

PE1 - Development Application No.010.2009.00000827.003 – 430 Arina Road, Bargo

PLANNING AND ECONOMY

PE1 Development Application No.010.2009.00000827.003 – Modification of Consent No. 010.2009.00000827.001 relating to Alterations and Additions to an Existing Poultry Farm Development at Lot: 222 DP 1206433 – 430 Arina Road, Bargo

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DD010.2009.00000827.003

EXECUTIVE SUMMARY

- At the June 2010 Council meeting, consent was granted for the construction of four additional poultry sheds for egg production at 430 Arina Road, Bargo.
- As a result of acquisition of the adjoining property and consolidation of the lots, consent is now sought to amend the location of the poultry sheds.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the application be approved subject to conditions.

REPORT

BACKGROUND

At the October 2016 Ordinary Meeting, Council considered a report in relation to this application. A copy of the report is provided as Attachment No 1.

At the meeting Council resolved as follows:

'That in relation to Modified Application No. 010.2009.00000827.003 to amend the consent for a Poultry Farm at 430 Arina Road, Bargo, determination of the application be deferred to permit further consideration of the drainage issues affecting adjoining residents'.

Shortly after the Ordinary Meeting, Council received correspondence from the Applicant (see Attachment No 2) seeking to amend or delete certain conditions. In particular the Applicant would like conditions to reference the new lot details, permit free range farming activities of up to 105,000 birds, approve the current fencing arrangement and incorporate some flexibility into the time restrictions imposed upon farming practices.

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The following additional assessment information is provided for Council's consideration.

DESCRIPTION OF SITE AND SURROUNDING AREA

The site is located on the eastern side of Arina Road, Bargo, approximately 2.78 kilometres from the Arina and Avon Dam Road intersection. Hinkler Avenue forms the site's southern property boundary. As a result of the consolidation, the site is 28.353 hectares in size (formerly 13.79 hectares) and irregular in shape.

There are three existing sheds used for egg production that are located on the property and sited north of the existing dwelling house that gains access from Arina Road. Access to the site is directly from Arina Road. The site slopes from east to west.

As a result of the consolidation, there are two dwelling houses located on site. It is noted that having two dwellings on the same parcel of land is prohibited by WLEP 2011. This matter will be referred to Council's Compliance Section for investigation separate to this application.

Each surrounding property contains a dwelling house. However, only one dwelling is located between 100-150 metres of the existing poultry sheds.

There are three dwellings within 100 metres of the subject land, seven dwellings between 200-300 metres of the subject land and an additional nine dwellings between 300-500 metres of the subject land.

Approval of this application to modify consent will result in the closest dwelling house being located greater than 150 metres from the proposed sheds.

DESCRIPTION OF THE ORIGINAL DEVELOPMENT PROPOSAL

Consent is sought for the construction of four additional poultry sheds for egg production and associated works for the control of stormwater. The sheds would operate as 'barn style' sheds, which means that the birds would be kept indoors and not in cages. Scratch, roosting and nesting areas would be provided.

Each shed would measure 119.79 metres in length, 15.3 metres wide and 4.83 metres in height.

The proposed sheds will be sited approximately 100 metres from the western property boundary, a minimum of 62 metres from Hinkler Avenue, approximately 150 metres from Arina Road and approx. 50 metres from the northern property boundary.

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The farm currently holds approx. 45,000 birds and should the application be approved, the farm would have the capacity to hold approximately 105,000 birds, which represents an increase of 230%.

Egg collection is carried out mechanically on a daily basis. After collection, the eggs are packed onto palettes and transported to a processing site outside of the Wollondilly Local Government Area.

The farm only operates during day light hours and the only machinery used onsite would be a tractor and a forklift. Chemicals are limited to Virkon-S (a disinfectant) which is used for feet and truck sanitation. Pest control is currently done by strategically placed commercially available baits in restricted containers.

