

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 17 October 2016

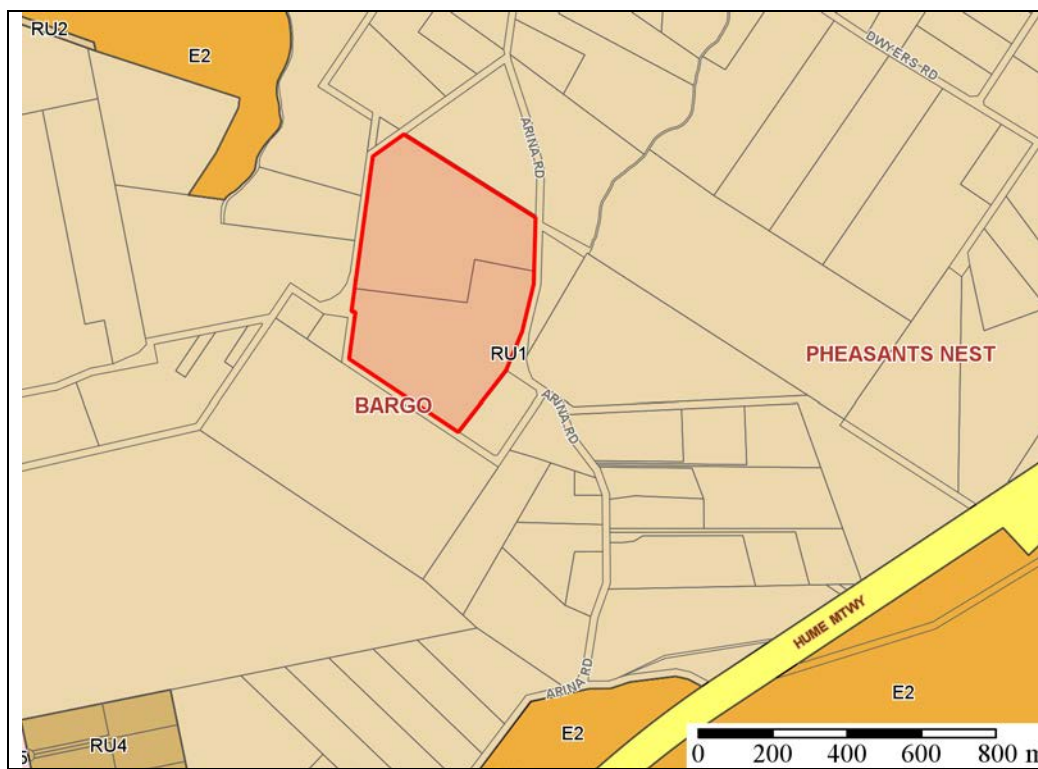
**PE6 - Development Application No.010.2009.00000827.003 - Modification of Consent 010.2009.00000827.001 430 Arina Road, Bargo**

PE6

**Development Application No.010.2009.00000827.003 - Modification of Consent 010.2009.00000827.001 relating to alterations and additions to an existing poultry farm development at Lot: 222 DP 1206433 430 Arina Road, Bargo**

Planning Consultant/1006

DD010.2009.00000827.003



LOCATION MAP  N

**DEVELOPMENT INFORMATION**

<b>Development Application No:</b>	<b>010.2009.00000827.003</b>
<b>Property Address:</b>	<b>430 Arina Road, Bargo</b>
<b>Applicant:</b>	<b>GWH Build Pty Ltd</b>
<b>Owner:</b>	<b>Mr F Pirovic &amp; Mr F Pirovic &amp; Pirovic Investments Pty Ltd</b>
<b>Proposal Details:</b>	<b>Modification of Conditions – Position of Sheds</b>
<b>Zone:</b>	<b>RU1 Primary Production</b>

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**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.
- Consent is now sought to amend the location of the poultry sheds as a result of the consolidation of properties (Lot 2 DP 235598 and Lot 22 DP 778748 into lot 222 DP 1206433). The amended location of sheds increases the separation distances from nearby dwellings.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends 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**

Consent was issued on 21 June 2010 for the construction of four additional poultry sheds at an existing poultry farm development located at 430 Arina Road, Bargo. The farm is only used for egg production.

