



Rushes Creek Poultry Production Farm Modification 3

Concurrent Construction and Operation of Stage 1 (Farm 2) and Use
of Diesel Generators for Operational Power Supply

State Significant Development Modification Assessment
(SSD-7704-Mod-3)

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Cover image: ProTen's Narrandera Poultry Production Farm (Source: EIS)

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Glossary

Abbreviation	Definition
Applicant	ProTen Tamworth Pty Ltd
Broiler	A chicken that is bred and raised specifically for meat production
Council	Tamworth Regional Council
Department	Department of Planning and Environment (DPE)
EIS	The Environmental Impact Statement titled 'Rushes Creek Poultry Production Farm – SSD 7704', prepared by SLR Consulting Australia Pty Ltd dated August 2018, submitted with the application for consent for the development
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
LEP	Local Environmental Plan
Minister	NSW Minister for Planning
Modification Report	The Applicant's application to modify the Rushes Creek Poultry Production Farm development consent, entitled 'Rushes Creek Poultry Production Farm SSD 7704 Modification 3 Modification Report' prepared by EME Advisory dated 3 January 2022
Planning Secretary	Planning Secretary of the Department, under the EP&A Act
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
Submissions Report	The Applicant's response to issues raised in submissions received in relation to the modification application and includes the document titled 'Rushes Creek Poultry Production Farm Modification 3 – Submissions Report' prepared by EME Advisory dated 23 May 2022

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1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application by ProTen Pty Ltd (the Applicant) to modify the State significant development (SSD) consent for the Rushes Creek Poultry Production Farm (SSD-7704).

The approved development involves the construction and operation of four poultry farms comprised of 54 poultry sheds with a combined capacity to house up to 3,051,000 broiler chickens. The farms are to be constructed in two stages. Stage 1 comprises the construction and operation of Farm 2 (18 poultry sheds), and Stage 2 comprises the construction and operation of Farms 1, 3 and 4 (36 poultry sheds). Development consent was granted on the basis that construction of each stage would be being completed prior to commencing operation of that stage.

However, due to the current demand for broiler chickens in the Australian market and the associated immediate need for additional broiler sheds in the region, ProTen advises it needs to progressively commence operations at Farm 2 while construction works are concurrently carried out at Farm 2. Furthermore, as the connection to the electricity grid has not yet been commissioned, ProTen is seeking to rely on the development's standby diesel generators for the primary operational power supply for Farm 2 for a period of up to 12 months.

The modification application therefore seeks to permit the concurrent construction and operation of Stage 1 (Farm 2) of the development, an increase in standby diesel generator capacity, modifications to the layout of ancillary farm infrastructure at Farm 2, and reliance on the standby diesel generators as the primary operational power supply for Farm 2 only for a period of up to 12 months. ProTen is seeking to lodge a subsequent modification application which would seek to permit the use of an off-grid solar and battery power solution for the primary operational power supply for the development, rather than a grid connection. ProTen is anticipating this would be secured and commissioned by the end of the 12 month period.

The modification was lodged on 18 January 2022 by ProTen Pty Ltd pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The Applicant has consent to construct a large-scale poultry production farm on Rushes Creek Road at Rushes Creek in the Tamworth local government area (see [Figure 1](#)), approximately 40 kilometres (km) northwest of Tamworth. The site comprises approximately 1,016 hectares (ha) of RU1 Primary Production zoned land currently used for agricultural production, including both livestock grazing and cropping.

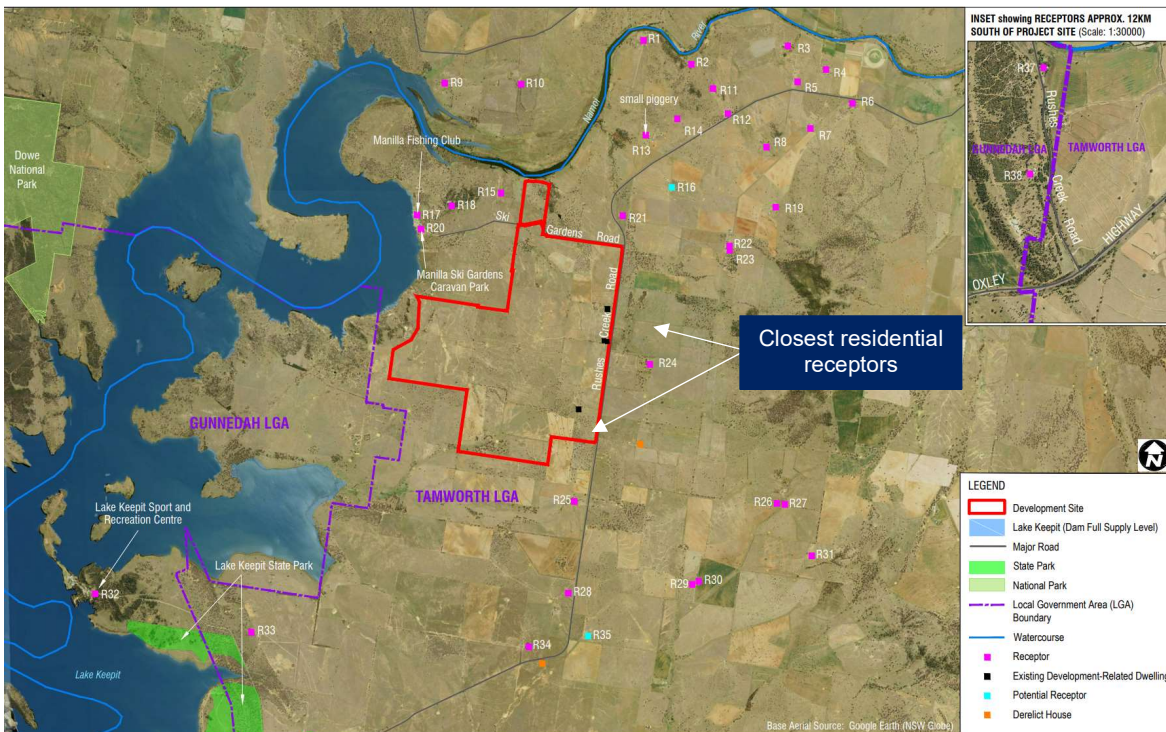
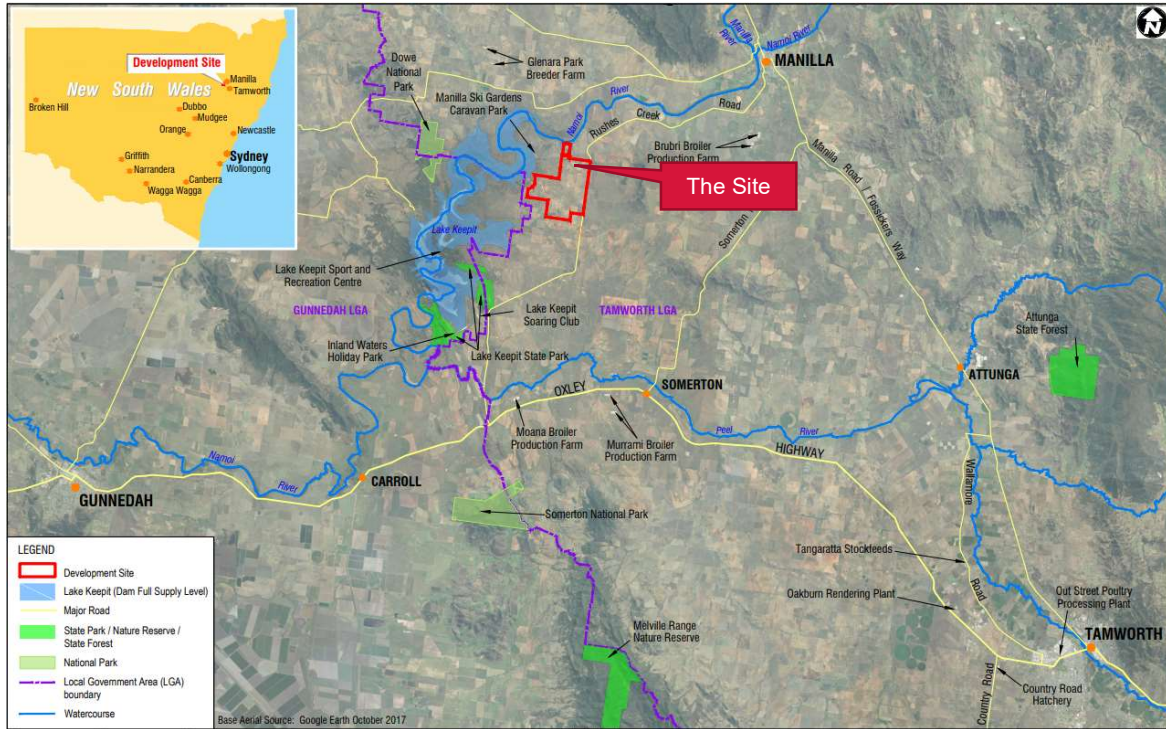
The surrounding area is primarily characterised by traditional agricultural production, along with recreational activities around Lake Keepit, which is located to the west of the site. The closest residential receptors are located off Rushes Creek Road at approximate distances of 1,025 metres (m) southeast and 1,335 m east of the nearest proposed farm, respectively (refer [Figure 2](#)).

