

JRPP No.	2009NTH007
DA No.	DA0156/2010
Proposed Development	Poultry Broiler Farm, Lots 17, 18 and 19 DP 95993, Lots 1 and 2 DP 162586, Lot 161 DP 560748 and Lot 1 DP 795106, "Silverweir", 448 Appleby Lane, Appleby and the unformed public road located between Appleby Lane and the Peel River, Appleby
Applicant:	GSS Environmental
Report By:	Lucy Walker, Senior Development Assessment Planner Alison McGaffin, Director, Environment, Planning and Economic Development

Assessment Report and Recommendation

Owner:	Rostry Pty Ltd and Tamworth Regional Council (unformed public road)
Lodgement Date:	29 September 2009
Statutory Days:	60 Days
Capital Investment Value:	\$10,000,000
Land Zoning:	1(b) General Agriculture Parry Local Environmental Plan 1987
Current use & Development	Extensive Agriculture

EXECUTIVE SUMMARY:

Reason for Consideration by Joint Regional Planning Panel:

The application has been referred to the Joint Regional Planning Panel pursuant to clause 13B(1) of the State Environmental Planning Policy (Major Development) 2005 as designated development.

Brief Description of Proposal:

The development application seeks approval for the establishment of a poultry broiler farm comprising three (3) Poultry Production Units (PPU) comprising 900,000 birds. The submitted plans are attached to this report as Annexure 1.

Compliance with Planning Controls:

The site is zoned 1(b) General Agriculture pursuant to the Parry Local Environmental Plan 1987. The proposal falls within the definition of a "feed lot" which is permissible in zone 1(b), with development consent. The proposal is consistent with the zone objectives which promote agricultural land uses.

Integrated Development:

The proposal is integrated development pursuant to the section 91(1) of the Environmental Planning and Assessment Act, 1979. A licence is required from the Department of Environment, Climate Change and Water under Schedule 1 of the Protection of the Environment Operations Act, 1997. The General Terms of Approval are contained in Annexure 2.

Consultation:

The application was exhibited in accordance with clauses 78-80 of the Environmental Planning and Assessment Regulations 2000 on two (2) separate occasions. Seven (7) submissions were received in response to the first exhibition period and five (5) submissions in response to the second. Copies of the submissions are contained within Annexure 3.

Recommendation:

It is recommended that DA0156/2010 be approved subject to the conditions contained in Annexure 4.

Annexures:

Annexure 1 Plans

Annexure 2 Department of Environment, Climate Change and Water- General Terms of Approval

Annexure 3 Submissions

Annexure 4 Draft Conditions

1 Proposal

The proposal seeks consent to the development of a poultry broiler farm on the subject land. It is proposed to construct eighteen sheds in three (3) Poultry Production Units (PPU). Each PPU consists of six (6) tunnel ventilated, fully enclosed, climate controlled sheds with support infrastructure including chemical storage, generator shed, workshop, feed silos, water supply tanks and staff amenities.

Each shed is proposed to house 50,000 birds with 900,000 birds accommodated onsite in total.

2 Site Description

The subject land comprises Lots 17, 18 and 19 DP 95993, Lot 1 and 2 DP 162586, Lot 161 DP 560748 and Lot 1 DP 795106, "Silverweir", 448 Appleby Lane, Appleby and the unformed public road located between Appleby Lane and the Peel River, Appleby.

The proponent has requested that the application be determined on the basis that the unformed public road located between Appleby Lane and the Peel River be closed prior to the development consent becoming operational, as provided for under Section 80(3) of the Environmental Planning & Assessment Act 1979.

The development site is approximately 755 hectares in total and has been used for traditional agricultural pursuits such as crop cultivation and livestock grazing. There is an existing dwelling and associated sheds located on Lot 1 DP 162586.

Diagram 1 below identifies the location of the development site relevant to adjacent properties.

