

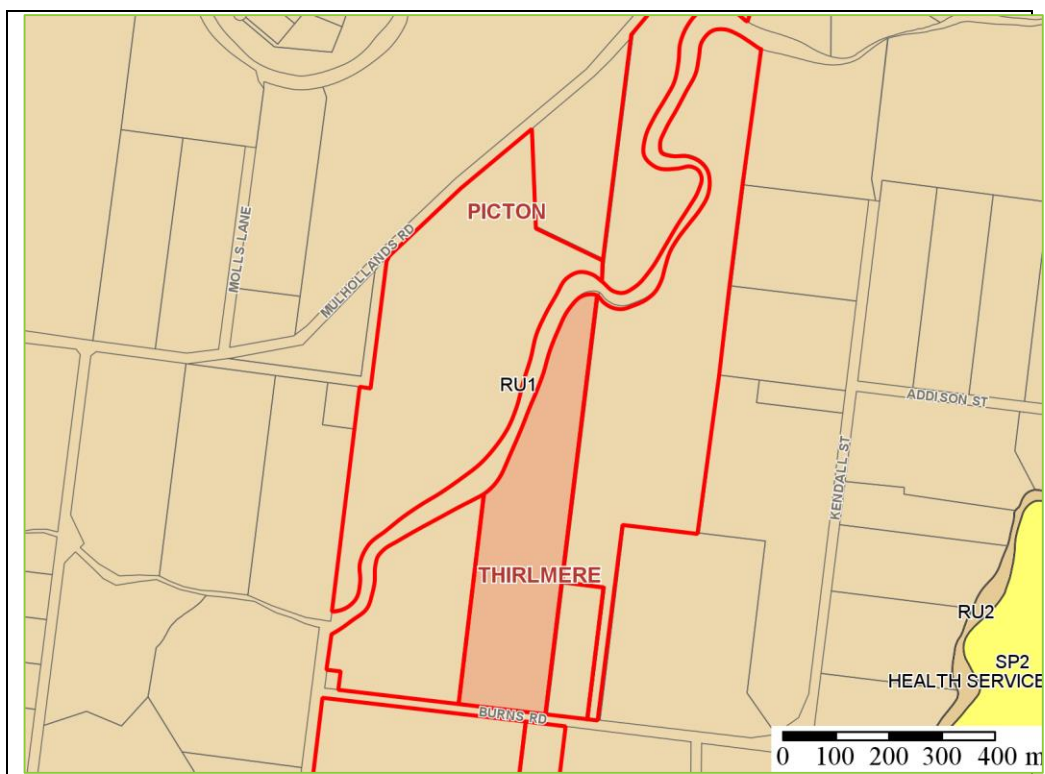
GR5 – Development Application No. 010.2002.00057136.002 – 105 Burns Road, Thirlmere

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Development Application No. 010.2002.00057136.002 – Intensive Agriculture – Two Additional Poultry Sheds – 105 Burns Road, Thirlmere
278264 010.2011.00057136.002

Development Application:	010.2011.00057136.002
Property Details:	105 Burns Road, Thirlmere
Applicant:	Precise Planning.
Owner:	Mr J Grima & Mrs P J Grima
Proposal Details:	Two Additional Poultry Sheds
Zone:	RU1 Primary Production

Growth



LOCATION MAP ↑ N

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EXECUTIVE SUMMARY

- The purpose of this report is to assess the request to modify development consent 2002-57136.002 - modification approved by delegated authority 20 October 2017 to allow night time pick up of poultry.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extend to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the Section 96 modification application be approved.

REPORT

History

The original application was considered by Council but determined by the Land & Environment Court in 2003.

Council considered and approved a modification on 20 October 2017.

Initial development application approved by Land and Environment Court, for erection of 2 additional sheds. Previously, the farm had capacity for 25,000 birds and the court approval allowed the increase to 39,000 birds.

Previous Modification request (010.2002.00057136.001)

The original modification sought a variation to Court conditions **9.3 and 9.8** of the development approval granted by the Court in July 2003. These conditions relate to;

9.3 *“The existing and proposed poultry sheds shall be used for turkey meat production and will have a maximum combined stocking capacity of 23,690 toms or 39,000 hens. A maximum 4,800 toms or 7,000 hens shall be kept in each of the new sheds.”...*

COMMENT – *under the approved modification issued under delegated authority, the above condition 9.3 was amended to read below:*

“9.3 The existing and proposed poultry sheds shall be used for turkey meat production and will have a maximum combined stocking capacity of 45,000 birds at placement

Notwithstanding the above, at no time during any growing cycle is the bird density to exceed the following:

- *Turkeys – 46kg/m²”*

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9.8 *“The night time pick-up of birds is permitted under this consent under the following terms:*

- *Clean out of the sheds shall be between 7:00am and 6:00pm weekdays and 7:00am to 4:00pm Saturdays only.*
- *Except in emergency circumstances where the welfare of the birds is at risk, all poultry industry related truck movements not associated with the movement of live birds are to be between 7:00am and 8:00pm weekdays and 7:00am to 4:00pm Saturdays only.*
- *Except where required under relevant Work Health & Safety Law; machinery, equipment, forklifts etc. that have beeping reversing alarms must not be used after 6:00pm. Truck engines and headlights are to be turned off during bird pick up operations unless entering or leaving the premises.*
- *Staff, contractors, sub-contractors and the like under the direct control of the grower must abide by a Code of Conduct Agreement with the poultry grower to ensure noise mitigation measures are adhered to when working on site and travelling along surrounding roads.*

The amended night time hours shall be restricted to 3 months to enable Council to monitor any issues associated with noise, odour and truck movements potentially impacting the amenity of surrounding residential properties.

