



**KZN Agriculture, Environmental Affairs and Rural
Development**

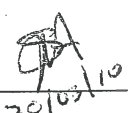
**uMnyango: weZolimo, ezeMvelo
nokuThuthukiswa kweMiphakathi YaseMakhaya
Isifundazwe SakwaZulu-Natali**

Environmental Authorisation

In terms of the requirements of sub-regulation 26(1) of the Environmental Impact
Assessment Regulations, 2006

DC22/0023/09

**PROPOSED CONSTRUCTION OF 7 (SEVEN) BROILER
HOUSES AND ASSOCIATED INFRASTRUCTURE, ON
THE FARM KILLARNEY NO. 855 OF SUB 40 (A SUB OF
11) SITUATED IN THE MKHAMBATHINI MUNICIPALITY.**

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Decision

The Department is satisfied, on the basis of information available to it that, subject to compliance with the conditions of this environmental authorisation, the applicant should be authorised to undertake the activity specified below.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) (as amended) and the Environmental Impact Assessment (EIA) Regulations, 2006, the KwaZulu-Natal Department of Agriculture, Environmental Affairs and Rural Development hereby authorises:

Makhalempongo Investments CC

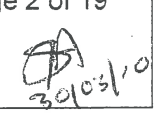
with the following contact details –

Contact Person: Mr Vangeli Chiliza
Postal Address: P.O. Box 93
Gillitts
3603
Telephone number: 031 – 765 6028
Fax number: 086 – 678 9488
Cellphone number: 083 – 259 1194
E-mail address: vangelichiliza@nash^uaisp.co.za

to carry out the following activity –

The construction of 7 (seven) broiler houses and associated infrastructure at Farm Killarney No. 855 of Sub 40 (a Sub of 11) which falls within the jurisdiction of Mkhambathini Municipality of the uMgungundlovu District Municipality. Each broiler house will have a footprint of 1800m² (viz. 120mx15m) and will house 40 000 (forty thousand) chickens on a 42 (forty two) day cycle. The associated infrastructure includes a perimeter fence, guard house, office as well as service infrastructure.

In terms of service provision to the site; water will be obtained via Municipal supply; electricity via Eskom and the disposal of domestic sewage is proposed via septic tanks and soakaways. The site will be accessed off the D505 and necessitates an upgrade in accordance with the Department of Transport's requirements.

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The proposed activity as described above is depicted in Annexure 2 of this Environmental Authorisation.

The geographical co-ordinates of the site are Latitude – South: 29°47'57.30" and Longitude – East: 30°34'31.48".

In terms of the NEMA EIA Regulations (2006), the application is described as the following:

Activity 1 (h)(v) of Government Notice Regulation No. 386), "*The construction of facilities or infrastructure, including associated structures or infrastructure, for the concentration of animals for the purpose of commercial production in densities that exceed three square metres per head of poultry and more than 250 poultry per facility at any time, excluding chicks younger than 20 days.*"

Activity 12 of, Government Notice Regulation No. 386: "*The transformation or removal of indigenous vegetation of 3 hectares or more of any size where the transformation or removal would occur within a critically endangered or an ecosystem listed in terms of Section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).*"

The granting of this Environmental Authorisation is subject to the conditions set out below.

Conditions

Scope of authorisation

- 1.1 Authorisation of the activity is subject to ^{compliance with} the conditions below, which conditions form part of the Environmental Authorisation and are binding on the holder of the authorisation. GA
- 1.2 The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the holder of the authorisation.
- 1.3 This Department reserves its right in terms of Regulation 39 of Government Notice No. R. 385 of 21 April 2006 to review; amend; or, withdraw any condition contained in this authorisation.
- 1.4 The activity which is authorised may only be carried out at the premises indicated above.
- 1.5 Any activities proposed on the site, which has not been approved in terms of this Environmental Authorisation, and that are listed in terms of either Government Notice No. R. 386 or R. 387 of 21 April 2006 (as amended), will require environmental approval to be granted in terms of the National

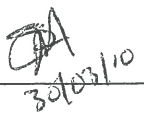
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Environmental Management Act (Act No. 107 of 1998), **prior** to the activity commencing.