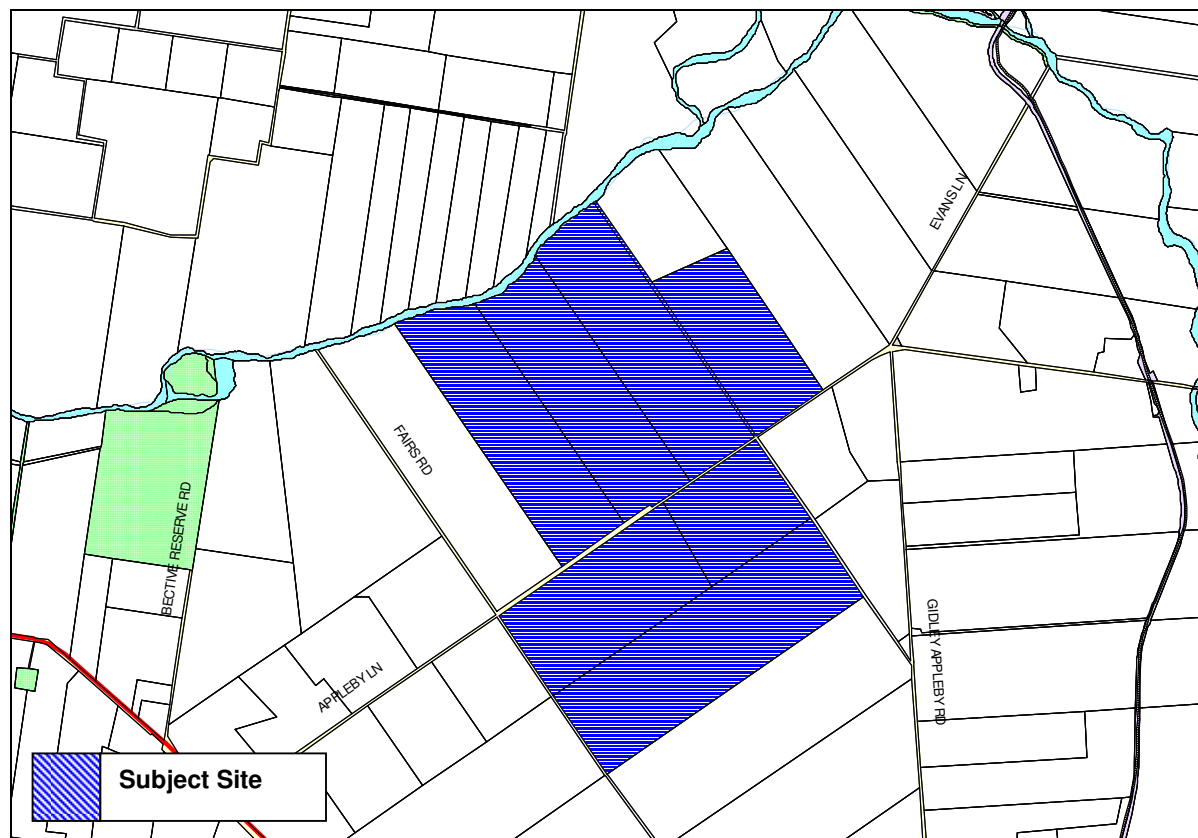


Diagram 1 – Locality Plan

3 Referrals

The application was referred to the Roads and Traffic Authority (RTA) on 2 October 2009. A response was received on 18 November 2009. Following the re-exhibition period and a request for review by the applicant, further comments were received on 15 March 2010.

Comments concerning access and traffic implications are made in Section 4 of this Report.

Referrals were also made to internal Council specialists: Manager of Works and Assets; Environment & Health Officer and Strategic Planner (Sec 94). Their responses are contained within the relevant sections of this Report.

4 Environmental Planning and Assessment Act 1979

In determining a development application, the consent authority must take into consideration matters referred to in Section 79C(1) of the Environmental Planning & Assessment Act 1979 as are of relevance to the development. The following section of this report summarises the relevant matters for consideration and provides a planning response.

Section 79C(1)(a)(i) any environmental planning instrument

State Environmental Planning Policies

State Environmental Planning Policy No. 44- Koala Habitat Protection

The accompanying Flora and Fauna Assessment prepared by Ecotone Environmental confirms the development site does not comprise “core koala habitat”. However, the White Box Woodland that occurs on the unformed public road on the south western boundary of the site and the riparian woodland associated with the Peel River are “potential koala habitat”.

The areas of “potential koala habitat” will not be disturbed or affected by the proposed development.

State Environmental Planning Policy No. 55- Remediation of Land

The risk of contamination is considered to be low given the site has historically been used for cropping and grazing. Consequently, further investigation under SEPP 55 is not warranted in this instance.

It is recommended that a condition be imposed stating that if signs of contamination such as a livestock dip or landfill are unearthed during construction, all work is to cease until a remediation plan has been prepared in consultation with Council staff.

Regional Environmental Plans

There are no regional environmental plans that apply to the land.

Local Environmental Plans

The subject land is zoned 1(b) General Agriculture pursuant to the provisions of the Parry Local Environmental Plan 1987. The proposal is defined as a “feed lot” by this Plan as follows:

“feed lot means a building or place in or on which cattle, sheep, poultry, pigs or other livestock are held for the purpose of nurturing either wholly or partly by a feeding method other than natural grazing.

A feed lot is a permissible form of development in zone 1(b), with development consent.

The objectives of the zone are as follows:

- a) to enable the continuation of traditional forms of rural land use and occupation and encourage consolidation of existing undersized allotments and their conversion into productive commercial farm holdings,*
- b) to conserve prime crop and pasture land in units or holdings which may be efficiently used for forms of agriculture common in the locality,*
- c) to discourage fragmentation of landholdings into holdings which are inadequate to support commercial farming practices,*
- d) to enable other forms of development which are associated with rural activities and which require an isolated location, or which support tourism, and recreational activities to be accommodated in an environmentally acceptable manner,*
- e) to ensure that the type and intensity of development is appropriate, having regard to the characteristics of the land, the rural environment, and the cost of providing public services and amenities,*
- f) to permit the development in an environmentally acceptable manner of mines and offensive and hazardous industries where required, and*
- g) to permit the development of intensive commercial horticulture and specialised agriculture where fertile land and a reliable water supply are available.*

Objectives (e) and (g) are applicable to the proposal. In this regard:

- (e) The type of development is consistent with the zone, being a commercial agricultural enterprise. Further, the intensity of the development is appropriate having regard to the characteristics of the land and the rural environment. The PPUs have been appropriately sited in relation to natural constraints including the Peel River, associated drainage lines, riparian woodland and synclines. The sheds are proposed to be constructed from a pre coloured metal with intensive landscaping which will assist in maintaining the rural landscape.
- (g) The applicant has identified that there is a reliable water supply available to the development with an annual water allocation from the Peel River of 458ML.

