



24G Application: 14/2/4/2/2/B5/14/0027/21

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## ENVIRONMENTAL AUTHORISATION

The Owner  
Farm 234 De Hoop  
PO Box 754  
PAARL  
7623

Email: [pier.passerini@windmeuleggs.co.za](mailto:pier.passerini@windmeuleggs.co.za)

Tel: (082) 887 5707

### Attention: Mr Pier Passerini

#### **APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL CONSTRUCTION OF A POULTRY HOUSE, ROAD THROUGH A WATERCOURSE AND APPLICATION FOR 4 ADDITIONAL POULTRY HOUSES ON FARM 234, DE HOOP, TULBAGH**

With reference to your application dated 02 August 2022 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.

### **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 dated 02 August 2022.

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

Mr. Pier Passerini

P.O Box 754

Paarl

7623

Cell: (082) 887 5707

Email: [pier.passerini@windmeuleggs.co.za](mailto:pier.passerini@windmeuleggs.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
<p>Government Notice No. R. 327 of 2017 –</p> <p><b>Activity Number: 5</b></p> <p>Activity Description: <i>The development and related operation of facilities or infrastructure for the concentration of—</i></p> <p><i>(i) more than 1 000 poultry per facility situated within an urban area, excluding chicks younger than 20 days;</i></p> <p><i>(ii) more than 5 000 poultry per facility situated outside an urban area, excluding chicks younger than 20 days;</i></p> <p><i>(iii) more than 5 000 chicks younger than 20 days per facility situated within an urban area; or</i></p>	<p>The development of 5 poultry houses consisting of 20 000 chickens per house. This is more than 5000 per facility outside an urban area. Development of one of these poultry houses have already been constructed beginning of 2021, with the intention of constructing the 5 poultry houses.</p> <p>Commencement was initiated due the threat of Avian flu.</p>

<p>(iv) more than 25 000 chicks younger than 20 days per facility situated outside an urban area.</p>	
<p>Government Notice No. R. 327 of 2017 –  <b>Activity Number: 12</b>  Activity Description: the development of—  (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or  (ii) infrastructure or structures with a physical footprint of 100 square metres or more;  where such development occurs—  (a) within a watercourse;  (b) in front of a development setback; or  (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —  excluding—  (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;  (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;  (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;  (dd) where such development occurs within an urban area; [or]  (ee) where such development occurs within existing roads, [or] road reserves or railway line reserves; or  (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p>	<p>The gravel access road to the poultry houses was constructed through a watercourse, a seep wetland. The area exceeds 100 square meters.  Subsoil drainage will be installed as a mitigation measure so that during the summer months it will ensure the ongoing ecological functioning of the seep wetland.</p>

<p>Government Notice No. R. 327 of 2017 –  <b>Activity Number: 19</b>  Activity Description: <i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from [(i)] a watercourse;</i>  <i>[(ii) the seashore; or</i>  <i>(iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or estuary, whichever distance is the greater—]</i>  <i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i>  <i>(a) will occur behind a development setback;</i>  <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i>  <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i>  <i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i>  <i>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></p>	<p>The gravel access road to the poultry houses was constructed through a watercourse, a seep wetland. The area exceeds 100 square meters.  Subsoil drainage will be installed as a mitigation measure so that during the summer months it will ensure the ongoing ecological functioning of the seep wetland.</p>
<p>Government Notice No. R. 327 of 2017 –  <b>Activity Number: 27</b>  Activity Description: <i>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i>  <i>(i) the undertaking of a linear activity; or</i>  <i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>Historically, the site would have consisted of Breede Alluvium Fynbos and Breede Shale Renosterveld. However, the site has been completely transformed by years of agricultural activities.  It is therefore not expected that any indigenous vegetation is left on site. However, based on the NEMA definition of indigenous vegetation, the site is subject to this activity as no lawful topsoil disturbance has occurred in the past 10 years, on the specific area where the development is proposed.</p>

	<p>For the construction of the first poultry house 0,92ha of vegetation was removed. Therefore, less than 1 hectare's indigenous vegetation were removed for the development of the first poultry house. A total of approximately 3ha will be cleared for the development of all 5 poultry houses.</p>
<p>Government Notice No. R. 327 of 2017 – <b>Activity Number: 12</b></p> <p>Activity Description: <i>The clearance of an area of 300 square meters or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p>i. Western Cape</p> <p>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered I the National Spatial Biodiversity Assessment 2004;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>iii. within the littoral active zone or 100 meters inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</p> <p>iv. on land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned openspace, conservation or had an equivalent zoning; or</p> <p>v. on land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a</p>	<p>The proposed development will encompass 3 ha. Historically, the site would have consisted of Breede Alluvium Fynbos and Breede Shale Renosterveld. The site has been completely transformed by years of agricultural activities. It is therefore not expected that any indigenous vegetation is left on site. However, based on the NEMA definition of indigenous vegetation, the site is subject to this activity as no lawful topsoil disturbance has occurred in the past 10 years, on the specific area where the development has and will take place. Therefore, more than 300m<sup>2</sup> critically endangered vegetation were removed for the development of the first poultry house. A total of approximately 3ha will be cleared for the development of all 5 poultry houses.</p>

<p>Spatial Development Framework adopted by the MEC or Minister.</p>	
<p>Government Notice No. R. 327 of 2017 –  <b>Activity Number: 14</b>  Activity Description: The development of—  [(i) canals exceeding 10 square metres in size ;  (ii) channels exceeding 10 square metres in size;  (iii) bridges exceeding 10 square metres in size;  (iv) dams, where the dam, including infrastructure and water surface area exceeds 10 square metres in size;  (v) weirs, where the weir, including infrastructure and water surface area exceeds 10 square metres in size;  (vi) bulk storm water outlet Structures exceeding 10 square metres in size;  (vii) marinas exceeding 10 square metres in size;  (viii) jetties exceeding 10 square metres in size;  (ix) slipways exceeding 10 square metres in size;  (x) buildings exceeding 10 square metres in size;  (xi) boardwalks exceeding 10 square metres in size; or  (xii) infrastructure or structures with a physical footprint of 10 square metres or more;]  (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or  (ii) infrastructure or structures with a Physical footprint of 10 square metres or more; where such development occurs—  (a) within a watercourse;  (b) in front of a development setback; or</p>	<p>The gravel access road to the poultry houses was constructed through a watercourse, a seep wetland. The area exceeds 100 square meters.  Subsoil drainage will be installed as a mitigation measure so that during the summer months it will ensure the ongoing ecological functioning of the seep wetland.</p>

<i>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</i>	
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The abovementioned list is hereinafter referred to as "the listed activities" or "the development".

