

PLANNING & NATURAL SYSTEMS

ATTACHMENT D

**DA 81/2016 - SECTION 96 MODIFICATION -
ADDITIONAL TUNNEL VENTILATED POULTRY
SHED**

DEVELOPMENT CONTROL UNIT MEETING

18 JANUARY 2017

PES - DA 81/2016 - Additional Poultry Shed - 438 Markwell Road, Bulahdelah
Report Author David Pirie, Senior Development Assessment Planner,
(Forster)
Authorised Lisa Schiff, Director - Planning & Environmental Services
File No. / ECM Index DA 81/2016 & PK 30909

Date of Meeting 13 July 2016

DETAILS

Date Received: 2 September 2015
Applicant: M J Wood
Owner: Malcolm John Wood
Land: 438 Markwell Road, Bulahdelah (Lot 340 DP 1041198)

Area: 63.07 ha
Property Key: 30909

SUMMARY OF REPORT

1. The application proposes an additional tunnel ventilated poultry shed to the existing five (5) tunnel ventilated sheds on the subject property. The new shed is proposed to house an additional 51,900 birds.
2. In addition to the new poultry shed, a large (18m x 12m) shed for the composting of dead birds is proposed to the east of the existing poultry sheds.
3. The application was notified to adjoining owners and three (3) objections were received, which raised concerns that included increase in dust odour and noise from the new shed, the visual impact of the shed location and buffer distances to nearby residences; the spreading of litter; and non-compliance with conditions of consent for previous development applications relating to the approvals for the existing sheds.
4. A site inspection by Council Officers revealed a number of unauthorised on-site sewerage systems on the property and non-compliance with the conditions of previous consents (DA 610/2007 and DA 543/2006) that required continuous landscape buffer, an adequately prepared environmental Management Plan (EMP) carried out by an appropriately qualified person; a screened composting shed that has not been constructed and rotary drum composter; and chicken litter stockpiled under cover.
5. In order to ensure the accuracy of the applicant's odour assessment prepared by Robert Carr and Associates Pty Ltd (RCA Australia), the report was sent by Council to Benbow Environmental for an independent peer review of the report and methodology. The peer review raised a number of concerns with the RCA odour assessment, to which a response from RCA was requested.
6. Revised modelling prepared by RCA Australia (as agreed with the applicant and Benbow Environmental) using higher odour emission rates showed that the proposed poultry farm operations would meet the odour criterion for poultry farms of a similar nature at all nearby residential receptors.
7. Odour emissions are very dependent on farm practices and for modelling results to be valid, the farm should operate under an appropriate Environmental Management Plan,

which has been required to be submitted to Council through the inclusion of a deferred commencement condition.

8. An Acoustic Assessment and an Air Quality Assessment for Dust Emissions have been submitted by the applicant and the recommendations of these reports are contained within the conditions in the Recommendation of this report.
9. Information from the NSW Office of Environment and Heritage indicates that parts of the land are/were investigated for potentially unlawful clearing of native vegetation in late 2015. This matter cannot be considered in the merit assessment of the current development proposal, however, the apparent failure of the operator to adhere to the ecological and other conditions of DA 610/ 2007 on the land is of concern.
10. Conditions of consent for ecology and landscaping are required to balance and/ or mitigate for the negative ecological and landscape consequences of the proposed development, including a deferred commencement condition for a landscape plan.

SUMMARY OF RECOMMENDATION

1. Deferred commencement consent.
2. Advice to applicant that further non-compliance with conditions of consent will result in enforcement action and associated penalties under the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations.

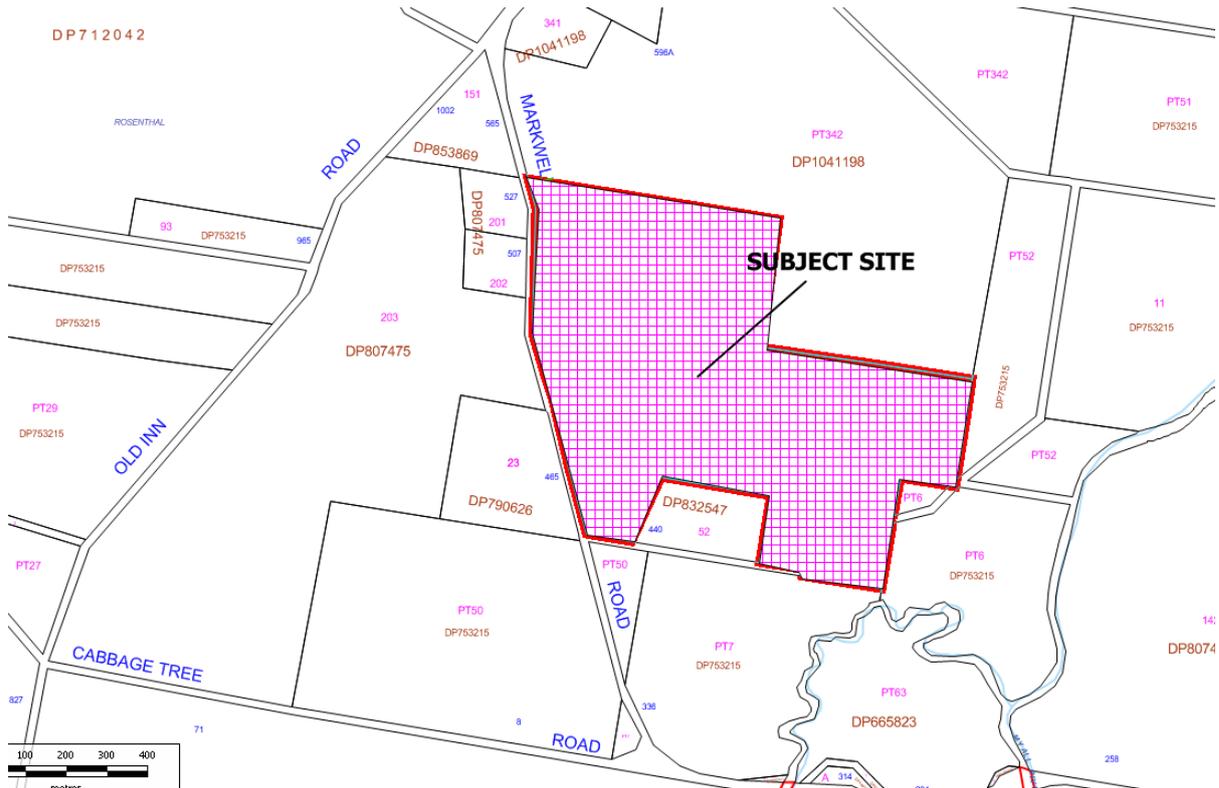
FINANCIAL/RESOURCE IMPLICATIONS

If the application is refused, there may be costs and resource implications associated with any legal proceedings that are commenced.

LEGAL IMPLICATIONS

As with any determination of a development application, the applicant will have appeal rights if it is dissatisfied with the determination. The Council must consider the application on its merits, despite any risk of legal proceedings being commenced.

SUBJECT SITE AND LOCALITY



BACKGROUND:

The assessment time line is contained in Table 1 below.

Table 1: Assessment time line

2 September 2015	DA Lodgement
11 September 2015	<p>Notification 14 days until 25 September 2015. Three (3) submissions received.</p> <p>All raised concerns in relation to odour. Also it was pointed out that the existing farm is operating with non-compliance to conditions from previous consents.</p>
11 September 2015	Application referred to NSW Rural Fire Service (RFS) under Section 79 BA of the EPA Act.
14 October 2015	<p>Site inspection by Council Officers. This revealed a number of unauthorised on-site sewerage systems on the property and non-compliance with the following conditions of previous consents (DA 610/2007 for alterations and additions to the poultry sheds and DA 543/2006 for the tunnel ventilation of the poultry sheds):</p> <ul style="list-style-type: none"> • Condition 2 (DA 610/2007) required a continuous landscape buffer, which has not been undertaken.