On 26 November 2015, an application to modify consent was lodged with Council seeking consent to amend the location of the approved sheds as a result of the subject land and No. 240 Bargo Road being consolidated into one property. The effect of the amended location of the sheds also requires a change in drainage and access conditions.

**Description of site and surrounding area**

The site is located on the eastern side of Arina Road, Bargo, approx. 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 at a marginal rate.

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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.

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

**Description of the Original Development Proposal**

Consent is sought for the construction of four additional poultry sheds for egg production at an existing poultry farm and the construction of a dam for effluent and sedimentation control. The sheds would operate as 'barn style' sheds, which means that the birds would be kept indoors and not in cages.

Scratch and roosting areas 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 would be sited towards the rear of the property approximately 100 metres from the western property boundary, a minimum of 62.575 metres from Hinkler Avenue, approximately 150.19 metres from Arina Road and approx. 50 metres from the northern property boundary.

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 – an increase of 230%.

Egg collection would be done mechanically and on a daily basis. After collection, the eggs would be 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.

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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. Birds would be kept within the confines of the shed and would not be able to roost outdoors.

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. Sheds are dry cleaned once a year.

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.

Truck movements present and proposed area:

Purpose	Present	Proposed	Truck Type
Feed	4/week	4/week	Heavy rigid or semi-trailer
Birds	3/year	2-4/year	Semi-trailer
Dead birds	1/month	1/month	Heavy rigid
Eggs	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.

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**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). All environmental impacts associated with the approved development will be reduced as a result of the modified location. The Conditions, under DA010.2009.00000827.001 (21.06.10), to be modified are: Condition 1(1), Condition 1(3), Condition 5(1) and Condition 6(2).*

*The proposed relocation will significantly reduce the environmental impacts of the approved development and allow the most efficient operation of the site. Approval of the proposed minor modification and development of the site with the four approved additional poultry sheds will contribute to the progress of local business.*

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.

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

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Name of Plan	Drawn by/Author	Plan No.	Dated
Drainage Details	George Zuev of Technibuild Consulting	Unnumbered	Received by Council on 22 December 2009

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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."*

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

Comments: an assessment of the proposed changes follows later in this report.

**CONSULTATION**

Referral	Comment
Development Engineer	Existing conditions of consent need to be amended to reflect the new Engineering Plans. An additional condition is recommended in respect of stormwater.  A new condition is recommended regarding stormwater matters.



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Referral	Comment
Health Officer	Advice has been received from the Senior Environmental Health Officer that there are no concerns with the change of shed location.
Environment Officer	The Team Leader Environmental services has provided conditions relating to stormwater, earth fill, erosion and sediment control, landscaping, vegetation and weed management and tree removal are recommended.  A number of these conditions were included in the original consent. Also there are conditions recommended considered not applicable due to repetition, site conditions and the fact that the application is for a Section 96(1A) modification.
Mines Subsidence	Mines Subsidence Board has approved the amended plans

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**Assessment**

**Provisions of relevant environmental planning instruments**

**Environmental Planning and Assessment Act 1979**

*Section 96(1a) Modifications involving minimal environmental impact*

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the proposed modification is of minimal environmental impact, and*

Comments: It is considered that the proposed modification is of minimal environmental impact because:

- No additional tree clearing would be undertaken
- The site is not identified as “sensitive land” on the [Natural Resources—Biodiversity Map](#) under the Wollondilly Local Environmental Plan 2011
- The site is not identified as “sensitive land” on the [Natural Resources—Water Map](#) under the Wollondilly Local Environmental Plan 2011

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- Odour control would be improved through the introduction of vegetation barriers
- Noise and dust impacts have been modelled as being acceptable
- Appropriate sedimentation and erosion controls are proposed.

*(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comments: It is considered that the development to which the consent as modified relates is substantially the same development.

*(c) it has notified the application in accordance with:*

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comments: The application has been notified in accordance with the provisions of Council's Development Control Plan. Persons who made submissions in respect of the original application were notified and the exhibition period was for 15 days ending on 21 April 2016.