Section 79C(1)(a)(i) *any draft environmental planning instrument that is or has been placed on public exhibition*

The Draft Tamworth Regional Local Environmental Plan 2009 was exhibited from 14 July to 25 August 2009. Under the Draft Plan, the land is proposed to be zoned RU1 Primary

Production. The proposal is defined as “*intensive livestock agriculture*” which is permitted with development consent in the zone RU1.

The objectives of the zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base;*
- *To encourage the diversity in primary industry enterprises and systems appropriate for the area;*
- *To minimise the fragmentation and alienation of resource lands;*
- *To minimise conflict between land uses within the zone and land uses within the adjoining zones;*
- *To permit subdivision only where it is considered by the Council to be necessary to maintain or increase agricultural production;*
- *To restrict the establishment of inappropriate traffic generating uses along main road frontages;*
- *To ensure sound management of land which has an extractive or mining industry potential and to ensure that development does not adversely affect the potential of any existing or future extractive industry;*
- *To permit development for other purposes where it can be demonstrated that suitable land or premises are not available elsewhere.*

The proposal is consistent with the relevant objectives of the zone, being a sustainable primary industry that contributes to the diversity of primary industry enterprise within the area.

In a broader context, poultry production is a well established industry in the Tamworth district and is not only a major employer, but also significantly contributes to the local economy through flow on benefits. In addition to broiler farms, there are complementary industries including chicken hatcheries, a protein recovery plant, an abattoir, and a feed mill established in the area.

Section 79C(1)(a)(iii) any development control plan

Parry Development Control Plan No. 6 – Poultry Guidelines (PDCP 6)

The development is consistent with the provisions of PDCP 6 and the matters for consideration including noise, odour, dust, lighting, waste disposal and visual impact which are discussed in detail under the relevant sections of this report.

Parry Development Control Plan No. 9 – Landscape Guidelines (PDCP 9)

Landscaping is proposed to be established in a 30 metre band around each PPU and adjoining the new driveways from Appleby Lane.

The developer has committed to establishing as much landscaping as possible immediately following the bulk earthworks, with all plantings completed within six (6) months of construction.

The first priority for planting should be around the PPU sites to minimise the visual impact of the sheds. Consequently, it is recommended that a condition be imposed to clarify that these areas must be established prior to issue of an Occupation Certificate for any of the

sheds, with the areas around each driveway completed as second priority, within 6 months of construction.

PDCP 9 also requires that a security bond is paid to Council in the form of a Bank Guarantee to ensure that landscaping is established and maintained for a period of twelve (12) months from completion of construction. It is expected that landscaping will be more difficult to establish and maintain given the intensity of the plantings proposed. Consequently, it is recommended that the maintenance period be increased to three (3) years. It is also noted that a three (3) year maintenance period was required for “Gidley” poultry farm which is comparable in terms of size and location.

Section 79C(1)(a)(iia) any planning agreement

There are no planning agreements applicable to the proposal.

Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purpose of this paragraph)

There are no matters applicable to this application.

Section 79C(1)(b) the likely impacts of the development

Context and Setting

The development site is approximately 755 hectares in area and is comprised of a number of allotments and an unformed public road. The land has historically been used for agricultural activities such as cropping and grazing. There is an existing dwelling and associated sheds located on Lot 1 DP 162586.

The land is predominately clear of vegetation with the exception of the riparian woodlands, which are identified by the Flora and Fauna Assessment to be endangered ecological communities. These areas are located adjoining the drainage lines located in the eastern section of the property.

The surrounding land uses include the “Taradale” and “Gidley” broiler farms, both located to the east of the site. Traditional agricultural activities such as cropping, grazing and associated dwellings are the predominant land uses in the area.

Should consent be granted to the proposal, it is recommended that the land be consolidated into a single title to ensure the requirements of the Building Code of Australia are achieved, the farm continues to operate as a single entity and buffers around the development are maintained.

Traffic, Access and Transport

Two routes are proposed to be utilised for the development as follows:

- Route 1: Wallamore Road, Gidley Siding Road, Gidley-Appleby Road and Appleby Lane; and
- Route 2: Oxley Highway and Appleby Lane

The Traffic Impact Assessment prepared by RoadNet identifies that an additional 10 light vehicle movements and 13 to 14 heavy vehicle movements per day will be generated as a consequence of the development. The greater majority of these movements will be on Route 2 identified above.

The traffic associated with the development will be generated by feed, bird and gas deliveries, dead and live bird pickups, bedding removal and staff movements.

All transport activities are proposed to occur in daylight hours, with the exception of live bird removal which will occur between 6.00pm and 6.00am.

Existing Road Standards and Traffic Volumes

Appleby Lane and Gidley-Appleby Road are currently two (2) lanes in width; Appleby Lane is unsealed between the Oxley Highway and Gidley-Appleby Road and Gidley-Appleby Road is partially sealed. The junction of these two roads was sealed as a requirement of the adjoining "Taradale" farm to eliminate dust and safety hazards.

Wallamore Road, Gidley Siding Road and the Oxley Highway are all sealed and two (2) lanes in width.

The Traffic Impact Assessment prepared by RoadNet to accompany the development application predicts that the proposal will have minimal impact on the sealed and unsealed road network and intersections proposed to be utilised because proportionally, the additional vehicle movements represent a small increase to the existing traffic loading.

The conclusion is not considered to be accurate as the type of vehicle, the Equivalent Standard Axle (ESA) loading and the number of axle repetitions specific to truck movements are not recognised. When these factors are taken into consideration, the traffic generated by the development will have a significant impact on the local road network, in particular Appleby Lane.