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

The listed activities commenced on Farm 234, De Hoop, Tulbagh.

The SG digit code is: C07500000000023400000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 20' 1.67" South	33° 20' 1.67" South
2	33° 20' 1.59" South	19° 11' 54.49" East
3	33° 20' 3.61" South	19° 12' 00.30" East
4	33° 20' 8.85" South	19° 12' 00.94" East
5	33° 20' 12.08" South	19° 12' 00.23" East
6	33° 20' 15.14" South	19° 11' 58.09" East
7	33° 20' 20.83" South	19° 11' 56.80" East
8	33° 20' 25.84" South	19° 11' 55.90" East
9	33° 20' 22.07" South	19° 11' 52.58" East
10	33° 20' 18.86" South	19° 11' 45.60" East
11	33° 20' 18.42" South	19° 11' 32.55" East

12	33° 20' 13.72" South	19° 11' 29.98" East
13	33° 20' 12.02" South	19° 11' 39.66" East
14	33° 20' 06.81" South	19° 11' 42.67" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 20' 12.96" South	19° 11' 44.34" East
2	33° 20' 14.51" South	19° 11' 48.49" East
3	33° 20' 18.09" South	19° 11' 46.14" East
4	33° 20' 16.37" South	19° 11' 42.43" 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")**

Guillaume Nel Environmental Consultants  
 C/o Mr Nardus Bosman & Ms Euonell Visagie  
 P.O. Box 2632  
 PAARL  
 7620

Tel: (021) 870 1874

Email: [eg@gnec.co.za](mailto:eg@gnec.co.za) / [nardus@gnec.co.za](mailto:nardus@gnec.co.za)

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

The unlawful construction of a poultry house, road through a watercourse and application for 4 additional poultry houses on Farm 234, De Hoop, Tulbagh, in furtherance of the commenced development of the facility.



A Notice of Intent to Apply for Basic Assessment ("NOI") for the proposed development of 5 poultry houses on Farm 234, Tulbagh, Western Cape has been submitted to the competent authority. However, on evaluation of the NOI found that the construction of the first building commenced in January 2021 which constitutes as commencement and "furtherance of a listed activities" being applied for and therefore the NOI was closed administratively and a section 24G application was subsequently submitted.

The applicant has constructed and completed one of 5 poultry houses and an access road over a watercourse on Farm 234, Tulbagh. The poultry house is 107m long, 7m wide and 4,8 m high. The total building footprint is 766,96 m<sup>2</sup>. The shed is constructed to house 20 000 chickens. In addition, the development will include four additional poultry houses identical to the existing poultry house, each with a capacity of 20 000 chickens. Therefore, the total amount of chickens that will be kept on the farm would be 100 000 chickens in all 5 poultry houses combined. The poultry houses will be constructed one by one, once the first becomes profitable the next poultry house will be constructed. The 5 poultry houses will not be constructed all at once.

## **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 alternative described in the application and assessment report dated 02 August 2022 on the site as described in Section D above.
2. The development must be concluded within 10 years from the date of continuation of the first listed activity.
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 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 the construction 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 with the following condition:  
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 20 November 2023 compiled by Guillaume Nel Environmental Consultants 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 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*.

The holder must, within 7 (seven) 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).

## **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. 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.

## H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

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. 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: Marius Venter  
Western Cape Ministry of Local Government, Environmental Affairs &  
Development Planning  
Private Bag X9186, Cape Town, 8000; or

By facsimile:           (021) 483 4174; or

By hand:                 Attention: Mr Marius Venter (Tel: 021-483 3721)  
Room 809, 8th floor Utilitas Building  
1 Dorp Street, Cape Town, 8000; or

By e-mail:               [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

## **J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS**

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

## **K. DISCLAIMER**

The Western Cape Government, 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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**MS Z TOEFY**

**ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE**

Copied to:

(1) Bernardus Bosman (EAP)