As the application involved relocating a shed to an adjoining property to the north the proposal was re-notified to include adjoining neighbours. The period of exhibition was 24 May 2016 to 8 June 2016.

*(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comments: Six (6) submissions were received. One submission was signed by seven (7) people. Five (5) peoples' signatures were on two (2) submissions. An assessment and comments in response is provided later in this assessment report.

*(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*



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Comments: The original application DA010.2009.00000827.001 was comprehensively assessed in accordance with Section 79C in a report presented to Council at its meeting held on 21 June 2010. It is not intended to repeat all of the detail of that assessment in this report.

It is acknowledged that the relocation of the sheds, one being onto land that was previously adjoining to the north (previously Lot 2 DP 235598 but now consolidated) could have additional environmental impacts. In view of this the following reports were submitted with the modification application:

- Noise Impact Assessment
- Odour & Dust Impact Assessment
- Statement of Environmental Effects.

A conclusion was detailed in the 'Noise Impact Assessment' report as follows:

*'The existing farm currently operates three (3) naturally ventilated poultry sheds, and the proposal would include the construction of four (4) additional poultry sheds.'*

*Noise modelling was undertaken by using the predictive software SoundPLAN v. 7.3.*

*The scenarios implemented in the predictive noise model were implemented representing the worst case scenarios occurring during day time as noise sources at the site operate from 7:00am- 3:00pm. The noise emissions associated with the feed delivery operations have been identified as representing the worst case scenario.*

*Predictive noise modelling was implemented considering neutral weather conditions.*

*Based on the predictive noise model results the noise emissions associated with the proposed development's operation comply with the project specific noise levels at all the considered residential receptors.'*

*A 'Statement of Potential Dust and Odour Impacts' was included in the 'Odour and Dust Impact Assessment' report:*

*'The odour impact assessment found that under the proposed shed configuration the air quality criteria of 5.320U would be exceeded the Receptor 2 and Receptor 8. Engineered vegetation barriers would be erected between the site and Receptor 2 and Receptor 8 as a means to reduce the odour concentration experienced and odour levels would readily satisfy odour criteria.'*

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*The dust impact assessment has found that the air quality criteria under the proposed operating scenario would be satisfied. The predicted levels for PM 10 annual averaging periods, dust deposition and for total suspended particulates for 24 hour averaging and annual averaging for all scenarios are well within air quality criteria.*

*The implementation of a Site Environmental Management Plan and in particular, an odour management plan, are recommended and would assist in minimising odour from site operations at the nearest sensitive receivers.*

*The site operations would not involve any toxic or hazardous materials. The risk of impact to air quality is expected to be readily managed and prevented.'*