	<ul style="list-style-type: none"> • Condition 4 (DA 610/2007) required an Environmental Management Plan (EMP) that included an odour, dust and noise monitoring regime carried out by an appropriately qualified person. The EMP does not include an odour, dust and noise monitoring regime from an appropriately qualified person. • Condition 5 (DA 610/2007) required a screened composting shed that has not been constructed. • Condition 5 (DA 543/2006) required composting of dead birds in a screened rotary drum composter. This was not in evidence. • Condition 6 (DA 610/2007 & DA 543/2006) required all chicken litter to be stockpiled under cover and not within 200m of any residences. Inspection revealed that chicken litter not stockpiled under cover.
16 October 2015	Response received from RFS.
23 October 2015	<p>Letter sent to applicant requesting additional information and response to matters of non-compliance with previous consents. Additional information included:</p> <ul style="list-style-type: none"> • Noise report. • Air quality assessment. • Landscape plan. • Location of composting shed clear of the 1% AEP flood level for 2060. • Soil test on paddocks where litter applied to ensure no negative impacts to water quality downstream.
3 November 2015	Applicant's consultant was verbally advised at a Development Assessment Panel meeting that a peer review of the applicant's odour assessment (prepared by RCA) raised questions/concerns that required clarification.
4 November 2015	Copy of odour peer review prepared by Benbow Environmental emailed to applicant's consultant.
24 November 2015	Email from Council's Environmental Health Officer to applicant's consultant explaining the reason why the peer review does not support the odour modelling program (Ausplume) used by the applicant.
15 February 2016	Meeting at Council with applicant's consultant, who advised that requested information was being finalised for submission to Council.
19 February 2016	Additional information received from applicant's consultant (RCA), which provided further information in relation to peer review comments.
7 March 2016	RCA comments referred back to Benbow Environmental
7 April 2016	Benbow Environmental's response received to RCA comments. Benbow Environmental raised concerns over odour model used by RCA. However the main concern was that the odour emission rates used by RCA in their modelling were substantially lower than those

	accepted by the Land and Environment Court as a minimum for a farm with good management practices.
15 April 2016	Applicant advised by email that after discussions with the NSW Environment Protection Authority (EPA), odour emission rates used by RCA need to be clearly justified. This required odour sampling of the existing situation at the poultry sheds.
27 April 2016	Meeting at Council with applicant's consultant, who provided further information in relation to odour emission rates used in odour assessment reports for similar poultry farm operations.
29 April 2016	Conversation with Benbow Environmental who advised remodelling of odour using higher odour emission rate and establishing odour assessment criteria of 6.0 odour units was acceptable.
3 May 2016	Additional odour modelling report received from the applicant's consultant.

PROPOSAL:

The application proposes an additional tunnel ventilated poultry shed to the existing five (5) tunnel ventilated sheds on the subject property. The new shed is proposed to house an additional 51,900 birds. The existing sheds house 182,500 birds, therefore giving a total number of birds proposed to be housed on the farm at any one time as 234,400 birds. The new shed represents approximately a 28% increase in poultry production for the farm. The sheds are used for the housing of poultry and growing them to market size.

The proposed new shed is to be located on an open area of grass hillside to the north of the existing sheds and will be constructed on a level pad requiring excavation into the hillside. Access to the proposed new shed is to be provided by the existing gravel site access road from Markwell Road. This access road connects to a manoeuvring area in front of the existing sheds and which will be extended to the front of the new shed to provide access and a loading area similar to the existing sheds.

The new shed is proposed to have dimensions of 154m x 17m with a pitched gable roof similar to the existing sheds. The shed is to be tunnel ventilated with the fans and cooling pads located at the eastern end of the shed, and mini-vents along the sides of the shed. The roof is to be sheet metal with insulation blankets to reduce heat transfer. Roof water from the new shed is to be drained to the large dams to the south of the existing sheds. Large doors are to be located at the western end of the shed to provide vehicular access for equipment used in the laying and removal of litter.

In addition to the new shed, a large (18m x 12m) sheltered enclosure (shed) for the composting of dead birds is proposed with a low (1.5m high) concrete block wall on three (3) sides, an earth floor and a 6m high roof to allow machines to operate under the shelter.

Refer Attachment 'A' for the site plan and plans of the proposed new shed and composting enclosure.

SITE DESCRIPTION:

The subject site is located on the eastern side of Markwell Road between its intersection with Cabbage Tree Road and Old Inn Road in Bulahdelah, approximately 4.5km from the village of Bulahdelah. The site is presently occupied by an existing poultry farm, which has five (5)

existing tunnel ventilated poultry sheds, currently housing a maximum of 182,500 birds for the purpose of meat production. A residence is located in the south-west corner of the site adjacent to Markwell Road. A large dam is located to the south of the poultry sheds. Access to the property, for both the dwelling and the poultry sheds, is via an existing gravel driveway from Markwell Road.

The site is irregular in shape and consists of a combination of cleared paddocks and forested land. The overall site area is 63.07 hectares (ha) and is legally identified as Lot 340 in DP 1041198.

The surrounding area is rural in character, with a number of residences nearby on the opposite (western) side of Markwell Road and on neighbouring properties to the south and north (refer Table 2 below).

Table 2: Nearby properties with residences

440 Markwell Road (Lot 52 DP 832547)	South
465 Markwell Road (Lot 23 DP 790626)	South-east
507 Markwell Road (Lot 202 DP 807475)	North-west
527 Markwell Road (Lot 201 DP 807475)	North-west
568 Markwell Road (Lot 341 DP 1041198)	North

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

- a) *The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; 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; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.***

Environmental Planning and Assessment Act 1979

The subject site is mapped as bush fire prone land and in accordance with Section 79BA of the *Environmental Planning and Assessment Act 1979* (EP&A Act) the application is to be assessed having regard to the provisions of the publication 'Planning for Bushfire Protection 2006'. In this regard the application was referred to the NSW Rural Fire Service (RFS) who have provided conditions for any consent, which are included within the Recommendation of this report.

Environmental Planning and Assessment Regulation 2000

The proposal is not classified as '*designated development*' under the *Environmental Planning and Assessment Regulation 2000* for the following reasons:

- The total proposed number of birds to be accommodated within the existing sheds and the proposed shed is 234,400 birds, which is below the threshold of 250,000 birds.
- The sheds maintain a separation of over 100m to the nearest waterbody.
- From Council's aerial imagery, there are no other poultry farm sheds within 500m and there are no residential zones within 500m of the property.

- The proposed shed maintains a distance greater than 150m to the nearest existing dwelling on any adjoining allotment of land.

State Environmental Planning Policy (Rural Lands) 2008

State Environmental Planning Policy (Rural Lands) 2008 (SEPP Rural Lands) applies to rural and environmental zones in the Mid-Coast Council area and accordingly applies to this site. The SEPP sets out principles that Council must consider in determining applications for development on land zoned for rural or environmental purposes. The principles are:

- a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proposal is considered to be consistent with the aims of the policy and specifically the Rural Planning Principles of *"the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas"*; and the *"recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development"*.

Great Lakes Local Environmental Plan 2014

The subject site is zoned RU2 – Rural Landscape under *Great Lakes Local Environmental Plan 2014* (LEP). The proposed use can be defined under the Dictionary of the LEP as 'intensive livestock agriculture' which is a form of 'agriculture' and as such is permissible in the RU2 Zone with development consent.

The objectives of the RU2 Rural Landscape Zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To provide for rural tourism in association with the primary industry capability of the land which is based on the rural attributes of the land.*
- *To secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity.*

The proposal is considered not inconsistent with RU2 Rural Landscape Zone objectives, as it provides for a sustainable agricultural use of the land that seeks to maximise its agricultural productivity consistent with the site constraints.

The proposed maximum poultry shed height of approximately 5m and composting shed height of approximately 7.5m are each less than the maximum height of 8.5m as set by Clause 4.3 of the LEP and as shown on the Height of Buildings Map. There is no change proposed to the existing lot size and the proposal is well under the maximum floor space ratio of 0.4:1 for the site as set by Clause 4.4 of the LEP and as shown on the Floor Space Ratio Map.

The construction of the proposed sheds involves earthworks for the creation of building pads and as such Clause 7.2 of the LEP applies in relation to the earthworks. In this regard, it is proposed to create the platforms for the sheds with a cut/fill balance, which would not involve the importation or exportation of materials. It is unlikely that the proposed sheds will affect drainage patterns and the sheds are setback a sufficient distance from the watercourse that traverses the property, so as to minimise any risk of sediment incursion into the watercourse, subject to appropriate sediment and erosion controls, which are the subject of conditions of consent contained in the Recommendation of this report.