The applicant is to submit a Development Application to Council prior to the expiry of the 3 month period for consideration by Council.

ADVISORY NOTE:

In accordance with Council’s Enforcement Policy, where repeated complaint(s) about noise impacts on a sensitive receiver are verified by Council, a mediation process will be initiated involving the poultry farm operator, the processor, the truck operator and Council.

Where the mediation session fails to resolve ongoing and substantiated complaints, Council will consider enforcement action under the Protection of the Environment Operations Act including an Order placing restrictions (i.e. noise limits or curfew) upon night time pick-up of birds with or without an exception for extreme weather conditions.

A breach (other than an exception as described above) of a curfew imposed by an Order may result in Council issuing a Penalty Infringement Notice (PIN) or commencing prosecution proceedings.”

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Subject Modification request (010.2002.00057136.002 reconsider wording of condition 9.8)

The applicant has requested that Council reconsider condition 9.8 as worded above that restricts the operation of the night time pick up to a 3 month trial period.

The applicant has submitted that Council has settled on an acceptable approach to deal with the night time bird pickup issue, being the condition as had been proposed to Council in previous correspondence. (which is the condition outlined above, without the 3 month time restriction).

The following is the Section 79C planning assessment that was undertaken for the previous Section 96 modification.

NOTIFICATION

Notification required? Notification
Number of submissions: 2
Consideration of submissions: refer below

Submitter Comment	Assessor Comment
Describes land use as Industrial Agriculture	Proper land use description under the WLEP 2011 places poultry farms under the term of intensive agriculture. This land use is permitted with consent within the RU1 zoning and meets the objectives of the zone by encouraging sustainable primary industry production.
Highly polluting in noise	Refer to assessment under WDCP 2016 3.3.2
Highly polluting in smell	Refer to assessment under WDCP 2016 3.3.2
Unreasonable numbers of birds and hours of operation for the area with the number of surrounding residential properties	There are a number of poultry farms within the general vicinity of the area. The poultry farm to the west has a similar bird number to the farm in this application. The farm to the North East has 4-5 times as many birds that this modification is seeking to have, although they are chickens and not turkeys.
Compromised living conditions to submitter due to overstocking and incorrect cleaning practices	CRM's have been raised and investigated and the poultry farm has not been found to have breached any EPA guidelines relating to cleanliness and clean out practices of the sheds
Exceeding quantity of birds as per consent conditions	As above. Compliance has investigated and has found no issues. Some



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Submitter Comment	Assessor Comment
	documentation provided has shown a small exceedence in the stocking rates conditioned on one occasion, which is the likely trigger for lodging this modification. Additionally, this was near the most recent Christmas peak time and would be a response based on the demand from the market at that time.
Increased numbers will compromise health of own family and surrounding people	Projected figures in the odour report are below the requirements stated by the EPA. The exceedence however was not monitored near this submitter.
Complaints to Council regarding this farm.	There have been numerous complaints regarding this farm and/or the farm located at 120 Kendall Street within the past 5 years (5/7/12 to 5/7/17). These have been investigated by Council's compliance team. Since the DA has been lodged there have been ~35 CRMs generated for this farm. Over this time, the previous occupiers of this property had only 1 complaint whereas the current occupiers have lodged 14 complaints over the past two to three months.
Compromised sleep with proposed pick up arrangements as current night time pick up arrangements already affect sleep	Please note assessment under WDCP 2016 3.3.2
Soil sampling on own land as when it rains, oil slicks may be running off this property onto own land.	Noted. No evidence in support has been submitted to Council regarding this issue.
Full Council Meeting requested	Submitter notified of the process required to send an application to a Council meeting.

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Is the consent current? Yes

Is the proposal substantially the same development? Yes

Does the modification require consultation with the relevant Minister or another public authority or approval body? No

Has the application been notified in accordance with the regulations? Yes

Consideration of submissions: (2) See above

Consideration of relevant Section 79C matters:

- (a) the provisions of:
 - (i) any environmental planning instrument

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Comment

The proposed modifications will not have any major changes from the original concerns raised within the initial application. The land use is permitted with consent in the current RU1 zone under Wollondilly Local Environmental Plan 2011 (WLEP 2011), as it was previously under Wollondilly Local Environmental Plan 1991 (WLEP 1991). The proposal was consistent with the objectives of the agricultural zone in WLEP 1991 and the following table will assess the objectives of the RU1 zone from WLEP 2011.

