

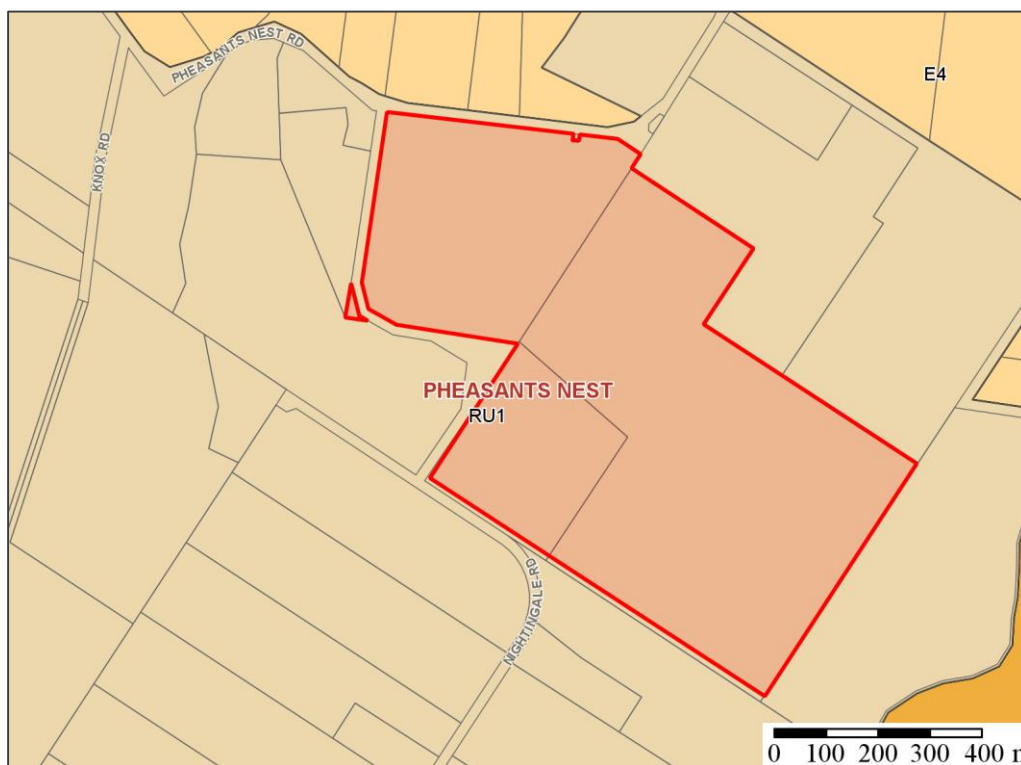
**GR3 – Development Application No. 010.2011.00000568.002 – Modification of Consent – 294-296 Pheasants Nest Road, Pheasants Nest**

**GR3**

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010.2011.00000568.002



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**LOCATION MAP N**

**DEVELOPMENT INFORMATION**

<b>Development Application No:</b>	010.2011.00000568.002
<b>Property Details:</b>	294-296 Pheasants Nest Road, Pheasants Nest
<b>Applicant:</b>	GWH Build Ltd.
<b>Owner:</b>	Pirovoc Investments Pty Ltd
<b>Proposal Details:</b>	Modification of Consent
<b>Zone:</b>	RU1 Primary Production

**Growth**

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**EXECUTIVE SUMMARY**

- The purpose of this report is to outline the assessment of an application to modify a consent to extend three existing poultry sheds and erect seven additional poultry sheds at 294-296 Pheasants Nest Road, Pheasants Nest taking into account Council's resolution on 11 December 2017.
- A total of four (4) submissions have been received in relation to this modification.
- 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 of consent.

**REPORT**

**BACKGROUND**

The subject property has development consent to extend three existing sheds and erect seven (7) new sheds.

The modification application currently being considered by Council seeks to revise the layout of the poultry sheds due to acquisition of additional land adjacent to the original site and impractical earthworks proposed in the original development application.

A report was considered by Council at the Ordinary Meeting held 11 December 2017. Council resolved that:

- “1. *The applicant be requested to submit information and documentation to address Clause 5.10 of Wollondilly LEP 2011 and in particular the potential impacts of the proposed development upon the locally listed heritage item (128 under Schedule 5 of Wollondilly LEP 2011) located at 290 Pheasants Nest Road, Pheasants Nest.*
2. *The Council seek legal advice concerning whether or not the request for modification can include the new land (now a part of Lot 5 DP 1214896).*
3. *The impacts on 335 Pheasants Nest Road, Pheasants Nest be noted in that report.”*

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21 December 2017

Council staff met with the Applicant to discuss an amended shed layout to increase the separation to the decommissioned sheds at 355 Pheasants Nest Road.