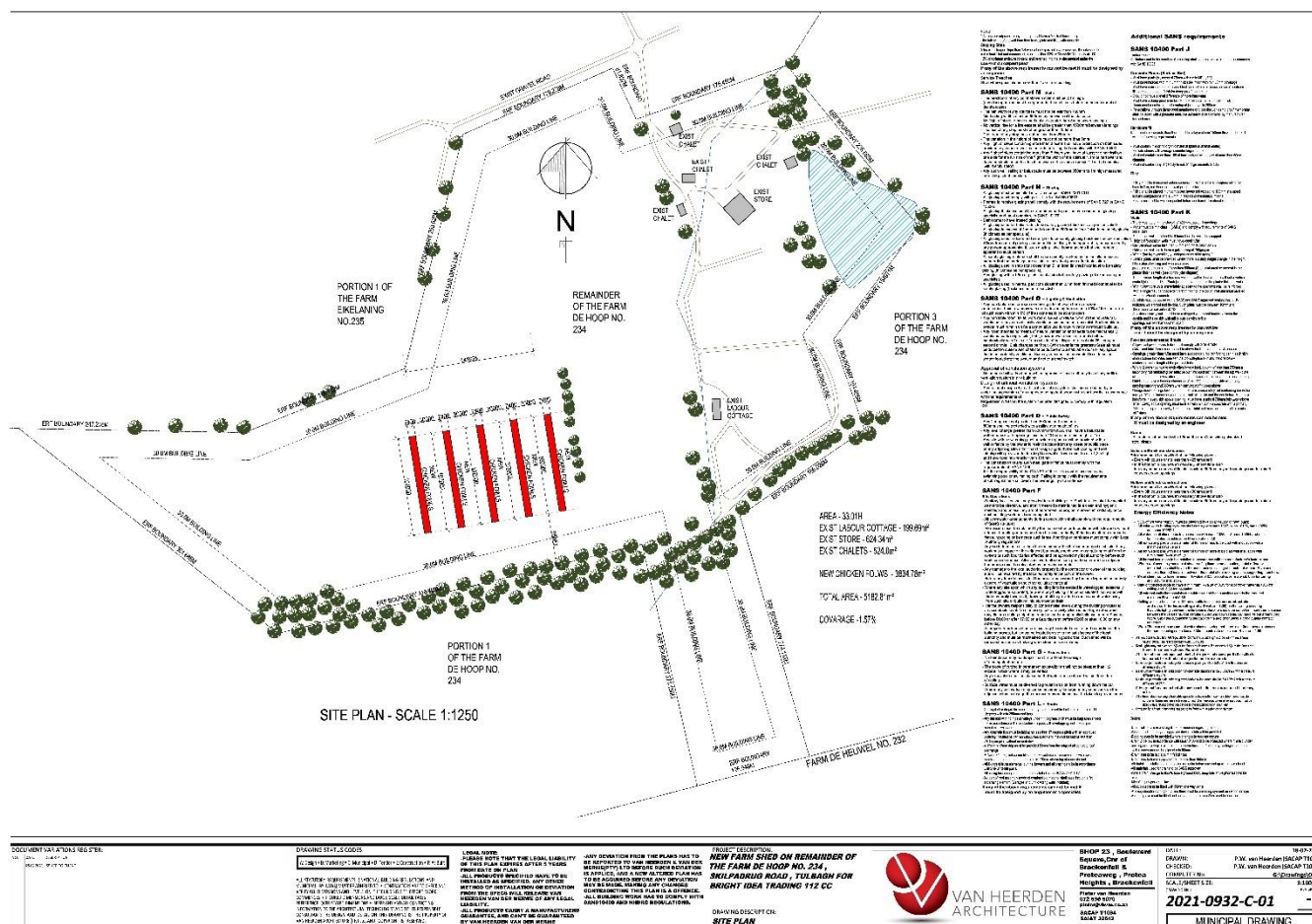
Email: [intern1@gnec.co.za](mailto:intern1@gnec.co.za)

## ANNEXURE 1: LOCALITY MAP





## ANNEXURE 2: SITE PLAN



**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE:**

**14/2/4/2/2/B5/14/0027/21**

**ANNEXURE 3: REASONS FOR THE DECISION**

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R50 000 (Fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 10 May 2023 and the additional information dated 16 November 2023.
- b) The Environmental Management Programme ("EMPr") dated 20 November 2023 submitted together with the assessment report.
- 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 28 October 2022  
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 20 July 2021 and 25 January 2022.
- the placing of a newspaper advertisement in the **Standard** on 10 June 2021.

Many I&APs provided comment with regards to the construction of the chicken house and poultry facility.

### **Please see below summary of the comments or concerns received:**

**Visual:** The location of this project seems inappropriate to this area which has predominantly guest and recreation farms bordering it – a beautiful little secluded valley against the Witzenberg mountains where there is no factory farming activity.

**Traffic:** It is noted that the Skilpadrug road is very narrow and is substandard. more traffic on the already strained road, at quite some distance from local towns and no public transport. The development at De Hoop will increase the amount of truck traffic on the road by 3392% (Even at the historical traffic levels it's a 314% increase in traffic). For the report to say the existing traffic is already an issue and we should contribute/invest in the sustainability of the

road when over 95% of the truck traffic is caused by De Hoop is incredibly unfair. This is not even including all the construction traffic.

**Dust:** An I&AP witnessed the tremendous amount of dust caused from the heavy-duty vehicles that pass through his farmyard. The house, which is situated right next to our work shed gets a huge puff of dust blowing into my house window whenever a Windmeul vehicle passes and when the wind is blowing unfavourably (which is almost always). This is not a trifling health concern, and this climate cannot justify shut windows as a viable solution. dust from the trucks has already negatively impacted everyone living along the road, the staff houses on the corner in particular are negatively impacted. Visitors to the accommodation properties are also affected.

**Socio-economic:** Socio-Economic impact on The Tourism Sector is seen as a major contributor to positive growth in the local economy. Visitors bring much needed revenue, especially to small businesses (restaurants, shops, wine farms, activities, etc) Another point not addressed in the report :- unlike the food industry, tourism businesses were not able to operate during Covid-19 lockdowns and are still trying to recover from losses incurred during this period.

**Biosecurity:** Layer units are very susceptible to disease and as such it is common practice to create 'bird-free' zones surrounding the unit to reduce transmission. This would require destroying a large number of wild birds who live and breed on the slopes of the Witzenberg mountains. In spite of the fact that this operation is now up and running with over 20,000 chickens in the unlawful Poultry House there are no notices visible on the entrance to the farm indicating that they are doing intensive cage farming – avian flu a major bio-security threat. There is no bio- security measures mentioned in the S24G application.

**Noise from traffic, fans and generators:** Also, a concern is noise coming from the Poultry Houses – large generators, fans etc. the manure collection truck can clearly be heard on surrounding farms, the road necessitates it to drive slowly and change gear frequently and come to a stop on the blind corners.

Due to the above concerns, the Department requested the submission of additional information in terms of the following:

- A socio-economic impact study must be conducted for the development. An assessment of the potential social impacts on the surrounding guest farms and potential tourism impacts of the facility must be conducted.