Objective	Comment
RU1	
<ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. 	The proposed modifications are required to ensure the existing agricultural use can be carried out sustainably to reflect the current operations of the farm.
<ul style="list-style-type: none"> To encourage diversity in primary industry enterprises and systems appropriate for the area. 	The land is zoned for rural primary production uses. The land use for poultry farming comes under intensive agricultural use which is permitted in the zone and meets this objective as this is an appropriate use for the area.
<ul style="list-style-type: none"> To minimise the fragmentation and alienation of resource lands. 	There will be minimal fragmentation impacts to alienate resource lands
<ul style="list-style-type: none"> To minimise conflict between land uses within the zone and land uses within adjoining zones. 	There will be minimal conflict with surrounding zones as there is a large separation between zones of more than 700 metres to the nearest other land use zone.
<ul style="list-style-type: none"> To provide for a range of land uses (including tourism-related uses) that support the agriculture industry. 	Not applicable to the proposal as the land is currently agricultural and tourism will not be detrimentally impacted.
<ul style="list-style-type: none"> To provide areas within which the density of development is limited in order to maintain a separation between urban areas. 	There is a large separation between urban areas and the area of this poultry farm. The closest urban area would be greater than 700 metres from the site

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River

The proposal within this modification will have negligible impacts from SREP 20 as was the case within the original application which was deemed to be



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consistent with the provisions of this policy. The modifications will have minor impacts but will not be detrimental to the objectives in this plan as long as continued proper management and cleaning processes are maintained within this poultry farm.

Relevant Provisions	Comment
3. Aims of the Plan	Modifications will meet the aims of this plan
6. Planning Policies and Recommended Strategies	
(1) Total catchment management	The total catchment management will not be impacted by the proposal
(2) Environmentally sensitive areas	Proposal is outside of the environmentally sensitive areas and is not within 40 metres of the waterway at the Northern end of the property
(3) Water quality	Proposal should not affect water quality if proper management of the farm is undertaken as has been found in Compliance inspections
(4) Water quantity	Water quantity should not be detrimentally affected
(5) Cultural heritage	No heritage located around the site
(6) Flora and fauna	Site is not within a flora and fauna sensitive area
(7) Riverine scenic quality	No impacts on riverine scenic quality
(8) Agriculture/aquaculture and fishing	No impacts on this issue
(9) Rural residential development	This policy states to give priority to agricultural production in this particular zone. The dwellings surrounding the land are already in place and the operations of the land in this proposal have been occurring prior to the original 2003 consent for the additional sheds
(10) Urban development	No urban development near this site
(11) Recreation and tourism	No impacts on recreation and tourism
(12) Metropolitan strategy	No impacts on the metropolitan strategy.
11. Development controls	
(1) Caravan parks or camping grounds	No impacts on these uses

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Relevant Provisions	Comment
(2) Composting facilities or works	Proposal not a composting facility. Manure management was initially conditioned
(3) Buildings, works or land uses within conservation area sub-catchments	No impacts
(4) Remediation of contaminated land	Land is not being remediated
(5) Extractive industries	No extractive industries proposed and no impacts on future use
(6) Extractive industries—maintenance dredging and extractive operations	No extractive industries proposed and no impacts on future use
(7) Filling	No filling proposed with this modification
(8) Potentially hazardous or offensive industries	The land use would not be considered as a hazardous or offensive industry
(9) Items of non-Aboriginal heritage	No impacts
(10) Intensive horticultural establishments	Not applicable
(11) Intensive animal industries	Development is not prohibited as it is not within a floodway
(12) Manufactured home estates	Not applicable
(13) Marinas	Not applicable
(14) Recreational facilities	Not applicable
(15) Land uses in or near the river	Not applicable
(16) Land uses in riverine scenic areas	Not applicable
(17) Sewerage systems or works	No impacts on sewage systems from modifications
(18) Waste management facilities or works	Not applicable
(19) Development in mapped wetlands	Not applicable

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- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

Comment

Not applicable

- (iii) any development control plan

Poultry DCP 43 & Agricultural Lands DCP

The modifications will aim to achieve the objectives of this DCP. The modifications will not greatly affect the aims that the original application sought to achieve. The proposed modifications will however be assessed under Wollondilly DCP 2016.

Wollondilly DCP 2016

DCP Volume	Relevance
Volume 1 – General	X
Volume 8 – Primary Agriculture and Rural Uses	X

Volume 1 – General		
Relevant Provisions		Comment
Part 1 - Preliminary		
1.2 Objectives of the Plan		
1	To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011.	The modification proposal will aim to meet the objectives of this plan
2	The specific controls and volumes of this plan each have objectives as detailed throughout this plan.	
1.4	<u>Application of the volumes of this plan</u> If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan.	

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Volume 1 – General		
Relevant Provisions		Comment
Part 2 - General considerations for all development		
2.1 Objectives		
1	To ensure that developments are undertaken with due regard to human safety.	
2	To ensure that developments do not unreasonably impact on their surrounds.	
3	To ensure that developments achieve a satisfactory level of social equity.	
2.2 Controls		
1	The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a)	Road and traffic hazards;	The modifications proposed will marginally increase the number of trucks entering and exiting the site. As they are to occur at a late hour, the noise impact and risks associated with increased traffic will need to be assessed and are considered reasonable.
b)	Bushfire threat;	Not applicable to the modifications
c)	Flood risk;	Not applicable to the modifications
d)	Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	Surrounding land uses will not emit unwanted odour, radiation or waste
e)	Exposure to electricity transmission systems;	No exposure from electricity transmission systems
f)	Exposure to radiation from telecommunications infrastructure;	No exposure from telecommunication infrastructure
g)	Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises;	Modifications will not expose any indecent material to children
h)	Hazards from vehicles within car parking areas; and	Not applicable to the modifications