In this regard, there are approximately 30 existing heavy vehicle movements on Appleby Lane per day. The 13 to 14 additional vehicle movements predicted to be generated by the development, represent a 43% increase in overall truck movements.

However, there are 10 different heavy vehicle types, from a Class 3 vehicle (two axle truck) to a Class 12 vehicle (Triple Road Train – 16 Axles). Council's records indicate that of the 30 existing heavy vehicle movements on Appleby Lane per day:

- 25% are Class 3 vehicles (7 x two axle trucks);
- 35% are Class 4 vehicles (10 x three axle trucks); and
- 40% are Class 9 vehicles (13 x three axle articulated vehicles).

The Traffic Impact Assessment estimates that there will be one (1), Class 3, 4 or 5 vehicle movement and twelve (12), Class 9 vehicle movements associated with the development per day. When the existing and proposed vehicle types are compared, the proposed development will result in a 92% increase in Class 9 vehicle movements on Appleby Lane per day.

Further, the number of Equivalent Standard Axles (ESA) will increase from 68 to 105 per day, which is a significant increase on loading, particularly when the road is unsealed and an ESA is equal to 14 tonne in weight. Truck axle repetitions on Appleby Lane will also

increase from 122 to 202 per day which will contribute significantly to the creation of dust and loss of pavement shape and material.

The traffic generated by the development represents a significant increase to the existing loadings on Appleby Lane. Further, the dust generated by the additional movements will have a substantial impact on the residents, particularly at the eastern end of Appleby Lane where there are a number of dwellings on smaller allotments.

Consequently, it is recommended that Appleby Lane be upgraded to a 9 metre wide pavement and sealed with an 8 metre wide two coat (14/7) bitumen seal from the Oxley Highway to the entrance of Poultry Production Unit No. 2. It is further recommended that Appleby Lane, to 100m either side of each new PPU access be sealed with an 8 metre wide two coat (14/7) bitumen seal to ensure the road is not deteriorated by trucks turning into the PPUs and to minimise dust generation at the new intersections.

The Traffic Impact Assessment also includes recommendations to facilitate the development. The recommendations and a planning response is provided below:

- *A section 94 contribution should be paid to Council toward the maintenance program for Gidley Appleby Road and Appleby Lane.*

A contribution will be levied under the Parry Section 94 Contributions Plan No. 4 – Rural Based Industry pursuant to Section 94 of the Environmental Planning and Assessment Act 1979. Contributions are discussed in detail, in a later section of this report.

- *The proposed access to the PPUs should be constructed in accordance with the diagrams contained within Annexure 1 of the report.*

The proposed standard of access is considered to be adequate for the largest vehicle proposed, being a semi trailer. It is also recommended that Appleby Lane, to 100m either side of each new PPU access be hard sealed as discussed above.

- *An AUSTROADS Type BAR intersection should be constructed at the intersection of the Oxley Highway and Appleby Lane*

The report identifies that the combination of existing and proposed traffic movements may impact on the intersection of Appleby Lane and the Oxley Highway.

The proposal was referred to the RTA for consideration as the Oxley Highway is a classified road. The RTA responded that a Modified RTA Type B intersection would be required for westbound right turns and that the junction should be upgraded to an AUSTROADS BAL left turn treatment.

A Works Authorisation Deed is required from the RTA for the works on the Oxley Highway.

- *The existing bus shelter at the Oxley Highway and Appleby Lane intersection should be relocated to the south west to facilitate the proposed widening at the intersection.*

There is an existing bus shelter located opposite the junction of Appleby Lane. The proposal was referred to the RTA for consideration who requested that shelter be relocated to the north western side of the intersection to improve safety. The applicant has agreed to this requirement.

- *The shoulder on the east bound lane at the junction of Gidley Lane and Wallamore Road should be upgraded by Council to include widening and sealing of the shoulder to facilitate east bound heavy turning movements.*

The report identifies that it is desirable to extend the pavement in this location a further two (2) metres to accommodate the turn paths of heavy vehicles around the bend. Given this work is required to facilitate the development, it is unreasonable that Council be burdened with this cost. Consequently, it is recommended that the developer be required to undertake the work at their cost.

- *The shoulder on the left turn flare of Appleby Lane should be widened at the Appleby Lane and Oxley Highway intersection by Council.*

The RTA has requested that the junction should be upgraded to include an AUSTROADS BAL left turn treatment. As this work is required to facilitate the development, the developer is required to undertake the work at their cost.

Access

A separate single vehicle access from Appleby Lane is proposed to each PPU. The new vehicle access is proposed to be of all weather construction and suitable to accommodate the turning path of a semi trailer. Each access will be sited to comply with intersection and sight distance requirements and will also incorporate a vehicle wheel wash to prevent the transmission of disease.

A one way circulation around the perimeter of each PPU is proposed to enable traffic to enter, exit and manoeuvre around the PPU sites in a forward direction to minimise the potential for traffic conflict and noise.

Public Road Closure

The development site includes an unformed public road that the applicant will apply to close, should consent be granted to the subject application. PPU 1 is proposed to be constructed over part of the unformed public road.

The proponent has requested that the application be determined on the basis that the unformed public road be closed prior to the development consent becoming operational, as provided for under Section 80(3) of the Environmental Planning & Assessment Act 1979.