Clause 7.1 relates to acid sulphate soils, such that development consent is required for the carrying out of works (referred to in the Table of the clause) for the class of land as shown on the Acid Sulfate Soils Map. The Acid Sulfate Soils Map shows only a small area of land in the southern section of the site as having Class 5 soils, well clear from the proposed sheds. Class 5 land relates to works within 500m of adjacent Class 1, 2 3 or 4 land that is below 5m AHD and by which the watertable is likely to be lowered below 1m AHD on adjacent Class 1, 2 3 or 4 land. As the proposed sheds are substantially further away than 500m from the Class 5 land, there is no further consideration required under this clause.

Clause 7.3 of the LEP applies to the land as it is identified as a "Flood Planning Area on the Flood Planning Map. The Flood Planning Map indicates that the property is affected by the predicted 1% AEP flood level (approximately RL 8.0m AHD), such that the site is affected by localised flooding on the northern and eastern sides of the property. The location of the proposed additional poultry shed, however, will be clear of the predicted flood extent. An early assessment indicated that the proposed composting shed may be located within the flood impacted areas of the site and clarification was sought by survey in regards to the position of the shed, to determine as to whether or not it would be impacted. The consultant acting for the applicant, has instead recommended that a condition be imposed on the consent, stating that the floor level of the proposed composting shed be constructed above the predicted 1% AEP flood level for the year 2060. As such, a condition has been included in the Recommendation of the report to cover this requirement.

Clause 7.5 of the LEP applies to the proposal in relation stormwater management. The roof water from the proposed poultry shed is to be drained to the existing dams on the site. This is considered acceptable to ensure an appropriate level of water quality in accordance with the objectives of this clause. A condition is also contained within the Recommendation of this report to ensure the appropriate management of litter for the protection of catchment water quality.

Great Lakes Development Control Plan

Chapter 4 of Great Lakes Development Control Plan (DCP) contains environmental matters for consideration in the assessment of the proposal, including ecological impacts, effluent disposal, flooding, bush fire and poultry farm buffers.

In regard to poultry farm buffers for the purpose of minimising conflict between agricultural uses of land and residential uses of land, it should be noted that the farm is currently used for an existing intensive livestock purpose.

Issues relating to odour, dust and noise associated with the additional poultry shed proposed by this application, as well as Council's Commercial Poultry and Surrounding Development Policy are considered under the relevant headings in Section (b) and (e) of this report. Matters relating to effluent disposal and bushfire are also considered under these headings in Section (b) of this report. Flooding has been considered above under the heading "*Great Lakes Local Environmental Plan 2014*". Council's Senior Ecologist has reviewed the application and the ecological impacts are considered under the heading "Flora, Fauna and Landscape" in Section (b) of this report.

b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Odour

A Level 2 Odour Assessment in accordance with the NSW Environment Protection Authority's document '*Technical Framework: Assessment and Management of Odour from Stationary Sources in NSW*' was prepared by Robert Carr and Associates Pty Ltd (RCA Australia) (RCA REF 11474-701/1, dated August 2015) to predict odour concentrations at ground level surrounding the sheds and at receptors outside of the property.

The assessment showed that the modelled odour from the existing poultry sheds and from the existing sheds combined with the proposed additional shed would be within the established criterion of 7.0 odour units. In order to ensure the accuracy of the odour assessment, the report was sent by Council to Benbow Environmental for peer review of the report and methodology.

Benbow Environmental provided a 'Peer Review of Odour Assessment' dated 27 October 2015. The peer review raised a number of questions and concerns with the Odour Assessment, including accuracy of weather data, lack of detail in relation to fan configuration, potentially understated odour generation rates, inaccurate odour criteria and potential cumulative effects. The Benbow Environmental peer review also raised concerns in relation to the Ausplume modelling software that had been used by RCA Australia for the odour assessment and advised that CALPUFF modelling software was preferred by Benbow Environmental.

A response to the questions and concerns raised in the peer review by Benbow Environmental was prepared by RCA Australia and was provided to Council on 15 February 2016. Benbow Environmental reviewed RCA Australia responses and advised in a letter dated 7 April 2016 that '*the responses provided by RCA in providing additional explanation regarding observations during the site visit, the odour emission rates, configuration of fans and the operating conditions used in the modelling are reasonable responses to our initial concerns*'.

Benbow Environmental stated, however, that following RCA Australia's response, there were two unresolved issues, being odour modelling practices (software) and modelled odour emission rates.

In terms of the odour modelling software (Ausplume), Council contacted the NSW Environment Protection Authority as suggested by Benbow Environmental, who claim that if the '*NSW Environment Protection Authority are accepting of Ausplume then our comments*

would not warrant refusal' and that 'the Ausplume model has been applied correctly'. The NSW Environment Protection Authority did not rule out the use of Ausplume as this model is still recognised by the NSW Environment Protection Authority's document '*Technical Framework: Assessment and Management of Odour from Stationary Sources in NSW*'.

The odour emission rates used by RCA Australia in their odour assessment were identified as being lower than what would be expected to be emitted by the proposed development. Council agreed with the applicant and Benbow Environmental that the odour should be remodelled based on a higher odour emission rate commensurate with other odour assessments completed for poultry farms of a similar nature and that an odour unit criterion of 6.0 odour units should be established as there are four houses surrounding the poultry farm that need to be considered rather than a single rural residence odour criterion of 7.0 odour units as originally identified.

The revised modelling prepared by RCA Australia (dated 3 May 2016) using higher odour emission rates showed that the proposed poultry farm operations would meet the odour criterion of 6.0 odour units at all nearby residential receptors.

Odour emissions are very dependent on farm practices and for modelling results to be valid, the farm should operate under an appropriate Environmental Management Plan which has been required to be submitted to Council through the inclusion of a deferred commencement condition. Conditions of consent requiring odour sampling to be completed following commissioning of the shed, and requiring that the proposed operations not be a source of offensive odour have also been included in the Recommendation of this report.

It should also be noted that offensive odour can result from the spreading of litter on the farm, if not undertaken when weather and soil conditions are appropriate. In this regard, Council has received complaints relating to the spreading of litter on this property, rather than from the existing shed operations. An appropriate condition of consent is contained within the Recommendation for the spreading of litter. It should also be noted that under the *Protection of the Environment Operations Act 1997* there is an onus on the farm operator to ensure that litter spreading activities do not result in the emission of offensive odour, which is reinforced as a condition of consent in the Recommendation of this report.

Noise

An Acoustic Assessment (dated February 2016, RCA ref: 11841-401.1) has been prepared by RCA Acoustics for the proposed poultry farm expansion.

Noise levels were continuously monitored by RCA Acoustics from 2 December 2015 to 12 December 2015 to determine the existing background noise levels for the area. Through this monitoring, project specific noise levels were established for the proposed development for day, evening and night time periods in accordance with the NSW Environment Protection Authority's 'Industrial Noise Policy'.

Noise from on-site activities including emissions from additional ventilation fans and noise associated with capturing and loading of the birds, including a truck, forklift and tractor were considered by RCA Acoustics and were assessed against noise level criteria at nearby receivers.

The acoustic assessment acknowledges that a significant element of work associated with the farm occurs after 10pm at night (catching birds). Catching birds during the night is standard industry practice and is undertaken during this time for the welfare of the birds - at a time when birds are calm and stress is minimised. As night time activities are likely to have

the greatest impact on nearby residents, RCA Acoustics assessment accounted for this aspect of the farms operation.

RCA Acoustics provide that their modelling and assessment assumed that all of the fans in all of the sheds, including the proposed shed were operating at full speed, so a worst case condition is predicted. RCA Acoustics also state that modelling also assumed that all of the sheds use the same fans as the existing operation, despite the proposed shed being intended to be fitted with quieter models, which would result in predicted noise levels being overestimated.

Bird capture operations according to RCA Acoustics were assessed as involving a prime mover being on-site with the engine running and a forklift transporting crates of birds to the trailer.