The applicant indicates that the sheds would be cleaned only once a year. As there would be four sheds and each shed would have a different life cycle to each other, cleanouts would not occur at the same time. Each shed would be cleaned out after each lifecycle (birds are only kept for one year). Comments from the applicant described that a 'bob cat' would remove debris from the sheds and that the operators of the farm would generally dry clean and wipe down each shed in order to prepare for the next batch of birds.

Cooling of the sheds would be required and undertaken with fans and foggers. One (1) metre diameter fans are selectively placed within the sheds to circulate air. Generally, twelve fans are used in each shed. Foggers are pressurised electric pumps with water spray units which disperse a mist within the shed.

Dead birds are frozen and collected once a month by a waste disposal contractor.

Truck movements to and from the farm will possibly increase by one. This is due to the fact that in all functions one truck services this farm and another farm at Pheasants Nest on the same day.

Instead of servicing both farms the one truck will service this farm only with a separate truck servicing the Pheasants Nest farm.

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Truck movements present and proposed area:

Purpose	Present	Proposed	Truck Type
Feed	4/week	4/week	Heavy rigid or semi-trailer
Bird delivery	3/year	2-4/year	Semi-trailer
Dead birds	1/month	1/month	Heavy rigid
Egg pick-up	4/week	4/week	Heavy rigid
Waste/Manure	3/year	3-4/year	Semi-trailer

The farm currently employs four people (including management) and approval would increase staffing numbers to between ten (10) to twelve (12) people overall.

DESCRIPTION OF PROPOSED MODIFIED DEVELOPMENT

The Applicant has advised the following:

It is proposed to modify the approved location of the four (4) poultry sheds approved under DA010.2009.00000827.001 (21.06.10).

The proposed relocation will significantly reduce the environmental impacts of the approved development and allow the most efficient operation of the site.

▪ **Condition 1(1) states the following:**

"1(1) Development Consent is granted for the erection of four (4) poultry sheds to be used for egg production at Lot 22 DP 778748, 430 Arina Road, Bargo."

The Applicant requests that the condition be amended to refer to the newly consolidated lot being Lot 222 DP 1206433.

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▪ **Condition 1(3) states the following:**

"1(3) Development shall take place in accordance with the following plans submitted in respect of Development Application No. 010.2009.00000827.001 including amendments and where varied by the following conditions:"

Name of Plan	Drawn by/Author	Plan No.	Dated
Proposed Work to Poultry Shed Development Stormwater, Nutrient and Sediment Control	George Zuev of Technibuild Consulting	Unnumbered	Received by Council on 12 April 2010
Poultry Shed Layout	DF & SH from Apex Surveying	9163	17 August 2009
Proposed Shed Layout (Elevation and Floor Plan)	CJ McKenzie from CJ McKenzie Engineering	10745-2	28 August 2009
Drainage Details	George Zuev of Technibuild Consulting	Unnumbered	Received by Council on 22 December 2009

The applicant requests that the condition be amended to reflect the proposed amendments to the architectural, drainage/stormwater and access arrangements.

▪ **Condition 5(1) states the following:**

"5(1) The applicant shall provide access road as shown on the concept plan by Technibuild Consulting, to facilitate vehicular access to the new proposed sheds. Details of this shall be submitted with engineering plans for approval prior to issue of Construction Certificate. The access road shall be 3m wide and all weathered proof gravel standard."

The applicant requests that the condition be amended to reflect the proposed access arrangements.

▪ **Condition 6(2) states the following:**

"6(2) The applicant shall provide stormwater drainage as shown on the concept drainage plan by Technibuild Consulting. Details of this shall be submitted with engineering plans for approval prior to issue of Construction Certificate."

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The applicant requests that the condition be amended to reflect the proposed drainage/stormwater arrangements.

▪ **Conditions 12 (9), (10), (19) and (20) state the following:**

"(9) Egg collection shall be undertaken between 7am to 8pm Monday to Friday and between 10am to 1pm on Saturdays, Sundays and Public Holidays.

(10) All deliveries for the site (including those for the existing sheds) shall take place between 7am and 5pm Monday to Friday and between 8am to 1pm on Saturdays. No deliveries or collections shall occur on Sundays or Public Holidays.

