



Planning

ASSESSMENT REPORT

Section 96(1A) Modification Amendments to Baiada's Poultry Processing Facility Development Consent

1. BACKGROUND

Baiada Poultry Pty Ltd (Baiada) operates a chicken processing facility at Oakburn, on the Oxley Highway, opposite Tamworth Airport, in the Tamworth Local Government Area (see Figure 1 and Figure 2).



Figure 1 – Baiada's existing Chicken Processing Facilities

The facility was approved in February 1998 by the then Minister for Planning and included:

- a protein recovery plant;
- processed products plant;
- deboning plant; and
- a processing plant with the capacity to process up to 750,000 birds per week.

Baiada proposed to develop the project in stages and to date, only the protein recovery plant has been built (see Figure 2).

In February 2009, the development consent was modified to increase the processing capacity of the unbuilt processing plant from 750,000 to 1 million birds per week. The increased capacity would be achieved through minor site layout changes and improvements to operational procedures and technologies.

development simultaneously. However, the Department does not agree, as Baiada can build or commence any stage of their project at any time, thus their concerns are not founded.

On 23 November 2009, the Applicant submitted an application to the Department, seeking to modify the Minister's approval under section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. PROPOSED MODIFICATION

The modification application from Baiada is seeking to modify the development consent to:

1. delete existing condition 4 from the development consent which states that the approval of the remaining components of the proposal (referred to as Stage 2) would lapse if Stage 2 is not commenced within 5 years of 'DA 53/97 Mod 3'; and
2. amend the definition which refers to the remaining components to be built as Stage 2 by defining all three remaining components individually (ie Stage 2 ~ Processed Products Plant, Stage 3 ~ Deboning Plant and Stage 4 ~ Processing Plant).

The Department has discussed the modification application with Baiada and has agreed to amend the development consent to remove condition 4, however the Department does not believe that the amendment to the definitions is required. Baiada agrees with this position.

3. STATUTORY CONTEXT

Consent Authority

The Minister was the consent authority for the original development application, and is consequently the consent authority for this application. On 4 March 2009, the Minister delegated her powers and functions as an approved authority to modify certain consents under s96(1A) of the EP&A Act to the Director. This modification meets the terms of this delegation. Therefore, the Director may determine this application under delegated authority.

Section 96

Under Section 96(1A) of the EP&A Act, a consent authority may modify a development consent if it is satisfied that:

- a) *the proposed modification is of minimal environmental impact, and*
- b) *the development to which the consent as modified relates is substantially the same development for which consent was originally granted and before that consent as originally granted was modified (if at all).*

The Department has assessed the application, and is satisfied that the proposed modification is substantially the same development. The overall size and function of the poultry processing plant would remain unchanged and the modification relates to removing an unlawful condition.

4. CONSULTATION

Due to the minor changes proposed, the Department did not refer the application to any other government agencies.

5. CONSIDERATION

The Department considers that there are no merit issues to consider for this modification application.

6. CONCLUSION

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;
- 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 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(1A) of the EP&A Act; and
- sign the attached notice of modification.

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