Predicted received noise levels under a range of conditions (calm, wind to 3m/s, and temperature inversion) were provided for eight residential receivers, which showed that sound pressure levels from the farm operations would comply with the project specific noise levels for all time periods. In addition, sleep disturbance was associated with short duration events (maximum instantaneous levels), which were considered by RCA Acoustics.

Maximum noise levels were modelled by RCA Acoustics based upon a very loud impact occurring in a completely unshielded location. While the noise level emitted from such an event was predicted to exceed criteria sleep disturbance criteria of 48dB(A) at one residence by 1dB(A), RCA claim that mobile equipment generally operates in a shielded area and in any given night, sleep disturbing sound events would be so small as to be negligible. The possibility of events that cause awakening reactions in any neighbouring residence is low.

RCA Acoustics state that provided the recommended noise control measures described in their Acoustic Assessment are implemented, noise from the proposed poultry farm operation is not likely to become a source of offensive or intrusive noise.

Conditions of consent which incorporate noise control recommendations described RCA Acoustic's Acoustic Assessment (dated February 2016, RCA ref: 11841-401.1) have been provided.

Dust and Air Quality

An Air Quality Assessment for Dust Emissions was prepared by RCA Australia (RCA ref 11474-702/1, dated February 2016), which included a review of potential dust source emissions from the current and proposed activities, an inspection of the poultry farm, a review of literature associated the farm and proposal and a review of dust control and management literature

The greatest source of dust emissions from the farm would be associated with vehicle movements on unsealed roads, from the sheds themselves and from the handling of litter and manure.

According to RCA Australia, there are excellent management practices to control dust that are already in place for the existing operations. RCA Australia state that features of the proposed development that will minimise dust are:

- Most of the air exhausted from the sheds is directed east, towards vegetation and away from neighbouring properties.
- The road leading into the property from Markwell Road is sealed, except near the poultry sheds.

- A thick line of vegetation exists along the southern boundary of the property, with some vegetation existing along the western boundary.
- The composting shed will be mostly enclosed.

To date, there have been no complaints from surrounding residents regarding dust generation from existing poultry shed operations. Subject to the existing control measures being implemented in conjunction with additional measures proposed by RCA Australia, including planting of an additional row of trees to the west of the poultry sheds, dust impacts are expected to be unlikely.

Objections have also been raised in relation to bacteria. Studies have shown that the risk of disease transfer from poultry to humans is minimal and that bacteria die off and dissipate rapidly in the open environment. It is considered that there is sufficient separation distance from the sheds to neighbouring properties to mitigate bacteria levels.

A condition of consent has been included which requires that litter is not to be spread within 200 metres of any neighbouring residence. The separation distance required by this condition will also allow for die off and dispersion of bacteria associated with fertilising.

Access and Traffic

Access to the proposed development is from Markwell Road which is bitumen seal with open swale drains either side of the carriageway. The subject lot was conditioned under a previous DA (610/2007) to upgrade the intersection of the property with Markwell Road in accordance with Rural Property Access Layout 2 “Preferred Option with Indented Access”– Figure 4.9.7 of the RTA’s Road Design Guideline Manual. As this work has been carried out, there is no requirement to upgrade the intersection to accommodate the proposed additional poultry shed.

Bush Fire

The land is mapped as bush fire prone land on the Bush Fire Planning Maps. The application was referred to the NSW Rural Fire Service (RFS) under Section 79BA of the Environmental Planning and Assessment Act 1979. The RFS has provided recommended conditions of consent which are contained within the Recommendation of this report.

Utilities

The land is serviced by mains electricity and telephone services. No town water or sewer services exist. The property utilises a private water supply. Any alterations to services shall be at the developers' expense.

The site inspection by Council officers on 14 October 2015 revealed that a number of unauthorised on-site sewerage systems had been created on the property. The applicant was advised in writing to de-commission these systems and if worker’s amenities were required then these should be sought through the current development application.

The applicant’s consultant advised that there is one existing toilet available for workers in the existing shed adjacent to the driveway, which is connected to a septic tank, with a volume of approximately 3,200 litres. This tank is pumped out by a contractor when full and which is generally only once a year. The septic tank referred to has not been approved by Council to be installed and a pump-out system would not be approved on allotments where there is sufficient land to achieve on-site disposal.

An application will be required for an on-site system for workers on the property, which includes a geotechnical report. The existing septic system may be capable of being connected to an effluent disposal area. Details will be required prior to the issue of a construction certificate and appropriate conditions of consent are included in the Recommendation of this report.

An appropriate condition requiring an on-site inspection by Council Officers to confirm that all unauthorised on-site sewerage systems have been removed is included in the Recommendation of this report.

Flora, Fauna and Landscaping

The proposed additional poultry shed is proposed to be located within an existing cleared pasture and the proposal is not considered to cause any significant or unreasonable direct impacts on the natural environment.

The subject land is some 63-hectares in size. The land comprises areas of pasture grassland, including an area of existing poultry sheds/ operations as well as some remnant native dry forest. Dry forest comprises about 29-hectares of the Lot. There are also some artificial farm dams present. Surface water from the land flows to Black Camp Creek, which flows to the Myall River.

A Statement of Environmental Effects (Coastplan 2015) has been submitted with the DA. It notes:

- The shed does not involve the removal of significant native vegetation.
- Vegetation exists along the site frontages, which provides screening from along Markwell Road. Only distant views of the sheds are available. Scattered paddock trees will be maintained over the property.
- Pests on the land will be managed in accordance with a Pest Control Plan.
- Dead birds would be composted in a composting shed and large-scale mortalities would be transported for suitable off-site disposal.

The odour assessment report of RCA Australia (2015) submitted with the DA suggests that "*natural features between the sheds and the residences that mitigate odours, for example, the thick line of trees to the southern boundary of the property*" assist to mitigate against "*offensive odours for the proposed and additional operations*".

According to information on the file and related files, the Registered Proprietor of the land has not implemented landscaping requirements on the land for the screening of the existing poultry sheds as set-out in DA610/ 2007. These conditions required a continuous landscape buffer of 3-metres width around the perimeter of all of the existing sheds, inclusive of the planting and maintenance of *Eucalyptus robusta* or similar and *Callistemon* 'Captain Cook'. A Landscaping Plan was required to be produced prior to the issue of a Construction Certificate. As mentioned, the landscaping has not been established.

In addition, information from the NSW Office of Environment and Heritage suggests that parts of the land are/ were investigated for potentially unlawful clearing in late 2015. The outcome of the NSW Office of Environment and Heritage investigation is not known. It is not known if the clearing activities has reduced the screening effect of native vegetation to the area of the current and proposed poultry sheds.

Several submissions have been received in relation to the development proposal and ecological issues were raised in these submissions. Relevantly, submissions noted:

- The low-lying area of Teatree and mixed Eucalypt vegetation on the central southern boundary of the land should be maintained as a buffer.
- Substantial vegetation and planting of fast-growing trees on the land should be required to minimise environmental and visual impacts.
- A dense cluster of trees blocking the visual impact of the sheds and to manage dust and odours should be established along Markwell Road.

Thus, neighbour submissions requested enhanced screening and buffering be provided by retention and protection of native vegetation on the southern boundary of the site and new plantings along Markwell Road. RCA (2016) provided additional information in their report and recommended:

- *"The planting of more trees along the Markwell Road boundary. RCA recommends a one row wide (nominally five metres wide) planting of tall growing, evergreen, densely-foliaged trees and safely away from powerlines. These measures will assist in reducing dust and other emissions such as odour from the operations"*
- *"Photograph 4 southern boundary, near the resident to the south, view to south... vegetation along this boundary would assist in reducing dust impacts"*
- *"Photograph 6 western side of Markwell Road, looking east to the poultry operations... additional plantings could be made along the boundary to further mitigate impacts on the residents to the west"*

A landscape plan, which is a marked-up version of the Site Plan, and which contains details of a proposed linear planting of *Callistemon viminalis* 'Captain Cook' and *Waterhousea floribunda* on parts of the eastern side of the existing/ proposed sheds and on part of the northern side of the proposed shed has been provided by the applicant. No other details are provided in relation to quantities, planting methods, maintenance methods, etc. of any proposed landscaping. Further, the landscape plan provided does not address the submissions received during the notification, does not address the recommendations of the RCA (2016) report and does not serve to balance or mitigate the negative effects of the proposal on the scenic or natural environment. The landscape plan submitted with the DA is thus not considered to be adequate or satisfactory.