- 1.6 Any process or activity proposed on site, that requires a permit or licence to be issued in terms of any legislation governing the release of emissions, pollution or effluent; or, that is listed in Government Notice No. 718 of 03 July 2009 issued in terms of Section 19(1) of the National Environmental Management: Waste Act (Act No.59 of 2008), may only commence once the permit or licence has been issued by the relevant authority. The applicant is required to apply for such a permit or licence, **prior** to the commencement, undertaking or conducting of a waste management activity.
- 1.7 Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
- 1.8 This Environmental Authorisation is valid for a period of **3 (three) years** from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and the holder of the Environmental Authorisation must reapply for an Environmental Authorisation should he or she wish to carry out the activity, unless an application for amendment is received on the prescribed application form at least (60) sixty days prior to the expiry date.
- 1.9 This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the carrying out of the activity.
- 1.10 The applicant is responsible for compliance with the provisions for *Duty of care and remediation of environmental damage* contained in Section 28 of the National Environmental Management Act, No. 107 of 1998.

Appeals

- 1.11 The holder of the authorisation must notify every registered interested and affected party, in writing and within **7 (seven) calendar days of receipt**, of the Department's decision to authorise the activity.
- 1.12 The notification referred to in 1.11 must –
- 1.12.1 Be advertised in the Witness newspaper, within 7 (seven) calendar days of the receipt of this authorisation;
- 1.12.2 specify the date on which the authorisation was issued;

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- 1.12.3 inform the registered interested and affected party of the appeal procedure provided for in Chapter 7 of the EIA Regulations, 2006; and
- 1.12.4 advise the registered interested and affected party that a copy of the Environmental Authorisation is available and that the Environmental Authorisation can be furnished on request from the Environmental Assessment Practitioner.
- 1.13 Appeals are to be lodged with the MEC as required by Chapter 7 of Government Notice No. R 385, 2006. The appellant must lodge a notice of intention to appeal on the prescribed form (attached) within 10 days after notification of this decision. Details of the appeal must then be submitted on the prescribed form (obtainable from Ministry) to the MEC within 30 days of lodging the notice of appeal. The appeal against the authorisation or the conditions of the authorisation may be directed to the MEC for Agriculture, Environmental Affairs and Rural Development, The Hon Mrs. L. Johnson MPL, by means of the following methods:

Postal Address: Private Bag X9059
Pietermaritzburg
3200

Physical Address: No. 1 Cedara Executive Building – Cedara College,
Pietermaritzburg, 3201

Telephone Number: 033 – 343 8240 (enquiries only)

Fax Number: 033 – 343 8255 (enquiries only)

OR

Postal Address: P. O. Box 2132
Durban
4000

Physical Address: 8th Floor, Truro House, 17 Margaret Mncadi Blvd
(Victoria Embankment), Durban, 4001

Telephone Number: 031 – 368 2223 (enquiries only)

Fax Number: 031 – 368 1601 (enquiries only)

Management of the activity

- 1.14 The Environmental Management Plan (“EMP”) entitled, “Makhalempongo Investment CC: Proposed Broiler House Construction on Farm Killarney, Cato Ridge: Environmental Management Plan” prepared by SiVest (dated 23 June 2009) and submitted as part of the basic assessment process

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must be amended (within sixty days of signature of this Environmental Authorisation) in accordance with this authorisation and must be implemented. The EMP must give specific attention to the incorporation of the management of chicken litter and chicken mortalities; pests; odour; stormwater and effluent management; and, decommissioning of the activity.

1.15 The details for submission of the amended EMP are as follows:

The Assistant Manager: Compliance, Monitoring and Enforcement
 Department of Agriculture, Environmental Affairs and Rural Development
 uMgungundlovu District
 Private Bag X07
 Cascades
 3202.

1.16 This Department must be notified within 30 (thirty) calendar days of any change in ownership and / or project developer on the prescribed form obtainable on request from Registry. The rights and conditions as stipulated in this Environmental Authorisation must be made known to the new owner and / or developer and are binding.



1.17 An Operational Environmental Management Plan must be submitted to this Department's Compliance, Monitoring & Enforcement component within 6 (six) months of this authorisation for approval.

1.18 The management of effluent must be undertaken in accordance with the ClearEdge® Grey Water Recycling System as detailed in the Effluent Management Plan prepared by SiVEST (dated 9 February 2010).

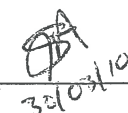
1.19 The ClearEdge® Grey Water Recycling System used must not allow for any effluent contamination of soil and groundwater sources.

1.20 The Effluent and Storm Water Management Plan must be submitted to and approved by the Mkhambathini Municipality prior to its implementation in the construction phase of the development.

Monitoring

1.21 An independent, suitably qualified and experienced, Environmental Control Officer (ECO) must be appointed at the developer's cost for the duration of the construction phase, to ensure that the conditions stipulated in this Environmental Authorisation are complied with and that the approved Environmental Management Plan is adhered to.