- A traffic impact study must be conducted to support the application taking into consideration the potential impacts of the access road.
- An affidavit must also be supplied confirming that the applicant, Mr Pier Passerini, acted in his private capacity when constructing the chicken house and in no way linked to any Company (Firm) or Trust associated with the facility.

**The following additional comments were received:**

An I&AP once more highlighted the possible misuse of the 24G process, however according to the EAP no comment was provided on the possible misuse of the 24G process. GNEC reiterated that they have been appointed as independent EAP to conduct the impact assessment, not defend the applicant. The unlawful activity already commenced and therefore, the appropriate route to follow is the 24G process.

A claim was made to a statement regarding noise. *"Noise disturbances recorded from within de Heuvel homestead have been reported and ignored."* Furthermore, the following was indicated: *"the area surrounding the unlawful chicken housing is secluded and quiet, a major attraction for visitors seeking peace and tranquillity. There are no industries such as pack sheds or other facilities requiring large generators such as this facility has. A simple review of an aerial photograph will confirm this. None of the immediate neighbours of de Hoop 234 operate large generators, or any form of noise disturbance, in particular at night."* The EAP indicated that Significant noise mitigation measures have been proposed and included in the EMPr in response to these comments. GNEC provided the following additional response: *"From a satellite investigation, GNEC noted that the nearest structure on De Heuvel is 860m from the generator housing, with other structures on De Heuvel being located in excess of 1km from the generator housing. The distance and mitigation measures is expected to provide adequate mitigation for noise, to keep it within acceptable levels. Mitigation measures have been proposed to be audited by an ECO as contained in EMPr."*

An I&AP claimed that a Waste Management Licence is required for this facility in terms of the NEMWA activity (10) *"The storage, treatment or processing of animal manure, including the composting of animal manure, at a facility that has a throughput capacity in excess of 10 tonnes per month, including the construction of a facility and associated structures and infrastructure for such storage, treatment or processing."* The EAP indicated that the comment refers to old legislation, Schedule 1 has been replaced by newer legislation in 2013.

Furthermore, the Sub-directorate: DEADP Waste Management Licensing is satisfied with the responses to its comments and has no further comment, confirming that no licence is required.

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

The following organs of state provided comment on the application:

- CapeNature
- Cape Winelands Municipality
- Department of Water & Sanitation
- CapeNature (CN)
- Heritage Western Cape (HWC)
- WC Department of Agriculture (DoA)
- DEA&DP Waste Management (DEA&DP: WM)
- DEA&DP Pollution & Chemical Management (DEA&DP: PCM)
- Witzenberg Building Control
- Witzenberg Municipality Waste Management
- Witzenberg Electrical
- Eskom

With regard to the site for the existing and proposed chicken houses, CapeNature ("CN") confirmed that the area was historically covered by Breede Alluvium Fynbos which is an Endangered vegetation type (National Biodiversity Assessment, 2018). However, the site has been historically cultivated as pastures and there is no natural vegetation on the site. Impacts on terrestrial biodiversity should therefore be low.

The access road has been constructed over a watercourse. CN indicated that there is not a lot of information regarding this watercourse and proposed culvert for the road in the main report and nothing regarding the proposed culvert in the Environmental Management Programme (EMPr). CN requested that update of the EMPr with information regarding the installation of the culvert e.g. prevention of erosion, pre- and post-construction photographs and on-going monitoring and maintenance activities.

CN requested confirmation that dry-cleaning methods will be used in the chicken houses as this will reduce the risk of contamination of ground- and surface water.

The EAP indicated that the report and EMPr was updated to include more detail on the installation of the Culvert under the access road. The correct Dry-Cleaning methods will be used and was included in the EMPr Waste Minimization Plan and the 24G Report.

CN notes that the freshwater specialists have recommended a buffer of only 32m for the new (not yet constructed) chicken houses. Ideally this should be increased if possible.

The Freshwater Specialist recommend the 32m buffer from the edge of the watercourse. However, the development will fall outside the 32m area. The mapping shows the watercourse and wetland on the neighbouring property, with the buffer extending onto De Hoop. From a town planning perspective, there's a 30m building line, and the poultry house was constructed 10m north of that building line, therefore 40m from the southern edge of the farm. Therefore, at its closest distance, the poultry house will be 57m from the edge of the delineated wetland area. There will most likely be some levelling of the site closer to the 32m buffer, but that will still be at its closest about 40m from the edge of the wetland.

DWS confirmed that the activities triggers water uses in terms of Section 21 (c) "impeding or diverting the flow of water in a watercourse" and section 21 (i) "altering the bed, banks, course or characteristics of a watercourse" of the National Water Act, 1998 (Act 36 of 1998) (NWA). These activities commenced without prior authorisation from this Department and are thus considered to be unlawful in terms of NWA. This matter will therefore be handed over to the DWS's Compliance and Enforcement Unit for further investigation.

HWC confirmed that the proposed Developments of four poultry houses with no negative impact on heritage resources and that no further studies are required.

DoA highlighted the fact that the addition of 4 poultry houses contribute to towards the integrated Agricultural viability of the farm and that the DoA office has no objection towards section 24G application and the 4 additional poultry houses on condition that the mitigation measures and management plans presented in the EMPr are strictly adhered to and monitored.

