

Submission
No 110

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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Environment and Natural Resources Planning Project Management Engineering Surveying

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Our Ref: **MHC:2009 Poultry**
Your Ref: **TBA**

The Hon Tony Catanzariti
STANDING COMMITTEE ON STATE DEVELOPMENT
NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Sir,

**RE: POULTRY MEAT INDUSTRY – PROBLEMS WITH THE
PLANNING PROCESS IN DEVELOPING NEW POULTRY
FARMS IN NSW**

1. INTRODUCTION

The poultry industry, as for many agricultural industries in NSW, is being caught out by the increasing complexities in the assessment process. Of particular concern for the NSW poultry industry is the flight of new poultry farm development from NSW to the pro-development states of South Australia and Victoria. Many processors who established and grew their farms in NSW find the development and cost to develop new farms prohibitive and are actively looking to change their centre of operations away from NSW.

2. TAMWORTH AND THE POULTRY INDUSTRY

The Tamworth area is well known as a poultry cluster. Up until recently, Tamworth was a well known egg producing area. With de-regulation and the requirement to upgrade to larger cage sizes, the egg industry has diminished, such there are now only a few producers remaining in the area.

In contrast, the broiler meat industry has grown from small beginnings, such that it presently employs some 685 employees. This includes on-farm, chicken hatcheries, processing plant, feed mill and rendering plant workers. Businesses supporting this industry include transport companies, trades people (electricians, plumbers, etc.), feed suppliers, etc.

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By way of background, we are a firm of surveyors and environmental scientists based in Tamworth, Northern NSW. Over the years, our firm has been engaged by growers contracted to the processor (in this instance Baiada) to prepare necessary documentation and reports for planning approvals for new poultry farms and for extension of existing facilities. The writer has been preparing planning and engineering reports since 1998. We are typically requested to provide development consultancy advice for: site selection, planning and environmental compliance, preparation of environmental impact assessment documentation, representations and community liaison, earthworks design, and construction supervision.

More recently, we have noticed the increased complexity in gaining these approvals. This relates to the thresholds stated in Schedule 3 of *Environmental Planning and Assessment Regulation 2000* and the increasing assessment criteria in assessment guidelines (e.g. DECC's *Assessment and Management of Odour from Stationary Sources*).

3. PLANNING & ENVIRONMENTAL LEGISLATION AND PLANNING CONTROLS

Though a poultry development is considered by many to be an agricultural activity, according to existing NSW planning legislation, a conventional poultry operation is considered an *intensive agricultural* activity. If the proposed number of birds exceeds 250,000, the development is classified a *designated development* by virtue of Schedule 3 of the *Environmental Planning and Development Regulations 2000* and the development application must be prepared in accordance with the requirements of the Director General of the NSW Department of Planning. A farm with this number of birds is typically a five (5) shed farm operation at a stocking rate of 50,000 per shed.

At present, economies of scale suggest the preferred farm be comprised of eight (8) sheds. Adopting the new industry stocking rate standard of 56,000 birds per shed, the total farm bird numbers is 450,000 birds.

The same threshold holds for poultry farms under Schedule 1 of the *Protection of the Environment Operations Act 1997* (PEOA). This section of the Act requires the farm developer to obtain a pollution licence authorising poultry farming to be carried out at the farm premises. The pollution threshold criteria are provided by the NSW Department of Environment and Climate Change's Environmental Protection Authority (DECC-EPA). The DECC-EPA letter accompanies the NSW Department of Planning Director-General's site specific requirements for the Environmental Impact Assessment of the development.

Typically, other legislation, planning instruments and local government policies we need to consider are:-

- Native Vegetation Act 2003
- Water Management Act 2000

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- SEPP *Infrastructure* – for traffic generating developments
- SEPP No.33 *Hazardous and Offensive Development* – sometimes required for LPG storage
- SEPP No.44 *Koala Habitat*
- SEPP No.55 *Remediation of Land*
- Local Environmental Plans – e.g. Tamworth Regional Council's Parry LEP1987 and Parry draft LEP2004
- Development Control Plans – e.g. Tamworth Regional Council's Parry DCP 6 *Poultry Developments*

In addition, we may also be required to address the particular concerns of the following agencies:-