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Volume 1 – General		
Relevant Provisions		Comment
i)	Hazard from potential contamination of the land.	Not applicable to the modifications. Contamination was addressed in the original application
Part 3 - Variation		
There may be situations where the strict application of the controls in this plan is inappropriate. In such cases Council may vary the controls in the plan. The controls in this part apply where a development application proposes to vary a control in this plan.		
3.1 Controls		
		No variations are sought through the modification application.
Part 4 – Community Engagement		
The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council’s notification and advertising procedure for development applications.		
4.6 Applications to modify a development consent		
		Application for modification was notified to previous submitters and neighbouring landholders
Part 5 - Colonial Heritage		
5.1 Objectives		
a)	To establish good design principles to guide development to and around heritage items,	
b)	To ensure development is sympathetic to the overall heritage values and characteristics of the area,	
c)	To identify local heritage character and heritage elements of the built environment, and	
d)	To ensure the retention and management of heritage values identified for each conservation area and specific precinct.	
5.2 General Controls (refer to DCP for further details of controls)		
1.	Development of heritage items and development on land within heritage conservation areas shall demonstrate consistency with the NSW Guidelines for Development in Conservation Areas ‘Design in Context’. In particular the impact of the following aspects of a development should be considered:	Modifications will not affect the heritage item in Burns Road as it is located more than 100 metres from the site.

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Volume 1 – General		
Relevant Provisions		Comment
Part 7 – Aboriginal Heritage		
7.1 Objectives		
a)	To achieve appropriate means of conservation, management and protection for archaeological sites, Aboriginal objects and Aboriginal places of heritage significance.	
b)	To achieve compliance with the requirements of the National Parks and Wildlife Act, 1974 and associated Regulations and guidelines with respect to Aboriginal objects and Aboriginal places of heritage significance.	
c)	To consider and manage Aboriginal objects and Aboriginal places of heritage significance at the earliest practical stages in the land development process.	
7.2 Controls		
1.	There is impact or disturbance to the content, or within the immediate vicinity (100 metres) of a known Aboriginal object or Aboriginal place of heritage significance;	No Aboriginal heritage will be affected by the modifications
Part 8 – Flooding		
8.1 Objectives		
	To reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible.	
8.2 Controls (refer to DCP for further details of controls)		
		The land is not flood prone
Part 9 – Environmental protection		
9.1 Objectives		
1.	To improve and maintain environmental outcomes for the areas mapped as natural resources biodiversity and natural resources water under Wollondilly Local Environmental Plan, 2011.	
2.	To improve and maintain environmental outcomes for unmapped areas of biodiversity and/or riparian value.	
3.	To maintain links between identified environmentally sensitive land and provide habitat and riparian corridors and appropriate buffer zones to these areas. Noted	
9.2 Interpretation (refer to DCP for further details)		
9.3 Controls		
1.	Development carried out on areas mapped as 'sensitive land' on the Natural Resources – Biodiversity Map and the Natural Resources	The proposed modifications should not affect the waterway located on the Northern Boundary. Additionally, the

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Volume 1 – General		
Relevant Provisions		Comment
	Water Map under Wollondilly Local Environmental Plan, 2011 shall occur so as to either avoid, minimise or mitigate any adverse impact as detailed in Clause 7.2 and 7.3 of Wollondilly Local Environmental Plan 2011.	waterway is located more than 130 metres from where the sheds are.
2.	If a development is not able to avoid, minimise or mitigate an adverse impact on sensitive land mapped on the Natural Resources Biodiversity Map, the vegetation shall not be cleared or otherwise disturbed unless the impacts are offset through biobanking or a similar conservation arrangement.	No natural resources biodiversity land mapped on this lot
3.	The consent authority shall not grant consent to any development that would result in the clearing or other disturbance of an environmental asset unless it is satisfied that any adverse impacts will be offset through bio banking or a similar environmental conservation arrangement.	No clearing required as part of the modifications
4.	Any development application on a site that includes sensitive land mapped on the Natural Resources – Water map under Wollondilly Local Environmental Plan, 2011 with a riparian buffer distance, must include an accurate survey of riparian buffer distances to determine the exact location of the buffer which is to be measured from the top of bank of each side of the watercourse. It should be noted that the LEP maps are indicative and based on watercourse centre lines. These maps do not identify the location of the top of banks of watercourses as it is not the intent of the map to show this and the position of watercourse centre lines shown is only	Proposed modifications will not adversely impact the waterway if operations are continued to be carried out in the same manner. Referral to DPI Water not required as works are not within 40 metres of waterway and standard practices will be taken place

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Volume 1 – General		
Relevant Provisions		Comment
	approximate. The map seeks to identify what buffer distance is to be applied to each watercourse and not the extent of that buffer on the ground.	
5.	All stormwater generated from any development shall be treated to an acceptable standard to maintain water quality. In determining the “acceptable standard” the consent authority shall be mindful of the relevant guidelines of the State and Federal Governments. This treatment must be undertaken outside any areas mapped as sensitive land in the Natural Resources – Water map under Wollondilly Local Environmental Plan, 2011.	Stormwater management on the property should not be affected by the modifications
6.	Nothing in this section prevents minor works on environmental land for the purposes of providing infrastructure.	No infrastructure proposed
7.	Where a development is proposed on sites which do not contain areas mapped on the Natural Resources Water or Natural Resources Biodiversity maps and contain native vegetation, the development shall be located in accordance with the following (in order of preference):	No locational differences associated with this proposal
8.	In cases where native vegetation removal is required a flora and fauna report from an appropriately qualified ecologist may be required to satisfy compliance with any of the controls listed above.	Not applicable for the proposed modifications
<p>Note: Compliance with the above controls does not guarantee that consent would be granted for the development; the requirements of the Threatened Species Act, 1995, Native Vegetation Act, 2003 and the Environmental Protection and Biodiversity Conservation Act, 1999 would need to be satisfied if approval is required under those acts of legislation.</p>		