3 January 2018

Council received amended plans. The amended plans effectively relocate 5 of the 7 unconstructed sheds further south west. This change resulted in the setback to the decommissioned poultry farm at b355 Pheasants Nest Road being increased from approximately 380m to 423m. The plans also introduced vehicle access from Nightingale Road which had not been previously discussed with Council.

3 January 2018

The amended plans were re-notified to the previous submitters and adjoin land owner to the south west for 15 days. At the time of preparing this report no further submissions have been received.

10 January 2018

Response received from Engineering services objecting to the proposed vehicle access from Nightingale Road.

**CONSULTATION**

The additional information submitted in response to Councils resolution of 17 October 2016 was advertised and re-notified. The additional information was also referred to the following internal and external referral bodies.

Internal / External Referral	Response
DPI	<p>The DPI have requested that Council give planning consideration to the location of each poultry farms at Nos. 294-296 Pheasants Nest Road and No. 335 Pheasants Nest Road with regards to The DPI's guidelines. However, the most recent comments from the DPI indicate support of the modification for the following reasons.</p> <ol style="list-style-type: none"> <li>1. The adjoining property has not been used for poultry production for over 10 years;</li> <li>2. The biosecurity guidelines apply to existing poultry enterprises;</li> </ol>



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Internal / External Referral	Response
	<p>3. Poultry sheds on the nearby farm are in a significant state of disrepair and would require development consent to comply with current industry production standards and expectations;</p> <p>4. The adjoining property no longer has a contract with a poultry processing company in NSW, without which it will not be able to operate as an intensive poultry meat production facility.</p> <p>Comment: Council has seriously considered the above issues and is of the view that the subject property at 335 Pheasants Nest Road can reactivate the poultry farm in the future without any further Development Application</p>
Council's EHO	<p>The following comments have been provided by Council's Senior Environment Health Officer. "The 'National Environmental Management System for the Meat Industry – Version 2', advises that new poultry farms should be sufficiently separated (ideally, by one kilometre) from neighbouring poultry farms to minimise risk of disease transfer.</p> <p>The proposed location of the new sheds is 380m to a neighbouring existing poultry farm. While the report states that the existing farm has not been used for some time and that the sheds are dilapidated, there is nothing to stop the owners, or new people should the farm change ownership, from reinstating the sheds to continue on with poultry production. The previously approved poultry sheds were &gt;500m from the existing poultry farm.</p> <p>It is for the above reasons that the modification to consent should be refused."</p>

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Internal / External Referral	Response
Council Heritage Advisor	<p>The Heritage Advisor has provided the following comments and conditions if approved:</p> <ul style="list-style-type: none"> <li>*Provide a landscape buffer to be: *30m between sheds and property boundaries, except where driveway, dams and other farm infrastructure is required.</li> <li>*Locally provenance native plants consistent with the Shale Sandstone Transition forest ecological community.</li> <li>*Show on a landscape plan for assessment by council.</li> <li>*Install prior to issue of a construction certificate. If approved, conditions of consent will apply.</li> </ul>

Growth

**1.1 DESCRIPTION OF SITE AND SURROUNDING AREA**

The subject site is located within the rural area of Pheasants Nest. There are a number of rural developments within the locality, small scale farms and poultry farms.

Immediately surrounding the site are rural developments and residences to the north east and an abandoned poultry farm to the north (No. 335 Pheasants Nest Road).

The Hume Highway is approximately 700m east of the site and is separated from the rural industries by a vegetated environmental zone surrounding the Nepean River.

**1.2 DESCRIPTION OF DEVELOPMENT**

The subject property has development consent to extend three existing sheds and erect seven (7) new sheds. The farm currently has capacity for 43,000 birds for egg production. Under the approved consent the capacity will increase to 162,000 birds.

The modification application currently being considered by Council seeks to revise the layout of the poultry sheds due to acquisition of additional land adjacent to the original site and impractical earthworks proposed in the original development application.

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The proposed modification results in the relocated sheds being closer to the adjacent poultry farm at 335 Pheasants Nest Road to the northwest (reduced from approximately 500m to 380m).

On 3 January 2018, Council received amended plans. The amended plans effectively relocate 5 of the 7 unconstructed sheds further south west. The plans also introduced vehicle access from Nightingale Road which had not been previously discussed with Council.