- Local government authority e.g. Tamworth Regional Council
- Roads and Traffic Authority
- NSW Department of Environment and Climate Change – National Parks and Wildlife Service
- NSW Department of Primary Industries
- NSW Department of Water and Energy
- Hunter New England Public Health Unit
- Namoi Catchment Management Authority

4. ENVIRONMENTAL ASSESSMENT DOCUMENTATION – THE MATTERS TO BE CONSIDERED

Environmental assessment can be thought of as follows: (a) a description of the site; (b) a description of the proposed development; (c) a description of the identified impacts of the development on the site as well as the immediate environment; and (d) a description of the measures proposed to mitigate the identified impacts. Whilst this is very simplistic, for the novice it provides a fairly basic description of the process used to prepare environmental impact assessments.

Typically, a development application and environmental impact assessment for a proposed poultry farm will be required to address the following matters:-

- (a) Farm development characteristics
 - Site suitability and separation distances
 - Shed operation
 - Bird production information
 - Animal welfare information

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- Biosecurity management
 - Exotic disease protocols and SOPs
 - Chemical usage and storage
 - Shed litter use and disposal
 - Manager's residence
 - Internal road layout
 - Chicken catching and loading procedure
 - Hours of operation
 - Staff amenities
 - Neighbouring residences
- (b) Air quality
- Odour
 - Dust
 - Noise
 - Lighting Impact
- (c) Traffic
- Peak traffic
 - Site access
 - Internal road pattern
- (d) Flora and Fauna
- (e) Site Contamination
- (f) Heritage
- Aboriginal
 - European
- (g) Water
- Groundwater
 - Surface water
 - Flooding
 - Farm runoff water quality management
- (h) On-site wastewater management
- (i) Socio-economic
- Employment
 - Construction
 - Operation
 - Contractors
 - Haulage
 - Bird catchers
 - Service providers i.e. electrical, water, etc.
 - Feed
- (j) Amenity
- Public health
 - Aesthetics
 - Shed design

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- (k) Agricultural issues
 - Land use conflict i.e. herbicide spray drift
- (l) Utilities
 - Power supply
 - Telephone
 - Gas supply for shed heating
- (m) Public Consultation

This list is not conclusive.

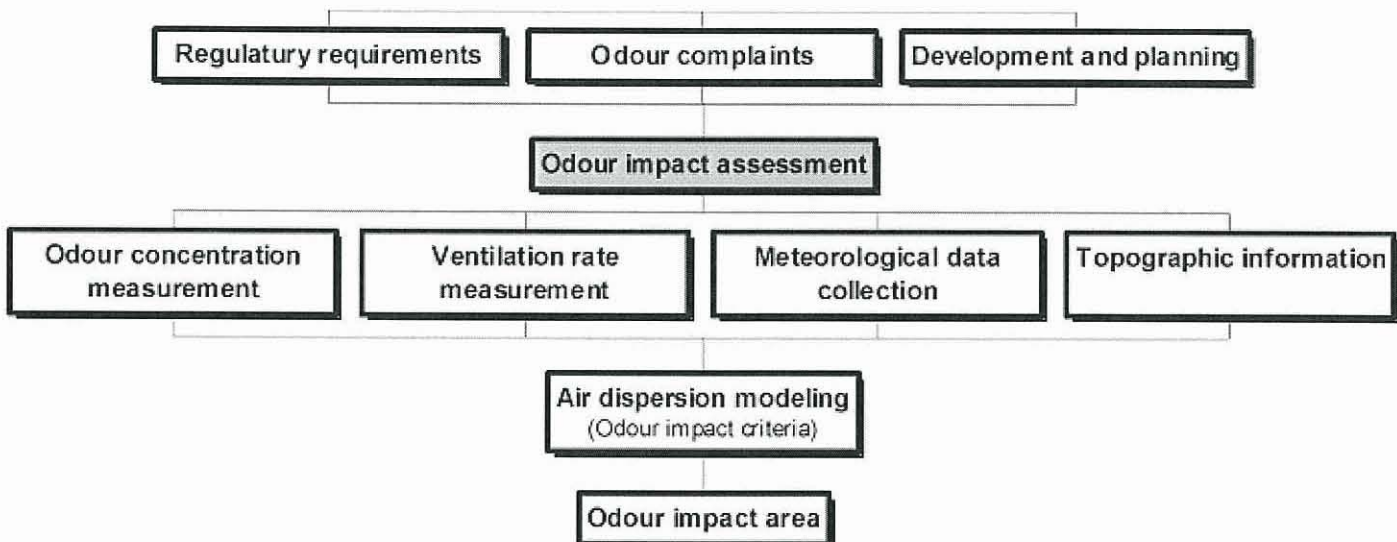
5. SPECIFIC ASSESSMENT MATTERS

a) Introduction

The following sections address the major log-jam we have encountered in obtaining development consent.

b) Odour assessment

The following flow chart depicts the odour assessment process.