Council has taken legal advice to ascertain whether a deferred commencement consent can properly be used in this circumstance. The advice from Council's legal counsel concludes:

"In these circumstances I confirm that you have requested my legal opinion in relation to whether a deferred commencement consent condition can properly be

used to require that the road must be closed before any other action is taken in relation to the development consent.

In my view the closure of the road can properly be the subject of a deferred commencement consent under Section 80(3) of the Environmental Planning and Assessment Act, 1979."

The above advice is based on the cases *Sharreal Pty Ltd v Wyong Shire Council (1998)* and *Estate Project Developments Pty Ltd V Sydney City Council (2005)*, both of which involved the closure of an unformed public road as a deferred commencement provision.

On the basis of this advice, a view has been formed that a deferred commencement consent may be appropriately used in the circumstances.

A number of objections were received during the public exhibition period in relation to the closure of the unformed public road stating that the road is regularly used and required for the movement of machinery and stock by the adjoining property "Maricopa".

Although Council has granted consent as landowner to the lodgement of the development application, a commitment has not been made to close the road and a separate application must be made to the Department of Lands for consideration and determination. The impact to surrounding landowners as a result of the road closure will be assessed as a component of that application.

It is also important to note that the primary access to the property "Maricopa" is via a right of carriageway located on the eastern boundary of Lot 161 DP 560748. Consequently, should the application be determined by consent, the existing legal access to the property will be maintained.

Developer Contributions

A developer contribution is required to be paid toward the routine maintenance of the public roads under the control of Tamworth Regional Council and used by haulage operations relating to the development.

The contribution is based on the methodology formula for developments specified by the Parry Section 94 Contributions Plan No. 4 – Rural Based Industry.

The contribution rate has been determined to be 23.4 cents per tonne of material or product transported to or from the site using Haul Route 1, being sections of Appleby Lane, Appleby-Gidley Lane, Gidley Lane and Wallamore Road. The contribution rate for Haul Route 2, being sections of Appleby Lane and Gunnedah Road is 15 cents per tonne of material or product transported to or from the site.

Alternatively, the applicant may agree to make regular contributions of \$3,191 per quarter, which is equivalent to the above haulage rates.

Public Domain

Not relevant to this application.

Utilities

Telecommunications

Telstra have issued a Telecommunication Network Infrastructure Confirmation certificate to confirm that telecommunications may be provided to the development site.

Electricity

Reticulated energy will be the primary source of energy to operate the development. Country Energy has advised that a supply will be made available to the PPU sites at the cost of the developer. Emergency standby generators will also be installed at each PPU for instances when power from the electricity grid is lost.

Gas

Supplementary heating of the sheds will be provided by wall mounted gas heaters. LPG will be supplied from Tamworth and stored onsite in bulk tanks at each PPU.

Water

Water will be provided by the existing water licence which provides for an annual water allocation from the Peel River of 458ML.

Heritage

Indigenous Heritage

A comprehensive survey undertaken by the Tamworth LALC did not identify any artefacts of cultural significance to the local Aboriginal people. Further, a search of the AHIMS database did not identify any known records or known Aboriginal objects or places within the proposed development site.

Although there were no artefacts of cultural significance identified, it is recommended that a condition be imposed to require that all construction work cease, should an artefact be uncovered during construction.

European Heritage

The Silverweir homestead is identified as an item of local heritage significance by the Draft Tamworth Regional LEP 2009. Neither the homestead, nor its immediate curtilage will be affected by the proposed development.

Other land resources

The land is identified by Gunnedah Management Consultants to be predominately Class 3 Agricultural Land to the south-east of Appleby Lane with a strip of Class 2 land following the water course. The north-west side of Appleby Lane has a majority of Class 2 with approximately 30% being Class 3 land.

Class 2 and 3 land is regarded as prime agricultural land by NSW Agriculture, suitable for a variety of agricultural land uses.

Water

Ground Water

A number of submissions received in relation to the proposal raised concern in relation to the impact of the development on ground water availability and quality.

The Ground and Surface Water report prepared by Ian Grey Groundwater Consulting Pty Ltd identifies that the development is underlain by fractured metasediments from the Devonian age which are relatively low yielding, with brackish to good water.

The northern part of the property is underlain by alluvial sands and gravel which comprise an unconfined aquifer on the underlying fractured rock. The Ground and Surface Water report identifies the permeability in this area to be high.

The sheds, associated infrastructure and the burial pit nominated in the event of a major disease outbreak are all proposed to be located in the areas of low permeability. Ian Grey concludes, that the low permeability of the strata in the construction areas in combination with the relatively dry operations of the farm means the risk to ground water quality is low.

In terms of availability, the Ground and Surface Water report confirms there will be no detectable impact to ground water levels or yields given the low infiltration rates and the small area of the site affected by the development. Further, it is proposed to utilise an existing water allocation from the Peel River, rather than a ground water supply.

Surface water

The land drains to the adjoining Peel River via ephemeral gullies. The existing site is predominately grassed and because of the low permeability of the underlying strata and slope of the land, a high proportion of rainfall becomes runoff with limited percolation of recharge.

Given the low infiltration rates and the small area of the site affected, the Ground and Surface Water report concludes there will be no detectable impact to ground water levels or yields. Further, suitable arrangements for the control of surface water are proposed to protect the environment and prevent damage to farm infrastructure.