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Volume 1 – General	
Relevant Provisions	Comment
Part 10 – Tree Removal	
10.1 Objectives	
1.	Identify trees and other native vegetation for the purpose of clause 5.9(3) of Wollondilly Local Environmental Plan 2011 which states the following: “(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by: (a) development consent; or (b) a permit granted by the Council”
2.	Identify trees and other native vegetation that: <ul style="list-style-type: none"> ▪ may be removed without a permit or development consent ▪ may be removed with a permit may be removed only with development consent
10.2 Interpretation (refer to DCP for further details of controls)	
	No tree removal will occur as part of these modifications
Part 11 – Landscaping	
11.1 Objectives	
1.	To encourage the planting of endemic species in landscaping.
2.	To reduce the impact of landscaping on the environment, infrastructure and human safety.
3.	To create a landscape character that is defined by native vegetation and not introduced species.
11.2 Recommended Species (refer to DCP for further details of controls)	
	Landscaping will be required for the additional trees required on the South Western boundary
Part 12 – Signage	
12.1 Objectives	
1.	To provide controls for the implementation of the Advertising structures in commercial or industrial zones section of Schedule 2 of Wollondilly Local Environmental Plan, 2011.
2.	To ensure signage that is exempt development does not have adverse impacts on traffic safety and pedestrian amenity.
3.	To ensure signage that is carried out as exempt development does not significantly detract from the amenity of the commercial and industrial built environments.
12.2 Signage as exempt development	
1.	No signage proposed as part of these modifications

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Volume 8 – Primary Agricultural and Rural Uses	
PART 1 – PRELIMINARY	
1.2 - Objective	
a)	To promote and encourage rural and agricultural enterprises,
b)	To encourage development that protects the rural amenity, natural landscape features of significance and scenic qualities of Wollondilly Shire,
c)	To ensure that agricultural activities have a neutral or beneficial effect on water quality,
d)	To ensure that the establishment of new, or expansion of existing farms will not adversely impact on biodiversity, endangered ecological communities and threatened species,
e)	To minimise the potential for land use conflict, and
f)	To ensure that the opportunity for long term sustainable agricultural production is maximised.
Council is unlikely to grant consent to development unless Council is of the opinion that the development is consistent with all of the objectives of this Volume. Controls in this Plan can only be varied where there are no viable alternatives due to the physical limitations of the land and it can be demonstrated that the proposed use will still meet the objectives.	
Council is unlikely to grant consent to development unless Council is of the opinion that the development is consistent with all of the objectives of this Volume. Controls in this Plan can only be varied where there are no viable alternatives due to the physical limitations of the land and it can be demonstrated that the proposed use will still meet the objectives.	
Part 2 – General Requirements for all Development	
None at time of adoption.	
Part 3 – Specific Land Use Controls	
3.3 Intensive livestock agriculture	
3.3.1 Siting and setbacks	
Objectives	
a)	To ensure that the impacts of development such as air, dust, water, odour, noise and visual amenity are minimised by identifying minimum buffer or setback requirements, and
b)	To allow for the development of intensive livestock agriculture in locations which are suited to sustainable production.
Controls	
1.	Development for the purposes of intensive livestock agriculture, are required to comply with the minimum buffers distances outlined below: (See DCP for table details)
	Setbacks will not be affected by this proposal as the sheds are already built and operational. The setbacks have been previously

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Volume 8 – Primary Agricultural and Rural Uses		
		approved under the original application
<p>Note Where rural land uses emit odour, the above separation distances are minimums only. Consideration will be given to OEH's policy on 'Assessment and management of odour from stationary sources in NSW' (November 2006) taking into consideration the site characteristics and the merits of each application.</p>		
2.	Development must be in accordance with the "Blue Book" Code of Practice for Animal Care produced by the Department of Primary Industries.	The current operations of the poultry farm would be in accordance with the 'Blue Book'. No issues from compliance regarding current farm management
3.	Sites with a slope greater than 3-4% must not be used for intensive livestock agriculture.	Site complies as the farm has been in use for over 15 years
4.	Sites that have residual chemicals in the soil such as organ chlorides and arsenic must not be used for intensive livestock agriculture.	Site complies as the farm has been in use for over 15 years
5.	Development must be located having regard to the topography and microclimate of the area to ensure concentration of odours cannot occur.	Development and associated poultry farm has been located at this site for more than 15 years and this would have been considered in the original positioning of the poultry farm sheds
3.3.2 Noise, odour and dust		
Objectives		
a)	To minimise noise, odour and dust impacts from Intensive livestock keeping establishments on the amenity of surrounding land uses, and	
b)	To encourage healthy, sustainable practices to minimise the impact of development.	
Controls		
1.	Where possible, buildings and facilities are to be located out of the line of sight of adjoining neighbours.	The modifications will not change the positioning of the existing sheds.
2.	Locate all stationary noise generating machinery within sheds and where practical away from property boundaries.	Existing machinery on site will be operating according to the updated Noise Impact Assessment prepared by Benbow Environmental dated September 2017, which complies