Growth

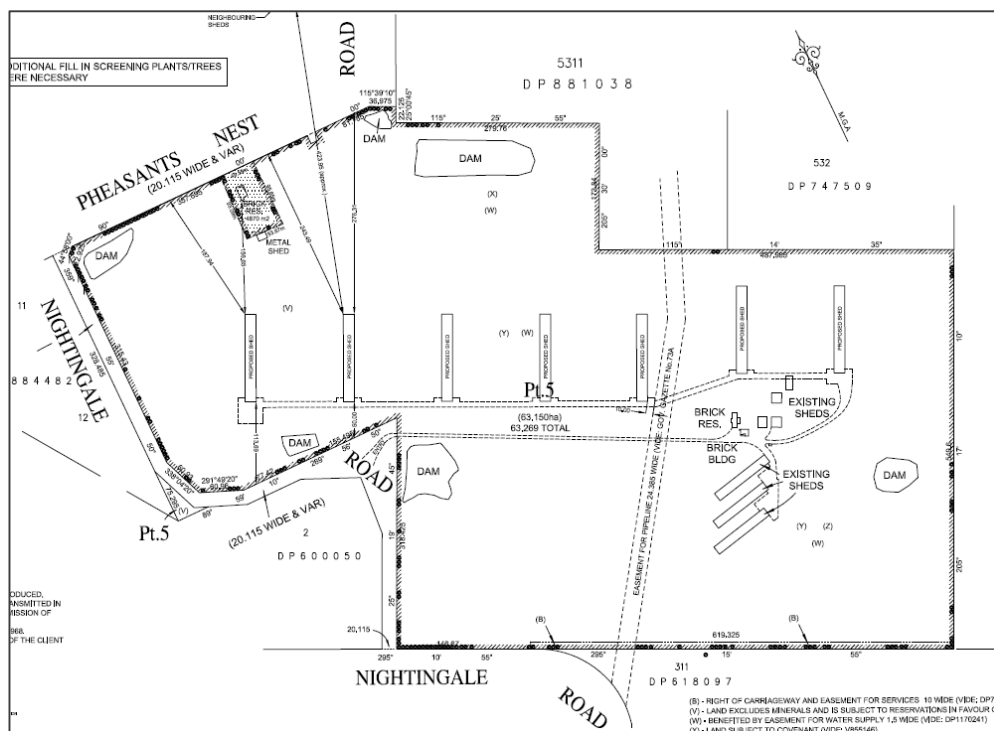


FIGURE 1: AMENDED PLANS

**1.3 SECTION 79C ASSESSMENT**

The report considered by Council at its meeting of 11 December 2017 comprehensively addressed:

- Odour generation
- Noise generation
- Waste and Soil
- Chemicals
- Fire
- Biosecurity
- Flora and Fauna.

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Amended plans were received on 3 January 2018. Additional assessment comments are provided in this report in relation to the amended plans and the previous resolution of Council at the December 2017 Ordinary Meeting.

The resolution from the December 2017 Ordinary Meeting also sought legal advice regarding whether or not the request for modification can include the new land (now a part of Lot 5 DP 1214896). In this regard the following extract from the legal advice sought by Council is provided:

*The phrase "substantially the same" has been the subject of judicial consideration in a number of Court cases. The relevant comparisons that must be made are between the development originally approved by the Council under the original consent and the development as now proposed under the modification application.*

*The characterisation of the development as proposed under the modification application would remain as being for the purpose of "intensive livestock agriculture" and specifically a "poultry farm". While the proposal is the same development, the characterisation of the use is the same, is not a determinative of the question of whether the development before and after modification can be said to be substantially the same.*

*The finding of previous Court cases have ruled that it is possible to modify a consent by adding land to the parcel the subject of the original consent subject to Council being satisfied that the modified development will be substantially the same development as the development for which the consent was originally granted. The inclusion of additional land in a modification that was not the subject of the original consent does not mean the proposed modified development cannot be "substantially the same" development as the development originally granted consent.*

*Drainage and earthwork considerations would also be a factor that Council would have to consider to determine if the proposal is "substantially the same". A review of the original approval and the proposed new plans has seen a reduction in earthwork requirements and not change to the drainage in relation to stormwater.*

*Whilst the answer to the question is finely balanced and minds may legitimately differ as to whether the modified development would be substantially the same as the development approved under the original consent it seems to us that it would be reasonably open to the Council to conclude on the facts that the development as proposed to be modified would be substantially the same as the originally approved development when comparing the proposed modified site plan and the site plan as approved under the original consent.*

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In addition to the above Council staff sought legal advice in relation to the existing poultry farm at 355 Pheasants Nest Road given the suggestion that the approval use of that land as a poultry farm has lapsed or has been abandoned. In this regard the following extract from the legal advice is provided:

*“335 Pheasants Nest road has the benefit of a development consent to use the land for the purpose of a poultry farm. As the age of the Poultry farm is in excess of 40 years old Council has been unable to locate any consent conditions. However the site does have an approval from 1989 which grants approval for a Rural Workers dwelling to be used in association with the existing poultry farms.*

*Even if a development consent was not issued under Part 4 of the EPA Act, the savings and transitional provisions relevant to approvals and consents may operate so that the relevant approval or consent is taken to be a "development consent" for the purpose of the EPA Act.*