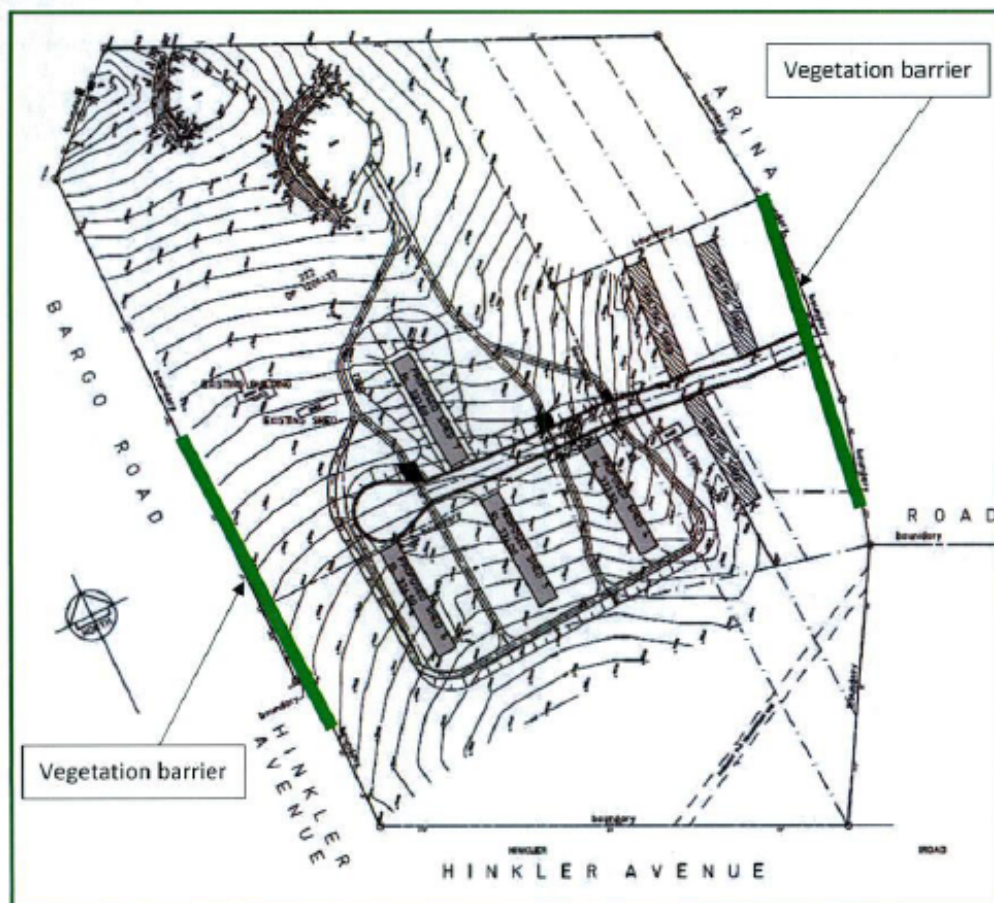
*The following diagram included in the report shows the location of the receptors and proposed vegetation barriers:*

Figure 2-4: Nearest Residential Receptors



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Figure 5-4: Site Plan showing Vegetation barriers



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The SoEE makes the following point regarding the relocation of the sheds:

*'The proposed relocation of the four (4) approved chicken sheds will result in the sheds being located further away from neighbouring properties dwellings and therefore reduce the impact from noise, odour and dust.'*

*The plans submitted with the application do not reinforce this assertion. It is considered that the proposed relocation of the sheds would not alter the impact from noise, odour and dust one way or the other. It is acknowledged that the relocated chicken sheds would be further away from the southern boundary but therefore closer to the northern boundary.*

*The distance of the nearest sheds from the closest receptors 2 and 8 remain unchanged. Existing sheds on the site are closest to receptor 8.*



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*Recommendations included in the 'Odour and Dust Impact Assessment' report would improve the impact situation in respect of noise, odour and dust.*

*The SoEE and SoEE Addendum submitted with the modification application assess the proposed modification in accordance with the provisions of the relevant planning instruments (Local Environmental Plans and Development Control Plans).*

*Assessment in respect of environmental planning instruments will focus the provisions of Section 96(1A) Modification of consents of the Environmental Planning and Assessment Act (EPA Act).*

*(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

Comments: The Impact Assessment reports are noted.

**Provisions of relevant draft environmental planning instruments**

None

**Provisions of relevant Development Control Plans**

Wollondilly Poultry Development Control Plan (Poultry DCP)

The applicant of the original application sought a variation to the property boundary controls from the DCP. That application proposed the sheds proximity to the northern and southern boundaries, proximity to a public road and the location of the detention/sedimentation dam. Those sheds were proposed to be within 50 metres of the northern property boundaries and within 62.575 metres of Hinkler Avenue.

The DCP required a minimum distance of 150 metres from property boundaries and 100 metres from a public road.

Based on the merits of the original application, Council in 2011 resolved to support the departures to the DCP and approve the development.

The result of the consolidation of the properties means the variation to the northern property boundary proximity has now 'disappeared'. The sheds, as proposed to be modified, are now located greater than 250m from property boundaries.

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This application proposes to reduce the setback to the site's common boundary with Bargo Road (approximately 96.5 metres), formerly 100 metres. Council supported the previous variation based on there being no issues with the odour, noise and rural land use conflicts concerns.

A minor encroachment as now proposed is considered acceptable based on the comments from Council's Environmental Health Officer and based on compliance with conditions, it is considered that the encroachment will not result in any impacts.