The proposed development does not cause additional direct impacts on areas of native vegetation, as the footprint of the proposed new shed is confined to an area of maintained exotic pasture grassland in the vicinity of the existing sheds. The development proposal may have some negative consequences in relation to ecological matters. This may result from the proposed construction and operation of the poultry shed through impacts such as increased disturbance or pollution of the natural environment, the mishandling of poultry litter and dead birds, further enhanced feral pest animal attraction/ presence, etc. The additional shed will further impact on the amenity of the rural landscape and the landscaping proposed is not adequate or satisfactory. Notwithstanding, it is considered that the indirect and associated ecological impacts of the proposal are not unreasonable or are likely to be associated with a significant impact on threatened biodiversity or the natural environment, provided that conditions of consent are adopted.

Conditions of consent for ecology and landscaping are required to balance and/ or mitigate for the negative ecological and landscape consequences of the proposed development.

The matter of the potentially unlawful clearing of native vegetation on the wider landholding cannot be considered in this merits assessment of this development proposal. The apparent failure of the operator to adhere to the ecological conditions of DA 610/ 2007 on the land is of concern.

However, the DA can be approved from an ecological perspective, subject to the imposition of relevant conditions.

c) *The Suitability of the Site for the Development*

The proposed sheds are to be located clear of the electricity easement on the subject land. The proposed poultry shed is located outside the flood affected portion of the site, while the composting shed will be conditioned to have a floor level raised above the 1% AEP flood level. The composting shed is also subject to conditions as requested by the NSW Rural Fire Service.

The surrounding area is generally typical of a rural locality with agricultural uses and rural dwellings. The proposed poultry shed is to be located adjacent to the existing sheds, with a sufficient setback to the watercourse running through the site to the north, north-east and adequate separation to Markwell Road, subject to sufficient landscape screening as required by conditions in the Recommendation of this report.

d) *Any Submissions Made in Accordance with the Act or Regulations*

The application was notified to adjoining owners from 11 September 2015 to 25 September 2015 in accordance with Council's Policy and three (3) submissions were received. The submissions referred to the following issues:

1. Dust and odour

- Increase in dust and odour generation.
- Dust, odour and airborne particles will impact on drinking water sourced directly from roof impacting on health and well-being.
- Increase in dust from truck movements requiring all poultry farm roads to be sealed
- Independent review of the RCA Odour Assessment is required.
- Management Plan required to manage odour and included as conditions of consent.
- Screening of odours is required which could involve chemical processes.
- Flawed Odour Assessment by RCA and request for an independent Odour Assessment.
- Composting shed should be located further to the north to minimise odour impacts

Comment:

An independent peer review of the applicant's odour assessment has been undertaken – refer to discussion under the headings 'Odour' and 'Dust and Air Quality' in Section (b) above in this report. Appropriate conditions, including a deferred commencement condition for an Environmental Management Plan, are contained in the Recommendation of this report.

2. Noise

- Increase noise at night during delivering and collection of birds and feed deliveries.
- Increase in noise from trucks including, truck movements, trucks late at night, machinery and fans.
- A Noise Impact Assessment has not been provided in accordance with the requirements of the 'Commercial Poultry and Surrounding Development Code'.
- Noise management measures have not been outlined in the SEE.
- Conditions should be applied for times for delivery and catching of birds.
- Double glazing of windows and glass doors of neighbouring properties required.
- Controls over the operation of the poultry farm including times of truck movements and machinery operation

Comment:

A Noise Report was received from the applicant's consultant following Council's request for further information. Please refer to the heading 'Noise' in Section (b) of this report for the discussion of noise impacts from the proposed development. Appropriate noise control conditions are contained within the Recommendation of this report.

3. Litter

- The Statement of Environmental Effects does not provide sufficient detail of how litter will be spread to prevent adverse amenity and health impacts to adjoining residents.
- Increase in amount of litter on the farm.
- Non-compliance with previous consent. Condition 6 required chicken litter to be stockpiled under cover and not spread within 200m of any residences or water courses.
- Litter should be stored under cover pending sale or spreading.
- Litter not to be stored closer than 500m to homestead

Comment:

Conditions have been included in the Recommendation of this report to ensure that litter is only spread in the same area only once annually on the subject land and only when the soil requires the addition of nutrients from poultry litter to improve pasture quality. Additionally the litter is not to be stockpiled or spread within 200m of any adjoining residence and 30m of a watercourse in accordance with the NSW Department of Primary Industries 'Best Practice Guidelines for using Poultry Litter on Pastures' (2011). Stockpiled litter is to be stored under cover.

4. Access

- Alternative access required to reduce number of trucks entering and leaving opposite 465 Markwell Road. Existing entry is at the crest of a hill and is unsafe.

Comment:

The proposal will result in a minor increase in truck movements from an average of 1.6 movements per day to 1.8 movements per day. It is considered that the road will be able to cater for the minor increase in truck movements. It is considered that an alternative access is not warranted as there is not a significant increase in truck movements associated with the proposed development. It is considered that sight distance at the existing driveway complies with stopping sight distance requirements for the prevailing vehicle speeds.

5. Buffer distances, shed location and visual impact

- Location of poultry shed should be behind the existing sheds to minimise impact on nearby residences.
- Accurate survey is required to measure distance between sheds and property boundary.
- Non-compliance with minimum separation distance to other poultry sheds and nearby residences.
- The position for the proposed shed offers no screening from existing trees.
- Non-compliance with previous consent. Condition 2 of DA 610/2007 required a landscape buffer with trees planted around sheds.
- Screening of visual impact through vegetation and planting of fast growing trees.
- Current vegetation along southern boundary of the site to the adjacent neighbour should be maintained.

Comment:

Buffer distances are discussed under the heading 'Commercial Poultry and Surrounding Development Policy' in Section (e) of the report below. Landscape screening as required by previous consents has not been installed and it is considered that appropriate landscape screening will minimise visual impact to both the existing sheds and proposed shed and is subject to a deferred commencement condition in the Recommendation of this report (refer heading 'Flora, Fauna and Landscaping' in Section (b) of this report for discussion of landscaping requirements).

e) *The Public Interest*

Commercial Poultry and Surrounding Development Policy

A review of the of the proposal reveals that the 'Separation Distances for Poultry Sheds' as required by Council's Commercial Poultry & Surrounding Development Code (the Code) are satisfied or exceeded by the proposed development, with the exception of 'another poultry farm' and a 'public road' (with greater than 50 vehicles per day). It is noted that the proposed poultry shed is in addition to five existing sheds and the current separation distances to a public road and another poultry farm would not be decreased as a result of the proposed shed.

Another Poultry Farm

Whilst the proposed shed does not comply with the separation distance of 2000m from another poultry farm (for biosecurity) in Great Lakes Councils '*Commercial poultry and surrounding development code*', it would be located in excess of the minimum 1000m separation distance provided in the NSW Department of Primary Industries '*Best practice management for meat chicken production in NSW: Manual 1 site selection and development*'.

The Department of Primary Industries document recommends '*new poultry farms to be located as far apart as possible to minimise the risk of disease transfer between farms. There should be a minimum of 1000m to other intensive poultry farms (500m when there are extenuating circumstances such as farms with a common owner or farms supplying the same processor); 3000m to commercial duck farms and 5000m to poultry breeder farms.*'

The proposed poultry shed would be separated from another poultry farm to the east by approximately 1300m, which exceeds Department of Primary Industry guidelines and additionally as neither of the farms operate free range areas biosecurity risks are further reduced. Therefore, it is considered that the setback of 1300m from the nearest other poultry farm is satisfactory for biosecurity.

Public Road

A separation distance of 200 metres between poultry sheds and a public road with greater than 50 vehicle movements per day is included in Council's Code. In this case the proposed shed would be located approximately 188 metres from Markwell Road.

The main impact associated with the positioning of poultry sheds in respect to public roads is visual. It is considered that the position of the shed in relation to Markwell Road is acceptable due to existing poultry sheds being historically sited in this location. Landscaping in the form of tree plantings to the west and north of the poultry sheds has also been proposed by the applicant and is the subject of a deferred commencement condition of consent, which will soften any visual impact of the shed.