*The use of the land as a "poultry farm" or for "intensive livestock agriculture" has not been prohibited on the land the subject of the development consent since the date a consent was issued.*

*It is understood that the applicant (for the application currently under consideration) has made legal representations concerning the potential use of the land at 335 Pheasants Nest Road for the purpose of a poultry farm and has contested that this site does not have any benefits of existing use rights under the provisions of the EPA Act and the use has been "abandoned".*

*The entitlement to undertake development on land, which includes the use of land, under a development consent continues, even if there are lengthy periods during which the building is vacant or even if there is no apparent intention to resume that use.*

*The use of the land at 335 Pheasants Nest Road could be recommenced at any time so long as there is a development consent authorising the use of the land for that purpose and the use of that purpose and the use of that land is recommenced in accordance with the requirements of that development consent.”*



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**1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS**

Council's assessment has comprehensively addressed the following:

- Environmental Planning and Assessment Regulations 2000 (Designated Development)
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River
- Wollondilly Local Environmental Plan, 2011

Council is satisfied that the proposed development satisfies the objectives and controls in the planning instruments referred to above.

**1.3.2 PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

Not applicable.

**1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS**

Council's assessment has comprehensively addressed the following:

- Wollondilly Development Control Plan 2016 Volume 1 - General
- Wollondilly Development Control Plan 2016 Volume 8 - Primary agricultural and rural uses

Council is satisfied that the proposed development satisfies the objectives and controls in the DCP. It should be noted that the latest amendment to the proposal received 3 January 2018 remain compliant with the minimum setback requirements under DCP 2016 Section 8 – Primary Agriculture and Rural Uses.

**1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO**

Not applicable.

**1.4 IMPACT OF THE DEVELOPMENT**

Traffic impact

As suggested elsewhere in this report the amended plans received on 3 January 2018 depicted vehicle access from Nightingale Road rather than Pheasants Nest Road. This change was referred to Council's Engineering Section for comment. Draft conditions of consent have been received from the Engineering Section denying access from Nightingale Road. Upgrade work to the Pheasants Nest Road access point has also been required.

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Heritage impact

The site at No. 290 forms part of the application as the new site that has been acquired by the applicant and forms part of the modification application. The site No. 290 (Part Lot 2 in DP 220981) contains a locally significant heritage item being - Farm Cottage (LEP - 1128).

The Council resolution from the December 2017 Ordinary Meeting sought additional heritage impact information from the applicant to address Clause 5.10 of Wollondilly LEP 2011.

The applicant provided the requested information on 21 December 2017. A copy of the submission forms Attachment 2 to this report. The amended plans lodged on 3 January 2018 serve to increase the setback to the heritage item from approximately 125 m to 156m.

Comments from Council's Heritage Adviser are provided elsewhere in this report.

Biosecurity

The amended plans received on 3 January 2018 effectively relocate 5 of the 7 unconstructed sheds further south west. This change resulted in the setback to the decommissioned poultry farm at 355 Pheasants Nest Road being increased from approximately 380m to 423m.

Regarding the biosecurity concerns the following extract from the 'Best Practice Management for Meat Chicken Production in NSW, Manual 1', is provided:

*"The risk of disease transmission between farms can be reduced through appropriate farm siting and management. Disease outbreaks (from pathogenic bacteria and viruses) in poultry can spread between farms and significantly affect poultry growing enterprises and the meat chicken industry through substantial losses of birds (including breeding stock if a breeder farm is involved). Breeder farms are normally located remotely from other poultry farms, and maintaining that level of separation can be critical for state or national chicken meat production.*

*Loss of birds, production capacity and income may be a direct result of disease, or of destruction orders implemented by NSW DPI to control the risk of further disease spread. The risk of disease developing on a farm is influenced by many factors, including the management of litter, feed and water; disinfection of sheds; vermin removal; disposal of used litter and dead birds; and the effectiveness of biosecurity measures adopted for people and equipment entering the farm. The National Farm Biosecurity Manual for Chicken Growers (ACMF, 2010) provides more information on the best ways*

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*to control threats from pathogenic microorganisms and viruses. Consideration should also be given to the threat that disease outbreaks may pose to human health through the transmission of bioaerosols, as well as to the possible need to dispose of large numbers of dead birds, with its associated environmental risks and costs. Maximising the separation between farms remains the primary tool for reducing the potential for cumulative impacts on the local amenity and community, such as from bioaerosols, odour, dust, noise or traffic. Although the assessment of disease risk is a business decision for processors and growers, farms that are closely co-located may also create additional costs for government in controlling disease outbreaks and imposing quarantine controls. Current guidelines for controlling an exotic disease outbreak specify a 3-kilometre quarantine zone around affected premises. Although there is no set distance that will uniformly eliminate all risks of disease transfer, generally the greater the distance the lower the risk. When assessing distance, other factors such as topography and prevailing winds should also be considered.*