(19) The collection/removal of birds at the end of each production cycle shall be undertaken between the hours of 7am to 8pm Monday to Friday, unless separate written approval has been granted by Council. No collection/removal of birds shall be undertaken on Saturdays, Sundays and/or Public Holidays.

(20) The clean outs of the sheds after the collection/removal of birds after each production cycle shall be undertaken between the hours of 7am to 5pm Monday to Friday inclusive. No clean outs shall occur on Saturdays, Sundays and/or Public Holidays."

The applicant requests that the condition be amended to incorporate more flexibility.

SECTION 79C ASSESSMENT

A comprehensive assessment of the proposed development was provided to the October 2016 Ordinary Meeting which can be found at Attachment No 1.

The following additional assessment information is provided in response to Council's request for further consideration of the drainage issues affecting adjoining residents.

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A. STORMWATER MANAGEMENT

The majority of the subject site drains in a north western direction before crossing under Bargo Road and adjacent properties, including 261 Bargo Road before entering Dogtrap Creek. It should be noted that the stormwater culvert under Bargo Road lacks capacity, resulting in over-road flow during significant rain events.

Stormwater flows across the site were previously harvested by three farm dams constructed along the natural drainage path. For any nominated storm event the dams only provided attenuation impact on flows until they were at capacity. The impact from new development is assessed based upon the worst case scenario (i.e. the dams are full).

Recently the dam closest to the poultry sheds was decommissioned. Consent is not required to fill a dam provided the material from the dam wall is used without any imported earth material.

The Proponent has provided a Concept Plan for stormwater management (See Attachment No 3) which indicates that the two existing dams will be retained. A detention basin with 480m³ is proposed to replace the decommissioned dam. Considerable earthworks and grassed swales will collect and divert stormwater towards the detention basin and existing dams.

Council's Engineering Section have reviewed the proposal in light of resolution from the October 2016 Ordinary Meeting. It is a general engineering principle that stormwater inundation levels affecting adjoining properties at pre-development stage shall be no greater at post development stage.

To make this requirement more explicit the Engineering Section have recommended that draft condition 6(2) be amended to read as follows:

'6(2) The applicant shall provide stormwater drainage as shown on the concept plans by MPC Consulting Engineers Job No. 15-410 Sheet Nos. C02-C08 (inclusive) dated 2 August 2016.

Details demonstrating that post development storm impacts do not exceed pre-development impacts for all storm events up to 100 year ARI at Bargo Rd boundary, shall be submitted to Council or the nominated Accredited Certifier for approval with the building plans prior to the issue of a Construction Certificate'.

Engineering certification for the design of the energy dissipater and detention basin is also required (see Condition 6 (4)).

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The following additional comments have been provided in relation to the over road flows experienced at Bargo Road.

As the development is intended to manage stormwater flows within the subject site and hence not have any additional impact on assets in Bargo Road, Council cannot impose a condition requiring an additional upgrade of existing assets that are not impacted by the development. Given the nature of the local drainage, the feasibility of augmenting the culvert to remove over-road flows is unknown. However this section of road is on Council's priority list such that it is eligible for funding under a future budget cycle for investigation and design to confirm the feasibility and then construction as resources permit.

At a recent Councillor Workshop the reasonableness of requiring a contribution from the Proponent to augment the culvert at Bargo Road was raised. Council has previously obtained legal advice that a consent condition requiring a contribution towards certain civil works can only be imposed if in accordance with an adopted Contribution Plan or executed Voluntary Planning Agreement. The Courts have consistently found such conditions not based upon an adopted Contributions Plan or Voluntary Planning Agreement to be invalid even if negotiated and agreed upon by the Proponent.

B. BIRD STOCKING RATES

The report to the October 2016 Ordinary Meeting recommended that the stocking rates is restricted to 96,000 birds at any one time. This number was derived from the odour modelling information provided by the Applicant's consultant.

