



ASSESSMENT REPORT

Section 96(2) Modification Expansion of Baiada's Oakburn Chicken Processing Facility

1. BACKGROUND

Baiada Poultry Pty Ltd (Baiada) operates a number of chicken facilities around Tamworth including chicken hatcheries, broiler farms and a processing plant. The processing plant operates under a consent from Council and is located on Out St in Tamworth, where there are ongoing conflicts with the surrounding land uses, particularly nearby residential areas (see Figure 1).



Figure 1 – Baiada's existing and proposed Chicken Processing Facilities

In order to relocate the processing facility, on 9 February 1998, the Minister for Urban Affairs and Planning granted approval to Baiada to construct and operate a chicken processing complex at Oakburn, on the Oxley Highway, opposite Tamworth Airport, in the Tamworth Local Government Area (see Figure 1 and Figure 2). The complex is to be developed in 4 stages, stage 1 is a protein recovery plant; stage 2 a processed products plant; stage 3 a deboning plant and stage 4 a processing plant for up to 750,000 birds per week (see Figure 3).

To date, only stage 1 has been developed. The Stage 1 - the Protein Recovery Plant receives waste by-products generated at Baiada's Out St facility in Tamworth, which are trucked to the site. Once the remaining stages (stages 2-4 of the Processing Plant) are constructed raw waste material will be pneumatically delivered from the Processing Plant to the Protein Recovery Plant.



Figure 2 – Site Location

The components of the approved 1998 application are shown in Figure 3.



Figure 3 – Original 1998 site layout and facilities

Two modifications to the consent have been approved since 1998. These modifications allowed Baiada to:

- relocate the rendering plant amenities and office space to a separate adjoining building in 1999; and
- clarify the detailed layout of the complex in 2001 (see Figure 4).