Potential issues in addition to the abovementioned separation distances have been identified as:

- odour,
- noise, and
- dust.

An assessment of each of these matters has been provided in Section (b) of this report.

CONCLUSION:

The application proposes a tunnel ventilated poultry shed and a shed for the composting of dead birds in addition to the existing five (5) tunnel ventilated poultry sheds on the site. Public submissions have included concerns with regard to odour, dust, noise and non-compliance with conditions from previous consents for the existing poultry operations on the site including the installation of a continuous landscape buffer. A site inspection confirmed the non-compliance with a number of conditions, and also revealed a number of unauthorised sewerage systems on the land. Investigation also found that there was not a properly prepared Environmental Management Plan in place.

Odour emissions are very dependent on farm practices and the farm should operate under an appropriate Environmental Management Plan. Offensive odour can result from the spreading of litter on the farm, if not undertaken when weather and soil conditions are appropriate. It should be noted that Council has received complaints relating to the spreading of litter on this property, rather than from the existing shed operations.

Information from the NSW Office of Environment and Heritage indicates that parts of the land are/were investigated for potentially unlawful clearing of native vegetation in late 2015. This matter cannot be considered in the merit assessment of the current development proposal, however, the apparent failure of the operator to adhere to the ecological and other conditions of DA 610/ 2007 and DA 543/2006 on the land is of concern.

In order to address the above concerns, it is considered that a deferred commencement consent is necessary that includes deferred commencement conditions for an Environmental Management Plan and a Landscape Plan and other conditions to balance and/ or mitigate for the negative amenity and landscape consequences of the proposed development. The applicant should also be advised that enforcement action will be undertaken for non-compliance with the conditions of consent.

RECOMMENDATION:

It is recommended that:

- A.** Deferred commencement consent be granted under Section 80(3) of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 81/2016 for an additional poultry shed at 438 Markwell Road, Bulahdelah (Lot 340 DP 1041198), subject to the following deferred commencement conditions:

DEFERRED COMMENCEMENT CONDITIONS

The consent will not operate until evidence, as specified in the following deferred commencement conditions, has been submitted to and approved by the consent authority and written notice given under Section 100(4)(b) of the *Environmental Planning and Assessment Regulation 2000* that the deferred commencement conditions have been satisfied and the date from which the consent operates:

A1. Environmental Management Plan

An Environmental Management Plan must be submitted to Council for approval that is representative of all of the approved operations on the site that includes, but is not limited to strategies and measures for:

- a) Minimising odour emission.
- b) Minimising noise transmission.
- c) Minimising dust emission.
- d) Subjective odour, noise and dust monitoring and recording details.
- e) Batch records including total bird numbers, placement dates, thin-out details and mortality rates.
- f) Arrangements to ensure ongoing implementation of NSW Department of Primary Industries 'Best Practice guidelines for using poultry litter on pastures' (2007) including records of litter application and soil testing frequency.
- g) Records for off-site disposal of poultry litter.
- h) Details dead bird composting.
- i) Feral pest animal control and exotic rodent control.
- j) Weed control.
- k) Environmental improvement actions to be undertaken.
- l) Complaints register and community liaison activities.
- m) Contingency actions for managing any problems that may arise.
- n) Details of litter storage and covering.

Note: Depending on the type of storage structure, a separate development application may be required to be submitted for approval.

Reason: To ensure the ongoing satisfactory management of the use.

A2 Final Landscape Plan

A Final Landscape Plan and Schedule, prepared by a horticulturalist or landscape architect, shall be submitted to Great Lakes Council for review and approval. The plan shall clearly show:

- a) The location of any remnant native or vegetation (including riparian vegetation) that is to be retained for landscaping amenity or odour performance.
- b) Details of the proposed landscape planting and screening in the required planting locations identified as "*required planting area 1 and 2*" on the plan entitled "*Required Planting Locations and Vegetation Protection Areas*" prepared by MidCoast Council's Senior Ecologist and dated 21 June 2016. In this regard, planting areas are required along the western boundary of the land (along Markwell Road boundary) and partially across the northern boundary of the land. Landscape plantings are to be offset from the boundary fence by 4-metres to allow for boundary fence maintenance.
- c) The landscape planting areas shall not be less than 8-metres total width and include at least two staggered rows of tree and tall shrub plantings, comprising native flora species that grow naturally in the locality of Markwell.
- d) Details of plant species to be used in landscaping including specific locations, quantities, densities and the height and spread at maturity of all proposed plantings.
- e) Details of planting procedure and maintenance, including site preparation activities (ripping, grass control) and the watering and replacement of lost stock.
- f) Details of the fencing to be established to exclude stock from accessing the landscape plantings.

- g) Details of the means with which the landscape plantings would be protected and maintained in perpetuity and be managed as functional native vegetation.
- h) Details of the importation and use of soil and mulch and any landform modification (mounding, etc) that is proposed.

Reason: To provide landscaping to the subject land for local amenity and odour performance.

Evidence required to satisfy the above deferred commencement conditions must, in accordance with Clause 95(3) of the *Environmental Planning and Assessment Regulation 2000*, be submitted to Council within 12 months of the date of this consent.

- B.** Delegation be given to the Director, Planning and Environmental Services to determine satisfactory compliance with the above deferred commencement condition/s and to make the consent to Development Application No. 8/2016 for an additional tunnel ventilated poultry shed at 438 Markwell Road, Bulahdelah (Lot 340 DP 1041198), operational under Section 100(4)(b) of the Environmental Planning and Assessment Regulation 2000, subject to any further conditions reasonably arising from compliance to the terms of the deferred commencement conditions and subject to the following conditions under Section 80A of the Environmental Planning and Assessment Act 1979, as amended:

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Site Plan	Job: 14255_A Sheet: S01	Wade Roberts	06/07/2015
Poultry Shed Plan and Elevations	Job: 14255_A Sheet: S02	Wade Roberts	06/07/2015
Composting Shed Plan	Job: 14255_A Sheet: S03	Wade Roberts	06/07/2015
Composting Shed Elevations	Job: 14255_A Sheet: S04	Wade Roberts	06/07/2015
"Required Planting Locations and Vegetation Protection Areas" Map		MidCoast Council's Senior Ecologist	21 June 2016

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. Maximum bird numbers

The total number of birds accommodated in the shed, at any one time, must not exceed 51,000 birds. The total number of birds housed on the farm at any one time must not exceed 234,400 birds.

Reason: Information and to ensure compliance.

3. Compliance with National Construction Code Series- Building Code of Australia

All building work must be carried out in accordance with the requirements of the *National Construction Code Series - Building Code of Australia* as in force on the date the application for the relevant construction certificate or complying development certificate was made.

Reason: Prescribed condition under the Environmental Planning & Assessment Regulation 2000.

4. Adjustment to utility services

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

Reason: To ensure utility services remain in serviceable operation.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any Construction Certificate:

5. On-site sewage management system - Section 68 application

Prior to the issue of a construction certificate, an approval under Section 68 of the *Local Government Act 1993* to install an on-site sewage management system for workers amenities must be obtained from Council. The application for a Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters. The report must address the site specific design of sewage management in accordance with the requirements of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Guidelines approved by the Director General. Should the existing septic system not be appropriate for connection to an effluent disposal area then it must be decommissioned.

Reason: To ensure suitable onsite sewage disposal is provided to the development to protect public health and the natural environment.

6. Commencement of the Approved Final Landscape Plan

The Registered Proprietor of the land, or their agents, shall implement all of the required establishment actions outlined in the approved Final Landscape Plan as per the instructions set-out in that plan. The Construction Certificate shall not be issued until such time as the required landscaping set-out in the final landscaping plan has been commenced.

Reason: To appropriately conduct landscaping on the subject land.

7. Details of fill and batter

Prior to the issue of a construction certificate, plans and specifications detailing slopes on the batter shall be in accordance with the *National Construction Code Volume 2* for the appropriate soil type, together with suitable plantings to stabilise the batter must be submitted to and approved by the certifying authority.

Reason: To ensure the structure integrity of the batter.