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		with the noise standards and mitigation measures
3.	Ensure that feed grain is stored in a dry storage area to prevent fermentation.	Modifications will not alter the storage areas for feed grain
4.	Prevent entry of drainage/seepage water into site sheds and storage facilities through the construction of earth contour banks and drainage.	Modifications will not alter the drainage facilities in place
5.	Feeding troughs and self-feeders must be designed to minimise any spillage that could potentially contribute to odour emissions.	Feeding methods are not altered by the modifications
6.	Appropriately silenced forklifts should be utilised to reduce night noise generation.	The farm should comply with these measures if operating under the original consent requirements regarding noise. Noise Impact Assessment has shown compliance with this condition
7.	Noise levels generated must not exceed the requirements of the NSW Industrial Noise Policy (NSW EPA, 2000).	The current operations are carried out in accordance with the original application regarding noise controls. As this document was in place during the time of the consent in 2003, the current operations are carried out in accordance with the measures within the policy. An updated noise impact assessment has been carried out and the expected increases have been in accordance with the appropriate guidelines and measures for noise
8.	Industry Best Practice Management measures developed to eliminate or reduce odour are to be undertaken.	Odour management on site is considered to be at a good level, but the current odour reports are not recent enough and do not consider the increased number of birds. Based on the Odour reports by Benbow Environmental in summer 2014, the average odour concentrations of 96.5 were well below the threshold of 350.

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		<p><i>‘11.1 (a) (i) of the monitoring conditions for the subject farm indicates that a threshold of 350 OU/m3 applies to the site. The duplicate samples collected reported an average odour concentration of 96.5 OU/m3, with the maximum result being 153 OU. These two reported figures are lower than the criteria of 350 OU/m3, which satisfies this condition.’</i></p> <p>Additionally, based on the Odour reports by Benbow Environmental in winter 2013, the following results for odour concentration were found:</p> <p><i>‘11.1 (a) (i) of the monitoring conditions for the subject farm indicates that a threshold of 350 OU/m3 applies to the site. The duplicate samples collected reported an average odour concentration of 172.5 OU/m3, with the maximum result being 302 OU. These two reported figures are lower than the criteria of 350 OU/m3, which satisfies this condition.’</i></p> <p>The topography of the land is also another concerning issue with odour. The site is located at the top of the hill and as winds prevail from the West, odours are pushed towards Kendall Street and the properties on the bottom of the hill receive a significant odour impacts. This is also reflected in the CRM enquiries received by Council.</p> <p>UPDATE: Additional more recent odour and dust modelling conducted by Benbow Environmental dated September 2017 have concluded that the increased odour from the</p>
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		<p>development will not exceed the allowable thresholds for odour. The modification will be conditioned to make sure that offensive odour is not a nuisance or else compliance action may occur.</p> <p>According to the updated report, predicted odours were compliant with the EPA Guidelines for “Approved Methods for the Modelling and Assessment of Air Pollutants in NSW and odour only exceeded one point on the South Western Boundary by 3%, opposite of the above topographic statement.</p>
<p>9.</p>	<p>Where practical, major truck deliveries and produce transport should be scheduled between the hours of 7am to 6pm weekdays, 7am to 1pm Saturdays. It is noted that exceptional circumstances may mean deliveries are conducted outside these hours on occasions.</p>	<p>Deliveries for the farm should be occurring within the specified time frames. The proposed modifications intend to alter the pickup timeframes for the turkeys at night time.</p> <ul style="list-style-type: none"> ▪ In regards to the modified pick up times, the applicant intends to change the timing to have pickups occurring all night permitted. The applicant proposes to have the condition changed to the following: <ul style="list-style-type: none"> ▪ <i>The night time pick-up of birds is permitted by this consent under the following terms:</i> <ul style="list-style-type: none"> ▪ <i>Clean out of the sheds shall be between 7:00am and 6:00pm weekdays and 7:00am to 4:00pm Saturdays only;</i> ▪ <i>Except in emergency circumstances where the welfare of the birds is at risk, all poultry related truck movements not associated with the movement of live birds are to be between 7:00am and 8:00pm weekdays and 7:00am to 4:00pm Saturdays only;</i> ▪ <i>Except where required under relevant Work Health & Safety</i>