1.2 Approval History

The development was approved under delegation by the then Executive Director – Regions, Industry and Key Sites Assessments, on 14 April 2020. The consent permits the construction and operation of the following:

- four individual poultry production units (PPUs), which are identified as Farms 1 to 4, where broiler birds would be grown for the purpose of producing poultry meat for human consumption
- a total of 54 poultry sheds, housing a combined site population of 3,051,000 broilers at any one time
- each farm would contain between 10 and 18 tunnel-ventilated fully enclosed climate-controlled poultry sheds, which would each have the capacity to house 56,500 broilers (at any one time)
- a water supply pump and pipeline to extract water from the Namoi River

- associated supporting and servicing infrastructure, including internal access roads and farm manager residences
- three 390 kilovolt amps (kVA) backup diesel generators for emergency use only at each farm
- 0.25 ha of solar panels at each farm to supplement the reliance on the electricity grid for the primary operational power supply for the development.



The approved site layout and staging is illustrated in **Figure 3** overleaf. Construction of Stage 1 (Farm 2) commenced in August 2021 and is anticipated to be completed in late 2022. Timeframes for Stage 2 (Farms 1, 3 and 4) are unknown.

The Environment Protection Authority (EPA) issued an Environment Protection Licence (EPL) for the development on 11 August 2021.

The development consent has been modified on two occasions, as described in **Table 1** below.

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Consent Authority	Type	Approval Date
MOD 1	Amendment to the remediation strategy and Aboriginal heritage requirements	Department	s.4.55(1A)	15 June 2021
MOD 2	Correction to condition B53(a) regarding the timing of the establishment of vegetation screens	Department	s.4.55(1)	2 September 2021

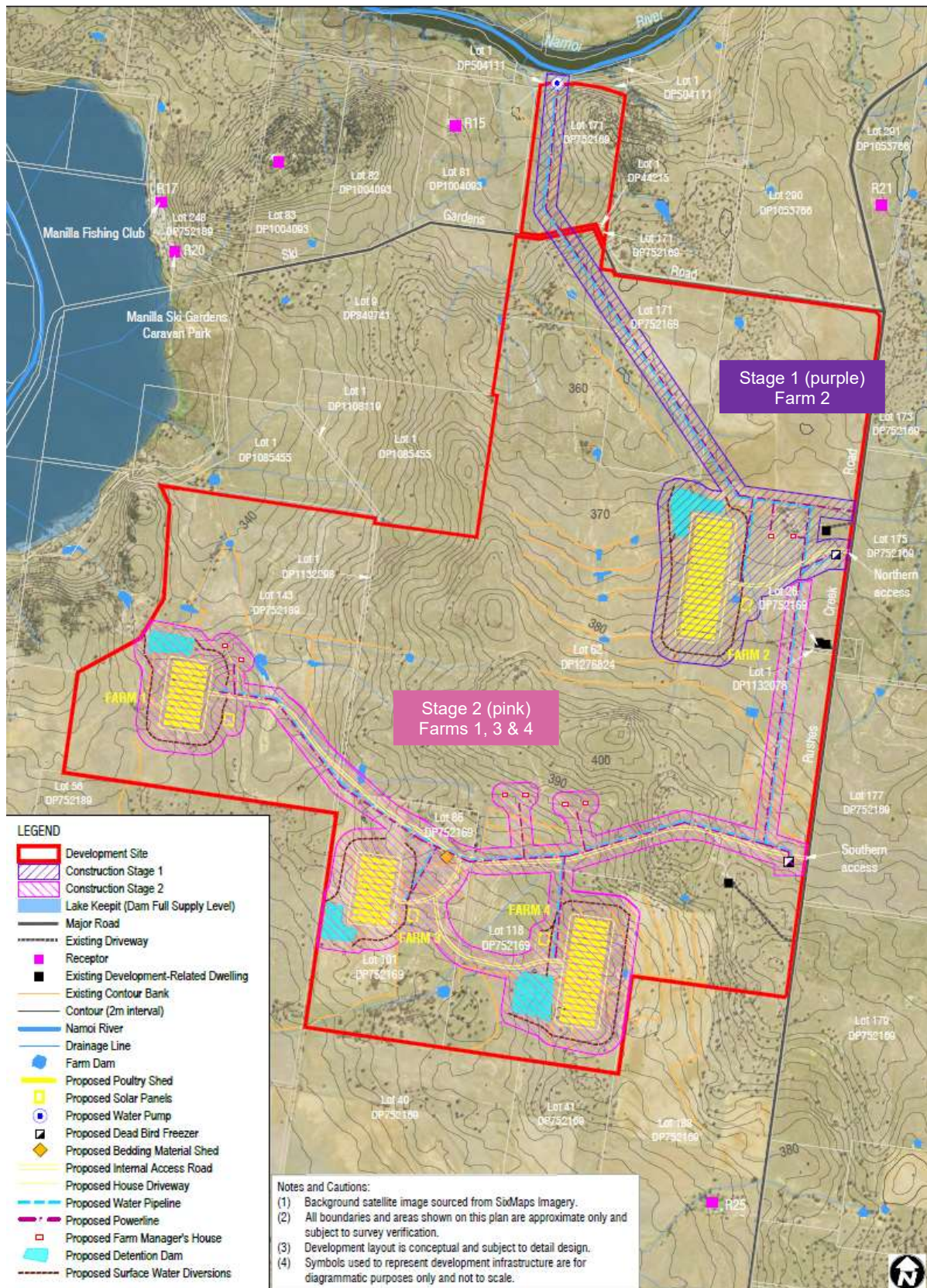


Figure 3 | Approved Site Layout and Staging Plan

2 Proposed Modification

2.1 Amended Modification

The modification application originally sought approval for the use of diesel generators as the primary operational power supply for a period of up to 10 months. Under the original modification, diesel storage tanks were located adjacent to the generators, including a 2,000 litre (L) tank adjacent to the Namoi River for a 45 kVA diesel generator, which would be used to operate the water supply pump. The generators did not incorporate any specific air pollution control abatement measures for emissions of nitrogen oxides (NO_x), the primary emission of concern from these types of units.