In this regard, runoff from the development is proposed to be managed through a series of works prior to draining to the Peel River. Proposed works include the construction of open trapezoidal channels located between the poultry sheds and road to collect water runoff from rooves, roads, shed aprons and inter-shed grassed areas. All runoff collected by the trapezoidal drains will be directed to a detention basin where water will be released at the pre developed flow onto the property.

A vehicle wheel wash is also proposed to be constructed at each PPU to remove dust particles from the wheels and chassis to minimise the potential for transmission of disease. Each of the wheel wash facilities will be self contained to ensure wash water does not escape into surface water drainage features. A turkey nest dam is to be constructed below each wheel wash facility of a capacity to contain the full volume of water in the wash basin.

Soils

Salinity

The EIS identifies there have been no obvious indicators of salinity identified onsite such as patches of salt crust or establishment of salt tolerant plant species. Further, there have been no unusual changes to crop health.

Erosion

Minor erosion is evident around the farm dams, intermittent drainage lines and shallow wetland as a result of stock activity. As all surface water will be released from the proposed detention ponds at a pre developed flow, the proposal is not anticipated to exacerbate this situation.

Contamination

There are no identified previous or existing land use activities which may have caused or contributed to soil contamination. The long term use of the property has been for traditional agricultural production such as cropping and grazing.

Air and Microclimate

PAE Holmes has undertaken a comprehensive assessment of the air quality associated with the proposed development, including the cumulative impacts of “Silverweir” and nearby “Gidley” and “Taradale” poultry farms as a component of the EIS.

In this regard, the report predicts that the “Silverweir” farm will have the greatest impact to the west of the property. However, the dispersion modelling confirms that odour emissions will not result in impacts above the assessment criteria level of 6 OU adopted by DECCW.

In terms of a cumulative impact, it is predicted that there will be a higher odour concentration to the east of “Silverweir”. However, the additional impact is predicted to be less than 0.5 OU which is undetectable by most people. Further, the major contributor to odour concentration in this location is identified to be the existing “Gidley” farm.

The cumulative impact of odour was raised as a concern during the public exhibition period. However, the Air Quality Impact Assessment demonstrates that the combined impact of “Silverweir”, “Gidley” and “Taradale” will be undistinguishable from the existing “Gidley” and “Taradale” developments alone.

Further, DECCW have reviewed the information in relation to air quality and considers that the relevant requirements have been met and the proposed mitigation measures are adequate. The General Terms of Approval prepared by DECCW identify conditions of consent to ensure that air quality is maintained on a long term basis.

Flora and Fauna

The areas of land that will be subject to physical disturbance during the construction and operation of the proposed poultry development are:

- The three (3) PPU sites with a disturbance footprint of approximately 400 metres by 135 metres;
- The three (3) individual roads from Appleby Lane to the PPU sites; and
- A buried water supply pipeline extending from the existing pipeline to each PPU site.

The Flora and Fauna Assessment prepared by Ecotone Environmental identifies that the development will not have a significant impact on any threatened species, populations or communities, or any other native flora and fauna, as construction will occur in the already highly disturbed areas where intensive cultivation has previously occurred.

The Flora and Fauna Assessment also confirms that the proposed arrangements for surface water control will prevent nutrient rich surface water runoff flowing into the endangered ecological communities located on the drainage lines, being remnant White Box/Yellow Box/Blakely's Red Gum Woodland.

The initial section of buried pipeline between the Peel River and Appleby Lane, approximately 225 metres is proposed to traverse an area adjacent to the Peel River that supports isolated trees and remnant woodland. However, due to the wide spacing of the trees in this location, should augmentation of the pipe line be required, it will be possible to avoid tree disturbance by restricting the works to the large areas of non native vegetation located between the trees.

The applicant has confirmed that the recommendations of the Flora and Fauna Assessment report will be adopted, including:

- Site surveying and engineering design will be undertaken to ensure the alignment of the access roads and extension to the water supply pipeline avoids the isolated remnants of natural woodland; and
- If there is a requirement for augmentation of the initial section, up to 225 metres of water supply pipe from the pumping point on the Peel River, the topsoil will be stockpiled separately to soil excavated from deeper in the profile, and reshaped over the trench and appropriately profiled when filled. This will ensure that propagules of any threatened species that may be present will be reinstated to a similar position in the soil profile.

Consequently, it is not anticipated that there will be any impact on fauna or flora as a consequence of the development.

Waste

Bedding Material

At the end of each cycle the material will be collected from the sheds and loaded onto trucks for removal. The material is used as organic fertilizer or as a rehabilitation agent for agricultural lands. The material will be sold as a commercial raw product to contractors or to regional farmers.

The EIS confirms the material will not be stockpiled onsite.

Dead Birds

Dead birds will be collected from the sheds on a daily basis and stored onsite in chillers. Each week the birds will be collected and transported to the Oakburn Protein Recovery Plant for processing.

The EIS confirms that dead birds will not be stockpiled onsite.

Other Waste

Day to day waste is proposed to be collected and stored in skip bins at each PPU which will be removed by a licensed contractor on a regular basis. Provision will also be provided onsite for the recycling of waste materials including plastic, paper and cardboard.

It is intended that a chemical supply company be engaged to deliver new chemicals supplies and retrieve empty chemical containers for disposal and/or recycling.

Energy

Section J of the Building Code of Australia applies to the development in relation to lighting. This requires that consideration be given to energy efficiency as a component of the Construction Certificate documentation.

Noise and Vibration

A noise assessment was prepared by Sinclair Knight Merz (SKM) to accompany the application. The report concluded that the operational and traffic impacts from the development are not expected to exceed the adopted noise criteria.