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		<p><i>Law, machinery, equipment, forklifts etc that have beeping reversing alarms must not be used after 6pm. Truck engines and headlights are to be turned off during bird pick up operations unless entering or leaving the premises.</i></p> <ul style="list-style-type: none"> ▪ <i>Staff, contractors, sub-contractors and the like under the direct control of the grower must abide by a Code of Conduct Agreement with the poultry grower to ensure noise mitigation measures are adhered to when working on site and travelling along surrounding roads.</i> ▪ ADVISORY NOTE: <ul style="list-style-type: none"> ▪ <i>In accordance with Council's enforcement policy, where repeated complaints about noise impacts on a sensitive receiver are verified by Council, a mediation process will be initiated involving the poultry farm operator, the processor, the truck operator and Council.</i> ▪ <i>Where the mediation session fails to resolve ongoing and substantiated complaints, Council will consider enforcement action under the Protection of the Environment Operations Act including an Order placing restrictions (ie noise limits or curfew) upon night time pick up of birds with or without an exception for extreme weather conditions.</i> <p><i>A breach (other than an exception described above) of a curfew imposed by an Order may result in Council issuing a Penalty Infringement Notice (PIN) or commencing prosecution proceedings.</i></p>
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		<p>***This condition is the same condition approved for a poultry farm at 325 Scroggies Road, Lakesland which was approved by the Councillors on 24 October 2016. This particular poultry farm is much larger than the one at 105 Burns Road, Thirlmere and has a number of smaller lots with residential dwellings directly adjacent to the farm. In comparison, the site in Thirlmere has a similar number of sheds but more birds allowed and the neighbouring properties are larger lot rural residential sites with less surrounding dwellings than the Lakesland site. There are also more poultry farms in the general vicinity of the site in Thirlmere and thus the proposal fits more to the rural landscape of the area than the site in Lakesland does. The land shape is also to be considered with the increased noise levels. Also, the zoning of the two areas is the same (RU1) and the site in Lakesland is close to an E1 zone – National Parks and Nature Reserve, which is an environmentally sensitive zoning.</p> <p>Updated Noise Impact Assessment by Benbow Environmental dated September 2017 has advised that noise will comply with the Wollondilly criteria for “Fair and Reasonable Noise Mitigation Measures for Wollondilly Poultry Industry” and noise generation from the road and vehicle movements complies with “NSW Road Noise Policy”. Conditions will apply relating to noise and compliance action may occur for consistent offensive noise.</p>
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Additional controls for poultry sheds		
1.	All poultry sheds are to be appropriately cleaned out after every batch.	The modifications will not alter the existing consent regarding clean out of the sheds however clean out will be restricted to day time hours.
2.	Sheds or structures must be adequately ventilated.	The modifications are not affecting the approved shed design.
3.	Shed curtains or shutters must be utilised during shed clean outs (to minimise the impact of dust on adjoining land users). As far as practicable, dust generated must stay within property boundaries.	The modifications are not affecting the approved shed design.
4.	The type of litter material chosen for shed floors must have regard to its propensity to produce dust.	The modification will not affect the practices currently taken out in accordance with the litter material.
3.3.3 Soil, waste and water management		
Note Applicants are advised to consult with the requirements for Earth dams contained within Section 3.6 of this Volume , when designing sedimentation ponds.		
Objectives		
a)	To minimise the impact of stormwater and surface run-off on receiving water courses or water bodies and on adjacent lands, and	The objectives of this section will be met by the proposed modifications as no changes are occurring for this.
b)	To ensure drainage systems efficiently control water flows and minimise the impact on natural drainage patterns of the site.	
Controls		
1.	Local drainage patterns are to be maintained and stormwater flows effectively managed.	The modifications should not affect any drainage patterns of the site as the sheds will not be altered
2.	Development must incorporate the construction of stormwater diversion banks, sedimentation ponds and the installation of a wastewater treatment system to divert and treat wastewater and run-off.	As the proposal does not intend to modify or add any buildings, stormwater will not be changing due to the modifications proposed to the consent and these stormwater management systems will not be required in addition to what is already in place

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3.	Suitable impermeable sedimentation pond structures must be constructed that will not contaminate surface and ground waters.	Not required due to the types of modifications proposed.
4.	Development must provide appropriate methods for the adequate management and handling of litter, manure, composting and removal of dead animals.	The modifications will not affect the disposal and handling of materials and animals on the site that vary from the methods required under the consent
5.	Runoff from feeding pens and site buildings (sealed or compacted) is to be collected in sedimentation ponds prior to any irrigation on-site. Contaminated waters must be suitably treated before reuse on the farm.	Runoff from pens will be managed in the same way it is being managed in the current state
6.	All sedimentation ponds are to be de-sludged to remove build-up of solid effluent when their storage capacity is reduced by more than 25%.	The modifications will not be affecting the practices carried out regarding de-sludging of solid effluents
7.	Loads of litter, manure and feed being transported to the property are to be adequately covered.	Delivery loads are compliant with the regulations regarding covering loads
8.	Prompt and safe disposal of feed by-products is to be arranged where recycling is not possible to avoid the harbouring of pests and vermin.	The farm is compliant with these measures as not to harbour vermin and pests
9.	Diversion banks may need to be constructed to intercept and divert runoff away from manure stockpiles and carcass disposal areas.	The modifications will not alter the management of runoff from stockpiles and disposal areas and these would be carried out under the provisions of their consent.
10.	Runoff from shed roofs, access tracks and hard stands (sealed or compacted) is to be collected and stored on site. Note: Any runoff existing on the site must be free of sediment	Runoff from the site will be managed accordingly and the modifications will not alter the current measures in place for managing surface flows

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3.3.4 Transport and access		
Objectives		
a)	To minimise the noise and environmental impacts of vehicle movements to and from the site, and	
b)	To ensure adequate access to the development is provided.	
Controls		
1.	Internal access roads must be of all weather design construction and have turning areas to accommodate large articulated vehicles and be designed to minimise the amount of backing by trucks/forklifts where required.	Access roads are currently sealed/ bitumen base and complies with this control.
2.	The location of roads, parking and turning areas must recognise potentially sensitive areas such as neighbouring houses.	Turning bay area is on opposite side of neighbouring dwelling to east and next to sheds on western neighbour
3.	The timing and manner of transport activities associated with the development including the frequency, times, routes and number of animal deliveries and pick-ups, feed deliveries and clean-outs must take into consideration the impact on adjoining neighbours.	The impacts on the neighbouring dwellings will be present. Night time pick-ups and effect on neighbours will be part of Health comments. Updated noise impact assessment has concluded that noise will be appropriately managed and will comply with the noise levels and activities specified within Wollondilly criteria for “Fair and Reasonable Noise Mitigation Measures for Wollondilly Poultry Industry” and noise generation from the road and vehicle movements complies with “NSW Road Noise Policy”
4.	Car parking and manoeuvring areas for vehicles must be constructed in accordance with Council’s Design Specifications.	Proposal will have no impact on current car parking and manoeuvring areas that are already in place. Although the number of trucks will increase, it will have minimal impact on the type of surface that is present in these areas as it is of a bitumen base.