As part of the Submissions Report, ProTen sought to amend the modification application under clause 121B of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) (as in force at the time the modification application was lodged). The majority of amendments were made in response to issues raised by government authorities, and included the following:

- addition of selective catalytic reduction (SCR) units and associated urea storage to treat NO_x emissions from two of the four proposed 440 kVA diesel generators at Farm 2 and the 45 kVA generator at the water supply pump
- deletion of the 2,000 litre diesel storage tank at the water supply pump adjacent to the Namoi River
- increasing the timeframe from 10 months to 12 months for reliance on the diesel generators for the primary operational power supply.

The Department considers the amended application is consistent with the requirements of clause 121B and accepts the amended application accordingly. The following description of the modification and the assessment of the application in **Section 5** of this report is based on the amended modification application.

2.2 Modification Description

The modification is described in full in the Modification Report and Submissions Report included in **Appendix A** and is illustrated on **Figure 4** below.

Farm 2 Modifications

The modification relates to proposed changes to Farm 2 in Stage 1 of the approved development only and comprises the following key components:

- minor amendments to the positioning of some of the ancillary infrastructure items, including the site office and workshop, water storage tanks, emergency standby generators, diesel storage and dead bird freezer
- realignment of the driveways to the farm manager's houses and minor relocation of farm manager houses
- additional emergency standby diesel generator capacity comprising four 440 kVA generators (two primary backup generators, two secondary backup generators) in place of the currently approved three 390 kVA generators
- addition of a 45 kVA emergency standby diesel generator at the water supply pump near the Namoi River
- addition of selective catalytic reduction (SCR) units and associated urea storage to treat emissions of NO_x from two of the 440 kVA diesel generators at Farm 2 and from the 45 kVA generator at the Namoi River
- replacement of the two 2,000 L aboveground diesel storage tanks at Farm 2 with one 4,000 L tank
- concurrent construction and operation at Farm 2 for up to 10 months to enable partial farm operations to commence prior to the completion of Stage 1 construction
- reliance on the proposed 440 kVA diesel generators to operate Farm 2 and the 45 kVA diesel generator to operate the water supply for a period of up to 12 months.

Construction Timetable

ProTen advised it intends on constructing the first eight poultry sheds at Farm 2 prior to commencing concurrent construction and operational activities. Sheds 9 – 18 would then be constructed in three sub-stages with operation of each sub-stage commencing at the completion of construction of each sub-stage. The proposed timetable for concurrent construction and operation of Farm 2 is provided in **Table 2** below. Sheds 1-8 are anticipated to commence operations in July 2022, with all construction works completed on Farm 2 by December 2022.

While the construction timetable indicates that concurrent construction and operation will occur for around seven months, ProTen is seeking an additional three months to allow for any unforeseen construction delays.

Table 2 | Indicative Timing of Concurrent Construction and Operation

Sub-Stage	Construction Activities	Operational Activities
1A	Earthworks, northern site access road and internal roads	None
1B	Sheds 1 – 8 and ancillary infrastructure	None
1C	Sheds 9 – 12	Sheds 1 – 8
1D	Sheds 13 – 16	Sheds 1 – 12
1E	Sheds 17 - 18	Sheds 1 – 16

Operational Power Supply

The original consent was granted on the basis that all primary operational power requirements would be met by connection to Essential Energy's reticulated electricity supply network and a small area (0.25 ha) of solar panels to supplement the energy supply. Diesel generators were proposed as an emergency backup power supply for the farm. ProTen has advised it is now pursuing an option to take the development completely off-grid with a solar and battery renewable power solution. This will require a much larger area of solar panels to be installed on the roofs of the poultry sheds. This amendment to the development will be subject to a separate modification application, yet to be lodged with the Department.

The current modification seeks to permit reliance on the proposed additional diesel generator capacity at Farm 2 and at the Namoi River water supply pump for a period of up to 12 months as the primary operational power source while an alternative off-grid solar and battery solution for the operational power supply is secured and commissioned.

2.3 Applicant's Justification for the Proposed Modification

ProTen advises the poultry industry is well-established and has a high recognition factor in the Tamworth local government area (LGA), providing significant employment and contribution to the regional economy. The approved development at Rushes Creek supports the sustainable growth of intensive agriculture and livestock production in the Namoi Region.

The Modification Report states that detailed design for Stage 1 of the approved development has identified several design modifications required to Farm 2 to maximise efficiencies and benefits for the initial site establishment and long-term farm operations and maintenance. This includes amendments to the layout of ancillary farm infrastructure and additional standby diesel generator capacity at Farm 2 and at the water supply pump at the Namoi River. The modification would provide additional time for ProTen to secure the off-grid solar and battery storage solution in terms of design, assessment, materials supply, installation and commissioning, and would allow early commencement of Farm 2 operations while construction is ongoing to enable ProTen to meet supply contracts and market demand for chicken meat.