Odour assessment is controlled by the DECC document *Assessment and management of odour from stationary sources in NSW 2006*. The document specifies three (3) levels of assessment. Generally, odour from poultry farms is estimated using Level 3 modelling criteria.

The guidelines detail threshold criteria for odour and dust at receptors based on population

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density. In rural areas, the odour concentration threshold is 7 odour units (OUs). Recently, we were advised that this value was not applicable and new criteria had been developed. We were further advised that guideline *Assessment and management of odour from stationary sources in NSW 2006* had not been amended and the new criteria can be found as a practice note on the DECC website. The delay and requirement to redo the modelling was costly to our client.

For a Level 3 assessment, an atmospheric dispersal model is used to simulate atmospheric conditions and behaviour. The guidelines refer to atmospheric modelling software called AUSPLUME. CALPUFF however seems to be the preferred model as it allows for modelling for the effects of terrain on dispersment. Emission concentration and ventilation rates have been determined by the industry. However, there appears to be two (2) separate sets of emission data which is being accepted by DECC in odour modelling.

Because of the technical nature of the assessment process, the assessment of odour and dust is undertaken by specialist consultancies. If the development is not designated, the local Council is the consent authority. Many Councils lack the expertise to review these reports adequately. In the past, the Air Quality Branch of DECC has been called upon to provide independent review advice to Councils. This practice appears to have diminished and Councils are accepting the reports.

The Air Quality Branch of DECC usually undertakes the assessment for designated development projects. Recently, with the reduction in available staff, DECC engaged a consultant to review the consultant's air quality report. The result was less than adequate due to miscommunication and misunderstanding by the reviewer of the FORTRAN script files used by the consultant. The result was an odour level approximately twice the accepted norm. Furthermore, the Armidale DECC officers lacked sufficient training and/or experience of air dispersion modelling to be providing technical advice to the small number of highly qualified air quality consultants.

Summing up, the odour and dust assessment criteria used for poultry farm assessment has been developed for industrial premises. Its use for poultry farm assessment is a continuation of the NSW-centred view that intensive agriculture is an industrial activity.

Opposition to poultry farm development is predominately centred on odour. Its assessment is critiqued by the public as evidenced by the numerous submissions received by consent authorities during the public exhibition period. The public have a view that poultry farms should be odour free. The public also question the science adopted for the assessments. The reality is that poultry farms generate odour and dust. The expectation of an odour-free facility usually means community meetings end in hostility. It is impossible to meet these expectations without the added expense of installing expensive air-scrubbing technology such as bag-house filters, medium filters, or wet-scrubbers.

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c) Public Exhibition and Third-Party Right of Appeal

Once all technical data has been submitted, progression of the development application appears to slow whilst public consultation is undertaken. For designated development, the DA is advertised and all-comers are allowed to make a submission. Some submissions are from lobby groups unrelated to the locality of the proposed farm. Under the *Environmental Planning and Assessment Act 1979* (EPAA1979), all those who have lodged a submission have third-party right of appeal to the Land and Environment Court to appeal the consent. Much time and money is expended whilst the farmer seeks legal advice, reviews the claim, prepares his defence and undergoes Court hearings.

d) Ongoing Environmental Compliance

Pollution licenses issued by the EPA under the *Protection of the Environment Operations Act* have a high compliance cost. This applies to premises which trigger the thresholds in Schedule 1 of the *Protection of the Environment Operations Act 1997* i.e. 250,000 birds for a poultry operation.

This principal has recently been adopted by Councils for developments which do not meet this threshold. We recently had the experience where an approved poultry farm expansion development required an environmental assessment of odour emission 12 months after commencement of operations. Total bird numbers at the farm at any one time are less than 250,000. This is an added, unexpected cost the farm owner did not expect and the farm does not have sufficient scale to justify the cost of the assessment. Appealing this aspect of the consent is not a consideration as the majority of our clients do not have the resources to appeal to the Land and Environment Court.

