

RESPONSE TO THE RECOMMENDED REASONS FOR REJECTION
OF GOSFORD CITY COUNCIL TO THE PROPOSED
EXPANSION OF POULTRY FARMING OPERATIONS AT

80 BLOODTREE RD MANGROVE MOUNTAIN

PREPARED BY MR NED MORTENSEN FOR SUBMISSION
TO THE JOINT REGIONAL PLANNING PANEL (HCC REGION)
ON BEHALF OF THE PARTNERSHIP BETWEEN

BLOODTREE ORSUS PTY LTD
AND
PALM MARIE FARMS PTY LTD

26TH JULY 2011

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I Introduction

The following submission seeks to address the Gosford City Council's eight reasons for recommending refusal for the proposed expansion of existing free range poultry farm to include 4 additional naturally ventilated poultry sheds.

II Recommended Reasons for Refusal (appearing in bold) and Submitted Response

- 1. The proposal creates unreasonable and non-compliant impacts on air quality (odour) and noise (from trucking movements in particular) to a number of nearby sensitive receptors. The additional impacts do not comply with the relevant guidelines of DECCW or the Industrial Noise Policy.**

The noise generated from an increase in trucking movements on Bloodtree Rd associated with the development is well within the LAeq, (1 hour) 50 dB(a) limit prescribed by the DECWW *NSW Road Noise Policy*.

Following our reading of Council's submission to the JRPP last Friday, an additional independent consultant (SLR Global Environmental Solutions) was retained to provide comment and further peer review on the findings of both Benbow Environmental and Air Noise Environment (for GCC).

A copy of SLR Global Environmental Solutions' response to noise related issues is appended to this submission. In short, the independent review supports the methodology, noise modelling and findings of Benbow Environmental, and also highlights some inconsistencies and criticisms of Gosford City Council's own peer review. An attempt was made also to commission an independent review of Benbow Environmental's odour assessment and Gosford City Council's subsequent peer review, however completion of the odour review was not possible given the constraints of time and the complexity of the subject matter.

The NSW Land and Environment Court holds that a receptor is only sensitive when it is impacted by the development in excess of DECWW guidelines, and that its actual geographical proximity to the development is irrelevant. See for example, *The Qur'anic Society v Camden Council* 2009 (New South Wales Land and Environment Court 1171).

Council has failed to demonstrate that the development will result in non compliance with DECWW noise guidelines or the Industrial Noise Policy. Quite to the contrary, it is the expert opinion of both Benbow Environmental and SLR Global Environmental Solutions that compliance with the relevant guidelines can be achieved with the proposed mitigation measures.

It is unfortunate that Gosford City Council's approach to conducting peer review was neither open nor conciliatory. We were unaware until our reading of the JRPP submission that any independent peer review by external consultants had been commissioned by GCC at all. As we were not made previously aware, and were not given adequate time to address the differences of opinion regarding the odour modelling methodology raised by Air Noise Environment, our submission to the panel

must rely solely on Benbow Environmental experienced and expert opinion in these matters to demonstrate compliance.

Air quality and noise impacts have been addressed in a quantitative and scientific way by Benbow Environmental. While it is true that the peer review by Air Noise Environment Pty Ltd commissioned by GCC raises a number of differences of professional opinion, it provides no alternative analysis, data, or result to show that the impacts of noise and odour fall outside relevant DECWW guidelines.

2. The proposal creates an intensified land use that conflict with surrounding properties and the adjoining 7(b) zone in particular which contains most of the sensitive receptors.

Council have provided no evidence whatsoever that the proposed land use conflicts with, or impacts in any way on surrounding properties, or that there are any sensitive receptors that would be recognised as such by the NSW Land and Environment Court (see response to GCC reason 1 on page 1 of this submission).

We have however, provided extensive quantitative scientific data from experts to support our position that it does not impact on surrounding properties, or conflict with existing land uses.

3. Farm Management Plan to manage noise from truck movements is difficult to enforce and could result in regular offensive noise impacts to sensitive receptors.

This reason for objection relies on speculation that the applicants lack the ability to implement management strategies on their own farm. It amounts to nothing more than unsupported conjecture.

The reason for objection also relies on the adverse impact of noise on surrounding properties, which has been examined already in our response to reason for objection 1.

4 The EIS has not satisfactorily addressed or appropriately considered the following:

- **The impacts on nearby sensitive receptors particularly regarding odour and noise impacts,**

The EIS contains extensive address of these issues.