DEA&DP: WM indicated that the fortnightly auditing regime mentioned in the EMPr must be strictly implemented and audit reports must be filed for submission to the responsible authority upon request. The list of the Environmental Control Officer (ECO) responsibilities must include ensuring environmental awareness training for all personnel, especially regarding the EMPr, environmental auditing and reporting at the determined frequencies. All on site staff will be informed about sensitive aquatic species, sensitive estuarine habitats, and the responsible disposal of construction waste, and will receive fire training. In addition to having been trained, all staff must still have convenient access to a copy of the EMPr at all times. written confirmation must be received from the Municipality that it has the necessary essential services capacity to support the increase in waste that may result from the proposed chicken houses. Alternate disposal facilities must be identified for times of an inability by the Municipality to



accept waste from the proposed chicken houses. The Applicant must adhere to the Department's 50% ban of organic waste from landfill by 2022 and a complete ban of organics from landfill by 2027. Please note that if infectious animal waste and carcasses (both are hazardous wastes) are mixed with general animal waste, the whole volume of waste will be regarded as hazardous.

DEA&DP: WM indicated that they are satisfied that noise and dust have been suitably addressed in the EMPr. It is noted that waste will not be burned. Vegetation removed to make way for construction may be taken to a green/garden waste chipping facility for composting or be disposed of at an appropriately licenced facility but may not be disposed of on the adjacent land.

Separate the infectious animal waste & carcasses from the general animal waste stream. This must be done in consultation with the local municipality. It is the responsibility of the applicant and the owner of the that the infectious agents within the waste streams are successfully treated in order to be considered as general waste.

Witzenberg Municipality indicated that the building activity may not commence without approved building plans. Additionally, the Applicant must submit a waste management plan clearly indicating disposal and handling of:

- Solid waste.
- Waste generated from poultry houses.
- Industrial effluent generated from poultry houses.
- The activity has no negative impact on the electrical connection of the farm.

DEA&DP: PCM indicated that the implementation of a storm water management plan for the site is considered integral for the site. It is acknowledged that confirmation has been provided that the poultry houses will use "dry cleaning" methods and that the platform constructed for the poultry houses has been levelled with a recommendation made for the installation of a berm, to limit runoff from the vicinity, however, a site-specific storm water management plan has not been compiled. It is recommended that, as minimum, a basic stormwater management plan be provided, clearly showing how runoff and any potentially polluted runoff, will be managed and handled. All mitigation measures proposed by the Freshwater Ecological Assessment Report should be implemented and adhered to. It is also recommended that consideration be given to a follow-up monitoring programme (including but not limited to monitoring of erosion, sedimentation and success of rehabilitation measures of the wetland, downstream and in the vicinity of the crossing).



The DEA&DP: PCM noted that a 10m wide buffer has been recommended during construction around the seep wetland, in conjunction with a 32m buffer from delineated drainage lines. These buffers are relatively narrow, particularly in the case of 10m, and given the potential impacts, it is recommended that all buffers are clearly demarcated at the outset of construction activities and that the buffer areas are strictly enforced as even a small encroachment may result in negative impacts. In the event of a significant spill or leak of hazardous substances (e.g. petrol, diesel, etc.) used during the proposed activities, such an incident(s) must be reported to the relevant authorities, including the Directorate: Pollution and Chemicals Management, in accordance with section 30 of the NEMA.

Cognisance should be taken in respect to Section 28 of the NEMA, which emphasises a general "Duty of Care" principle and duty to avoid pollution and environmental degradation.

## **2. Alternatives**

### **2.1 Property & location/ Site Alternatives**

No property alternatives were considered. Farm 234, Tulbagh is owned by the applicant. Additionally, one poultry house has been completed and application is made for 4 additional poultry houses on the farm that has already been prepared to house these structures.

### **2.2 Activity Alternatives**

#### Alternative 1 - Preferred Alternative (Herewith authorized)

The applicant proposes to develop 5 poultry houses on De Hoop. Therefore, the preferred activity of poultry farming (Lay Hens) is mainly agricultural, and the first poultry house has already been constructed. This would fit into the existing intended use for the property and would optimally utilize the agricultural land by diversifying and adding value.

#### Assessment and considerations of the preferred alternative

After a public meeting it became apparent that the surroundings of De Hoop are also used for tourism, although agricultural land uses are still present. Although the property and its surroundings are zoned for agricultural use and intended to be used for agriculture, it became apparent during the public participation process that a poultry farm to some degree could have a negative effect on the neighbouring property owners and tourists perception of their environment. I&APs highlight a concern for the impact this development will have socio-economically on their tourism businesses.

A Social Economic Impact Assessment ((SEIA) has been conducted and concluded the following for the preferred layout as per the 24G application.

The study concluded that the net positive impacts associated with the construction and operation of the poultry houses is expected to outweigh the net negative effects. The poultry houses are also envisaged to have a positive stimulus on the local economy and employment creation, leading to the economy's diversification and a small reduction in the unemployment rate. In terms of the site area assessed, there are no fatal flaws from a socio-economic perspective and thus the location is deemed acceptable and should be authorised. With regards to the poultry houses, it is deemed acceptable and should be authorised by the Department as no fatal flaws or other potentially significant issues / impacts have been identified. In addition, even though the 'no-go' alternative will result in the avoidance of negative impacts from a socio-economic perspective from the remaining four poultry houses, this would also result in the positive effects / impacts not being realised. Since the positive effects and impacts would outweigh the negative effects due to the strict adherence of mitigation measures, the construction and operation of the poultry houses is preferred over the 'no-go' alternative. The poultry houses should therefore be considered for development, subject to the strict implementation of the recommended mitigation and enhancement measures. It should, however, be acknowledged that should negative impacts occur they would be largely borne by the nearby farms and households residing on them, whilst the positive impacts will be largely concentrated in the local and national economies. Due to this imbalance, the recommended mitigation measures must be strictly adhered to. Application of these mitigation measures will ensure that the negative impacts on the nearby farms and businesses is minimised, and that the distribution of the potential benefits are more balanced.

Traffic on the access road and visual impacts were of great concern. Traffic concerns has been addressed with a TIS contained in Appendix H of the application report. it concluded that the Skilpadrug road does not need upgrades and that it functions sufficiently for the traffic. Road signs and speed limits along with regular maintenance are proposed.