1.22 The name and contact details of the ECO must be communicated to the Assistant Manager: Compliance Monitoring and Enforcement at the address reflected at paragraph 1.15 above, upon appointment of the ECO.

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1.23 The ECO must act as liaison with this Department's Compliance Monitoring and Enforcement component and other relevant authorities, and must ensure communications with key stakeholders with respect to monitoring of compliance with conditions of the Environmental Authorisation and the EMP.



1.24 The applicant, **Makhalempongo Investments CC** must conduct regular monitoring inspections of the development. All records related to the monitoring and maintenance undertaken on site must be kept safely, and must be made available to this Department on request.

1.25 Operational monitoring reports that detail compliance with the approved Operational EMP specified in condition 1.17 must be prepared and submitted by an ECO every 6 months to this Department's Compliance, Monitoring and Enforcement component.



Recording and reporting to the Department

1.26 The holder of the authorisation must submit an environmental audit report to the Compliance, Monitoring and Enforcement component of this Department within 2 (two) months of completion of construction. The environmental audit report must –

1.26.1 be carried out by an independent auditor or EAP;

1.26.2 include an audit of the compliance with the conditions of this Environmental Authorisation and the Environmental Management Plan.

Commissioning of the activity

1.27 A 14 (fourteen) day written notice must be given to this Department's Compliance, Monitoring and Enforcement component that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence and make clear reference to the site, location details and the EIA reference number accorded to this Environmental Authorisation (viz. DC22/0023/09).

1.28 Construction of the development must be substantially in accordance with the Killarney Broiler Farm Final Layout prepared by SiVest and referenced as Layout/10, dated 12/01/2010 and attached as Annexure 2 of this Environmental Authorisation.



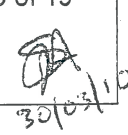
1.29 Building plans must be submitted to the Mkhambathini Local Municipality for approval prior to construction commencing.

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- 1.30 The access point from District Road 505 must be upgraded in accordance with the requirements of the Department of Transport as provided in their correspondence (dated 11 January 2010) as attached as Annexure 3 of this Environmental Authorisation. In addition, a detailed to-scale layout plan of the proposed development must be submitted to the Transportation Engineering Sub-Directorate of the Department of Transport for review and comment prior to construction commencing.
- 1.31 The applicant must comply with Ezemvelo KZN Wildlife's (EKZNW) comment (dated 17 July 2009) attached at Annexure 4A. In this regard, a plant rescue operation must be undertaken prior to construction. A permit for the removal of *Sclerocarya birrea* subsp. *caffra* must be obtained under the Nature Conservation Ordinance, 15 of 1974 from EKZNW Permits Administrator: 033 – 845 1968.
- FR 1.32 In accordance with official comment from Ezemvelo KZN Wildlife (dated 1 March 2010 attached at Annexure 4B of this Environmental Authorisation natural wetlands in close proximity to the site must be afforded a minimum ecological buffer of 30m from the outer edge of the temporary wet hydromorphic zone.
- 1.33 Development operations that expose archaeological or historical remains should cease immediately, pending evaluation by the provincial heritage agency in accordance with the South African Heritage Resources Act (Act No. 25 of 1999) and the KwaZulu-Natal Heritage Act (Act No. 4 of 2008).
- 1.34 Any form of waste material and rubble generated during construction must be disposed of at a facility registered in terms of the National Environmental Management: Waste Act (Act No.59 of 2008), if it cannot be responsibly re-used on site or offsite. No waste material of any kind may be buried or burnt on site. All recyclable waste produced such as packaging material is to be sorted into a clearly marked storage facility on site and transported to a recycling plant on a regular basis.

Operation of the activity

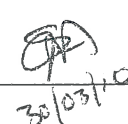
- 1.35 Hazardous substances such as chemicals, fuel and/or oil must be stored within a suitably bunded and restricted access area and utilised in accordance with the manufacturer's specifications.
- 1.36 Any waste generated on site, including contagious chicken mortalities, must be suitably stored on site and transported to an appropriate and registered landfill site on a regular basis.
- 1.37 Non-contagious chicken mortalities must be removed off site on a daily basis in closed bins. Whilst these mortalities (non-contagious) are proposed to be used as by-products (viz. cooking and processing).