However during construction, specifically Stage 1 earthworks, DECCW Construction Noise Levels are predicted to be exceeded at the adjoining properties “Maricopa”, 315 Gidley Appleby Lane and “Glenkel”. Although the noise levels will be exceeded, the implementation of the noise mitigation strategies outlined in SKM Noise Assessment Report are anticipated to minimise the impact of construction on the sensitive receptors. Such measures include avoiding the use of noisy plant machinery simultaneously, orientating equipment away from receptors and carrying out loading or unloading away from receptors.

Natural Hazards

Geological

An extensive synclinal fold axis occurs beneath the western site boundary, with a smaller synclinal fold axis occurring to the east, outside the property boundary. A major fault identified as the Attunga Fault, traverses the property in a north-north-west to south-south-east orientation. These local features may be associated with localised increases in fracturing of the bedrock strata.

Despite the unusual geological conditions, the Groundwater and Surface Water report concludes that the risk to ground water is very low. The impact of the development on ground water supplies is discussed in detail under the heading “water” in this report.

Flooding

The land adjoining the Peel River is subject to inundation by flood water. The EIS identifies that flooding does not extend beyond 300 metres from the banks of the river. PPU 1 is proposed to be located 900 metres from the bank of the Peel River. On this basis, the proposed development poses negligible impact to human life or property, surface water distribution or levels and velocities during floods.

Technological hazards

Not relevant to this application.

Safety, security and crime prevention

Internal lighting is required to enable the birds to find food and water.

External lighting is required over the front and rear loading/unloading areas of each poultry shed. A single luminare is proposed to be mounted at a height of approximately 4 metres and used only when the loading/unloading areas are in use outside daylight hours or in times of heavy fog.

The Site Lighting Impact Assessment prepared by Sinclair Knight Merz (SKM) confirms there will be no significant impacts from lighting at the proposed sheds, which will be directed downwards to minimise light spill, distraction to motorists and harm to the birds.

Social impact in the locality

It is not anticipated that the proposal will have any social impact on the locality.

In terms of community health, the Air Quality Impact Assessment prepared by PAE Holmes confirms there will be no adverse impact on air quality as a result of the development. Further, the cumulative impact of the proposed development and the nearby “Gidley” and Taradale” farms will not exacerbate the existing air quality issues.

Economic impact in the locality

The EIS identifies that the development will contribute to the local economy through the creation of nine additional (9) full time jobs. The birds at this farm will also consume 27,000 tonnes of feed per annum which equates to approximately \$11 million based on current average feed prices.

Tamworth has an established meat chicken industry including associated hatcheries, processing and protein recovery plants. The proposed development will increase the supply of broiler poultry by up to 5 million birds per year which will provide for the continued growth of the industry in the Tamworth region.

Site design and internal design

In relation to internal design, a small proportion of the land is proposed to be utilised by the development with each PPU site having a footprint of appropriately 5 to 6 hectares. Adequate landscaping is proposed around each PPU and the new driveways to assist in maintaining the rural character of the area.

The PPU sites have also been selected having regard to the natural constraints of the land and to provide adequate separation distances to minimise the potential for a disease outbreak.

In relation to PPU design, the applicant has advised that each shed will be constructed, maintained and stocked to ensure birds avoid injury, pain and stress. In this regard, adequate lighting, ventilation, food and water will be provided for the birds. Stocking will also be at the rate recommended by the *National Animal Welfare Standards for the Meat Chicken Industry* of 0.046m² per bird to ensure flock welfare and performance.

Construction

During the construction phase of the development, surrounding residents may be affected by issues such as dust, noise and traffic. The EIS includes a summary of mitigation measures for the construction phase of the development to minimise the impact. Such measures include a restriction to construction hours and avoiding the use of noisy plant and equipment simultaneously.

The summary of mitigation measures also addresses the impact of the construction on the environment. In this regard, measures proposed include installation of erosion and sediment control structures, prompt rehabilitation and revegetation of disturbed areas, wetting down of dusty surfaces in dry periods and diversion of upslope water from the disturbed areas.

The proposed mitigation methods are considered to be adequate to minimise the impact of the construction phase on the surrounding neighbourhood and environment.

Cumulative impacts

The cumulative impacts identified as a consequence of the development relate to air quality, traffic, operational noise, external lighting and surface and ground water. These matters are discussed in detail under the relevant sections of this report and are not considered to be detrimental to the proposal.

Section 79C(1)(d) any submissions

The development application was exhibited on two (2) separate occasions in accordance with the Regulations. The first exhibition period from 6 October to 5 November 2009 failed to identify that an unformed public road comprised part of the development site. Consequently, the documentation supporting the application was amended and the application was re-exhibited from 11 January to 10 February 2010.

Seven (7) submissions were received in response to the first exhibition period. A summary of the submissions and a planning response to those issues not addressed elsewhere in the body of the report is provided below:

- *Council, as landowner, did not provide consent to lodge the development application, making the application invalid given it does not comply with clause 46 of the Regulations.*

Council, as landowner granted consent to the lodgement of the development application on 21 December 2009.

- *The development is located within 500m of the objector's property boundary. The sheds will attract feral animals which will impact on the objector's lamb breeding program and baiting will put working dogs in danger.*

The EIS includes mitigation measures in relation to pest control. Such measures include the collection and disposal of waste and dead birds offsite rather than stockpiling, prompt removal of bedding material, regular maintenance of grass and vegetation surrounding the sheds and rapid clean up of grain spills. These methods are considered to be adequate to ensure that any existing pest population does not increase or are attracted to the farm.