Development Control Plan No. 36 – Development in Rural Areas

Approval of the application as proposed to be modified will not generate any non-compliance against the controls contained therein, subject to conditions of consent.

Wollondilly Agriculture Lands Development Control Plan and Development Control Plan Agricultural 1(a) Zone

Approval of the application as proposed to be modified will not generate any non-compliances against the controls contained therein, subject to conditions of consent.

Development Control Plan No.21 Earth Dams

Approval of the application as proposed to be modified will not generate any non-compliance against the controls contained therein, subject to conditions of consent.

General

Based on the comments from Council's Development Engineering Section and the Environmental Health Officer, it is recommended that the application to modify the consent be approved in accordance with the recommendations of this report.

**Draft and/or planning agreements entered or offered to enter into**

None

**Impacts of the development**

It is considered that the proposed modification will not result in any unreasonable environmental, social, built and/or economic impacts. The revised proposal increases the distances to sensitive receivers.

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**Suitability of the site**

In accordance with the assessment of the original application, it is considered that the large site is suitable for the proposed development.

**Submissions**

The original period of exhibition was from 6 to 21 April 2016.

As the application involved relocating a shed to an adjoining property to the north the application was renotified to include adjoining neighbours and nearby landowners. This phase of the exhibition period commenced 24 May 2016 and ceased 8 June 2016.

In total, six submissions were received. One submission was signed by seven (7) people. Five (5) peoples' signatures were on two (2) submissions.

A summary of the issues and comments are provided below:

Submitter Issue	Assessor Comment
New application -v- modification	<p>It is considered that the development to which the consent as modified relates is substantially the same development.</p> <p>The applicant has provided legal advice supporting this conclusion. See the section of this report below titled 'Is the proposal substantially the same development?'</p>
Odour	<p>An 'Odour Impact Assessment' report prepared by Parsons Brinckerhoff dated November 2009 was submitted with the original application. Subsequently a report prepared by Benbow Environmental and dated November 2015 titled 'Odour and Dust Impact Assessment' was submitted with the modification application</p> <p>Note: The 'Odour and Dust Impact Assessment' refers to the four (4) new sheds increasing the capacity to 96,000 hens. The original application and consent referred to a total capacity of 105,000 birds.</p> <p>The odour impact assessment submitted with the original application also referred to the four (4) new sheds increasing the capacity to 96,000 hens.</p>



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Submitter Issue	Assessor Comment
	<p>It is recommended that condition 5 under the heading '12 Occupation &amp; Use' of the original consent be modified to restrict the maximum number of birds to 96,000 as follows:</p> <p>(5) The total stocking rate for the Farm shall not exceed 96,000 birds at any time.</p> <p>A 'Statement of Potential Dust and Odour Impacts' was included in the 'Odour and Dust Impact Assessment' report submitted with the modification application. The relevant part addressing odour states:</p> <p>'The odour impact assessment found that under the proposed shed configuration the air quality criteria of 5.320U would be exceeded (at) the Receptor 2 and Receptor 8. Engineered vegetation barriers would be erected between the site and Receptor 2 and Receptor 8 as a means to reduce the odour concentration experienced and odour levels would readily satisfy odour criteria.</p> <p>The implementation of a Site Environmental Management Plan and in particular, an odour management plan, is recommended and would assist in minimising odour from site operations at the nearest sensitive receivers.'</p> <p>The report also asserts:</p> <p>'Benbow Environmental has found that odour levels can be reduced by up to 40% using an engineered vegetation barrier similar to the examples shown.'</p> <p>One submission referred to odour increases as a result of the previous approval.</p> <p>The same submission noted that there is a proposal to amend the control requirements with respect to the storage of manure and spent litter.</p> <p>Conditions are recommended to implement the odour controls as proposed.</p>