Biosecurity was among the great concerns highlighted by the public. Noise impacts arising from the poultry house in the form of alarms, generators, fan noise and truck traffic noise was highlighted during public participation rounds. All impacts were assessed in the SEIA and mitigation measures were proposed.

Nevertheless, the preferred alternative remains poultry farming as this is the activity applied for by the applicant. The applicant is a poultry farmer, and the farm has been

purchased with this intention. However, the constructed poultry house and addition of 4 additional poultry houses is expected to aggravate the socio-economic impacts on the neighbouring properties and eco-tourism businesses. It should be noted that trucks from neighbouring farms also use the Skilpadrug road and this already has an impact on the traffic, road quality, noise and dust, however with the addition of 5 poultry houses these impacts are expected to increase slightly.

It was concluded that should the Department decide to grant environmental authorisation of the unlawful poultry house and additional poultry houses, the suggested mitigation measures as contained in the EMP, Visual Statement, Socio-Economic Study and TIS need to be implemented as soon as possible, along with the additional mitigation measures identified by GNEC.

The further mitigation measures proposed are outlined below:

- Road warning signs to be erected and speed limit signs to be placed along Skilpadrug Road (Addresses traffic, safety, dust issues along Skilpadrug road.)
- Yearly Biosecurity audits are needed to ensure biosecurity measures are up to standard.
- Amplifying screening measures per poultry house and not just for entire development, screening individual poultry houses with trees in-between. And ensuring that the houses are painted with a colour resembling colour palate of surrounding environment.
- Immediately screening the existing unlawful poultry house with suggested screening measures.

### Alternative 2

Livestock farming and grazing pastures. This would not be as profitable as poultry farming, especially on a small farm such as De Hoop. Additionally, very little employment opportunities will be created by this activity alternative. The first poultry house has been constructed and the vegetation has been cleared. This minimises the area where livestock can graze.

The preferred activity alternative would be poultry farming as the structure already exists and the vegetation has already been cleared.

### Alternative 3

As a result of the 2nd Public participation round various other activity alternatives were suggested.

The public suggested that the activity should be within the agri-tourism industry, by continuing the De Hoop cottages already on the property. The cottages are situated to the north-eastern corner of the farm.

The public argued that this activity would be immediately profitable and resulted in minimal environmental impacts. Furthermore, this activity would in fact be more fitting with the neighbouring agri-tourism land uses.

Although this alternative does seem viable and profitable in a local context. It does not fall within the expertise of the poultry farmer and the farm has been purchased with the intention of using its agricultural zoning for agricultural production as it is intended. The preferred alternative would result in more significant regional economic benefits within the agricultural sector.

As discussed in the preferred alternative section, although the poultry development is the preferred activity, it should be noted that after the public participation process it became apparent that a poultry farm would to some degree have a negative effect on the neighbouring residents and the eco-tourism businesses in the surrounding areas, however with the implementation of the mentioned mitigation measures, these impacts can be minimised.

#### Alternative 4

After the 2nd public participation period and a public meeting, the public suggested that the activity of wildflower production should be considered. This activity would complement the character of the area and possibly compliment the agri-tourism businesses by drawing more tourists to the area. However, this is not within the expertise of the farmer and the activity is highly likely to be unsuccessful. Furthermore, the farm has been purchased with the activity of poultry production in mind and this activity has already commenced and is being applied for.

#### Alternative 5

After the 2nd public participation period and a public meeting, the public suggested that the activity of Free-Range egg production should be included.

Free-Range poultry farming could be regarded as a viable and also profitable alternative to the caged poultry house currently unlawfully commenced on De Hoop.

Free Range poultry farming would be more fitting in the environmentally conscious Tulbagh environment. Especially in-line with the neighbouring farms an agri-tourism nodes. It is expected that the perceptions of environmentally conscious tourists would not be as negatively affected as with intensive poultry farming. Hereby, resulting in a lower socio-

economic impact on the neighbouring tourism businesses. It is a fact that organic agriculture is on the rise and this method of agriculture is more labour intensive, creating more employment opportunities.

Although it is apparent that the Organic Free-Range egg production would be more fitting for the location. The following concerns and problems arise with free range egg production:

- Free Range egg production would also need a structure for the chickens to breed and find shelter. This structure can be mitigated with the same mitigation measures as proposed. Nevertheless, the same visual intrusion is expected.
- Free range egg production on De Hoop will result in the same traffic impacts on the Skilpadrug Road.
- This activity alternative has the potential to have odour pollution, due to the unsealed nature of the system and open poultry houses for chickens to roam freely.
- This activity results in a higher mortality of chickens. It also introduces a new impact, potential of disease transfer to wild birds and vice versa is higher along with predation from wild predators such as birds of prey, foxes and neighbouring dogs. In the preferred alternative this is a sealed system with strict biosecurity measures; no disease transfer to the outside is expected when biosecurity measures are implemented.
- Runoff with pollutants will be higher due to the unsealed system and will lead to higher levels of groundwater contamination.

## 2.1 Design / Layout Alternatives

### Alternative 1 (Herewith authorized)

The applicant proposes the development of 5 poultry houses for lay hens on Farm 234, Tulbagh, Western Cape. The development involves the construction of 5 sheds that will each be 107m long, 7m wide and 4,8m high on the Southern part of the farm. Each shed will cover a total area of 766,96m<sup>2</sup> with 30m in-between sheds. The roof structures of will be wider than the base. Roof structures will be 8,8m across while the base will be 7m wide. The total building footprint is 3 937,6 m<sup>2</sup> excluding aprons and platforms. A new platform will be developed to allow sheds to be level. The sheds will be constructed in a North to South direction.

There is a seep wetland flowing through the centre of the farm from the Eastern border to the Western border. The drainage line is resultant from the overflow of an in-stream farm dam. A section of the access road has unlawfully been constructed over this watercourse. A culvert has been constructed under the access road. However, the culvert has been constructed in the incorrect location. Subsoil drains will be constructed where the gravel

access road traverses the overflow watercourse. The addition of this subsoil drain will reverse any negative impacts from the construction of the gravel road and result in a low impact when construction takes place in the summer months.

