



EIA REFERENCE: 16/3/3/1/E4/5/1017/18
NEAS REFERENCE: WCP/EIA/0000388/2018
ENQUIRIES: Lorretta Osborne
DATE OF ISSUE: 2018-08-07

The Board of Directors
Bane Free Range Eggs CC
PO Box 192
HERMANUS
7200

Attention: Mr G Malan

Tel: (028) 314 1313
Fax: (086) 585 2461

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): THE EXPANSION OF A CHICKEN FARM ON PORTION 132 OF FARM TESSELAARSDAL NO. 811, CALEDON

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, (as amended), you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered Interested and Affected Parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms M Naylor (Lornay Environmental Consulting)
(2) Ms J van Rhyn/ Mr J Pienaar (Theewaterskloof Municipality)

Fax: (086) 585 2461
Fax: (028) 214 1289



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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE EXPANSION OF A CHICKEN FARM ON PORTION 132 OF FARM TESSELAARSDAL NO. 811, CALEDON

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in Section B below with respect to Layout Alternative 2, described in the Basic Assessment Report ("BAR"), dated May 2018.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Board of Directors
Bane Free Range Eggs CC
% Mr G Malan
PO Box 192
HERMANUS
7200

Tel: (028) 314 1313
Fax: (086) 585 2461

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activity	Activity/Project Description
<p>Listing Notice 1 of 2014 -</p> <p>Activity Number: 40</p> <p><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>(i) <i>more than 1000 poultry where the facility is situated within an urban area; or</i></p> <p>(ii) more than 5000 poultry per facility situated outside an urban area.</p>	<p>The expansion of a facility by an additional three chicken houses accommodating 10 000 egg laying chickens outside an urban area.</p>

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

The holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development:

The proposal entails the development of three additional chicken houses on Portion 132 of Farm Tesselaarsdal No. 811, Caledon. Currently only one chicken house exists on the site. The new chicken houses will accommodate 10 000 egg laying chickens each. Each chicken house will be 1000m² in extent with 1000m² of free range pasture on either side of the houses.

C. SITE DESCRIPTION AND LOCATION

The listed activity will be undertaken on Portion 132 of Farm Tesselaarsdal No. 811, Caledon.

The co-ordinates of the development are:

Latitude (S)	Longitude (E)
33° 21' 31.59" South	19° 32' 43.74" East

The SG digit code is: C0130000000081100132

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

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Lornay Environmental Consulting
% Ms Michelle Naylor
PO Box 1990

HERMANUS

7220

Tel: (028) 316 1769

Fax: (086) 585 2461

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to preferred Layout Alternative 2, described in the BAR, dated May 2018, on the site as described in Section C above.
2. The holder must commence with the listed activity on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The construction phase of the development must be concluded within **ten (10) years** from the date of commencement of the 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 B 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.

Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 6.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 7, 8 and 12.

Notification and administration of 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 (as amended) detailed in Section G below;
- 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 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 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 2014 National Appeals Regulations (as amended).
8. The listed activity, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision. 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 i.e. the listed activity, including site preparation, must not commence until the appeal is decided.

Management of activity

9. The draft Construction Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
10. The draft Operational and Decommissioning EMPr submitted as part of the application for Environmental Authorisation must be amended to exclude the run off wash water impact. The amended Operational and Decommissioning EMPr must be re-submitted to this Department for approval within **30 days** from the date of issue of this Environmental Authorisation.
11. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

12. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.

13. 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, including a publicly accessible website.
14. Access to the site referred to in Section C 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.

Auditing

15. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), 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. The Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must undertake an environmental audit quarterly for the duration of the construction phase and submit Environmental Audit Reports to the Competent Authority once every six months during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority six months after operation commenced.

The holder must, within 7 days of the submission of the report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

16. 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 palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts 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.

17. 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.

GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activity.
2. Non-compliance with a condition of this Environmental Authorisation and EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, 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 in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
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 (as amended) 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.

Please note that to ensure the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity, the Competent Authority may request amendments to the EMPr, as deemed necessary.

F. 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 Jaap de Villiers (Tel: 021 483 3721)
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 Jaap.DeVilliers@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 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

G. DISCLAIMER

The Western Cape Government, the Local Authority, 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.

Your interest in the future of our environment is appreciated.