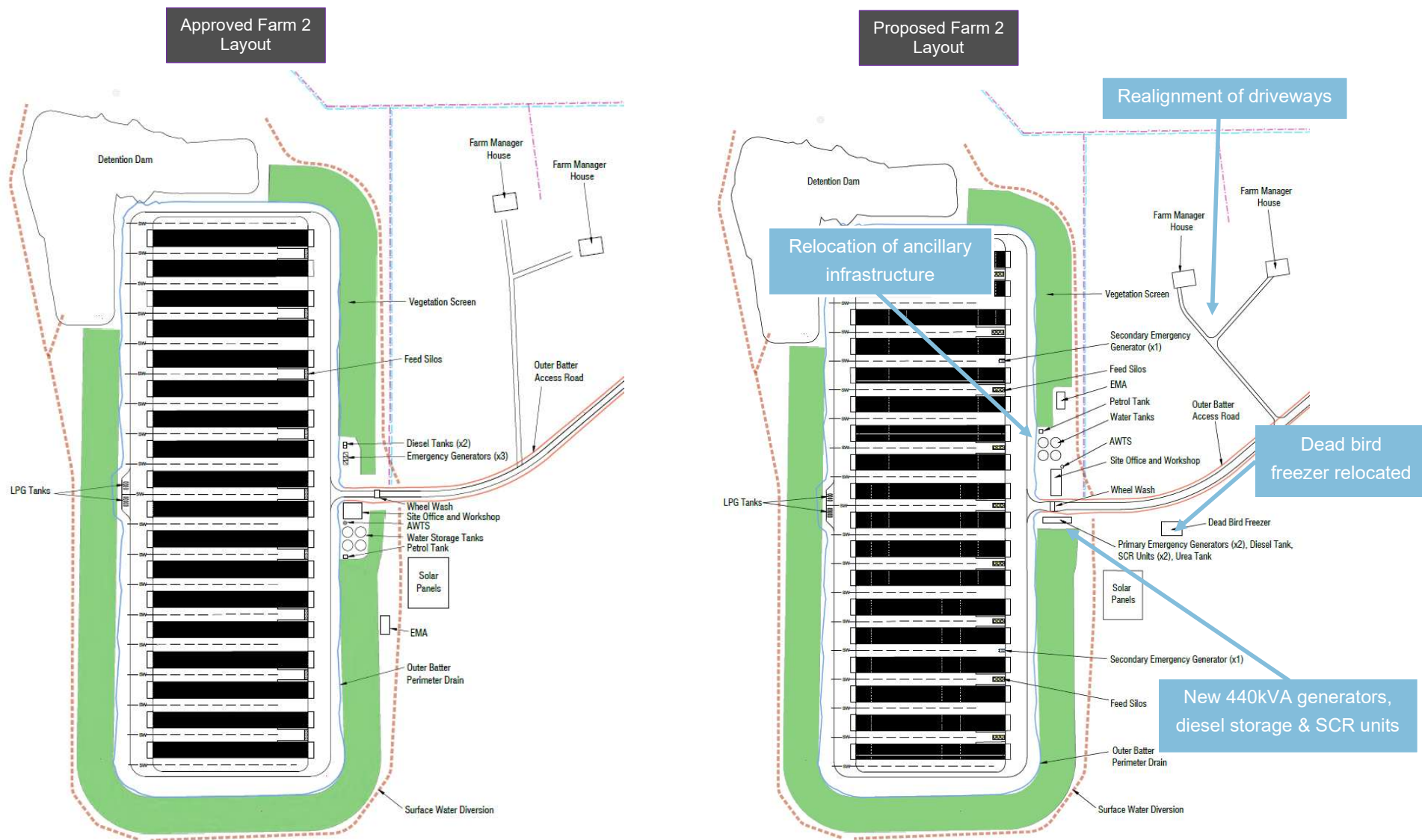


Figure 4 | Approved and Proposed Layout for Farm 2

3 Statutory context

3.1 Scope of Modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as substantially the same development to what was originally approved as the proposal:

- would not change the overall use of the site
- would not result in major changes to the general appearance of the development
- would only involve very minor disturbance outside the already approved disturbance areas for the development for the driveway realignment
- would result in minimal environmental impacts that could be appropriately managed through the existing or modified conditions of consent.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application (DA). Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new DA to be lodged.

3.2 Consent Authority

The Minister for Planning (Minister) is the consent authority for the application under section 4.5(a) of the EP&A Act. Under the Minister's delegation of 9 March 2022, the Team Leader, Industry Assessments, may determine the application under delegation as:

- the Applicant has not disclosed a reportable political donation in connection with the application
- there are no public submissions in the nature of objections, and
- Council has not made a submission by way of objection.

3.3 Mandatory Matters for Consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD-7228. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

3.4 Legislative Amendments

The Department notes that since the lodgement of the modification application, the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) has been repealed by the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021). Under Schedule 6(3) of the 'savings, transitional and other provisions' of the EP&A Regulation 2021, the 2000 Regulation continues to apply (instead of the new EP&A Regulation 2021) to applications made but not finally determined before 1 March 2022. As the modification application was lodged on 18 January 2022, the application has been assessed having regard to the requirements of the EP&A Regulation 2000.

3.5 Biodiversity Conservation Act 2016

Section 7.17 of the *Biodiversity and Conservation Act 2016* (the BC Act) specifies that if the determining authority is satisfied a modification will not increase the impact on biodiversity values, a biodiversity development assessment report (BDAR) is not required.

The re-positioning of approved ancillary infrastructure around Farm 2 and the proposed new infrastructure at the water supply pump at the Namoi River, are all located within the existing approved development footprint and/or within areas of non-native groundcover, removed from significant vegetation communities, threatened species and hollow-bearing trees. As such, the proposed modifications do not pose any additional biodiversity impacts and are unlikely to increase the impact on biodiversity values. For these reasons, the Department's assessment concludes a BDAR is not necessary for the proposed modification.

4 Engagement

4.1 Department's Engagement

Clause 117(4) of the EP&A Regulation 2000 requires a section 4.55(1A) modification application to be notified or advertised if specified by a community participation plan. The Department's Community Participation Plan notes the exhibition requirements for such modifications are discretionary, and based on the urgency, scale and nature of the proposal.

Given the proposed changes would result in minimal environmental impacts (see **Section 5**), the application was not notified or advertised. However, it was made publicly available on the Department's website on 18 January 2022 and was referred to relevant government authorities for comment.

4.2 Government Advice

Tamworth Regional Council (Council) advised that its preference is for the off-grid solar and battery proposal to form part of the current modification application. This was on the basis that there was no timetable for the lodgement of the subsequent modification or any contingency if the solar and battery proposal was not approved by the end of the 12 month period. Council recommended a condition limiting the use of the diesel generators as the primary source of power to a period of no more than 12 months. A condition was also recommended to restrict the location of the proposed diesel storage tank for the water supply pump generator to outside the area identified as flood prone land.

Gunnedah Shire Council (GSC) sought additional information on how the primary operational power supply would be provided to Farm 2 upon cessation of the use of the diesel generators. GSC also requested the diesel storage tank for the water supply pump be located outside the area identified as flood prone land and advised that ongoing management of the generator should ensure there is no potential for contamination of downstream waterbodies.

The **Environment Protection Authority (EPA)** did not object to the proposed modification and confirmed EPL No. 21569 was issued for the development on 11 August 2021. To address concurrent construction and operational impacts, the EPA recommended additional conditions requiring the Applicant to:

- appropriately store flammable and combustible liquids (i.e. diesel)
- only operate a maximum of two 440 kVA diesel generators at any one time
- comply with construction noise limits
- monitor operational noise
- prepare and submit an operational noise compliance assessment report.

The EPA also noted the primary concern with diesel generators is the emission of nitrous oxides (NO_x). As the proposed generators are proposed to operate for more than 200 hours per year over the 12 month period, the EPA recommended a condition requiring any diesel generator that operates for 200 hours or more to comply with the NO_x limits in Schedule 4 of the Protection of the Environment (Clean Air) Regulation 2021 (Clean Air Regulation).

WaterNSW raised concerns regarding the potential for water quality impacts in the Namoi River given the proximity of the proposed generator and diesel storage tank to the river. WaterNSW recommended the storage tank be appropriately sited at Farm 2 and bunded to 110% capacity. Bunding of the dead bird freezer was also recommended.

Transport for NSW (TfNSW) noted the existing development consent includes appropriate conditions to manage access and driver behaviour and recommended approved management plans be updated where relevant to address the proposed modifications.

Department of Planning and Environment: Water (DPE-Water) recommended the Applicant update the Construction Environmental Management Plan (CEMP) and the Operational Environmental Management Plan (OEMP) to address the modifications proposed. DPE-Water also reiterated the Applicant's responsibilities regarding water access licences.

The **Department** raised concerns that consideration of the current modification ahead of the proposed modification for the off-grid power solution may not be orderly development and as such, may be inconsistent with the Objects of the EP&A Act. The Department advised its preferred approach was for the solar and battery system proposal to be incorporated into the current modification. Further details were also requested regarding contingencies in the event the off-grid power solution is not determined within the 12 month time period or consent is not granted for the off-grid solution.

4.3 Response to Government Advice

On 23 May 2022, the Applicant submitted a Submissions Report responding to the issues raised and requests for additional information made by the government authorities. The Submissions Report included a request to amend the modification, as described in **Section 2** of this report.

The Applicant's response was referred to the government agencies and the councils for consideration.

The Submissions Report noted the Department's preference to incorporate the solar and battery system proposal into the current modification, but advised it was unable to do this given the lengthy process involved in the design of the system to ensure operational efficiencies would be achieved, and commitments to contracts with Baiada (Australia's largest chicken processor) to commence operations. ProTen confirmed it would have two contingencies in the event the off-grid solar and battery system is not approved by the end of the 12 month period using diesel generators for the operational supply. These contingencies are:

- to proceed with the originally planned reticulated electricity supply via the extension of Essential Energy's infrastructure from Manilla to the development site
- to completely destock Farm 2 and not place another batch of chickens until the solar and battery system had been approved, installed and commissioned, or, the originally planned reticulated electricity power supply had been installed and commissioned.