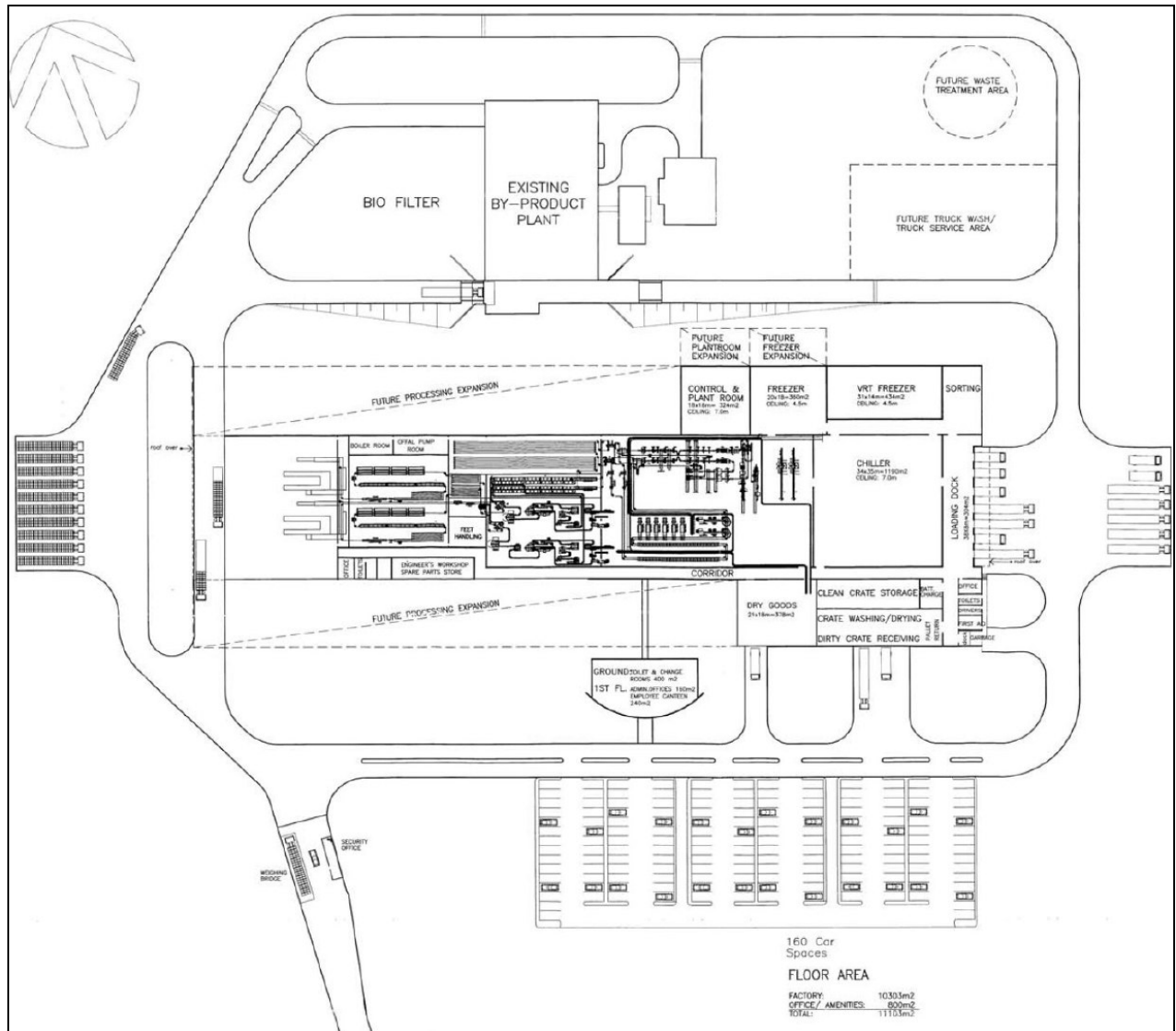


Figure 4 – Modified 2001 site layout and facilities

Baiada have not yet acted on the 2001 modification and stages 2, 3 and 4 have not yet been constructed.

On 12 June 2008, the Applicant submitted an application to the Department, seeking to modify the Minister's approval under section 96(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. PROPOSED MODIFICATION

As a result of the technological advances that have occurred since 1998 and the increase in demand for chicken products, the Applicant is seeking to modify the development consent. The proposed modification is to:

- amend the layout of the chicken processing complex to cater for the improvements in operating procedures and technologies which have been developed since 1998; and
- increase the processing capacity of the processing plant from 750,000 to 1 million birds per week.

The principal changes on site involve:

- increasing the size of the processing, deboning and production plant (Figure 5 and 6);
- adding a live bird shed, where trucks would wait to be unloaded;
- changing the layout of the administration and staff amenities building;
- clarify the location of the wastewater treatment plant; and
- additional associated infrastructure such as weighbridges and water tanks.

Baiada have advised that stages 2, 3 and 4 would be built at the same time. In order to simplify the development consent the Department proposes to revise the staging of the development, by combining stages 2, 3 and 4 into a single stage, stage 2. The Department would also modernise the development consent, by replacing the existing conditions with modern conditions reflecting the most recent standards, policies and guidelines that apply to the development.

The differences between the approved development and the development as it would be modified are summarised in Table 1.

Table 1 – Comparison of the Approved and Proposed Modified Development

Component	Proposed Modification	Justification
1 Admin and Amenities Building	Increase the floor area from 800m² to 2,375m²	- For Biosecurity and Food Safety reasons amenity and change room areas for live bird handlers must be separated from those for processing staff. - Staff shortages mean Baiada now propose to provide gym and entertainment facilities.
2 Live Bird Holding Area	Increase the size of the heavy vehicle parking area and provide a covered area for trucks waiting to unload.	The proposed live bird holding shed would provide improved conditions for bird welfare and odour control.
3 Live Bird Handling and Stunning	Increase the floor area from 1975m² to 3445m² to allow for controlled atmosphere stunning rather than conscious shackling.	- Biosecurity requirements mean the arrival area must be separated from the cleaned crate departure area. - The proposed controlled atmosphere stunning renders the bird unconscious and would surpass animal welfare standards and religious requirements. Consequently, the shackling area could be well lit and dust free making it safer with improved amenity.
4 Bird Killing	Increase the floor area from 905m² to 1,170m²	To allow for increased automation and processing capacity.
5 Bird Evisceration (internal organ removal)	- To increase the bird processing capacity from 8,000 to 12,000 birds per hour; and - Increase the floor area from 580m² to 805m² to allow for automatic grading and offal harvesting.	The proposed automated system would improve working conditions as inspection can be undertaken in an air-conditioned environment whereas the approved manual system creates a hot and unpleasant work environment.
6 Bird Chilling	- To increase the floor area from 595m² to 1,280m²; and - Change from Manual bird rehang to automatic transfer to drag chillers	Manual rehang has the potential to cause strain related injuries, the automatic system would help to prevent this.
7 Packing Room	Increased automation and chicken portioning, and the introduction of X-ray bone detection, would increase the floor area from 1,960m² to 4,100m²	The size of the packing room has increased due to changing consumer demands and food health and safety requirements and the use of automated technology with increased processing speeds including portioning, packaging, rehang, deboning and x-ray bone detection.
8 Distribution Chiller	Changing from manual to automated pallet loading increases the space requirements (from 2,488m² to 3570m²).	- Manual pallet loading can cause repetitive strain injuries and would require 30 staff. - The proposed system would only require 6 staff, reducing the chance of workplace injury and labour requirements given staff shortages.
9 Plant Room	The plant room would increase in size (324m² to 437m²) and would be relocated away from the building.	- The increase in size is due to the increased refrigeration requirements of the larger facility. - The plant room would be moved away from the building in order to meet fire safety requirements.
10 Processing plant capacity	Increase capacity from 750,000 to 1,000,000 birds/week	Increased consumer demand
11 Employment	Reduce employment from 600 to 419	Staff shortages have made automated processes more feasible.
12 Car Parking	Increase the car parking from 280 to 346	Detailed design has clarified staff numbers and parking requirements
13 Heavy Vehicle Parking	Increased from 17 to 20 spaces	Detailed design has confirmed the heavy vehicle parking requirements of the facility.