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3.3.5 Landscaping	
Objectives	
a)	To mitigate the potential noise, dust and odour impacts of proposed intensive livestock developments, and
b)	To minimise the visual impacts of development on the surrounding landscape.
Controls	
1.	Where native vegetation is limited in its capacity to provide visual screening then the following vegetation design controls apply: (See DCP for further details relating to this control)
2.	Landscaping must incorporate a mixture of trees, shrubs and groundcovers, and where practicable utilise species that are endemic to the Shire of Wollondilly.
3.	All plantings are to be in groups, consist of advanced stock and are to be a minimum of 12m from sheds (other than tunnel ventilated sheds) to allow adequate air movements. In bushfire prone areas, fire retardant species must be utilised and separation from buildings must be consistent with the requirements of Planning for Bushfire Protection.
4.	The mature height of tall species used in site landscaping should be sufficient to intercept a direct line of sight from a neighbouring dwelling

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	or roadway (measured 2m above the natural ground level).	
5.	Tree planting must not impede on the available area for on-site effluent disposal.	Tree plantings will not be within effluent disposal areas
6.	Refer to Council's Recommended Planting Species List in Volume 1 of this DCP (Section 11.2, Tables 1 – 7).	Noted if more landscaping is required.

Growth

- (iv) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

Comment

No planning agreements

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph).

Comment

The proposed modifications will meet the EP&A Regulations 2000 as well as Environmental Protection Regulations.

- (vi) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates.

Comment

Not applicable

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Comment

Impact	Comment
Natural Environment	No significant impacts. There may be additional pollution due to the increased trucks, but with operations of the farm keeping as they are, there shall be no noticeable impact on the natural environment. More trees as part of landscaping to South Western corner.

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Impact	Comment
Built Environment	No structures being built. Road was recently upgraded/resurfaced
Economic	The proposed modifications will be economically beneficial for the owners of the farm as they are able to meet the market demand and the pressure on them from suppliers. Increased numbers will reflect the growing need for the market.
Social	Impacts present on adjoining lots however as stated within the noise; and odour and dust reports, the farm operations are predicted to comply with the requirements for noise and odour stated in EPA guidelines, Fair and Reasonable Noise Mitigation Measures for Wollondilly Poultry Industry and NSW Road Noise Policy. It will be ensured to include amendments relating to offensive noise and offensive odour.

Growth

(c) the suitability of the site for the development.

Comment

Site Constraint	Comment
Bushfire	Site is partly bushfire prone land. The proposed modifications will have no changes on bushfire affectedness of the sheds.
Zoning	The zone is an RU1 zoning and supports the poultry farming use of the land.
Waterway	Works will have no impact on the waterway. Additionally as the sheds are greater than 40 metres from the waterway and there are no physical changes happening, there will be no effect on the waterway

(d) any submissions made in accordance with this Act or the regulations.

Comment

As specified previously

(e) the public interest.

Comment

It is considered that the development would not have any detrimental impact to the public interest nor to the interest of any government agency, representative of the public interest.

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RECOMMENDATION

That the proposed Section 96(1A) modification 010.2002.00057136.002 at 105 Burns Road, Thirlmere to vary Condition 9.8 which removes the 3 month restriction for night time pickup of poultry be approved, subject to:

Condition 9.8 reading as follows:

9.8 *“The night time pick-up of birds is permitted under this consent under the following terms:*

- *Clean out of the sheds shall be between 7:00am and 6:00pm weekdays and 7:00am to 4:00pm Saturdays only.*
- *Except in emergency circumstances where the welfare of the birds is at risk, all poultry industry related truck movements not associated with the movement of live birds are to be between 7:00am and 8:00pm weekdays and 7:00am to 4:00pm Saturdays only.*
- *Except where required under relevant Work Health & Safety Law; machinery, equipment, forklifts etc. that have beeping reversing alarms must not be used after 6:00pm. Truck engines and headlights are to be turned off during bird pick up operations unless entering or leaving the premises.*
- *Staff, contractors, sub-contractors and the like under the direct control of the grower must abide by a Code of Conduct Agreement with the poultry grower to ensure noise mitigation measures are adhered to when working on site and travelling along surrounding roads.*

ADVISORY NOTE:

In accordance with Council’s Enforcement Policy, where repeated complaint(s) about noise impacts on a sensitive receiver are verified by Council, a mediation process will be initiated involving the poultry farm operator, the processor, the truck operator and Council.

Where the mediation session fails to resolve ongoing and substantiated complaints, Council will consider enforcement action under the Protection of the Environment Operations Act including an Order placing restrictions (i.e. noise limits or curfew) upon night time pick-up of birds with or without an exception for extreme weather conditions.

A breach (other than an exception as described above) of a curfew imposed by an Order may result in Council issuing a Penalty Infringement Notice (PIN) or commencing prosecution proceedings.”