In response to the EPA's requirements for the diesel generators to meet the Clean Air Regulation limits, the Applicant commissioned the design and manufacture of specific SCR units for each generator that would operate for more than 200 hours per year in the 12 month operational period.

EPA advised the conditions previously recommended remain appropriate and recommended additional conditions requiring any diesel generator operating for 200 hours or more per year to comply with the NO_x emission limits in the Clean Air Regulation and for noise validation monitoring of the diesel generators to be carried out.

Council advised it was satisfied with the Applicant's response and recommended conditions be imposed limiting the use of diesel generators as the primary operational power supply to a maximum of 12 months, in lieu of providing a connection to the electricity grid or the off-grid solar/battery power solution.

GSC advised the applicant's response addressed its concerns and recommended the time limitation for use of the diesel generators and the applicant's proposed contingencies form part of the modified conditions.

WaterNSW advised its previous concerns had been addressed and had no additional conditions to recommend.

DPE-Water confirmed it had no further comments.

The Department acknowledged the Applicant's commitment to the two primary contingencies outlined in the Submissions Report and noted the amended application did not incorporate the solar and battery system. The Applicant was subsequently requested to provide an assessment of greenhouse gas emissions (GHG emissions) to quantify the carbon dioxide (CO₂) emissions generated by the modification in comparison to the approved operational energy supply scenario (grid electricity plus 0.25 hectares of solar panels).

5 Assessment

The Department has assessed the merits of the proposed modification and has considered the following:

- the modification report provided to support the proposed modification (see **Appendix A**)
- the documentation and Department's assessment report for the original development application (DA) and subsequent modification applications (see **Appendix A**)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the Objects of the EP&A Act.

The Department considers the key assessment issue is air quality. The Department's assessment of other issues is provided in **Table 3** below.

5.1 Air Quality

Use of diesel generators as the primary source of operational power to the site during the concurrent construction and operation of the development will generate emissions of nitrogen dioxide (NO₂), carbon monoxide (CO) and particulate matter. This has the potential to result in adverse air quality impacts on surrounding residential and recreational receivers.

The Applicant carried out an air quality assessment in accordance with the EPA's 'Approved Methods for Modelling and Assessment of Air Pollutants in NSW' (EPA, 2016) (the Approved Methods). The assessment adopted the impact assessment criteria specified in the Approved Methods for NO₂, CO and particulate matter less than 10 microns in diameter (PM₁₀) and less than 2.5 microns in diameter (PM_{2.5}).

A total of 36 residential and recreational receptors were identified in the surrounding area for the purposes of the Applicant's assessment.

Applicant's Assessment

The Applicant's modelling assumed two (of the proposed four) 440 kVA diesel generators at Farm 2 and the 45 kVA generator at the Namoi River would be operating at full capacity for 12 months. For the cumulative assessment, background air quality data for NO₂, PM₁₀ and PM_{2.5} was obtained from the Gunnedah air quality monitoring station (AQMS) and CO data was obtained from the Port Macquarie AQMS. Conservatively, PM₁₀ emissions (the primary air pollutant from the operation) from all 54 sheds operating (not just Farm 2) were also included in the cumulative assessment.

Dust emissions from the construction activities were assumed to be effectively mitigated and managed using appropriate standard site management practices and implementation of dust suppression measures, and as such the impact of construction emissions were not considered cumulatively with the operational particulate matter emissions.

Dispersion modelling was carried out using meteorological data from the on-site weather station installed by the Applicant in October 2018 in accordance with the requirements of the consent. The year 2019 was selected as the most appropriate year for meteorological data as this was the first full year of data collected at the on-site weather station. Highly conservative emissions rate data was sourced from an existing tunnel-ventilated poultry farm (Mirrabooka, 2002), which was consistent with the modelling approach used in the original DA.

Incremental and cumulative (including background) ground level concentrations of NO₂ and CO were predicted to comply with the impact assessment criteria for all averaging periods.

However, as the data collected from the Gunnedah AQMS was affected by bushfires and drought, background levels for both PM_{2.5} and PM₁₀ were significantly elevated. The data adopted from the Gunnedah AQMS 2019 recorded 30 days in which PM₁₀ concentrations exceeded the maximum 24-hour criterion of 50µg/m³ and 27 days in which PM_{2.5} concentrations exceeded the 24-hour average criterion of 25µg/m³.

ProTen's assessment therefore focused on no additional exceedances of the maximum 24-hour impact assessment criteria for PM_{2.5} and PM₁₀ for the modelled year (referred to as a contemporaneous assessment). The Applicant's cumulative PM₁₀ and PM_{2.5} contemporaneous assessments found there would be no additional days that would exceed the maximum 24-hour average criteria of 50 µg/m³ and 25 µg/m³, respectively, as a result of the modification. The assessment also found there would be no additional exceedances of the maximum 24-hour PM₁₀ criterion of 50µg/m³ at the most likely affected receptor (R25).

Due to the elevated background levels, cumulative annual average PM₁₀ concentrations were predicted to marginally exceed the ground level impact assessment criterion of 25µg/m³ by up to 0.4µg/m³ at seven receptors. Similarly, cumulative annual average PM_{2.5} concentrations were predicted to be 11.4µg/m³ at all receptors, which exceeds the criterion of 8µg/m³.

The Applicant's assessment concluded the modelling was conservative and indicated that the predicted ground level concentrations of NO₂, CO, PM_{2.5} and PM₁₀ while using the diesel generators as the primary operational power supply for Farm 2, would easily comply with the relevant air quality criteria.

Government Advice

The EPA acknowledged the primary concern with the use of the diesel generators is the emission of NO_x, which were conservatively assumed to be all released as NO₂ and were predicted to be below the concentration limits specified in the Clean Air Regulation and the impact assessment criteria within the Approved Methods. The EPA also noted the results of the Applicant's assessment were affected by the elevated background levels from the modelled year (2019) due to bushfires and drought conditions. The EPA agreed with the Applicant's view that the assessment was conservative, particularly with respect to PM₁₀ emissions, as this assumed all 54 sheds were operating. While the predicted annual average ground level concentrations of PM₁₀ exceeded the criterion, the exceedance was very minor (< 1 µg/m³) and as such the impact from Farm 2 alone with the diesel generators operating would be extremely low.

To ensure the proposed operating conditions reflected the modelling scenario, the EPA recommended a new condition be included on the consent limiting the Applicant to operate no more than two of the 440 kVA diesel generators at Farm 2 at any one time. Additionally, as the diesel generators may operate for more than 200 hours per year, the EPA also advised that the generators would be required to comply with the NO_x limits in Schedule 4 of the Clean Air Regulation (450 mg/m³) and recommended a condition requiring this be included in the modified consent. Any generators that operated less than 200 hours would automatically be exempt from the Schedule 4 limits (as per clause 59 of the Clean Air Regulation).

As the Applicant intends on relying on the diesel generators as the primary operational power supply for a period of up to 12 months, ProTen acknowledged it would exceed the 200 hour threshold and therefore commissioned the design and manufacture of specific SCR units to control NO_x emissions for two of the 440 kVA diesel generators at Farm 2 and a smaller unit at the 45 kVA generator at the water supply pump adjacent to the Namoi River. The additional SCR units were incorporated into the amended modification application, which was supported by a manufacturer's guarantee that the 450 mg/m³ NO_x limit would be met.

The EPA acknowledged the Applicant's commitment to installing the additional SCR units to meet the Clean Air Regulation limits and did not raise any further concerns regarding air quality impacts.