3. STATUTORY CONTEXT

3.1. Consent Authority

The Minister was the consent authority for the original development application and is therefore the consent authority for this application. On 14 November 2007, the Minister delegated his powers and functions as a consent authority to modify certain development consents under section 96(2) of the EP&A Act to the Executive Director, Major Project Assessment. This modification meets the terms of this delegation and consequently, the Executive Director may determine the application under delegated authority.

3.2. Section 96(2)

The Department has considered the application on its merits in accordance with the statutory requirements in section 96 of the EP&A Act (see Appendix 1), and is satisfied that the consent as modified would be “substantially the same” development. The overall size, layout, function and production capacity of the chicken processing facility are comparable to the approved development footprint, relative to the development site.

4. CONSULTATION

Under section 118 of the EP&A Regulation 2000, the Department is required to exhibit the application and supporting documentation (Statement of Environmental Effects (SEE)).

On receiving the application and SEE the Department subsequently:

- advertised the exhibition of the application and SEE in the Tamworth Northern Daily Leader on the 18 June 2008;
- notified the Department of Environment and Climate Change (DECC), Tamworth Regional Council (Council) and other relevant state Government agencies;
- notified submitters to the original development application (DA number 53/97); and
- exhibited the application and SEE from Wednesday 18 June 2008 to Friday 4 July 2008.

During the exhibition period, the Department received 4 submissions from public authorities. These public authorities generally supported the proposed modification, and raised the following issues:

- the DECC raised concerns about the facilities capacity to handle odour and wastewater from the expansion;
- Council initially raised concerns about wastewater, however confirmed they would be able to receive wastewater from the proposed facility;
- the Roads and Traffic Authority (RTA) noted the road upgrades required in the conditions of consent, for stage 2, would still be necessary; and
- the Department of Primary Industries raised no concerns.

The Department has considered these issues and they have been resolved, as discussed in detail in the assessment of the project in Section 5 below.

5. ASSESSMENT

The Department has assessed the application on its merits, and summarised the results of this assessment.

5.1. Compliance

Through the assessment of this modification the Department became aware of a number of compliance issues with the development.

Baiada initially had trouble controlling odour from stage 1 of the facility, but through the upgrade of the biofilter in 2007, appears to have since complied with the odour criteria.

Baiada is currently unable to meet its wastewater discharge limits and is installing a new wastewater treatment plant to further treat its wastewater. Also, in 2008 Baiada was prosecuted by the DECC in the Land and Environment Court for leaking wastewater into an unnamed watercourse. The leak was identified and fixed and Baiada have since implemented controls, and monitoring systems to minimise the chance of this happening again and to also minimise the impacts in the unlikely event of this occurring again.

The Department also found Baiada is noncompliant with a number of conditions in the existing consent, namely it has not prepared and implemented a number of management plans, or provided annual monitoring reports to the Department. On 12 December 2008 the Department issued an order to Baiada and this should ensure Baiada become compliant with the conditions.

Despite these noncompliance's, the Department notes the site of the approved facility is better suited for a chicken processing facility than the existing Out St Facility in Tamworth (which is close to residential receivers). Also, the Land and Environment Court, in considering Baiada's prior criminality (in the case of the *Environmental Protection Authority vs Baiada Poultry Pty Limited [2008]*), found that Baiada is improving the environmental management of its operations, by implementing environmental management systems and employing an environmental risk manager.

While the environmental management of the facility can still be further improved, through the order issued by the Department, Baiada is in the process of becoming compliant with the Minister's conditions of consent. Consequently, the Department is satisfied the proposed modification can be considered concurrently to Baiada fulfilling the terms of the order.

