

Diverse

Property Solutions

23 November 2009

Major Project Assessment
NSW Department of Planning
GPO Box 39
Sydney NSW 2001

Attention: Mr Chris Ritchie

Dear Mr Ritchie,

**MODIFICATION OF DEVELOPMENT CONSENT (DA 53/97) ON LAND AT OXLEY HIGHWAY,
TAMWORTH (LOT 100 ON DP1097471)**

On behalf of the Applicant, Baiada Poultry Pty Limited, please find outlined below an Application seeking Modification of the Development Consent under Section 96 (1A) of the *Environmental Planning and Assessment Act 1979* for the Oakburn Poultry Processing Plant approved by the Department on 27 February 2009 (DA53/97).

This Modification Application is lodged subsequent to the correspondence prepared by Solutions Law (dated 29 September 2009), your discussions with Mr John Vassallo on 26 October 2009, and your email dated 11 November 2009. The Modification Application seeks to formalise the agreed changes with respect to the reinstatement of the four (4) Development Stages and removal of the new Lapsing Provision.

Modification Request

The following modifications to the Notice of Modification (dated 27 February 2009) are requested:

Condition	Requested Change
Schedule 1	
Definitions	Remove Definition of Stage 2 and Replace with Definitions for Stages 2, 3 and 4 as noted below: <i>"Stage 2 Further Processed Products Plant."</i> <i>"Stage 3 Deboning Plant."</i> <i>"Stage 4 Processing Plant with a kill capacity of 1 million birds per week."</i>

Sydney

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Schedule 2	
Condition 4	Remove Condition 4.
Condition 6 b)	Remove reference to Stage 2 and replace with " <i>Stage 4.</i> "
Condition 9 a)	Remove reference to Stage 2 and replace with " <i>Stage 2, 3 or 4 (whichever is undertaken first).</i> "
Condition 12	Remove references to Stage 2 and replace with " <i>Stages 2, 3 and 4.</i> "
Schedule 3	
Condition 18 a)	Remove reference to Stage 2 and replace with " <i>each stage.</i> "
Condition 19 b), c) & h)	Remove references to Stage 2 and replace with " <i>each stage.</i> "
Condition 22 b)	Remove reference to Stage 2 and replace with " <i>each stage.</i> "
Condition 26 b), d) & e)	Remove references to Stage 2 and replace with " <i>each stage.</i> "
Condition 29 a)	Remove reference to Stage 2 and replace with " <i>each stage.</i> "
Condition 30	Remove reference to Stage 2 and replace with " <i>Stage 2, 3 or 4 (whichever is undertaken first).</i> "
Condition 36	Remove reference to Stage 2 and replace with " <i>each stage.</i> "
Condition 39	Remove reference to Stage 2 and replace with " <i>each stage.</i> "
Condition 40	Remove reference to Stage 2 and replace with " <i>each stage.</i> "
Condition 46 a)	Remove reference to Stage 2 and replace with " <i>Stage 2, 3 or 4 (whichever is undertaken first).</i> "
Condition 46 b)	Remove reference to Stage 2 and replace with " <i>each stage.</i> "

I trust that the above information is sufficient for your purposes and we look forward to receiving the Modification as soon as practical so that this matter may be finally resolved.

Kind Regards,



David Ireland
National Planning Manager

Application to modify a development consent



NSW GOVERNMENT
Department of Planning

Date lodged: ____/____/____

DA modification no. _____

(Lodge only)

1. Before you lodge

This form is to be used for applications to modify Part 4 development consents under section 96 or 96AA of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This form is also to be used for Part 4 development consents that are to be modified under section 75W of the Act.

Disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

Anyone wishing to lodge an application is recommended to call the Department of Planning to discuss their proposal and modification application requirements prior to lodging their application. You can lodge your completed form, together with attachments and fees at the relevant Department of Planning office listed below. Please lodge Part 4 modification applications with the Department of Planning head office or, for modification applications that are within the Kosciuszko ski resorts area, the Department's Alpine Resorts team.

NSW Department of Planning
Head Office
Ground Floor, 23-33 Bridge Street, Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
Phone: 1300 305 695 Fax: (02) 9228 6555
Email: information@planning.nsw.gov.au

NSW Department of Planning
Alpine Resorts Team
Shop 5A, Snowy River Avenue
PO Box 36, Jindabyne NSW 2627
Phone: (02) 6456 1733 Fax: (02) 6456 1736
Email: alpineresorts@planning.nsw.gov.au

To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to the Department. When your application has been assessed, you will receive a notice of determination.

2. Applicant and contact details

Company/organisation/agency

BAIADA POULTRY PTY LTD

ABN

96002 925 948

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

DAVID

Family name

IRELAND

STREET ADDRESS

Unit/street no.

642

Street name

GREAT WESTERN HIGHWAY

Suburb or town

PENDLE HILL

State

NSW

Postcode

2145

POSTAL ADDRESS (or mark 'as above')

C/O - DIVERSE, PO Box 1604

Suburb or town

FORTITUDE VALLEY

State

QLD

Postcode

4006

Daytime telephone

07 3852 4321

Fax

07 3852 4320

Mobile

0416 016 580

Email

david@diversepropertyolutions.com

3. Property description

Unit/street no. (or lot no. for Kosciuszko ski resorts)

-

Street or property name

OYLEY HIGHWAY

Suburb, town or locality

TAMWORTH

Postcode

2340

Local government area

TAMWORTH

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash (/) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma e.g. 123/579, 162/2.