Department's Assessment

The Department is satisfied the Applicant's assessment of potential air quality impacts is robust, has been carried out in accordance with the Approved Methods and represents a worst case conservative scenario for the use of diesel generators for the primary operational power supply for Farm 2. The Applicant's air assessment has demonstrated that the predicted operational air emissions would be minimal and would not result in any additional days in which the relevant criteria for particulates (PM₁₀ and PM_{2.5}) would be exceeded at any receptor. While it is noted that annual average PM₁₀ and PM_{2.5} concentrations would marginally exceed the criterion, the Department concurs with the EPA's view that the impact is likely to be extremely low as incremental impacts were

predicted to be $< 0.05\mu\text{g}/\text{m}^3$ at all receptors for both air pollutants and the PM_{10} cumulative assessment is highly conservative.

While it is acknowledged the Applicant has demonstrated that ground level air quality impacts are unlikely, it has, nevertheless, incorporated SCR units as NO_x abatement measures on the diesel generators to ensure the relevant Clean Air Regulation emission limit can be met for any generator operating for more than 200 hours per year, as required by the Regulation and the EPA.

In concurrence with the EPA's advice, conditions are recommended requiring any diesel generator that operates for more than 200 hours or more per year to comply with the NO_x emission limits specified in Schedule 4 of the Clean Air Regulation and for no more than two of the 440 kVA generators at Farm 2 to operate at any one time.

The Department is satisfied no additional management, mitigation or monitoring measures are recommended as the existing conditions already require the Applicant to carry out a suite of construction and operational dust management, mitigation and monitoring measures in accordance with the approved Air Quality Management Plan (AQMP). The consent also requires ProTen to carry out compliance reporting and annual independent audits to demonstrate the development is being carried out in compliance with the conditions of the consent.

It is also acknowledged that condition C8 of the consent requires the Applicant to review all strategies, plans and programs under the consent following determination of a modification. This will ensure the additional requirements regarding the diesel generators are addressed in the AQMP.

The Department's assessment concludes that the predicted air quality impacts from the proposed modification are likely to be minimal. Existing and recommended conditions will ensure ongoing management and monitoring of air emissions during the concurrent construction and operation of Farm 2 and compliance with the relevant air quality emission limits and ground level criteria.

5.2 Other Issues

Table 3 | Assessment of the Modification Application

Assessment	Recommendations
Orderly Development	
<ul style="list-style-type: none"> Consideration of the current modification application ahead of securing approval for the proposed off-grid solar/battery solution may not represent orderly development in accordance with the Objects of the EP&A Act. The Department, Council and GSC raised this concern with ProTen and requested the scope of the modification be expanded to include the off-grid solar/battery solution such that the alternate primary operational power supply solution be considered holistically. ProTen was also asked to provide further details of proposed contingencies in the event the off-grid solution is not approved and commissioned within the 12 month generator powered period of operations. ProTen agreed that expanding the scope of the current modification to include the solar/battery solution would have been preferable, however, consideration of the current modification ahead of a separate modification application for the solar/battery solution would enable ProTen to meet supply contracts and market demand while optimising the solar/battery system design (to ensure sufficient and cost-effective solar power and battery storage and reduced generator requirements). 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> notify the Planning Secretary at the commencement of each sub-stage of Stage 1 and provide a progress report on the alternate primary operational power supply arrangements

- In acknowledgment of the risk that the solar/battery solution is not approved and commissioned by the end of the 12 month period, ProTen proposed two primary contingencies:
 - proceed with the originally planned reticulated electricity power supply via the extension of Essential Energy's overhead infrastructure from Manilla to the development site
 - completely destock and not place another batch of broiler chickens until the off-grid solar/battery system has been approved, installed and commissioned, or the transmission line to Manilla extension (as described above) has been installed and commissioned.
- Council and GSC advised they were satisfied with the Applicant's proposed contingencies and recommended this be conditioned.
- The Objects of the EP&A Act aim to promote the orderly and economic use and development of land (section 1.3(c) of the Act). While the Applicant has not included the solar/battery proposal in the current modification, the Department acknowledges ProTen plays a significant role in the NSW poultry industry. It is noted the Tamworth Regional Strategy identifies the poultry industry as a significant contributor to the regional economy and the commencement of operations of the poultry farm at Rushes Creek will contribute to the continued growth of the poultry industry in the region.
- There is a significant commercial risk for ProTen to commence operations at Farm 2 and commit to the above contingencies in the event the solar/battery solution is not approved and/or commissioned within the nominated 12 month period. However, this is a risk that has been accepted by ProTen.
- Notwithstanding, the Department is concerned there is also a risk that destocking activities may extend beyond the 12 month period and as such a further modification may be requested to allow the further continued use of diesel generators as the primary operational power supply for the development. This may not be consistent with the principles of ecologically sustainable development or the NSW Government's broader strategic objectives to move toward net zero emissions.
- As the commencement of operations will be staged over a period of up to 10 months, the progress of the alternative primary operational power supply arrangements could be monitored before Farm 2 becomes fully stocked to allow sufficient time to de-stock all sheds before the end of the 12 month period.
- The Department therefore recommends conditions that require the Applicant to notify the Planning Secretary and report on the progress of the alternate primary operational power solution prior to the commencement of operation of Stage 1C (Sheds 9-12), Stage 1D (Sheds 13-16) and Stage 1E (Sheds 17-18), and to not commence operation of each sub-stage until the Planning Secretary has approved the progress report.
- Notwithstanding the above, a condition is also recommended requiring ProTen to completely destock and not place another batch of broiler

Assessment

Recommendations

chickens until an alternate primary operational power supply is commissioned.

- The Department is satisfied the progressive approach to the commencement of operation and regular reporting on the progress of the alternate primary operational power arrangements will give more certainty around the timing of the commissioning of this infrastructure. This will enable destocking to occur and operations at Farm 2 to cease within the 12 month limited period, if required.
- The Department's assessment concludes the proposed modification will demonstrate the orderly and economic use of the land at Rushes Creek.

Noise Impacts

- Concurrent construction and operation of Farm 2, the use of the diesel generators for operational power and additional traffic movements have the potential to generate additional noise impacts beyond those assessed in the original DA.
 - ProTen's noise assessment considered two worst-case scenarios:
 - operational noise impacts from the original DA assessed cumulatively with two of the new 440 kVA generators at Farm 2 and new 45 kVA generator at the Namoi River water pump (Scenario 1)
 - Farm 2 construction noise assessed cumulatively with the operational scenario described above (Scenario 2).
 - The Applicant found the predicted levels for Scenario 1 comply with the project noise trigger level of $L_{Aeq} 35 \text{ dB(A)}$ previously established for the development, during the day, evening and night time periods, for both neutral and noise-enhancing atmospheric conditions. Similarly, the predicted worst-case noise levels for Scenario 2 were less than the previously established construction noise criterion of $L_{Aeq,15min} 40 \text{ dB(A)}$.
 - The Applicant noted the noise assessment was conservative as the noise model assumed continuous noise sources from all four farms (Farms 1 to 4), not just Farm 2.
 - Road traffic noise was predicted to increase by no more than 0.5 dB at all receivers and would continue to comply with the NSW Road Noise Policy day and night time criteria of 60 dBA and 55 dBA, respectively, along Rushes Creek Rd.
 - The EPA recommended a condition requiring concurrent construction and operational noise to comply with the previously established construction noise criterion of $L_{Aeq,15min} 40 \text{ dB(A)}$. Conditions were also recommended requiring the Applicant to carry out attended noise monitoring at Receptors R24 and R25 (the residential receptors with the highest predicted noise levels) following commencement of Farm 2 operations whilst two 440 vKA generators are operating and for at least one hour during the night period.
 - The Department requested the Applicant justify the use of the construction noise criterion to assess compliance for Scenario 2 (40 dBA), which is less stringent than the operational noise criterion (35 dBA).
- Require the Applicant to:
- comply with a noise limit of 40 dBA at all residential receivers during concurrent construction and operation of Farm 2
 - carry out noise validation monitoring at Farm 2 during concurrent construction and operation when two diesel generators are operating and for at least one hour at night.