5.2. Wastewater

Since Stage 1 (the Protein Recovery Plant) commenced operations there have been a number of problems with the management of wastewater onsite. Wastewater from the facility is discharged to Council's sewerage system, however Baiada have been unable to meet the wastewater discharge criteria specified in the consent. In 2008 Baiada was also prosecuted for leaking wastewater into an unnamed watercourse.

Council recently approved the installation of a new wastewater treatment system for the site and this should improve the quality of the wastewater discharged to Council's system. However this system would not have the capacity to handle wastewater from the subsequent stages of the development.

The expansion and development of stage 2 would increase the wastewater production of the facility from 0.14ML (currently produced at the Protein Recovery Plant) to approximately 2.12 ML per day and would require installation of an additional wastewater treatment plant. The detailed design and capacity of this wastewater treatment plant has not been finalised at this stage and both the DECC and Council raised concerns that the facility may not have the capacity to adequately treat and handle the additional wastewater.

As the final details of the wastewater treatment plant to be installed are yet to be finalised, and Baiada have had difficulty meeting Council's trade waste requirements, the DECC also raised concerns that Council may not have the capacity to handle the increase in wastewater being discharged to sewer. The DECC recommended conditions requiring the provision of further details of the wastewater treatment plant and effluent produced.

Consequently, the Department has recommended conditions that require Baiada to prepare and implement a wastewater management plan including details of:

- the final design of the wastewater treatment plant, to be approved prior to the commencement of construction of stage 2; and
- the quality of the effluent to be discharged to Council's system, ensuring Council is capable of accepting the effluent.

This should ensure the wastewater would be treated to Council's requirements. The Department also notes it is Council's responsibility to ensure they have the capacity to manage the wastewater they receive.

The DECC also raised concerns the wastewater pipeline and connection to Council's system may not have sufficient capacity and integrity to handle the increased load from the proposed expansion, especially given the previous leak that Baiada has been prosecuted for. Council also advised the connection to Council's sewerage infrastructure would need to be upgraded.

Both agencies recognised this upgrade could be managed through the conditions of consent and the Department has recommended conditions to ensure the capacity of the pipeline and sewer connection would be upgraded prior to the commencement of operations.

Consequently, the Department is satisfied that while detail design of the wastewater treatment plant and the quality of the effluent to be produced have not been finalised, the wastewater treatment plant can be designed to meet an appropriate level to be discharged to Council's system. The Department is satisfied the recommended conditions would ensure the wastewater discharged to Council's system is treated to a level that can be handled by Council's system.

5.3. Odour

Baiada have had difficulty managing odour from Stage 1 of the facility, the Protein Recovery Plant. In 2005 the annual return for Baiada's Environmental Protection Licence found non-compliance from odour leaks. The odour control system was upgraded in 2007 and odour levels now appear to meet the relevant odour criteria.

The nearest residents are over a kilometre from the site (approximately 1400m north of the site), the site is adjacent to Tamworth airport and a cemetery is approximately 800m away. Once operational Stages 2 would also generate odour, the additional odour sources include the live bird sheds, processing rooms and the additional wastewater treatment plant.

The DECC raised concerns that the existing odour controls may not be able to handle the increased pressure from the proposed expansion. In order to manage odour from stages 2 of the development, the capacity of the biofilter would double and the odour assessment found that with this additional capacity, the facility could easily meet the odour criteria for the site of 5 odour units (OU).

The Department notes however that the design of elements such as the wastewater treatment system haven't been finalised at this stage and so the final odour levels could be higher than from those modelled.

Consequently, the Department has recommended conditions to ensure an Odour Management Plan is prepared prior to the commencement of Stage 2 with contingency measures to be implemented should odour impacts occur. The Department has also recommended conditions requiring an odour audit to be undertaken to demonstrate compliance with the odour criteria once the facility is operating under normal conditions. The Department is satisfied this would ensure odour from the facility would be managed, any exceedences would be identified and if necessary appropriate controls could be implemented.

5.4. Other Issues

Other issues raised during the assessment process and the Department's consideration of the issues are summarised in Table 2 below.