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Submitter Issue	Assessor Comment
	<p>The original consent for the poultry operation contained the following conditions:</p> <p>'(6) No manure or spent litter is to be stored external to the sheds.</p> <p>(7) All manure and spent litter is to be taken from the property in covered loads to prevent spillage of contents. New shavings are to arrive on the site in covered loads and spent litter shall be removed from the sheds at the removal of each batch of birds from each shed and replaced with fresh shavings.</p> <p>(8) At no stage shall spent litter be retained on the property.'</p> <p>The modification would not alter the condition relating to manure and spent litter.</p>
<p>Consultation/fencing /free ranging</p>	<p>One submission believed that Council was not properly informing the community about the proposal and the owner purchasing a lot to extend the poultry farm.</p> <p>Noted. As stated above the modification has been publicly notified twice and information on Council files is available via GIPAA.</p> <p>Concern was also raised that the owner of the poultry farm has not consulted with adjoining neighbours and this is contrary to industry recommended practice. Council has no control over this, however best practice is to encourage neighbourly communications.</p> <p>Concern was raised that the boundary fencing is inconsistent with Council's policy for rural areas regarding fencing types. It is noted that the following condition was included in the original consent:</p> <p>'(1) Any fencing is to be installed in accordance with the provisions of Council's Fencing Policy.'</p> <p>Concern was raised that currently the operation allows for free range arrangements.</p>

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	<p>This is contrary to the existing approvals and results in no buffer zone between the free range areas and the property boundaries.</p> <p>A separate application would need to be lodged if free range operation were to be pursued. Documentation submitted with the original application described the development as follows:</p> <p>‘All sheds will operate as “barn style” sheds. That is, the birds are kept indoors but not in cages. The birds are provided with a scratch area, roosting area and nesting boxes.’</p> <p>The matters of the cyclone fencing and the current free range practice are compliance issues and will be pursued separately by Council staff.</p>
Repositioning of the sheds	<p>The submission claims that the relocation of the sheds will result in shed 6 being 30 feet closer to an existing residence. Concern was raised that the location of the shed could degrade tank water quality at a residence not on town water due to airborne chicken excrement.</p> <p>Shed 6 is in fact in the same location as the approved western most structure (i.e. at its closest point it is setback 100m from Bargo Road).</p> <p>Shed 4 on the eastern side of the site is located 30m closer to Arina Road but is still 70m to the west of the existing poultry shed that is the nearest one to Arina Road. No water quality conditions are considered necessary.</p>
Traffic	<p>An aspect of concern is the increased traffic generated by the original approval. However, the proposed modification would not result in an increase in traffic.</p> <p>A submission makes the point that in other forums, discussions were being had concerning the removal of D.A. conditions controlling the times for transporting of birds.</p> <p>The following conditions are included in the original consent:</p>

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	<p>(9) Egg collection shall be undertaken between 7am to 8pm Monday to Friday and between 10am to 1pm on Saturdays, Sundays and Public Holidays.</p> <p>(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.</p> <p>(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.</p> <p>(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.'</p> <p>These conditions are not proposed to be modified for this development.</p> <p>It is asserted in a submission that Council should never agree to any subsequent application to have any entry/exit point for the poultry farm onto Bargo Road or Hinkler Avenue.</p> <p>Council must assess any future applications on merit, however it is noted that the proposed access is from Arina Road.</p>
Ventilation fan noise	<p>Once again this concern about noise is raised in the context of the original approval for an additional four (4) sheds. However, the proposed modification does not increase the number of sheds.</p> <p>The 'Noise Impact Assessment' submitted with the modification application concludes:</p>

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Submitter Issue	Assessor Comment
	<p>'The scenarios implemented in the predictive noise model were implemented representing the worst case scenarios occurring during day time as noise sources at the site operate from 7:00am- 3:00pm. The noise emissions associated with the feed delivery operations have been identified as representing the worst case scenario.</p> <p>Predictive noise modelling was implemented considering neutral weather conditions.</p> <p>Based on the predictive noise model results the noise emissions associated with the proposed development's operation comply with the project specific noise levels at all the considered residential receptors.'</p>
<p>Noise reduction initiatives and screening/buffer zone</p>	<p>Landscape screening is proposed to be utilised as shown in the 'Odour and Dust Impact Assessment' as shown in Figure 5.4 of that document (see diagram further on in this report).</p> <p>The original consent also included the following conditions:</p> <p>'(2) A detailed landscape plan, drawn to scale by a person with horticultural qualifications or similar (such qualifications must be endorsed on the plans) shall be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. This plan must include the following:</p> <ul style="list-style-type: none"> <li>(a) All existing and proposed site structures.</li> <li>(b) All existing vegetation.</li> <li>(c) Details of earthworks including mounding, retaining walls and planter boxes.</li> <li>(d) Location, number and type of plan species.</li> <li>(e) Details of planting procedure and maintenance.</li> <li>(f) Details of drainage and watering systems.</li> </ul> <p>The landscaping plan shall include the following:</p> <p>Three rows of vegetation shall be established along the northern, western and southern property boundaries and must incorporate a mixture of trees, shrubs and groundcovers.</p>