*Best management practice recommendations:*

- *Locate new poultry farms as far apart as possible to minimise the risk of disease transfer between farms. There should be a minimum of 1000 metres to other intensive poultry farms (500 metres when there are extenuating circumstances such as farms with a common owner or farms supplying the same processor); 3000 metres to commercial duck farms; and 5000 metres to poultry breeder farms.*
- *Preferably, locate new farms away from waterways and wetlands (ideally 3000 metres) that are used extensively by waterfowl, as these birds can carry avian diseases.*
- *As existing farms may not comply with the recommended biosecurity separation distances, growers proposing to expand their operations should assess the potential commercial risk in consultation with their processor.*

**1.5 SUITABILITY OF THE SITE**

The proposed new additional sites are considered to be suitable for the proposal. These sites are open pasture and with small gradient which will allow the construction of the poultry farm with minimal soil disturbance.

The proposed modification expands the footprint of the poultry farm. It is the view of the assessing officer that Council is required to seriously consider the impacts on poultry farms and their location to each other and residential properties. A condition of consent will require improved landscaping around all sheds in particular the western most shed closest to the heritage item.

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**1.6 SUBMISSIONS**

The original modification was notified to surrounding residents for 15 days from the 30 May 2017. Four (4) submissions were registered with Council.

As some changes have occurred to the overall site plan the proposal was re-notified on the 3 January 2018 for 15 days to the adjoining neighbours to the south west and any previous submitters. At this current stage no further submissions have been received.

A list of questions were tabled by a concerned resident at the Community Forum held 4 December 2017. A detailed response to that resident was provided to staff by email dated 18 January 2018. The table below has been updated.

Concern	Comment
<p>1.* we have a son with respiratory issues *air born contaminates and pollutants will affect our drinking water as Pheasants nest residents are on tank water *we have a swimming pool, phosphates cause a major problem with the clarity and quality of a pool, not to mention the ongoing expense for us to continually correct this problem. *There are currently three sheds and now it is to be seven more sheds. *Where are they being relocated from? Clearly not from the property. * How many birds are allowed in the current sheds?*how many birds will be in the new sheds? *is there a traffic management plan or a vehicle impact study. How may truck movements will there be daily? * has there been an air, noise and water impact study? *the state of our roads is another major concern as the roads are narrow and generally in poor condition. With the extra traffic, in particular trucks, this will only make the roads worse</p>	<p>The proposed section 96 (1A) will maintain the already approved existing 3 sheds plus 7 new poultry sheds comprising 162,000 birds. Council has an issue with the new acquired lot being utilised for the location of part of the approved 7 sheds (2) being positioned on this allotment. Council gave consideration to traffic issues associated with the original development application and provided appropriate conditions of approval. The proposed modification does not alter the number of sheds, birds, or access. The applicant has submitted an environmental report, which has in part been reproduced above. A check of Council's records show that previous compliance action has been taken in 2016 relating to unauthorised fill and truck movements however no current action is outstanding.</p>

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Concern	Comment
2. Is the poultry farm operation free range	From the information provided by the applicant, the operation is a free range farm continuing to produce free range eggs.
3. We are concerned with the biosecurity issues associated with this application, including the proximity of this proposal to existing surrounding dams on other properties.	This matter is of concern to Council due to close proximity.
4. The proposed modification extends the poultry production area and sheds considerably further west, closer to our property, imposing significantly more visual impact for our residence Potential greater truck and husbandry traffic movements and noise impact.	The proposal indicates that there is no increase in truck movements as outlined in the original application. The intention to relocate poultry sheds on the adjoining newly acquired property, does bring them closer to residential properties. However, from Council's GIS the western most poultry shed is greater than 150 metres from the closest dwelling.

Growth

**1.7 THE PUBLIC INTEREST**

The proposal is considered to be within the general public interest.

**FINANCIAL IMPLICATIONS**

The developer contributions payable are applicable.

**ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET**

1. Amended proposed plan
2. Response to Heritage concerns raised at December 2017 Council meeting
3. Response to questions raised at Community Forum

**RECOMMENDATION**

That the modification request to vary DD010.2011.0000568.002 for Intensive Agriculture on Nos. 294-296 (being Lot 5 DP1214896) Pheasants Nest Road, Pheasants Nest be approved subject to the following conditions:

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**1. COMPLIANCE**

These conditions are imposed to ensure that the development is carried out in accordance with the conditions of consent and the approved plans to Council's satisfaction.