Table 2 - Summary of other impacts

Issue	Assessment	Recommendation
Traffic	- The proposed expansion could increase the traffic volumes generated by the project. - Due to the automation of a number of components at the facility and the resulting reduction in staff on site the proposal would reduce the daily traffic movements to the site by approximately 150 movements. - The increased use of larger trucks would also reduce the heavy vehicle movements to the site. - The development would generate a maximum of approximately 718 movements per day. - The RTA advised the road upgrades required in the existing consent would still be required. - The Department is satisfied the proposed modification would not increase the traffic impacts of the project.	- The Department has recommended conditions requiring road upgrades prior to the commencement of construction of stage 2. - These upgrades are required under the existing consent and would not change as a result of this modification.
Parking	- The project originally included 280 car and 20 heavy vehicle parking spaces and the proposed expansion would increase the car parking provision to 346 spaces. - The facility would employ 419 staff once operating at full capacity and, given shift arrangements for the development, the Department is satisfied the proposed parking provisions would be sufficient.	No conditions are considered necessary.
Landscaping	- The expansion of the facility would result in modifications to the proposed landscaping. - The Department is satisfied an updated landscape plan for the site would ensure appropriate landscaping of the site.	The Department has recommended conditions to ensure a detailed landscape plan is prior to the commencement of construction.
Waste	- The increased processing capacity of the facility has the potential to increase the volume of waste produced. - Due to improvements in the recovery of edible offal the facility would not generate additional animal waste. - There may be some increases in waste production from other areas of the plant, such as sludge (from the wastewater treatment plant). - The Department is satisfied the more modern facility proposed would improve the treatment and management of waste and that waste could be classified and disposed of appropriately.	The Department has recommended conditions to ensure waste would be classified and disposed of in accordance with DECC guidelines.
Hazards	- The increase in refrigeration requirements would increase the amount of ammonia onsite. - As the site is relatively distant from sensitive receivers, the hazards associated with the storage and handling of ammonia could be managed onsite. - The Department is satisfied that through the recommended conditions the hazards from the site could be minimised and managed.	The Department has recommended conditions requiring the preparation of a report outlining how hazards would be minimised and managed.
Noise	- The expansion of the facility could increase the noise emissions from the project. - The site is over 1 km from the nearest residential receiver and the noise assessment found that once operational the development predicted noise levels would not exceed the relevant noise criteria. - The Department is satisfied noise from the development would be managed.	The Department has recommended noise limits to ensure the development would not exceed the relevant noise criteria at the nearest residential receivers.

6. CONCLUSION

The Department notes that although there are some compliance issues with the existing operation of stage 1, Baiada already have approval to develop the remainder of the facility. The Department considers the improved technologies that would be installed as part of the proposed modification would be likely to improve the environmental performance of the development, compared to the approved development. ✓

The Department has assessed the application in accordance with the requirements in section 79C of the EP&A Act, and is satisfied that:

- The development as modified would remain consistent with the aims, objectives and requirements of the relevant environmental planning instruments;
- The proposal would have minimal environmental impacts and water saving benefits;
- The site is suitable for the development; and
- The proposal is generally in the public interest.

Consequently, the Department is satisfied that the proposed modification should be approved.

7. RECOMMENDATION

It is RECOMMENDED that the Executive Director:

- consider the findings and recommendations of this report;
- determine that the development consent, as modified, would relate to substantially the same development for which consent was originally granted;
- approve the proposed modification under section 96(2) of the EP&A Act; and
- sign the attached notice of modification.

Felicity Greenway
27/2/09.

Felicity Greenway
Acting Manager – Manufacturing and Rural Industries
Major Development Assessment



27.2.09

Chris Wilson
Executive Director
Major Project Assessment

APPENDIX 1

STATUTORY CONSIDERATION - SECTION 96 (2) OF EP&A ACT

Under section 96(2) of the EP&A Act, a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Provision	Comment
a) it is satisfied that the proposed modification is of minimal environment impact.	Complies (refer to Section 5 above).
b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).	Complies (refer to Section 3 above).
c) it has notified the application in accordance with: i) the regulations, if the regulations so require, or ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.	Complies (refer to Section 4 above).
d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	Complies (refer to Section 4 above).

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

Provision	Comment
a) the provisions of: i) any environmental planning instrument, and ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and iii) any development control plan, and - iiia) 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 iv) the regulations (to the extent that they prescribe matters for the purpose of this paragraph: • in the case of a development application for the carrying out of development in a local government area referred to in section 92 of the EP&A Regulation and on land to which the Government Coastal Policy applies, the provisions of that Policy, • in the case of a development application for the demolition of a building, the provisions of AS 2601.	The following environmental planning instruments (EPIs) apply to the proposed modification: • <i>State Environmental Planning Policy (Infrastructure) 2007</i>; • <i>Tamworth Local Environmental Plan 1996</i>. The proposed modification is not inconsistent with these EPIs.
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.	Refer to Section 5 above.
c) the suitability of the site for the development.	The site remains suitable for the proposed development.
d) any submissions made in accordance with this Act or the regulations.	Not applicable.
e) the public interest.	The proposed modification is generally in the public interest as it would facilitate the operation of the facility and would be likely to reduce the environmental impacts of the approved development.