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Submitter Issue	Assessor Comment
	<p>All plantings are to be in groups, consisting of advanced stock and are to be a minimum 12 metres from all sheds to allow adequate air movements.</p> <p>The mature height of tall species should be sufficient to intercept a direct line of sight from neighbouring dwellings and roadways (measured 2 metres above natural ground level).</p> <p>Tree planting must not impede on the available area for onsite sewage management disposal.</p> <p>All open stormwater drainage swales, exposed earth areas and earth banks shall be grassed and be maintained and regularly mown for the life of the development.</p> <p>(3) Landscaping is to be installed in accordance with the approved Plan prior to the release of the occupation certificate. The landscaping must be maintained in accordance with the details provided on that Plan at all times.</p> <p>(4) Any further landscaping provided as per conditions of this consent shall consist of local provenance native species.'</p> <p>These conditions are proposed to remain.</p>
<p>Pollution of nearby dams and the local water catchment</p>	<p>Stormwater issues are exacerbated by the fact that a dam on the property has been filled in and the operation has now changed to a free range undertaking.</p> <p>The 'Stormwater Plan' submitted with the application shows stormwater to be directed to the dams at the north-western corner of the property via grass swales.</p> <p>The stormwater conditions placed on the original consent are as follows:</p> <p>'(1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.</p>

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Submitter Issue	Assessor Comment
	<p>(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.</p> <p>(3) A reed bed shall be established in order to reduce any pollution and/or nutrients being disposed into the drainage depression that traverses the property. The water from the dam's bywash shall enter the reed bed before such water integrates into a natural stormwater/drainage depression.'</p> <p>As a result of the modification condition 2 above would need to be altered to reflect the new stormwater plan.</p> <p>Condition 3 would remain to deal with pollution and nutrients.</p> <p>An additional condition is recommended by Council's Development Engineer as follows:</p> <p>'Engineer's certification shall be provided for the design and construction of proposed Energy Dissipater and basin prior to occupation of poultry sheds.'</p>
The future	<p>Concern is expressed that with the purchase of the additional land further expansion of the poultry operations are likely to occur in the future.</p> <p>Council is obligated to consider any future applications involving expansion of the poultry operation on their merits.</p>
Are there any plans to upgrade Arina Road to cater for heavy vehicles	<p>Council maintains that Arina Road remains capable of accommodating the traffic generated by this development. There are Council reconstruction and minor widening works proposed for 2016/17 between Bidewell Drive and Bargo Road.</p>
Lack of activity on the part of the poultry farm might also make the previously approved DA 'null and void'	<p>Physical commencement has been achieved. The applicant claimed physical commencement in an email to Council dated 20 April 2015. A further email dated 4 June 2015 stated:</p> <p>'Earthworks commenced on 7th May 2015. And some piers were poured on 21st May 2015.'</p>