- (1) Development Consent is granted for the extension of three (3) poultry egg producing sheds and the construction and use of seven (7) additional poultry egg producing sheds at Lot 5 DP 1163566 – No. 294 - 296 Pheasants Nest Road, Pheasants Nest.
- (2) The development shall be undertaken in accordance with the endorsed plans submitted in respect of Development Application No. 010.2011.00000568.002 (amended plan ref: 9159 sheet 1 of 1 prepared by Apex Surveying) except as varied by the following conditions:
- (3) A Construction Certificate shall be approved by the nominated Principal Certifying Authority prior to the commencement of any works authorised by this consent.
- (4) The sheds shall not be occupied prior to the issue of an Occupation Certificate by the nominated Principal Certifying Authority.
- (5) The person having benefit of Development Consent No. 010.2010.00000339.001 shall surrender that consent in accordance with the Environmental Planning and Assessment Act, 1979, prior to the release of any Construction Certificate for Development Consent No. 010.2011.00000568.001.

**2. BUILDING DESIGN**

These conditions have been imposed to ensure that the appearance/construction of building works complies with the aims and objectives of Council's relevant Development Control Plans, Policies and relevant Statutory Regulations.

- (1) All materials and colours to be used in the external construction of the proposed building shall be consistent throughout the total development and match those of the existing development.

**3. ENGINEERING & CONSTRUCTION SPECIFICATIONS**

These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public:

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- (1) All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specification.
- (2) A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council. The measures shall be in accordance with Council's Construction specification and the Department of Housing's "Blue Book". The plan is to be approved by Council with the Engineering Plans.
- (3) A "Traffic Management Plan" that details suitable safety measures that will be implemented whenever work is being undertaken in the public road reserve shall be submitted to Principal Certifying Authority. The safety precautions are to be in accordance with the requirements of the RTA's "Traffic Control at Work Sites" manual. The plan is to be prepared and endorsed by a person with current RTA certification and provided to the Principal Certifying Authority before the issue of a Construction Certificate for development.
- (4) Engineer's Certification shall be provided to the Principal Certifying Authority for all civil works carried out within the private property prior to any occupation of the development or the issue of any Occupation Certificate.

**4. DRAINAGE/STORMWATER**

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) The applicant shall provide drainage generally as shown on the concept drainage plan by Technibuild Consulting dated August 2011. Details of this shall be shown on the plan for approval by the Principal Certifying Authority.

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- (3) Stormwater runoff from the site for storm events up to the 1 year ARI are to be treated to the water quality standards as identified in the “Australian Runoff Quality – A guide to Water Sensitive Urban Design” published by Engineers Australia. Litter and sediment pollution is to be treated to Upper Nepean River Catchment Management Plan 1999 standards. Evidence that the proposed stormwater treatment system will achieve these guidelines is to be provided prior to the issue of the Construction Certificate.

**5. ACCESS**

These conditions have been imposed to:

- (a) Ensure that adequate provision is made for off street parking, appropriate to the volume and turnover of traffic generated by the development.
- (b) Ensure that adequate manoeuvring space is provided for parking areas, loading bays and entry to facilities.
- (1) The developer shall upgrade and bitumen seal the unsealed sections of the access road from Pheasants Nest Road to the existing dwelling and garage/shed, including staff parking & turning area prior to the occupation of any new sheds. The developer shall also restore and bitumen seal the sections of sealed road in disrepair prior to the occupation of any new sheds. Details of this shall be shown on the plan for approval by the PCA prior to the issue of Construction Certificate.
- (2) Accordance with Section 138 of the Roads Act a 138 Consent Certificate must be obtained from Council’s Infrastructure Planning Section a minimum 7 days prior to commencement of work. A fee is payable for issue of this Consent Certificate.
- (3) The proposed access located between the proposed sheds shall be constructed to an all-weather gravel standard. Details shall be included on the engineering plans for approval.
- (4) The proposed amended access to Nightingale Road located to the south of the proposed poultry sheds and shown on the amended plan Ref: 9159 is not permitted and is to be deleted from any Construction Certificate Plans. The existing access off Pheasants Nest Road shall be upgraded as detailed in condition 5(1) above. This upgrading will provide satisfactory access for all vehicle/truck movements which are permitted to use Pheasants Nest Road only.



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**6. EARTH DAMS**

These conditions have been imposed to ensure all works are carried out in accordance with Development Control Plan 2011.