The area to be developed would be approximately 3,9 ha near the Southern border of the farm, opposite the north to south strip of trees. Furthermore, the applicant wishes to house 20 000 chickens in one shed. Therefore, the total amount of chickens that will be kept on the farm would be 100 000 chickens in all 5 poultry houses.

The development site will be fenced, a berm will be constructed around the poultry houses, interior lighting will not be visible from the outside since the poultry houses will be climate controlled and exterior lights will be day/night security lights only activated by movement. The new platform on which the poultry houses will be constructed, will consist of in-situ soil with a compacted layer of grey or brown gravel, constructed to handle heavy vehicles.

The layout alternatives are highly restricted due to the fact that the first shed has already been built and the location to the South allows for adequate screening of the development. Various mitigation measures were proposed by Filia. GNEC also proposes to construct a 2.5m high berm on the South and Western side of the Poultry houses. These berms should be planted with 3 m high trees and rehabilitated with indigenous fynbos to block the view from the Southern and Western sides. GNEC also proposes to plant more trees on the Eastern side of the poultry houses and along the long turn on the Skilpadrug road. The mitigation measures from the visual statement include the use of non-reflective material finishes, platform height restriction and screening with trees. The poultry houses have to be painted grey or green. With the implementation of all the mitigation measures identified in the Visual Statement the compatibility of the proposed project will increase significantly and will result in a Low visual impact in the immediate foreground (0 – 800m) and low to very low visual impact in the background distance zone (6km +).

The access road through the watercourse will be retained and a subsoil drain needs to be constructed under the road. The subsoil drain is to ensure an optimal flow regime of the watercourse.

Road warning signs to be erected and speed limit signs to be placed along Skilpadrug Road (Addresses traffic, safety, dust issues along Skilpadrug road.)

## Alternative 2

The first alternative would be to construct the other 4 poultry houses towards the Norther Border. The consequence of this layout would be that the development would be more visible from the South, North and West. No large trees are located here. The shed that has

been built on the proposed development site would be separated from the rest and would be impractical. Therefore, this layout alternative was not seen as feasible.

### Alternative 3

The second alternative would be to utilize only the existing structure or downscale the development to two total structures (cleared and prepared site) on Farm 234 and not construct the 5 total poultry houses. This would minimize the construction footprint and visual intrusion but would be a waste of available agricultural land and be a less financially viable option for the applicant. A platform has already been constructed to accommodate the next shed. The socio-economic gain with the increase in job opportunities is larger with the implementation of the 5 poultry houses.

However, with the implementation of only one or a downscaled development of poultry houses, visual intrusion within the area could be significantly mitigated, with greater care per poultry house. This also means that greater financial resources could be allocated to mitigate the visual intrusion.

Furthermore, with a downscaled development the impacts on the Skilpadrug road would be lower, although already determined to be low by the TIS and that the Skilpadrug road can accommodate the traffic. It should be noted that trucks from neighbouring farms also use the Skilpadrug road and this already has an impact on the traffic, road quality, noise and dust. Should the one poultry house be retained or a total of two poultry houses be constructed, the impacts currently experienced remains the same and would not increase.

The trucks currently serving the existing poultry house is underutilised and it is thus apparent that the proposed total of five (5) poultry houses would not be expected to result in five times the existing number of trucks. The number of trucks required for five (5) poultry houses are thus expected to be about twice that required for the one (1) poultry house – the trip generation of the existing poultry house can thus be expected to double.

It can furthermore also be expected that the various trucks servicing the poultry houses would visit the subject property on alternating days, i.e. not all trucks necessarily on the same day. Should, for some reason, a worst case scenario occur where all trucks (i.e. manure, egg and feed) are scheduled on the same day, that would calculate to a maximum of 15 trucks (5 manure, 7 egg, 3 feed), however, the probability that it would occur is not high. The anticipated scheduling as received from the client shows an anticipated general maximum of three (3) trucks on a day, with a possibility of five (5) at times should the 10-day-cycle of the feed truck coincide with the weekly cycle of the other trucks.



The following conclusions were drawn after a traffic analysis:

- That the proposed development is expected to generate additional truck-trips with the implementation of the additional poultry houses (total of five poultry houses), but the existing trip generation of the one (1) poultry house is not expected to increase fivefold as the trucks currently servicing the poultry house are underutilized
- That according to the Sidra analyses, the Van der Stel Street/Skilpadrug Road intersection currently operates acceptably, and can be expected to remain operating acceptably with the addition of the expected peak hour trips of the proposed development;
- That Skilpadrug Road is a Provincial Minor Road (OP5806), 4,6 metres in extent between Van der Stel Street and the De Hoop Farm boundary, and consists of an average 5 metre width as per the Provincial Road Log;
- That to better inform road users of the obstructions or limitations along the road (e.g. horizontal bends accommodating a lower operating speed), it could be considered erecting the relevant road signs (guidance/regulatory/warning) along the road; and
- That based on a site visit it is the opinion that the existing gravel road requires more regular maintenance which should be addressed by the Roads Authorities.

With layout alternative 3, the impacts such as visual intrusion and traffic could be lessened to what is currently experienced. Although it will be limited to what is currently experienced, it should be noted that the neighbouring farm residents confirmed that they already experience negative impacts as a result of one poultry house. The SEIA addressed the impacts experienced by surrounding landowners and proposed various mitigation measures.

This alternative has a disadvantage of not being as financially viable for the applicant as the preferred alternative, as the egg truck will be full with 5 poultry houses. Nevertheless, alternative 3 could result in lesser impacts.