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Submitter Issue	Assessor Comment
	<p>Council agrees that physical commencement occurred and the consent was secured.</p> <p>The date of determination of the original consent was 21 June 2010.</p>
<p>Separation distances from egg industry facilities</p>	<p>Concern has been raised that the proposed expanded operations don't comply with the guidelines of the Australian Egg Corporation Limited.</p> <p>The expanded operations were approved in 2010. Council's then DCP separation controls applied to the development. The proposed modification does not further expand the operation.</p> <p>Council's separation controls were discussed in the SoEE as follows:</p> <p>'One shed is proposed with a 100m setback from the western boundary however this is consistent with the approved setback of the development consent and the revised locations propose all other sheds 150m away from the property boundary whereas the approved development consent located two sheds with in compliant setback not reaching the desired 150m setback.'</p>
<p>Rodent and fly eradication</p>	<p>It is suggested that a rodent/fly eradication plan should be required.</p> <p>The proposed application is for a modification and does not result in any extension of the operation. It would therefore be unreasonable to require a rodent/fly eradication plan at this stage.</p> <p>The following conditions were included in the original consent:</p> <p>'(2) The premises shall be maintained in a clean and tidy state at all times.</p> <p>(4) All feed, seed and odorous materials shall be stored in sealed containers.</p> <p>(6) No manure or spent litter is to be stored external to the sheds.</p>

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Submitter Issue	Assessor Comment
	(8) At no stage shall spent litter be retained on the property.'
Cyclone Fence on boundary	The 1.8m cyclone fence erected around the property has not had any approval from Council and is not an exempt boundary fence permitted by Sections 2.35 and 2.36 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. As such, a condition is recommended to be added to remove the cyclone fence and permit a replacement in accordance with that permitted by the exempt legislation.
Free ranging of birds	Consent has not been granted for any external areas of the site to be used for roosting, scratching or nesting. The original application stated that 'all sheds will operate as barn style. That is, the birds are kept indoors, not cages. The birds are provided with a scratch area, roosting area and nesting boxes.'  As such, a condition is proposed to require all external areas of the sheds being used by the birds shall cease and the land be restored.
Dust generation	With the recommendation for external areas of the sheds being used by birds to cease and the land restored, this will eliminate dust generation issues. There are existing conditions of consent in place to restore all disturbed areas.
Filling in of third dam and associated water quality issues	Concern was raised about the dam. No consent is required to fill in a dam as long as the material from the dam wall is used. Amended/additional plans were submitted to Council after a site inspection to address water quality and quantity issues. Council's engineers are satisfied with the additional information and it is considered that there will be no impact upon water quality.
Shed location - closer to boundary	This application proposes to reduce the setback to the site's common boundary with Bargo Road (approximately 96.5 metres), formerly 100 metres. Council supported the previous variation based on there being no issues with the odour, noise and rural land use conflicts concerns.  A minor encroachment as now proposed is considered acceptable based on the comments from Council's Environmental Health Officer and based on compliance with conditions, it is considered that the encroachment will not result in any adverse impacts.

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Submitter Issue	Assessor Comment
The development being contrary to the Egg Board's Guidelines	Under the provisions of Section 79C of Environmental Planning and Assessment Act 1979, the guideline documents produced by Department of Primary Industries, the Australian Egg Corporation Limited and other industry bodies are not an environmental planning instrument, a Development Control Plan or a regulation to be considered by Council. They are documents and guidelines that an operator of a poultry farm that must abide by for external regulators. However, for consistency, an advisory note is recommended for the persons or entity having the benefit of this consent to, wherever practical, the operation of the development shall have regard to the Department of Primary Industries and Egg Board's Codes of Practice for egg production.
A water supply line runs through the property. The development may damage the pipe	An advisory note is already in place whereby the persons or entity having the benefit of this consent shall "Dial before you Dig" so infrastructure can be located onsite and in this case, Sydney Water can advise as to what is needed to be undertaken to prevent damage to the pipe.

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**ATTACHMENTS INCLUDED IN SEPARATE BOOKLET**

1. Proposed Plans of development

**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*

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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

*submitted in respect of Development Application No. 010.2009.00000827.001 including amendments and where varied by the following conditions:"*

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.*

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*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 010.2009.00000827.0032, except where varied by the following conditions:"*

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

*"1(4)(a) The design of the vegetation barriers recommended by Benbow Environmental shall be submitted for Councils approval prior to construction.*

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. Details of this shall be submitted with building plans for approval prior to the issue of the Construction Certificate."*

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 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).*



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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).*

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

*"1(11) The 1.8 metre perimeter cyclone fence shall be removed and either 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 96,000 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).*

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

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

15. 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."*