Lot 100 DP 1094741

Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact the NSW Department of Lands for updated details. If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers do not apply.

4. Details of the original development consent

Briefly describe your approved development in the space below. If the development has been modified previously you must list all previous modifications and the relevant determination date(s).

POULTRY PROCESSING COMPLEX

- DA S3/97 (09.02.1998)
- DA S3/97 MOD 1 (22.02.1999)
- DA S3/97 MOD 2 (13.08.2001)
- DA S3/97 MOD 3 (27.02.2009)

What was the original development application no.?

S3/97

What was the date consent was granted?

09.02.1998

What was the original application fee?

-

5. Type of modification

An application under section 96 of the EP&A Act is an application to modify a development consent. Modifications to a development consent can also be made under section 75W of the EP&A Act, or section 96AA for court granted consents.

There are five types of modification applications. Please tick the type of modification application that is being sought:

- ☐ Section 96(1) involving minor error, misdescription or miscalculation.
- ☒ Section 96(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.
- ☐ Section 96(2) other modification, where the development as originally approved remains substantially the same.
- ☐ Section 96AA modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.
- ☐ Section 75W modification, involving use of Part 3A processes to modify the Part 4 consent.

Note: If the proposed modification will lead to the consented development being not 'substantially the same' (except in the case of a proposed modification under section 75W) then you will need to submit a new development application.

6. Extent of modification

Will the modified development be substantially the same as the development that was originally approved?

No ☐ Please submit a new development application.

Yes ☒ Please provide evidence that the development will remain substantially the same. (If you need to attach additional pages, please list below the material attached).

SEE ATTACHED LETTER.

Note: Question 6 does not apply to proposed modifications under section 75W.

7. Description of modification

- In the case of a section 96(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.
- In the case of a section 96(1A), section 96(2) or section 96AA application describe the impact of the modification in the space below. A statement of environmental effects will need to accompany the application, which includes an assessment of the development as proposed to be modified in accordance with section 79C(1) of the EP&A Act. Provisions of the *Heritage Act 1977* may also apply for works to a heritage item or works adjoining a heritage item.
- In the case of a section 75W application under clause 8J(8) of the Environmental Planning and Assessment Regulation 2000, a development consent in force immediately before the commencement of Part 3A of the Act may be modified under section 75W as if the consent were an approval under that Part. However, approval from the Minister is required to lodge a section 75W application. Applicants should contact the Department first if they are considering applying for a modification under section 75W.

Regardless of the type of modification, please state below the specific conditions of consent to be modified, deleted or additional conditions request, and details of any other changes being sought.

SEE ATTACHED LETTER.

Note: If your proposal is within Kosciuszko ski resorts area, please attach a copy of the Interim Lease Variation Approval received from the Department of Environment and Climate Change to your application.

8. General terms of approval from State agencies

If the original development application was classified as integrated development and required approval from one or more State agencies, list them in the space below and their respective general terms of approval. Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

• RTA
• DECC

9. Number of jobs to be created

Please indicate the number of jobs the proposed development will create. This should be expressed as a proportion of full time jobs over a full year, (e.g. a person employed full time for 6 months would equal 0.5 of a full time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full time for 2 weeks, which equals approximately 0.08 of an FTE job).

Construction jobs (full time equivalent)

N/A

Operational jobs (full time equivalent)

N/A

10. Application fee

Part 15 of the Environmental Planning and Assessment Regulation 2000 sets out how to calculate the fees for an application for modification of a development consent. If your development needs to be advertised to the public you may also need to include an advertising fee.

Note: Advertising fees attract GST, all other fees do not.

Please contact the Department in order to calculate the fee for your modification application.

Estimated cost of the development

N/A

Original application fee

N/A

Total fees lodged

N/A

11. Political donation disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. Disclosure statements are to be submitted with your application.

Have you attached a disclosure statement to this application?

Yes ☐

No ☒

Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

12. Owner's consent

The owner(s) of the land to be developed must sign the application. If you are not the owner of the land, you must have all the owners sign the application. If the land is Crown land, an authorised officer of the NSW Department of Lands must sign the application. An original signature must be provided.

As the owner(s) of the above property, I/we consent to this application:

Signature



Name

John Capiletti - Owner

Date

17/11/09

Signature

Name


Date

Note: For applications within the Kosciuszko ski resorts area, the approval of the lessee rather than the owner is required.

13. Applicant's signature

The applicant, or the applicant's agent, must sign the application. Only an original signature will be accepted (photocopies or faxed copies will not be accepted).

Signature



Date

17/11/09

In what capacity are you signing if you are not the applicant

Agent

Name, if you are not the applicant

John Capiletti

14. Privacy policy

The information you provide in this application will enable the Department, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted.

If your application is for designated development or advertised development, it will be made available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected any information provided in your application. Please ensure that the information is accurate and advise the Department of any changes.