- **social disadvantages to the surrounding area - the justification for the proposal incorrectly states there will be no significant social impact**

GCC have provided no evidence to support any social impact of the proposed development. There are no circumstances of the proposed development that necessitate the inclusion of a Social Impact Statement.

- **Appropriate alternatives such as a smaller development and/or a staged development to monitor impacts before further development,**

While the applicant may be prepared to consider such concessions if forwarded as alternatives to rejection of the application by the JRPP, the development at it's currently proposed size is preferable as it offers the applicant security of contract with chicken processors, and overall economic stability for the proposed operation.

- **The provisions of SEPP 33 as the proposal is classified as a “potentially offensive industry” under the provisions of the SEPP.**

The EIS provides sufficient information to address relevant matters for consideration under Clause 13 of the SEPP and stipulates mitigation measures and best management practices to ensure that the level of offence is within acceptable limits. The proposal does not require an Environmental Protection Licence (EPL) from DECC&W and consequently the proposed development does not constitute an offensive development.

- **The impact particularly in relation to air quality on the adjoining sportsground at Lot 81 DP 664567.**

The sportsground is some 600m from the proposed sheds, and is shielded by both natural terrain and a vegetative screen approximately 170m wide.

While any impact to the sportsground is considered to be negligible, there is no requirement (either regulatory or other) for it's assessment.

5. **The proposal is an overdevelopment of the site with regard to its size, shape and distance from nearby sensitive receptors. The additional sheds are unable to be located a sufficient distance from sensitive receptors to minimise air quality and noise impacts.**

The proposal is not an overdevelopment of the site. The proposed development is not out of character with typical intensive rural use in the vicinity and it will not detract from the amenity of the area in general. This position is supported by the impact assessments included with the EIS.

The proposed sheds are completely shielded from the view of neighbours and passing traffic on Bloodtree Rd by a significant existing screen of natural vegetation.

6. **The proposal is inconsistent with the relevant objectives of the 1(a) Rural (Agriculture) zone as well as being inconsistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.**

The objective of the 1(a) zone is to provide suitable land for agricultural use. The site contains ample area for the proposed development and is consistent with other such development within the area.

The proposed developments engineered mitigation mechanisms ensure that there is no impact on surrounding land over and above acceptable limits. See the response for GCC's reason for rejection 1 for further information.

The proposed project is in no way inconsistent with the any of the four principles of Ecologically Sustainable Development, as defined by section 3 of the Local Government Act 1993.

7 The proposal does not comply with the relevant objective of SREP 8 – Central Coast Plateau Areas and relevant strategies of SREP 20 – Hawkesbury- Nepean River.

GCC rely on the noise and odour impact of the development on nearby properties to support this reason for objection. These issues have already been clearly addressed in the response to GCC's reason for refusal 1.

8. Approval to the proposal is not in the public interest due to the potential additional odour and noise impacts to nearby sensitive receptors.

Yet again, GCC rely on the noise and odour impact of the development on nearby properties to support this reason for objection. These issues have already been clearly addressed in the response to GCC's reason for refusal 1.

GCC also rely somewhat on the implied validity of public submission. A detailed response to each of these submissions has been prepared previously at the request of GCC, and is appended to this submission.

III Conclusion

Without exception, all of Gosford City Council's eight reasons rely heavily on the impact of noise and odour on neighbouring properties.

The applicants have gone to great length and expense to retain reputable experts in the field of both noise and odour, whom have produced substantial scientifically prepared data to demonstrate compliance with all applicable DECWW guidelines.

Some six days before the scheduled JRPP hearing, and only four days prior to the cutoff for written submissions to the JRPP for consideration, it was revealed that GCC had retained independent environmental consultants for the purposes of peer review whom differed in professional opinion to our own consultants, Benbow Environmental.

Immediate steps were taken to retain a third an independent consultant to provide review and comment on these differing opinions. While it was possible to have the noise impact reports and GCC's associated comments peer reviewed, the constraint of time and the quantity and complexity of subject matter prevented such advice on odour modelling.

Should the JRPP decide that it is unable to approve the development as it does not accept the advice of Benbow Environmental, I ask that the matter be deferred so that differences of opinion between

consultants may be addressed in an open, conciliatory and constructive fashion without the constraints of time such as were created by GCC failure to include the applicants in any such process.

A handwritten signature in blue ink, consisting of a large, stylized 'N' followed by a smaller 'M' and a period.

Ned Mortensen
For Bloodtree Orsus and Palm Marie Farms