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

The unlawful activity has already occurred, the first poultry house has been constructed and the vegetation has been cleared for the next poultry house to be constructed. The access road has already been constructed through the watercourse. The entire farm has been altered from its natural condition and contains open fields with grasses and the rehabilitation of the site to its previous condition would not be rehabilitation to a natural state, low biodiversity would be present. The disturbed site will likely be infested with alien



invasive species. The rehabilitation of the site would not be feasible. And would result in significant financial losses for the applicant.

In the event of ceasing the activity the farm would remain unproductive or utilized as grazing pastures by cattle, sheep or pigs. (Not within the expertise of the farmer). In the case of pigs, the surrounding properties might experience even larger impacts on their ecotourism businesses due to odour pollution. Less job opportunities would be created and not the same agricultural productivity can be gained on a relatively small farm.

Nevertheless, when this option is followed fewer visual impacts will be present, only the clear development site. Traffic impacts might still be present due to the transport of grazing cattle or pigs through neighbouring farms. Nevertheless, traffic impacts will be decreased. Impacts on the eco-tourism on surrounding properties would be lower due to the experience of environmentally conscious tourists being satisfactory.

### **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. Pollution impact**

The unlawful poultry house has not given rise to pollution. Strict biosecurity measures were proposed. The organic waste produced from the poultry houses will be removed to a licensed organic waste facility at regular intervals.

#### **3.2. Biodiversity Impacts**

The site would have consisted of Breede Alluvium Fynbos. However, due to the past agricultural use, no intact or semi-intact indigenous vegetation is supported on the development site. No critical biodiversity has been impacted. Nevertheless, according to the definition of indigenous vegetation in NEMA the site did constitute of indigenous vegetation and therefore this activity has been applied for.

#### **3.3. Visual / Sense of Place**

The development will not have an impact on heritage resources as confirmed by the Heritage Western Cape. The commenced poultry house allows some visual intrusion in the landscape, especially during the construction period. The structure can be seen from close distance and from a further distance by other farms towards the Northern, Southern, Western and Eastern sides. Mitigation measures should have been in place first.

It is indicated within the visual impact assessment that the proposed development is not on a ridge and is rather situated in a valley flanked by two low ridges). Thus, the proposed development does not dominate or interrupt views to or from protected areas, heritage or scenic resources and demonstrates visibility within less than half of the Zone of Visual Influence.

While the proposed project will be visible from scenic routes, these views are from at least 4km away, and can be mitigated significantly. It should be noted that the type and the scale of the proposed development is not unprecedented in the Tulbagh Valley, and the land use proposed is generally aligned with the agricultural landscape character, the proposed structures would be introducing new elements (type and scale) into the field of vision within at least 6km of the project site where visibility has been demonstrated. This change would be especially noticeable from the long views looking east and southeast over the valley on the identified +-3km stretch of the R46, from Main Road and the western side of the valley generally (for many viewers with moderate sensitivity); and from within 1km of the proposed development (for a limited number of viewers with higher sensitivity).

It was indicated that the proposed development should not be inconsistent with the cultural and scenic landscape within which it is situated or infringe on the authenticity of the rural landscape. Unmitigated, the proposed development has the potential to bring about negative visual impacts in terms of visual intrusion and change to the landscape character and the integrity of the scenic rural landscape.

Importantly, subject to the implementation of the proposed mitigation measures, the relative compatibility of the proposed development will increase significantly, and result in Low visual impact in the Immediate Foreground & Foreground (0 – 800m) and Low to Very Low visual impact for receptors in the Background distance zone (6km +).

### 3.4. Traffic Impacts

The potential traffic Impacts as a result of the development raised concerns regarding safety issues, dust and nuisance that were identified during the assessment process. However, a traffic impact statement concluded that the Skilpadrug road can accommodate the traffic and the Socio-Economic Assessment indicated that the traffic impact remains medium negative. The applicant should erect road signs and speed limit signs to mitigate the effects of traffic through La Bruyere farmyard. These should be implemented as soon as possible. This mitigation has been included in the EMPr made conditional of this environmental authorisation.

### 3.5. Socio-economic Impacts

The expected socio-economic impacts of the proposed development will be both positive and negative. The establishment and operations of the proposed development will stimulate the economy, resulting in gains in household income and tax revenue as well as the creation of temporary (during construction) and long-term (for operation) sustainable employment. At the same time, some negative impacts are likely, including those associated with traffic, safety and security, odour, noise, and visual impacts, all of which could negatively change the feel of the area for the community that resides in the area.

The net positive impacts associated with the construction and operation of the poultry houses is expected to outweigh the net negative effects. The poultry houses are also envisaged to have a positive stimulus on the local economy and employment creation, leading to the economy's diversification and a small reduction in the unemployment rate. In terms of the site area assessed, there are no fatal flaws from a socio-economic perspective and thus the location is deemed acceptable and should be authorised. With regards to the poultry houses, it is deemed acceptable and should be authorised by the Department has no fatal flaws or other potentially significant issues / impacts have been identified. In addition, even though the 'no-go' alternative will result in the avoidance of negative impacts from a socio-economic perspective from the remaining four poultry houses, this would also result in the positive effects / impacts not being realised. Since the positive effects and impacts would outweigh the negative effects due to the strict adherence of mitigation measures, the construction and operation of the poultry houses is preferred over the 'no-go' alternative. The poultry houses should therefore be considered for development, subject to the strict implementation of the recommended mitigation and enhancement measures. It should, however, be acknowledged that should negative impacts occur they would be largely borne by the nearby farms and households residing on them, whilst the positive impacts will be largely concentrated in the local and national economies. Due to this imbalance, the recommended mitigation measures must be strictly adhered to. Application of these mitigation measures will ensure that the negative impacts on the nearby farms and businesses is minimised, and that the distribution of the potential benefits are more balanced.

The poultry development would to some degree negatively impact the perceptions of the environmental conscious tourists making use of the neighbouring properties facilities, however this is not measurable at this stage.

#### 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.

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