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- The Applicant advised that the previously established criterion of 35 dBA for daytime operations stems from the now superseded Industrial Noise Policy (2000). The new Noise Policy for Industry (NPfI) (2017) specifies a minimum day period intrusiveness criterion of 40 dBA. The Applicant also noted that the assessment was highly conservative as it assumed noise impacts from all four farms operating, not just Farm 2.
- The Department notes the maximum predicted daytime noise impact for Scenario 2 (cumulative scenario) is 38 dBA at Receptor R24 during enhanced atmospheric conditions. This marginally exceeds the previously established operational criteria for the development by 3 dB.
- However, the Department acknowledges the following:
 - the Applicant's assessment is conservative as it assumes operation of the entire development, not just Farm 2, and as such, noise impacts are likely to be less than predicted
 - the predicted impact is significantly less than the recommended daytime amenity noise level of 50 dBA for a rural residential area
 - the current NPfI guidance now establishes a minimum daytime intrusiveness noise level of 40 dBA for the day period
 - concurrent construction and operation will only occur for a maximum period of 10 months.
- As such, the Department concurs with the EPA's recommended noise limit of $L_{Aeq,15min}$ 40 dB(A) at all residential receivers for the concurrent construction and operational scenario and noise validation monitoring.
- The Department's assessment concludes that noise impacts associated with the modification are likely to be minimal and can be managed through existing conditions which require compliance with the Interim Construction Noise Guideline (DECC, 2009) and standard construction hours, compliance with an operational noise limit of 35 dBA and the recommended condition to establish a new noise limit of 40 dBA for concurrent construction and operation.

Traffic Generation

- Concurrent construction and operation of Farm 2 and the additional deliveries of diesel for the generators would generate a total of 64 additional vehicle trips to and from the development site, comprised of 60 light vehicle movements and four heavy vehicle movements. This may have an impact on the safety and efficiency of key intersections.
 - The Applicant carried out a traffic impact assessment in accordance with the 'Guide to Traffic Generating Developments' (2002) and Austroads 'Guide to Traffic Management Part 12: Integrated Transport Assessments for Developments'.
 - A SIDRA analysis was carried out for the Oxley Highway / Rushes Creek Road intersection and the northern and southern site access road intersections with Rushes Creek Road. The Applicant's analysis found that the existing road network has sufficient capacity to accommodate the
- No additional conditions are required

additional traffic generated by the proposed modification and the approved design of the new access road intersections remains appropriate.

- The Applicant also assessed the safety of these key intersections and found that no specific safety measures are required to accommodate the additional traffic demands associated with the modification.
- On this basis, the Applicant does not propose any changes to the approved access road intersections or any additional mitigation measures at the Rushes Creek Road and Oxley Highway intersection. The Applicant has revised the approved Construction Traffic Management Plan (CTMP) to include details of the proposed modification, including predicted traffic demands.
- TfNSW noted the existing consent includes appropriate conditions to manage access and driver behaviour and that approved plans of management should be updated where relevant to address the proposed changes.
- The Department acknowledges the existing conditions of consent require the Applicant to prepare a CTMP, including a Driver Code of Conduct, which was approved by the Planning Secretary prior to the commencement of construction on site. It is also noted the conditions require the preparation and implementation of an Operational Driver Code of Conduct, which is required to be approved prior to the commencement of operation.
- The minor updates to the CTMP are considered appropriate as the Applicant's assessment has demonstrated there will only be a minor increase in heavy vehicle movements (four additional movements) as a result of the modification and there is not expected to be any safety or capacity concerns at key intersections. As such, no additional mitigation or management measures are required.
- Implementation of the updated CTMP in conjunction with the operational Driver Code of Conduct is considered appropriate to control construction and operational traffic impacts, to ensure the safety of other road users and minimise amenity impacts.
- The Department's assessment concludes that the existing conditions are sufficient to manage traffic impacts during the concurrent construction and operation of Farm 2, and as such, no additional conditions are recommended.

Water Quality

- The proposed new diesel storage tanks at Farm 2 and the Namoi River, respectively, have the potential to cause off-site water quality impacts on the Namoi River and Lake Keepit if the tanks are not structurally sound, appropriately bunded and sited outside flood prone land. No additional conditions are required
- The Applicant's assessment confirmed the proposed diesel storage tank at Farm 2 would be located within the controlled surface water management area and would be designed in accordance with Australian Standards (AS) and appropriately bunded with a bund volume of 110% of the respective tank volume (4,400 L).

- The proposed storage tank at the Namoi River would be located outside the 40 m riparian zone, designed in accordance with AS and appropriately bunded to 110% capacity (2,200 L).
- WaterNSW, Council, GSC and the Department raised concerns regarding the siting of the diesel storage tank at the Namoi River due to the risk of impacts to water quality from potential spills or during flooding. WaterNSW recommended refuelling of the water supply pump generator be carried out by deliveries of fuel from the Farm 2 diesel storage.
- The EPA recommended a condition requiring all aboveground storage facilities containing flammable and combustible liquids to be bunded in accordance with AS and legislative requirements.
- In response to the government authority concerns, ProTen agreed to remove the 2,000 L diesel storage tank from the modification and instead deliver diesel from the Farm 2 diesel storage using a fuel trailer towed by a light vehicle.
- The Department notes the proposed repositioning of ancillary farm infrastructure at Farm 2 does not involve any change to the proposed stormwater management system, and retains the 4,000 L diesel storage tank within an appropriately bunded area within the controlled stormwater management area. The approved stormwater management system will therefore continue to protect the water quality of surrounding waterways, including Lake Keepit and the Namoi River.
- Existing conditions require the preparation and implementation of a surface water management plan which includes a program to monitor surface water quality, a trigger action and response plan and a protocol for investigating and mitigating any exceedance of relevant surface water impact assessment criteria. Condition B42 requires all chemicals, fuels and oils to be stored in accordance with AS and the EPA's Storing and Handling of Liquids: Environmental Protection – Participants Handbook.
- The Department is satisfied that no additional conditions are required to protect off-site water quality as:
 - the Applicant has agreed to amend the modification in line with WaterNSW's recommendations regarding refuelling of the 2,000 L diesel storage tank
 - stormwater will continue to be managed in accordance with the approved stormwater management system, and
 - diesel will be stored in accordance with relevant AS and requirements.
- The Department's assessment concludes the proposed modification is unlikely to cause any additional water quality impacts, subject to the implementation of the approved surface water management plan, ongoing maintenance of the stormwater management system and the appropriate handling and storage of diesel, in accordance with the requirements of the consent.