- (1) The applicant shall construct an earth dam generally as shown on the concept drainage plan by Technibuild Consulting dated August 2011. Details of this shall be shown on the plan for approval by the Principal certifying Authority.
- (2) No part of the dam embankment is to encroach within 3.0m of the property boundary.
- (3) The crest width is indicated as 3.0. For this crest width, the height of the dam wall is to be restricted to a maximum of 3.0 from natural ground level. The crest of the dam is to be slightly rounded to prevent water ponding.
- (4) A minimum of 1.0 is to be established for freeboard for a 3.0m high dam, in accordance with Volume 2, clause 3.4 of Council's Development Control Plan 2010.
- (5) The slope of the embankment batter is to conform with the ratio of 3H:1V for both the upstream and downstream slopes.
- (6) The dam bywash is not to direct flows onto the downstream toe.
- (7) The bywash cut batter is to have a minimum steepness of 1.5:1.
- (8) The bywash is to be excavated 200mm below the top water level and backfilled with compacted topsoil and planted with a suitable holding grass such as kikuyu or couch. No trees or shrubs are to be planted in the bywash area.
- (9) Any excess water from the dam is not to have an adverse effect on neighbouring properties. All excess water is to be contained on the property which contains the dam, before meeting with a downstream watercourse.
- (10) The earth dam is to have a cut off trench which is to be taken down a minimum of 300mm into impervious soil and backfilled with suitable impervious material.

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- (11) Upon completion of construction, the works shall be certified by a Geotechnical Engineer, and a copy of all documents shall be submitted to the Principal Certifying Authority.

**7. EROSION AND SEDIMENT CONTROL**

These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.

- (1) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (2) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (3) 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.
- (4) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

**8. EARTH FILL**

These conditions have been imposed to ensure the safe disposal of fill:

- (1) All filling on the site, including footpath areas, shall be compacted to not less than 95% Standard Compaction.
- (2) Only fill characterised as VENM or ENM under the guidelines of the NSW Environmental Protection Authority may be used in this development. Copies of validation reports for all fill used shall be retained and presented to Council on request.

**9. INSPECTIONS**

These conditions have been imposed to ensure that construction works are undertaken to an approved standard.

- (1) The works shall be inspected by the Principal Certifying Authority at the mandated critical stages of construction, and at any other staged deemed necessary by that authority, to ensure they comply with the Building Code of Australia.

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- (2) The engineering works shall be inspected by the Principal Certifying Authority at the following stages of Construction to ensure they comply with Council's Construction Specification and associated approvals.
- Joint inspection with Contractor and Council prior to commencement of road reserve work
  - After erosion and sediment control and traffic control measures are in place
  - When road works have been excavated to subgrade, prior to placing of pavement
  - During the roller test, which is to be carried out using a three point roller or approved equivalent
  - Prior to sealing of access road
  - At completion of works
  - At final completion of works (minimum of 12 months after date of issue of practical completion certificate).

#### **10. CONSTRUCTION GENERAL**

These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.

- (1) All construction/building work shall be carried out only between the hours of 7.00am and 6.00pm Monday to Saturday inclusive, with no work to be carried out on Sundays or public holidays unless written approval to vary the hours of work is granted by Council.
- (2) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) Must be a standard flushing toilet; and
- (b) Must be connected:
- (i) to a public sewer, or
  - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
  - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

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(c) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(d) In this clause:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the Local Government (General) Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the Local Government (General) Regulation 2005.

Sewage Management Facility has the same meaning as it has in the Local Government (General) Regulation 2005.

(3) There shall be no burning of builder's rubble, felled trees or other material on site.

## **11. WASTE MANAGEMENT**

These conditions have been imposed to ensure that wastes are correctly stored, disposed of and controlled at all times to prevent accidents and to maintain clean and tidy premises:

(1) A Waste Management plan is to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The Waste Management Plan is to be in accordance with the provisions of Wollondilly Development Control Plan, 2010 and is to include both the construction and post-construction phases of the development.

(2) Disposal of construction and building waste material shall be undertaken in accordance with the Waste Management Plan approved in accordance with Condition 11(1).

## **12. LANDSCAPING**

These conditions have been imposed to reduce the impact of any development activity on the landscape/scenic quality through vegetation works and maintenance.

(1) This consent does not authorise the removal of any trees outside of a radius of 3 metres from the approved sheds or access driveways.

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- (2) In order to ensure that the development is adequately landscaped the applicant is to submit a detailed landscape plan in accordance with Volume 8 part 3.1.5 and 3.3.5 of DCP 2016 to the Principal Certifying Authority for approval prior to the release of any Construction Certificate. This plan shall be prepared by a suitably qualified person and detail the following:
- All existing site structures
  - All existing vegetation
  - Location of proposed planting
  - Details of growth and maintenance
  - Compliance with Condition 12(3)
  - Suitable clearances from existing easements.
- (3) Landscaping shall be installed in accordance with the following table prior to the release of any Occupation Certificate or any occupation of the development and shall be maintained for the life of the development.

Location	Requirements
All boundaries of the subject land except for within 10 metres of the vehicle access point.	A 15 metre wide mulched landscaping strip consisting of 1 tree, 2 shrubs and 1 ground cover per 5m <sup>2</sup> of area. This strip shall be located between 5m and 40m from the property boundaries.

- (4) All species used in landscaping shall be native vegetation of local providence.