- *The existing sheds on surrounding lands are fixed with alarms for electricity fluctuations which frequently go off, both day and night. At night it is very disturbing and another 18 sheds generating such noise is unacceptable.*

The Noise Assessment Report prepared by Sinclair Knight Merz (SMK) identifies that the operational noise impacts from the development will not exceed the relevant noise criteria.

- *Since living in the area, the objectors have developed asthma.*

According to the Asthma Foundation of Australia website, it is not yet understood why people of all ages develop asthma. Consequently, the health of the objector cannot be directly attributed to any existing or proposed poultry development in the area.

- *Devaluation of land.*

Land value is not a matter for consideration in the assessment of a development application.

- *The ground water supply may be polluted because of the syncline located onsite. Any contamination will be impossible to rectify. A gelatine factory was refused because of the unstable sub rock structure.*

Council records indicate that enquiries were received in relation to the establishment of a gelatine factory located to the south of the development site. However, a development application was never determined by Council.

- *The roofing material should be non reflective to reduce glare. The sheds on the corner of Oxley Highway and Rushes Creek Road, Somerton are very bright.*

The EIS identifies that the poultry sheds will be constructed of cool room insulated sandwich panel (two metal faces with a fully insulated core) using non-reflective colour-bond type material in an appropriate colour, such as

eucalyptus green, heritage yellow/mustard, or sand. The applicant has confirmed that non reflective construction materials will be used for both the shed walls and shed rooves. It is recommended that a condition be imposed to require that confirmation of the chosen colour scheme is submitted to Tamworth Regional Council for approval prior to issue of a Construction Certificate.

The following objections are considered to have been addressed in the body of the assessment report.

Odour

- *There are already problems with foul odour in the area;*
- *Are there any health risks from dust and odour?*
- *The proposal does not comply with DECC's Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (AMMAAP) performance criteria;*
- *Baiada have not revised the dispersion modelling to include pollution control strategies or demonstrate how compliance will be achieved;*
- *The incorrect odour units have been used, based on the population, 5OU should have been applied;*
- *Council would not permit the objector's neighbours to build a house on the low lying areas because of odour. The objector's house is in a low area near the Peel River, consequently the same odour concerns should apply; and*
- *Poultry manure was previously spread over Silverweir and it didn't matter on which part of the property it was spread, the odour always drifted to the objector's house.*

Disease

- *What are the implications of a disease outbreak?*

Landscaping

- *If landscaping is not established until 6 months after construction, the lighting will impact on the objector's house at night.*

Traffic

- *Appleby Lane should be sealed, it is not of adequate standard to accommodate more heavy traffic;*
- *The existing intersection of Appleby Lane and the Oxley Highway is already dangerous. There is a large volume of trucks using the intersection of Appleby Lane as a bypass to Moonbi Gap Road in addition to the poultry trucks. There have been 4 deaths on the road between "Werribee Park" and Bective Lane Reserve Road;*
- *Passing lanes are required at the intersection of Appleby Lane and Oxley Highway to improve safety for motorists and school children as the bus stop; and*
- *Appleby Lane is already in a poor state of repair. The proposed development will lead to further deterioration.*

Road Closure

- *The road closure should not be approved. Access to Mr and Mrs Walker's property is currently via a right of way through Silverweir, however if the property went into quarantine, access to their land might be prevented for a long period of time; and*
- *This road would also be required if the Walkers wanted to develop their property.*

Water

- *More poultry sheds may be established in the area which will reduce water availability forcing the subject development to use ground water;*
- *Appendix E Figure 3 does not identify the bore located on the objector's land. It is approximately 500m from PPU 2;*
- *Appendix E, page 5 states that ground water flow is "expected" to reflect topography. If this is not proven by investigation, it may affect the objector's bore;*
- *A condition should be imposed to state that water cannot be sourced from the ground water supply;*
- *The ground water supply may be contaminated if there is water leak in the sheds or chemicals are used. The soils in the area crack in dry weather up to 75mm. The objector has pumped water into one for 45 minutes without filing it;*
- *The runoff from the sheds will inevitably end up in the Peel River. Roof water should be collected in tanks and reused on the farm. Most of the river wildlife has already been lost. This has not been addressed in the EIS; and*
- *The proposed burial pit is in close proximity to residences and over a water aquifer which is not satisfactory.*

Five (5) submissions were received in response to the second exhibition period. These objections relate to the road closure, which has been addressed in the body of the assessment report.

- *The unformed public road should not be closed, it has been used for access in the past and also provides access to the Peel River;*
- *The objector was not permitted to close the lower end of Fairs Road in the past, so the subject closure should not be permitted either;*
- *The property "Maricopa" requires the public road to provide access to large machinery to harvest and move grain;*
- *The road is also used for stock trucks; and*
- *The existing access to "Maricopa" is inadequate for the movement of large machinery and cattle or sheep trucks.*

Section 79C(1)(e) the public interest

The submissions received from public authorities and from the public in response to the exhibition period have been considered in the preceding section of the report.

4 Recommendation

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000. The evaluation demonstrates that the proposal is satisfactory in terms of the matters for consideration identified in the legislation.

It is recommended that the proposal be granted conditional development consent.

Lucy Walker
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Alison McGaffin
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Economic Development

7 April 2010