Hazard and Risk

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| <ul style="list-style-type: none"> • The increase in diesel generator capacity and diesel storage volumes at the site and the additional diesel generators at the site have the potential to increase the hazard risk as diesel is a combustible liquid. • The Applicant carried out a review of the Final Hazard Analysis (FHA) and Fire Safety Study (FSS) prepared for the original DA and determined the proposed modification would have no impact on the findings of these reports and there would be no increase in hazard risk. • ProTen confirmed that diesel storage volumes would remain well below the screening threshold of 100,000 L and would be stored in appropriately secured, sealed and bunded facilities away from any flammable materials. ProTen also reiterated its commitment to install fire hydrants prior to commencing Farm 2 operations. • The Applicant's assessment concluded the proposed modification does not warrant any additional controls to manage hazard risk as the Operational Environmental Management Plan and Emergency Plan required by the existing conditions of consent will ensure all operational hazard and risk management and mitigation measures are appropriately documented and implemented for the life of the development. • The Department notes the modifications proposed do not increase the cumulative hazards of the existing facility. As such, the modification is not 'potentially hazardous' and the modification does not require a Preliminary Hazard Analysis (PHA). • The Department agrees with the findings of the Applicant's review and is satisfied the scope of the modification would not affect the findings of the FSS or FHA. No additional conditions are considered necessary as existing conditions are considered appropriate to mitigate and manage any potential hazardous incidents or fire risks on the site. • Within three months of the determination of this modification, condition C8 of the consent requires ProTen to review and update all strategies, plans and programs required under the consent, which will include the Emergency Plan for the development. • The Department's assessment concludes the modification will not increase the risk of a hazardous incident on the site or the risk of off-site impacts. | <p>No additional conditions are required</p> |
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Greenhouse Gas Emissions

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| <ul style="list-style-type: none"> • The use of diesel generators as the primary operational power supply may generate additional greenhouse gas (GHG) emissions than would have been generated by the approved grid-based electricity supply. • The Applicant's GHG assessment identified the combustion of diesel fuel as a Scope 1 GHG emission source. Scope 2 emissions include the consumption of grid-based electricity to power the farm. Scope 3 indirect emissions were not considered in the assessment as the primary focus was on the change in emissions associated with the alternate operational power solutions. | <p>No additional conditions are required</p> |
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Assessment

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- The Applicant's assessment found the modification would generate 692 tonnes carbon dioxide equivalent (CO_{2-e}), of GHG emissions as compared to the approved grid supply, which would generate 459 tonnes CO_{2-e}. This equates to approximately 51% more GHG emissions for the 12 month period during which the diesel generators are used as the primary operational supply.
- The Department notes the NSW EPA State of the Environment report states that in 2018-19, NSW recorded net GHG emissions of 136.6 million tonnes CO_{2-e}. therefore, in respect of State GHG emissions, the proposed development's contribution to GHG emissions is extremely minor.
- The 51% increase in emissions from the approved development would only be for a limited period of 12 months, beyond which time it is anticipated project GHG emissions would be significantly less with the commissioning of the off-grid solar/battery solution.
- The Department is satisfied no additional conditions are required to manage GHG emissions. The Department's assessment concludes GHG impacts from the modification would be negligible.

Reporting and Auditing

- Conditions C11 to C13 require compliance reporting to be undertaken in accordance with the Compliance Reporting Post Approval Requirements (2018). Similarly, conditions C14, C15 and C16 require independent auditing requirements to be undertaken in accordance with the Independent Audit Post Approval Requirements (2018).
 - However, the Department notes that on 10 January 2022, the Planning Secretary agreed that as the 2018 guidance had since been superseded by an updated 2020 version of these documents, the independent auditing and compliance reporting requirements for the development may be carried out in accordance with the Department's 2020 requirements.
 - The 2020 Compliance Reporting guidance requires a report to be submitted by the Applicant at intervals no greater than 52 weeks from the commencement of operation.
 - The Independent Audit Post Approval Requirements (May 2020) require the Applicant to carry out independent auditing as follows:
 - within 12 weeks of the commencement of construction and then at intervals at no greater than 26 weeks
 - within 26 weeks of the commencement of operation and then at intervals no greater than three years, or as otherwise agreed by the Planning Secretary.
 - In the circumstances where both construction and operation phases are being carried out at the same time, and operation is commenced in sub-stages, only one initial independent audit is required for the commencement of construction and another at the commencement of the first sub-stage of operation.
 - As construction already commenced in August 2021, and the construction auditing requirements only applied to the development from January 2022
- Require the Applicant to:
- carry out the compliance reporting requirements in accordance with the 'Compliance Reporting Post Approval Requirements' (May 2020)
 - carry out the independent auditing requirements in accordance with the 'Independent Audit Post Approval Requirements' (May 2020)

Assessment**Recommendations**

(when the Planning Secretary agreed to rely on the 2020 guidance), it is understood the Applicant is liaising with the Department's Compliance Team regarding their obligations for ongoing construction auditing requirements.

- To clarify the compliance reporting and independent auditing requirements it is recommended that conditions C11 to C16 be deleted and replaced with new conditions that require the Applicant to carry out the compliance reporting and independent auditing requirements in accordance with the 2020 guidance, as per the Planning Secretary's direction of 10 January 2022.
- The Department's assessment concludes that the frequency of the independent auditing requirements specified in the Department's 2020 guidance is appropriate and will ensure the construction and operation of the development is carried out in accordance with the conditions of consent with minimal environmental impacts.

6 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- it will result in minimal environmental impacts beyond the approved facility
- it will allow the progressive commencement of operations at Farm 2 to enable ProTen to contribute to regional economic growth and contribute toward meeting market demand for chicken meat in NSW
- it will ensure compliance with all air emission limits in the POEO (Clean Air) Regulation
- environmental impacts of the development can be appropriately and effectively managed and mitigated through the Applicant's proposed management and mitigation measures and implementation and adherence to the existing and modified conditions of consent.

Additional conditions are required to ensure the Applicant carries out the development in accordance with the assumptions made in the air and noise assessments and to ensure ProTen implements the additional mitigation and contingency measures it has proposed to carry out the modified development. No residual impacts are anticipated.

The Department is satisfied that the modification should be approved, subject to conditions.

7 Recommendation

It is recommended that the Team Leader, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD-7704-Mod-3 falls within the scope of section 4.55(1A) of the EP&A Act
- **forms the opinion** under section 7.17(2)(c) of the *Biodiversity Conservation Act 2016* that a BDAR is not required to be submitted with this application as the application will not increase the impact on biodiversity values on the site
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent SSD-7704
- **signs** the attached approval of the modification (**Appendix B**).

Recommended by:




1 July 2022

Sally Munk
Principal Planner
Industry Assessments

8 Determination

The recommendation is **Adopted** by:

 1 July 2022
Joanna Bakopanos
Team Leader
Industry Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of Documents

The Department has relied upon the following key documents during its assessment of the proposed development:

Modification Application

- 'Rushes Creek Poultry Production Farm SSD 7704 Modification 3 Modification Report' prepared by EME Advisory dated 3 January 2022 -
<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-7704-MOD-3%2120220103T000741.545%20GMT>

Submissions Report

- 'Rushes Creek Poultry Production Farm SSD 7704 Modification 3 – Submissions Report' prepared by EME Advisory dated 23 May 2022 -
<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=RFI-35965763%2120220523T012104.505%20GMT>

Department's Assessment Reports for SSD-7704

- 'Rushes Creek Poultry Production Farm – State Significant Development Assessment (SSD-7704)' prepared by the Department of Planning, Industry and Environment dated April 2020 -
<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-7704%2120200413T234255.600%20GMT>
- 'Rushes Creek Poultry Production Farm Modification 1 – State Significant Development Modification Assessment (SSD-7704-Mod-1)' prepared by the Department of Planning, Industry and Environment dated June 2021 -
<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-7704-MOD-1%2120210615T212132.182%20GMT>
- 'Rushes Creek Poultry Production Farm Modification 2 – Correction to Condition B53(a) – Vegetation Screens State Significant Development Modification Assessment (SSD-7704-Mod-2)' dated September 2021 -
<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-7704-MOD-2%2120210902T235256.172%20GMT>

Development Consent for SSD-7704

- <https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-7704%2120200416T072718.569%20GMT>

Consolidated Consent for SSD-7704

- <https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-7704-MOD-2%2120210902T235256.822%20GMT>

Appendix B – Notice of Modification

See attached modification instrument

Appendix C – Consolidated Consent

See attached consolidated consent