Yours faithfully



MR. HENRI FORTUIN

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

DATE OF DECISION: 7-8-18

CC: (1) Ms M Naylor (Lornay Environmental Consulting)
(2) Ms J van Rhyn/ Mr J Pienaar (Theewaterskloof Municipality)

Fax: (086) 585 2461
Fax: (028) 214 1289

ANNEXURE 1: LOCALITY MAP



**Farm 132 of 811
Tesselaarsdal**

Scale: 1:22 605
Date created: June 13, 2017



Figure 1: Locality map of Portion 132 of Farm Tesselaarsdal No. 811, Caledon

ANNEXURE 2: SITE PLAN



Figure 2: Site Plan of the proposed development.

ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, *inter alia*, the following:

- a) The information contained in the Application Form submitted on 16 March 2018, the BAR dated May 2018 and the EMPr submitted together with the BAR on 15 May 2018;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the BAR, dated May 2018; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The competent authority had sufficient information before it to make an informed decision without conducting a site visit.

This application was submitted in terms of the NEMA Environmental Impact Assessment ("EIA") Regulations, 2014. This decision takes into account the relevant amendments to the text of the said regulations promulgated on 7 April 2017.

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 that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- Identification of and engagement with I&APs;
- Giving written notice to the owners and occupiers of land adjacent to the site where the listed activity is to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activity on 11 August 2017, 15 August 2017 and 29 March 2018;
- The placing of newspaper advertisement in the "*Theewaterskloof & Kaap Agulhas Gazette*" on 15 August 2017;
- Fixing a notice board at the site where the listed activity is to be undertaken;
- Circulating the pre-application draft BAR to I&APs for public review from 14 August 2017;
- Circulating the in-process draft BAR to I&APs for public review from 3 April 2018.

The Competent Authority notes the Environmental Assessment Practitioner's responses to the issues raised during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and EMPr to adequately address the concerns raised.

2. Alternatives

The following alternatives were considered:

Layout Alternative 1:

This alternative is similar to Layout Alternative 2 except that four additional chicken houses of 1000m² each on Portion 132 of Farm Tesselaarsdal No. 811, Caledon will be developed.

This alternative was not preferred for the following reasons:

- One chicken house will be extended into the 30m building line and in close proximity of the farm boundary, which will require a land use departure application.
- The chicken houses will have very limited space between them, which will increase the risk of diseases and will not fulfil the requirements of being a free range facility.

Layout Alternative 2 (Herewith authorised):

This alternative entails the development of three additional chicken houses on Portion 132 of Farm Tesselaarsdal No. 811, Caledon. Currently only one chicken house exists on the site. The new chicken houses will accommodate 10 000 egg laying chickens each. Each chicken house will be 1000m² in extent with 1000m² of free range pasture on either side of the houses.

This alternative is preferred for the following reasons:

- The option will allow for more space between the chicken houses, which will decrease the risk of diseases and fulfil the requirements of being a free range facility.
- The layout of the three additional chicken houses can be accommodated without extending into the 30m building line.

"No-Go" Alternative:

The "no-go" option was also investigated and was not preferred as the *status quo* would be maintained, where the development site would continue to be largely underutilized. The no-go alternative would result in the loss of employment and business opportunities associated with both the construction and operational phases of the development.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

Portion 132 of Farm Tesselaarsdal No. 811, Caledon is zoned Agriculture Zone I. The proposed development will take place in an active farming area on transformed land. It will contribute to job creation, economic development and skills training.

3.2 Biophysical Impacts

Historically, the proposed development site would have been covered with Western Rûens Shale Renosterveld, which is considered critically endangered in terms of the National Environmental Management: Biodiversity Act (Act No. 10 of 2004). The site has been ploughed within the last ten years and is completely transformed by agricultural activities. The letter from CapeNature dated 28 September 2017 states that no wetlands or watercourses exist on the site. The potential impacts that

may result from the proposed development will also be mitigated by the implementation of the EMPr.

The development will result in both negative and positive impacts.

Negative Impacts:

- The proposed development will result in construction related impacts such as dust, visual and noise during the construction period. However, these impacts will be mitigated to a satisfactory level.

Positive impacts:

- The development will provide temporary employment opportunities during the construction phase.
- Employment, training, and skills development opportunities will result from the operational phase of the development.

4. National Environmental Management Act 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.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr and the Competent Authority is satisfied that the proposed listed activity will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

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