Council subsequently received a request that a stocking rate of 105,000 birds be considered. The addendum to the original Odour Report suggests the impact upon adjoining residential receivers will not exceed the recommended odour criteria of 5OU if a suitable earth berm and vegetative screening is provided. Without these measures the odour impact experienced at the two nearest residential receivers will be 7.47OU and 8.32OU respectively. The report recommends that a bamboo screen be established. This recommendation was been replaced with a condition requiring a vegetative screen made up of endemic tree species.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Report to the 17 October 2016 Ordinary Meeting of Council.
2. Further submission from the Proponent dated 1 November 2016.
3. Concept plan for stormwater management.

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RECOMMENDATION

That, pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, Council grant approval to the Modification Application No. 010.2009.00000827.003 and amend the subject Development Consent 010.2009.00000827.001 as follows:

1. Condition 1(1) is amended to read as follows:

"1(1) Development Consent is granted for the erection of four (4) poultry sheds to be used for egg production at Lot 222 DP 1206433, 430 Arina Road, Bargo."

2. Condition 1(3) is amended to read as follows:

"1(3) Development shall take place in accordance with the following plans submitted in respect of Development Application No. 010.2009.00000827.001 including amendments and where varied by the following conditions:"

Plan Title	Author/Drawn By	Plan Number	Dated
Sect 96 Proposed Site Plan	GWH BUILD	A002 REV No. A	13.04.2015
Existing Dams	GWH BUILD	A003 REV No. A	06.01.2016
Existing Dwellings	GWH BUILD	A004 REV No. A	06.01.2016
Proposed Shed Layout (Elevation and Floor Plan)	CJ McKenzie from CJ McKenzie Engineering	10745-2	28.08.2009
Site Plan and Stormwater Calculations	MPC Consulting Engineers	C02 Issue 3	2.08.16
Stormwater Plan	MPC Consulting Engineers	C03 Issue 4	2.08.16
Platform Sections	MPC Consulting Engineers	C04 Issue 2	2.08.16
Vehicle Turning Circles	MPC Consulting Engineers	C08 Issue 3	2.08.16

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3. Condition 1(4) is amended to read as follows:

"1(4) Development shall take place in accordance with the findings, recommendations and mitigation and management measures of the following reports:

- *Pirovic Poultry Farm Odour Impact Assessment, 430 Arina Road, Bargo prepared by Parsons Brinckerhoff Australia Pty Ltd dated November 2009.*
- *Noise Impact Assessment Prepared for Pirovic Family Farms, 430 Arina Road, Bargo NSW prepared by Benbow Environmental dated November 2015.*
- *Odour and Dust Impact Assessment Prepared for Pirovic Family Farms, 430 Arina Road, Bargo NSW prepared by Benbow Environmental dated November 2015. submitted in respect of Development Application No. 010.2009.00000827.001 except where modified by those report and documents submitted with Application to Modify Development Consent 010.2009.00000827.003 and where varied by the following conditions:"*

4. Condition 1(4)(a) be added as follows:

"1(4)(a) The design of the engineered vegetation barrier recommended in Section 5.6.1 of the addendum report titled "Re: Odour Report Update – 430 Arina Road Bargo" prepared by Benbow Environmental dated 10 November 2016 shall be submitted to Council or the nominated Accredited Certifier for approval prior to the issue of the Construction Certificate.

The barrier shall comprise the following:

- *A three (3) metre high earth berm as shown in Figure 5-4: Site Plan Showing Vegetation Barrier of the report referred above*
- *Three rows native vegetation planted in front of the berm (that is between the berm and the property boundary) for the entire western and eastern property boundaries.*

Details of the landscaping shall be in accord with Condition 15(2).

The persons having the benefit of this consent shall provide to Council or the nominated Accredited Certifier a statement from the author of the aforementioned report that the design of the barrier is in accordance with the recommendations of Section 5.6.1."

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5. Condition 1(4)(b) be added as follows:

"1(4)(b) A site management plan shall be submitted for Council's approval prior to construction reflecting the requirements for environmental management as per condition 1(4)."