6. NSW POULTRY MEAT INDUSTRY COMMITTEE

The NSW Poultry Meat Industry Committee (PMIC) is aware of these difficulties. It recently, initiated a study called the *Economic Worth of the NSW Chicken Meat Industry* which, as the title suggests, studied the economic benefit of the industry to NSW. It also highlighted the NSW planning framework as a constraint to the future growth of the industry. Specifically, it highlighted the following:

- Lack of government support;
- Restrictions in the growth of chicken meat farms;
- Environmental constraints;
- Attracting a workforce due to limitations of labour pool;
- Cost of development;
- Cost to employ staff engaged in the monitoring and compliance of government regulations; and
- Increasing difficulty in complying with government requirements whilst simultaneously being a responsible corporate citizen taking care of immediate neighbours.

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One of the report's recommendations is that the Development Application process should be simplified to reduce its complexity and cost.

A request has been made to the PMIC for a copy of this document to be submitted to the Standing Committee.

7. RECOMMENDATION

a) Amend Legislation

It is recommended – at the very least – that the 250,000 bird threshold in Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* (EPAR2000) and Schedule 1 of the *Protection of the Environment Operations Act 1997* be amended to read 450,000 birds. At a stocking density of 56,000 birds per shed, this would allow for eight (8) shed farms being assessed by the local Council without the need to unnecessarily confer with other government bodies.

The question that should be asked is: *Why is the poultry industry considered an industry when it is obviously an agricultural activity?* The actual physical effects on the environment are relatively negligible when compared to cattle-feedlots which have a high solid waste component.

Taking this argument further, *why should the assessment of agricultural developments be controlled by the Department of Planning and/or local Councils?* The writer is of the opinion these bodies lack of expertise and the consequential need to supply information to compensate for this lack of knowledge is having a detrimental effect on the financial resources of the farmer and the time taken to finalise the assessment. Similarly, it could be said that all of the agricultural industries listed in Schedule 3 – aquaculture, feedlots, piggeries and poultry - should all be removed from this regulation and be assessed by the Department of Primary Industries – Agriculture.

b) Prepare a Intensive Poultry Manual

Despite any change to the EPAR2000 Schedule 3 threshold, many Councils will still require an air quality impact assessment be submitted as part of the environmental assessment. To prevent this from eventuating, it is suggested the Department of Primary Industries – agriculture and industry jointly prepare a *Poultry Manual* which, amongst other things, would address the odour issue and either eliminate or minimise the need for expensive odour modelling. The EPA Odour guidelines would require amendment to reflect this new document and could specifically state that poultry farms be assessed under the *Poultry Manual*.

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8. CONCLUSION

It appears the main reason why Councils and DECC are restrictive in the assessment of poultry farm developments is the public antipathy to their existence. Yet Australia is a high per capita consumer of chicken meat hence the need for more farm development. What is particularly frustrating is standing in front of a full community hall at public consultation meetings and being accused of “wrecking the community”. There are tangible benefits from these developments as they bring employment and wealth to many small rural communities: these farms consume local feed and grain product; poultry farmers are an employer of low-skilled workers; workers often live in the rural villages, send their children to the small rural public schools and become active in their community.

Having prepared planning documentation for some 10 years, we are concerned with the increased compliance criteria imposed on new poultry farm development. By way of example, a client seeking development approval was finally granted consent in late 2008 for a 12 shed poultry farm at Somerton near Tamworth. The cost of the preparation of the EIS document was in excess of \$200,000. Whilst this may not appear to be a significant cost for say a commercial or industrial development, for a low margin agricultural producer such as a poultry farmer, this is in fact a significant cost. As banks will generally not finance development applications, only the actual development and the land on which it is located, the DAs are financed from their own funds. Based on recent difficulties, it is our view developers of poultry farms will shy away from undertaking poultry farm developments in NSW and either rundown their properties until retirement or expand their operations to South Australia or Victoria.

We wish to thank the Standing Committee for the opportunity to make this submission. As a result of your report, we trust in time NSW planning and environmental legislation as well as policy is amended to bring NSW inline with the other states of the Commonwealth.

Yours faithfully,



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