make the farm economically feasible and the design concluded that twelve (12) poultry houses of 93m x 13m each would offer sufficient capacity. Due to the biosecurity measures the poultry houses need to be a certain distance from each other in order to prevent transferring of any diseases between the poultry houses

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

The option of ceasing the activity is not deemed reasonable or feasible. The poultry houses were constructed on a developed site that was previously used as agricultural land and disturbed by historic farming activities. The development of agri-production facility was undertaken on a site that was zoned and earmarked for agricultural development and did not require rezoning. Additionally, the development was in line with the surrounding area's sense of place and cultural historical identity. Services were already available to the farm and the farm was owned by the Applicant.

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 development of poultry houses creates employment opportunities in the surrounding agricultural area. By creating/securing jobs the development will contribute to growth and development of the rural economy and contribute to goals of poverty alleviation and local food security.

3.2. Pollution Impacts

One concern that was raised was the potential impact the washing practices could have on water quality. The freshwater assessment conducted by Watsan Africa concluded that the poultry farm had no visible effects of the quality of the water. It was concluded that the chicken farm did not adversely affect ground to surface water sources.

3.3. Biodiversity Impacts

A freshwater assessment was conducted by Watsan Africa to determine the potential impact of the Moredouw rearing farm on the adjacent Berg River. Water monitoring was carried out upstream and downstream of the rearing farm to provide information as to the possible effect on the river water quality. The results indicated that there were no visible effects of the quality of the water was detected.

3.4. Visual / Sense of Place

The development takes place within a historically agricultural area. No visual or sense of place impacts were identified.

3.5. Socio-economic Impacts

The development of the poultry houses will not create any significant negative socio-economic impacts. The socio-economic impacts of the development will contribute positively to the surrounding area through the creation of jobs in the agriculture and agri-food processing industries, support of localised food security and a general increase in financial revenue.

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.

FND