6. Condition 5(1) is amended to read as follows:

"5(1) The applicant shall provide an all-weather gravel standard access road as shown on the concept plans by MPC Consulting Engineers Job No. 15-410 Sheet Nos. C02 Issue 3, C03 Issue 4, C04 Issue 2, C05 Issue 2, C06 Issue 3, C07 Issue 3 and C08 Issue 3 dated 2 August 2016."

7. Condition 6(2) is amended to read as follows:

"6(2) The applicant shall provide stormwater drainage as shown on the concept plans by MPC Consulting Engineers Job No. 15-410 Sheet Nos. C02-C08 (inclusive) dated 2 August 2016."

Details demonstrating that post development storm impacts do not exceed pre-development impacts for all storm events up to 100 year ARI at Bargo Rd boundary, shall be submitted to Council or the nominated Accredited Certifier for approval with the building plans prior to the issue of a Construction Certificate."

8. Condition 1(9) is added to read as follows:

"1(9) At all times, birds shall remain wholly within the sheds. This consent does not grant and/or imply that external areas of the sheds can be used."

(Reason: as detailed in the Statement of Environmental Effects that accompanied Development Application 010.2009.00000827.001)."

9. Condition 1(10) is added to read as follows:

"1(10) All areas of the site, external of any sheds (currently operating and proposed), being used for scratch, roosting and/or nesting shall must cease and the land restored (grassed) within three (3) months of the date of the approval of Application to Modify Consent 010.2009.00000827.003."

(Reason: development consent has not been granted for any external areas of the sheds to be used for scratching, roosting and/or nesting)."

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10. Condition 1(11) is added to read as follows:

"1(11) The 1.8 metre perimeter cyclone fence shall be removed and restored to either post and wire or post and rail in accordance with Sections 2.35 and 2.36 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

(Reason: no development consent has been granted for the erection of a cyclone material fence and as such, fencing is to be restored)."

11. Condition 6(4) is to be added to read as follows:

"6(4) Engineer's certification shall be provided for the design and construction of proposed Energy Dissipater and basin prior to occupation of poultry sheds."

12. Condition 7(4) is to be added to read as follows:

"7(4) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary."

13. Condition 12(5) is to be amended to read as follows:

"12(5) The total stocking rate for the Farm shall not exceed 105,000 birds at any time."

(Reason: as identified in the report titled "Odour and Dust Impact Assessment Prepared for Pirovic Family Farms, 430 Arina Road, Bargo NSW prepared by Benbow Environmental dated November 2015)."

14. Condition 12(22) is added to read as follows:

"12(22) Where practical, the operation of the development shall have regard to the Department of Primary Industries guidelines and/or subsequent documents produced by the authority."

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15. Condition 12(23) is added to read as follows:

“12(23) Within six (6) months of the issue of any Occupation Certificate for the development, the persons or entity having the benefit of this consent shall provide an audit report certifying that the findings and recommendations from the report titled “Re: Odour Report Update – 430 Arina Road Bargo” prepared by Benbow Environmental dated 10 November 2016 and the conditions of this consent have been installed, are operational and odour generation is less than five (5) Odour Units (5OU) at the nearest receptors.

If the audit report finds that the development is not compliant, then works to comply subject of Condition 1(4)(a) must be undertaken no less than 28 days after the initial six (6) month period.

A further audit report shall be submitted to the Council and the Principal Certifying Authority after the 28 day period certifying that additional treatments and measures have been implemented and the development does not exceed 5OU at all nearest receptors.

Please Note: *Prior to any works commencing, the persons or entity having the benefit of this consent shall discuss what works and the like are required to be undertaken to comply with this condition. This condition does not authorise any works to be undertaken unless Council has advised in writing that such works can be constructed.*

(Reason: to ensure that any work required is authorised and not have any impacts upon the rural landscape character of the area.)”

16. Condition 20(12) is added to read as follows:

“20(2) A Site Environmental Management Plan incorporating an Odour Management Plan is to be submitted and approved by Council or an nominated Accredited Certifier prior to the issue of a Construction Certificate.”