8. External roofing and wall material and colour

Prior to the issue of a construction certificate, details of the external material and colour of the roof and walls of the poultry shed must be submitted to and approved by the certifying authority. Metal roof and wall sheeting must be painted or be of a coloured metal that minimises reflection and is sympathetic and compatible with the building and surrounding environment. Zinalume finish or off-white colours are not permitted.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

9. S94 contributions

Prior to the issue of a construction certificate, a monetary contribution must be paid to Council in accordance with Section 94 of the *Environmental Planning and Assessment Act 1979*. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

Great Lakes Wide	Headquarters Building	\$400,000	\$1 non res	@	\$0.001	=	\$400.00
					<u>Total</u>	=	\$400.00

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council's web site or at Council's offices at Breese Parade, Forster.

Reason: Statutory requirement to be paid towards the provision or improvement of facilities and services.

10. Erosion and sediment control plan

Prior to the issue of a construction certificate, an erosion and sediment control plan prepared by a suitably qualified person in accordance with "*The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction*" (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Reason: To protect the environment from the effects of erosion and sedimentation.

11. Bond required to guarantee against damage to public land

Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of \$4000 and a non-refundable administration fee of \$320 must be submitted to Council. The bond is payable for the purpose of funding

repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

- a) once all works, including landscaping, etc, have been completed, and
- b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council's current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work:

12. Construction certificate required

Prior to the commencement of any building or subdivision construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 6591 7222.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

13. Notification of commencement and appointment of principal certifying authority

Prior to the commencement of any building or subdivision construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the persons intention to commence construction work.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

14. Site access

Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

Reason: To ensure public health and safety during the construction of the development.

15. Toilet facilities - unsewered areas

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons

employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

Reason: To maintain the public health and the natural environment.

16. Site construction sign

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) 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
- c) stating that unauthorised entry to the work site is prohibited.

The 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.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

17. Waste management plan

Prior to the commencement of work, a waste management plan prepared in accordance with the requirements of Council's Waste Management Policy must be submitted to and approved by the certifying authority.

Reason: To ensure adequate and appropriate management of waste and recycling.

18. Erosion & sediment measures in accordance with approved plans

Prior to the commencement of work, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work:

19. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.

20. Tree removal

No native trees shall be removed for any aspect of the construction or operation of the approved development other than those tree required for removal to create the Asset Protection Zone required by Condition No 51 of this consent.

Reason: To avoid the removal of trees for the approved development.

21. Compliance with waste management plan

During demolition and/or construction of the development, waste disposal must be carried out in accordance with the approved waste management plan.

Reason: To ensure waste is minimised and recovered for recycling where possible.

22. Aboriginal heritage

This consent does not authorise the harming of an Aboriginal object or place. Under the National Parks and Wildlife Act 1974, it is the responsibility of all persons to ensure that harm does not occur to an Aboriginal object or place. If an Aboriginal object is found, whilst undertaking development work, all work must stop and the NSW Office of Environment and Heritage notified. All directions of the Office of Environment and Heritage must be complied with at all times.

Reason: To protect Aboriginal heritage.

23. External materials, finishes, and colours

All external materials, finishes and colours must be provided in accordance with the approved schedule of external materials, finishes and colours.

Reason: To ensure the visual amenity of the streetscape.

24. Construction dust suppression

All necessary works must be undertaken to control dust pollution from the site. These works must include, but are not limited to:

- a) restricting topsoil removal;
- b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
- c) alter or cease construction work during periods of high wind;

Reason: To maintain amenity during construction of the development.

25. Maintenance of erosion and sediment control measures in accordance with approved plan

Erosion and sediment control measures must be maintained at all times in accordance with the approved erosion and sediment control plan until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to any occupation or use of the building:

26. Works to be completed

The building/structure or part thereof must not be occupied or used until an interim occupation/final occupation certificate has been issued in respect of the building or part.

Reason: To ensure compliance with the development consent and statutory requirements.

27. On-site sewage management system - approval to operate

Prior to the issue of an occupation certificate, the on-site sewage management system for workers amenities must be completed in accordance with the plans, specifications, standards and conditions as approved by Condition No 5 of this consent. The system must not to be used and/or operated until it has been inspected by a Council Officer and an approval to operate the system has been issued.

Reason: To ensure public health and safety.

28. Establishment of the Approved Final Landscape Plan

The Registered Proprietor of the land, or their agents, shall have implemented all of the required actions outlined in the approved Final Landscape Plan as per the instructions in that plan. The final Occupation Certificate shall not be issued until such time as the required landscaping set-out in the final landscaping plan has been established and is actively growing and protected.

Reason: To appropriately conduct landscaping on the subject land.

29. Protection Instrument over the Native Vegetation in the central south of the Property and landscaping areas

In order to protect the areas of native vegetation that provides a buffer to the neighbouring landholder to the south as well as areas of established or new native vegetation and landscaping that is required by this consent, the Registered Proprietor of the land shall demonstrably establish an executed legal mechanism that permanently conserves and protects in perpetuity the relevant vegetation identified as "*required vegetation protection area*" on the plan entitled "*Required Planting Locations and Vegetation Protection Areas*" prepared by MidCoast Council's Senior Ecologist and dated 21 June 2016. Suitable measures that can be utilised to satisfy this condition include a restriction or covenant issued under s88B or s88E of the *Conveyancing Act 1919*, and/or a Property Vegetation Plan issued under the *Native Vegetation Act 2003*, and/or a Voluntary Conservation Agreement issued under the *National Parks and Wildlife Act 1974* and/or any other appropriate alternate legal mechanism (that is satisfactory to Mid-Coast Council). The conservation mechanism shall be established to the written satisfaction of Council. The mechanism shall be executed prior to the issuing of an Occupation Certificate and shall be maintained thereafter in perpetuity. The instrument shall be written in a manner that precludes any activity that would clear or harm native vegetation or allow any access by stock.

Reason: To appropriately protect areas important for odour mitigation, water quality protection and landscape amenity.

30. Composting shed

The composting shed as shown on plans drawn by Wade Roberts (Job 14255_A, dated 6 July 2015, Sheet S03 and S04) must be completed prior to issue of an Occupation Certificate. The composting shed must incorporate the following additional features in the construction:

- An impermeable pad floor.
- Roof overhang beyond the finished floor level at a sufficient width to prevent the entry of stormwater.
- Sealing of the concrete block walls and bunding or other measures to prevent the entry of stormwater run-off and escape of leachate.
- Barriers to prevent access by feral animals and scavenging birds;
- A minimum floor level of RL 8.5m AHD with the overall height of the shed no greater than 8.5m above the natural ground level prior to the erection of the shed.

Reason: To protect the environment and public amenity.

31. Survey certificate of completed composting shed

Prior to the issue of a final occupation certificate, survey certificates from a registered surveyor must be submitted to the principal certifying authority upon completion of the composting shed that provide evidence that:

A survey certificate prepared by a registered surveyor must be submitted to the certifying authority showing:

At completion, indicating the relation of the composting shed and any projections to the boundaries, and that the finished floor level of the shed has been constructed to a minimum R.L of RL 8.5m AHD and the overall height of the shed is no greater than 8.5m above the natural ground level prior to the erection of the shed.

Reason: To ensure compliance with the approved plans.

Reason: To determine the height of buildings under construction and ensure compliance with the approved plans.

32. Provide chemical storage area

Prior to the issue of an occupation certificate, a covered impervious bunded area must be provided for storage of chemicals, oils or fuel (for example a bunded chemical cabinet). The volume of the bunded area must be at least 110% of the volume of the largest container.

Reason: To reduce the risk of environmental pollution from chemical or fuel spills.

33. Provide spill kit

Prior to the issue of an occupation certificate, a spill kit must be provided for use of emergency equipment if there is a leak or spill of chemicals or oils. The spill kit must be

clearly labelled and include items such as rags, brooms and mops to stop any spill from entering the drainage system.

Reason: To reduce the risk of environmental pollution from chemical or fuel spills.

34. Unauthorised on-site sewerage systems

Prior to the issue of any occupation certificate, an inspection is required by Council Officers to confirm that all unauthorised on-site sewerage systems have been removed from the land.

Reason: To maintain public health and the natural environment.