**13. OCCUPATION & USE**

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation:

- (1) The total stocking rate for the Farm shall not exceed 162,000 birds at any time.
- (2) No manure or spent litter is to be stored external to the sheds.
- (3) 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.

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- (4) At no stage shall spent litter be retained on the property.
- (5) Prior to the release of any Occupation Certificate the applicant shall provide the Principal Certifying Authority with a plan of management for any proposed agricultural chemicals to be used on the site. Only chemicals listed on this plan and approved by the Principal Certifying Authority may be used on the site unless Council subsequently approves an amended plan of management in which case only chemicals on the most recent amended plan may be used.
- (6) Night-time pick up of birds shall not take place between the hours of 10:00pm and 7:00am.
- (7) The proposed sheds shall incorporate dust and odour mitigation measures consistent with the existing sheds on the property.
- (8) All deliveries and collections for the site shall take place between 7am and 5pm Monday to Saturday inclusive. No deliveries or collections shall occur on Sundays or Public Holidays.
- (9) The applicant is advised that Council reserves the right to restrict the days and hours of operation if considered necessary to prevent the emission of “offensive noise” or “offensive odour” as defined in the Protection of the Environment Operations Act, 1997.

Offensive noise means noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
    - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted; or
    - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted; or
  - (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.
- (10) A Farm Management Plan, detailing the following shall be provided to Council for approval before being submitted to the Principal Certifying Authority for approval prior to the release of any Occupation Certificate for the development.

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- (a) Details of satisfactory operational practices and procedures to mitigate odour, noise, and dust;
- (b) Details of satisfactory operational practices and procedures to ensure that no water used in the sheds is discharged to the stormwater system;
- (c) Compliance with the conditions of this consent;
- (d) Compliance with all relevant guidelines of the NSW Government Department of Industry and Investment (Primary Industries); and
- (e) Compliance with the provisions of Clauses 2.5.3 to 2.5.6 (inclusive) of Wollondilly Development Control Plan 2010, Volume 2 – Primary Agricultural and Rural Uses.

#### **14. ODOUR MANAGMENT**

This condition is imposed to protect the amenity of the area with respect of odour and to ensure that the development will not result in increased odour impacts.

- (1) Within six months of the commencement of use of the subject sheds odour monitoring shall be undertaken during a week in which the birds are at maximum size. If this monitoring finds that the post development odour level at any dwelling is higher than 5 OU and is also higher than the predevelopment odour level, a plan of odour management shall be prepared to the satisfaction of Council and implemented within twelve (12) months.
- (2) If Council receives three (3) consecutive lodged and independent complaints in one (1) month in relation to the emission of odour from the subject property or three (3) consecutive lodged and independent complaints in one (1) month in relation to the emission of dust from the subject property and such complaints are verified by Council in accordance with applicable and acceptable industry standards and practices to have arisen from the use of the subject property, then the owners will comply with all such reasonable directions as may be given by Council (after consultation by Council with the owners) with the objective of ameliorating the said impacts. The one exception to this condition is where such complaints arise from or in circumstances which can only be attributed to natural disasters and the like beyond the control of the owners.

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**15. PRESCRIBED CONDITIONS UNDER THE ENVIRONMENTAL  
PLANNING & ASSESSMENT ACT, 1979.**

These conditions are imposed as they are mandatory under the Act.

- (1) Compliance with Building Code of Australia and Insurance Requirements under the Home Building Act 1989.

For the purpose of Section 80A (11) of the Act, the following condition is prescribed in relation to a Development Consent for development that involves any building work:

- (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia;
- (b) This condition does not apply:
- (i) to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning & Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4); or
- (ii) to the erection of a temporary building.

- (2) Signs to be Erected on Building, Subdivision and Demolition Sites.

- (a) In accordance with Section 80A (11) of the Environmental Planning & Assessment Act, 1979, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) Showing the name, address and telephone number of the Principal Certifying Authority for the work; and
- (ii) Showing the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- (iii) Stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (c) This Clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.



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**16. DEVELOPMENT (SECTION 94A) CONTRIBUTIONS**

These conditions are imposed to ensure the adequate provision of public facilities required as a result of the development.

- (1) Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act, 1979 and the Wollondilly Development Contributions Plan 2005 (as amended by Ministerial Section 94E Direction dated 10 November, 2006), a contribution of \$15,450 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Wollondilly Development Contributions Plan, 2005.

The contribution is to be paid before release of and Construction Certificate in accordance with the provisions of the Wollondilly Development Contributions Plan, 2005.

**17. ADVICES**

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc. that require alterations shall be altered at the applicant's expense and to the satisfaction of Council and the authority concerned.

- (2) The following service providers should be contacted before commencement of construction to establish their requirements:

- Telstra (telephone)
- Integral Energy (electricity)
- AGL (gas)
- Sydney Water (water & sewer).

NOTE: This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Development Services Section.

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