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- 1.38 Records of all safe disposal certificates must be retained and must be provided to any authorised official of this Department on request.
- 1.39 Stock piling of chicken litter (excrement, sawdust and excess feed) is not permitted. The use of chicken litter as fertiliser for the ancillary farming activities must comply with Section C (7a) of the Final Basic Assessment Report prepared by SiVest (dated 8 October 2009) which states that chicken litter is to be removed at the end of each broiler cycle (typically every 42 (forty two) days) and transported off site in covered trucks by a contractor who uses the litter as fertiliser.
- 1.40 Bat, insect and rodent infestation must be minimised or eliminated through the measures proposed in the Final Supplementary Report prepared by SiVest on 5 February 2010 including the installation of fly traps and 2 (two) to 3 (three) bat roosts to aid in natural pest control.
- 1.41 Noise levels on the property must not exceed the ambient noise levels by 7dB or more.
- 1.42 Odour must be minimised through the use of water feeder spill catchers, a tree screen to reduce the movement of odour and a minimum distance of 100m (one hundred meters) from neighbouring residences.
- 1.43 The applicant at their cost must implement the following mitigation measures along the MR 350 and the D 505 in order to reduce the potential negative impacts of traffic from the development:
- 1.42.1 Warning signs must be installed indicating the road hazards and the use of the road by large trucks;
 - 1.42.2 traffic mirrors must be installed at the blind corners; and
 - 1.42.3 a dust screen of suitable indigenous vegetation must be established between the MR350 and the portion of the property owned by Mr John Sandison used by *Red n' Juicy* at the head of the valley.
- 1.44 Declared alien plant invaders present on the property must be removed according to the amendments to the regulations of the Conservation of Agricultural Resources Act, Act No. 43 of 1983.

Site closure and decommissioning

- 1.45 In the unlikely event of the decommissioning of the broiler farm the holder of the authorisation must comply with the provisions for *Duty of Care and remediation of environmental damage* contained in Section 28 of the National Environmental Management Act, Act 107 of 1998, as amended.

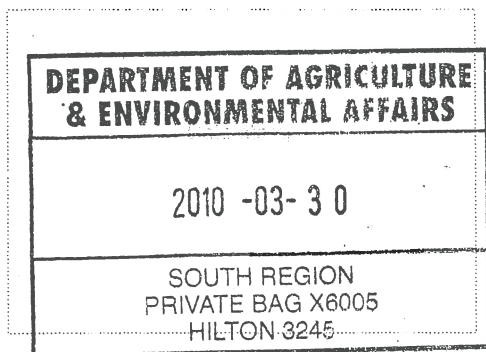
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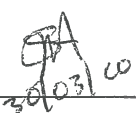
General

- 1.46 A copy of this authorisation must be kept at the premises where the activity will be carried out. The authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the premises.
- 1.47 Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/ or telephonic details, the applicant must notify the Department (on the prescribed form available on request from registry) as soon as the new details become known to the applicant.
- 1.48 The holder of the authorisation must notify the Department, in writing, within 7 (seven) calendar days if a condition of this authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance and must make clear reference to the site, location details and the EIA reference number accorded to this Environmental Authorisation (viz. DC22/0023/09).
- 1.49 Failure to comply with these conditions of authorisation may result in this authorisation being withdrawn under Regulation 47 of GN No. R. 385 of 21 April 2006.
- 1.50 This Department retains the right to inspect the property at any time during its development and operational phases.

Date of issue of Environmental Authorisation: 30 / 03 / 2010


For: Acting Head of Department
Department of Agriculture, Environmental Affairs and Rural Development



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Annexure 1: Reasons for Decision

1. Background

The applicant, **Makhalempongo Investments CC**, applied for authorisation to carry out the following activity:-

The construction of 7 (seven) broiler houses and associated infrastructure at Farm Killarney No. 855 of Sub 40 (a Sub of 11) which falls within the jurisdiction of Mkhambathini Municipality of the uMgungundlovu District Municipality. Each broiler house will have a footprint of 1800m² (viz. 120mx15m) and will house 40 000 (forty thousand) chickens on a 42 (forty two) day cycle. The associated infrastructure includes a perimeter fence, guard house, office as well as service infrastructure.

In terms of service provision to the site; water will be obtained via Municipal supply; electricity via Eskom and the disposal of domestic sewage is proposed via septic tanks and soakaways. The site will be accessed off the D505 and necessitates an upgrade in accordance with the Department of Transport's requirements.

The proposed activity as described above is depicted in Annexure 2 of this Environmental Authorisation.

The applicant appointed **Mr Kurt Barichievy of SiVest** with the following contact details:

Postal Address: P.O. Box 707
Msunduzi
3231

Telephone number: 033 – 347 1600

Fax number: 033 – 347 5762

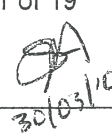
Cell phone number: 084 – 554 9442

E-mail address: kurtb@sivest.co.za

to undertake a basic assessment process. This Department is satisfied that this application has met the requirements of Government Notice No. R385 of 21 April 2006 and that all registered interested and affected parties have been granted adequate opportunity to present comments on the documents submitted in the basic assessment process.

2. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration –

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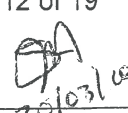
- a) Notice of intent to submit an application subject to a basic assessment process;
- b) The application form for authorisation in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended and the Environmental Impact Assessment Regulations, 2006 (Government Notice No. R385 of 21 April 2006);
- c) The information contained in the Basic Assessment Report prepared by SiVest (dated 8 October 2009) and the Supplementary Report prepared by SiVest (dated 5 February 2010);
- d) The comment received from interested and affected party, Ms Janet O'Donoghue (dated 11 November 2009) as submitted to this Department;
- e) The comment received from interested and affected party, Mr & Mrs Gourlay-Smith (dated 26 January 2010) as submitted to this Department;
- f) The comment received from interested and affected party, Mr Simon Steyn (dated 1 February 2010) as submitted to this Department;
- g) The comment received from Ezemvelo KZN Wildlife (dated 1 March 2010) in response to SiVest's draft supplementary report;
- h) 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); and
- i) The findings of the site visit undertaken by Departmental official's Kacy Moodley and Ian Felton in the company of the Environmental Assessment Practitioner Kurt Barichievy on 18 November 2009.

3. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

FR a) Neighbouring organic herb farmer, Janet O'Donoghue, and hydroponic farmer, Simon Steyn, voiced concern over the possible pollution of ground water resources from broiler house wash out, chicken litter and chicken feed that would adversely affect their livelihoods. The chemical composition of ground water and soil resources must remain stable for effective organic and hydroponic farming to be successful.

FR b) The proposed original transport route uses MR 350 and D 505 and is widely used by farming enterprises in the area for transport of their produce. The

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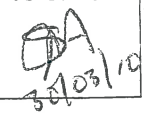
width and condition of segments of the MR 350 are of concern to various interested and affected parties. The alternative route uses MR385 and D505. The MR385 runs through a rural residential area including a school, taxi rank and shops. According to the EAP, the alternative transport route would have an increased negative social impact on the community and is therefore unsuitable for use.

- FR
- c) Ezemvelo KZN Wildlife required that a plant rescue be undertaken prior to construction commencing and voiced concern over the proximity of the wetland to the development. Development less than 30m from a wetland increases the likelihood of pollution of the water body and flooding of the development site. *
- FR
- d) The development proposed is to be undertaken in an area designated for "agri-eco tourism" in the Mkhambathini Municipality's Spatial Development Framework (SDF). Areas best suited to "agri-eco tourism" are used for agricultural purposes as detailed in comment from Environmental Law Specialist, Jeremy Ridl (dated 24 August 2009).
- e) Site alternatives were not considered as the applicant owns this property.

4. Findings

After consideration of the information and factors listed above, the Department made the following findings –

- a) SiVest proposed a closed grey water recycling system commissioned by ClearEdge® to remove the possibility of wash out, chicken litter and chicken feed ash out, chicken litter and chicken feed; changing the chemical composition of ground water and soil resources.
- b) This Department requested that the EAP carry out a comparative study of the proposed original transport route and the proposed alternative transport route. The study as included in the Supplementary Report (dated 5 February 2010) favours the original transport route. The Department of Transport does not object the proposed development in correspondence (dated 11 January 2010) as attached at Annexure 3.
- c) Ezemvelo KZN Wildlife (EKZNW) required a plant rescue operation to be undertaken prior to construction commencing (comment dated 17 July 2009). In addition EKZNW recommended in correspondence (dated 1 March 2010) that wetlands in close proximity to the proposed development are afforded a minimum ecological buffer of 30m from the outer edge of the temporary wet hydromorphic zone to ensure that the ecological processes of the wetland systems on the property and adjacent properties are not negatively impacted upon.

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- d) Comment from Jeremy Ridl, an environmental law specialist (dated 24 August 2009) produced legislative evidence that broiler houses are "agriculture" and not "agri-Industry" and therefore are suitable to be included in the area designated for "agri-eco tourism".
- e) Chicken mortalities (contagious) will be suitably stored on site and transported to an appropriate and registered landfill site on a regular basis; whilst non-contagious chicken mortalities will be removed off site on a daily basis in closed bins to be used as by-products (viz. cooking and processing).

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down 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 proposed activity can be mitigated to acceptable levels. **The application is accordingly granted.**