ONGOING USE

The following conditions must be satisfied during the ongoing use of the development:

35. Odour Monitoring

Within twelve (12) months of the commissioning of the shed, an odour monitoring report is to be submitted to Council. The odour monitoring report must be completed by a suitably qualified independent expert that has experience in the characterisation and treatment of odours from chicken broiler farms and must include:

- Monitoring at the shed subject to this consent on two occasions (once during summer and once during winter) when bird age is greater than 5 weeks and before final thin out.
- A field odour survey that characterises the frequency, intensity, duration, offensiveness, location and extent of off-site odours.
- Assessment of odour generation in comparison to modelled odour results in Robert Carr and Associates Pty Ltd 'Additional odour modelling for Markwell poultry operations' document dated 3 May 2016.
- Identification appropriate mitigation measures where odour issues are identified. Where odour issues are identified mitigation measures must be implemented within 30 days of the monitoring and odour survey being completed and unless agreed otherwise in writing by Council.
- Provisions for certifying additional odour mitigation measures have been effective.

Reason: To ensure compliance.

36. Odour

Odour associated with the premises must not be a source of 'offensive odour' at the nearest affected premises:

"offensive odour" is defined under the *Protection of the Environment Operations Act 1997* as an odour:

- a) that, by reason of its strength, nature, duration, character or quality, or the time at which it is emitted, 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 strength, nature, duration, character or quality prescribed by the regulations or that is emitted at a time, or in other circumstances, prescribed by the regulations.

Reason: To maintain the amenity of adjoining properties.

37. Disposal of dead birds

Small amounts of dead birds must be composted as described in the Statement of Environmental Effect prepared by Coastplan Group Pty Ltd (dated August 2015) or be disposed of or processed at an appropriately licensed waste facility.

In the event of large scale mortalities, birds must be disposed or processed at a facility that can lawfully receive the waste, or as directed by the Department of Primary Industries.

Reason: To ensure the protection of the environment.

38. Disposal of poultry litter

During shed cleanout, all litter is to be removed off site as soon as possible, except for quantities demonstrated through independent soil testing to be required on-site use.

A record of the location for off-site poultry litter disposal/use must be maintained including details that the receiving persons or company is utilising the waste material in accordance with the NSW Department of Primary Industries 'Best Practice Guidelines for using Poultry Litter on Pastures' (2011).

All poultry litter stockpiled on-site must be stored under cover in an impervious bunded area to prevent moisture infiltration and runoff.

Poultry litter must not be stockpiled or spread within 200m of any residence not associated with the subject property and within 30m of any watercourse.

Litter shall only be permitted to be spread on-site when the soil testing demonstrates that the soil requires additional nutrients from poultry litter to improve pasture quality. Poultry litter shall not be spread on the property in the same area more than once annually. Documented evidence must be included in a Council approved Environmental Management Plan that demonstrates that any litter utilised on the property is done so in accordance with the NSW Department of Primary Industries 'Best Practice Guidelines for using Poultry Litter on Pastures' (2011). Soil test records must be kept and made available to Council upon request.

Reason: To ensure that appropriate management of Poultry Waste and protection of catchment water quality.

39. Noise Limits

Noise from the premises must not exceed:

- a) 39.5 dB(A) LAeq(15 minute) during the day (7am to 6pm); and
- b) 39.5 dB(A) LAeq(15 minute) during the evening (6pm to 10pm); and

c) at all other times 38 dB(A) LAeq (15 minute).

Noise limits must not be exceeded at the most affected point on or within any potentially affected receiver's property boundary. If the boundary is more than 30 meters from the residence, then the level is taken to be the most affected point within 30 meters of the residence.

Reason: Information and to ensure compliance.

40. Maximum Noise Levels

Noise levels associated with bird capture and loading activities must not exceed 49 dB(A)Max.

Maximum noise levels are not to be exceeded outside the bedroom window of any potentially affected receiver's residence.

Reason: Information and to ensure compliance.

41. Noise

Noise associated with the premises including all associated mechanical plant and equipment must not be a source of "offensive noise" at the nearest affected premises:

"offensive noise" is defined under the *Protection of the Environment Operations Act 1997* as 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 regulation.

Reason: To maintain acoustic amenity to adjoining properties.

42. Grading of loading operations area and shed entry/exit

Transitions between the shed floor and the external surface through doorways that carry machinery and the loading pad to the west of the sheds must be smooth and evenly graded at all times.

Reason: To maintain acoustic amenity to adjoining properties.

43. Feed deliveries

Feed delivery times must be restricted to the hours between 8:00am to 6:00pm weekdays and Saturdays, and no deliveries on Sundays and Public holidays.

Reason: To maintain acoustic amenity to adjoining properties.

44. Dust Mitigation

Activities occurring on or in the premises must be carried out in a manner that minimises the generation or emission of windblown or traffic generated dust from the premises.

Reason: To protect neighbourhood amenity.

45. Covering of Trucks

Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading or unloading.

Reason: To protect neighbourhood amenity.

46. Environmental Management Plan

Operation of the poultry farm must be undertaken at all times in accordance with the Environmental Management Plan approved in satisfaction of Deferred Commencement Condition A1 of this consent. The Environmental Management Plan shall be reviewed at intervals not exceeding a two year period by the farm manager for the life of the operation. A copy of the completed Environmental Management Plan including all monitoring and recording results and complaints must be provided to Council for approval at intervals not exceeding a two year period and a copy must be kept available on-site at all times.

Reason: To ensure the ongoing satisfactory management of the use.

47. Implementation of the Approved Final Landscape Plan

The Registered Proprietor of the land, or their agents, shall fully implement all of the required actions outlined in the approved Final Landscape Plan as per the instructions set-out in that plan.

Reason: To appropriately maintain landscaping on the subject land.

48. Protection of the Native Vegetation in the central south of the Property and landscaping areas

The Registered Proprietor of the land shall fully protect the vegetation identified as "*required vegetation protection area*" on the plan entitled "*Required Planting Locations and Vegetation Protection Areas*" prepared by MidCoast Council's Senior Ecologist and dated 21 June 2016. No stock shall be allowed to access such areas and no activities will be undertaken that harms, clears or modifies vegetation within the nominated area.

Reason: To appropriately protect areas important for odour mitigation, water quality protection and landscape amenity.

49. Appropriate disposal of dead birds

No dead birds shall be disposed anywhere other than in the approved composting shed as identified in these Conditions or by off-site disposal in a manner approved or instructed by the Department of Primary Industries.

Reason: To minimise increased risks of pest animals.

50. No free range areas to be provided

No free range areas are to be provided to the approved shed.

Reason: To avoid environmental impacts associated with free-range areas.

OTHER AGENCY CONDITIONS

51. NSW Rural Fire Service requirements

The development must be carried out in compliance with the following conditions detailed in the NSW Rural Fire Service Section 79BA advice, reference No. D15/2780, dated 16 October 2015.

The proposed additional "poultry shed and composting shed", has been assessed against information referred to the NSW RFS by Great Lakes Council dated 11/9/15.

The referred plans that this advice has been assessed against are identified as follows:

- Plans titled "Proposed Poultry and Composting Sheds Lot 340 DP 1041198 No. 438 Markwell Road, Bulahdelah", prepared by Wade Roberts, further identified as Sheets S01, S03 and S04 and all dated 6/7/15.

The above referenced material is amended by the following listed conditions.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- a) At the commencement of building works and then in perpetuity the property around the proposed "composting shed" to a distance of 10 metres shall be maintained as an inner protection area (IPA), as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- b) The composting shed shall be constructed of non-combustible materials. Non-combustible materials are as defined in AS 3959-2009.

Details from an appropriately qualified bushfire consultant (BPAD) accredited with the Fire Protection Association of Australia or a building certifier accredited with the Building Professionals Board demonstrating compliance with these conditions, must be submitted to the certifying authority prior to the issue of the <<Right click to select>> Certificate

Reason: To ensure work is carried out in accordance with the determination and other statutory requirements.

- C. That the applicant be advised that further non-compliance with conditions of consent will result in enforcement action and associated penalties under the Environmental Planning

and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000.

ATTACHMENTS

- A: Plans of proposed development.
- B: Required Planting Locations and Vegetation Protection Areas prepared by MidCoast Council's Senior Ecologist dated 21 June 2016.