NOTICE is hereby given that a MEETING of the DEVELOPMENT ASSESSMENT PANEL will be held on FRIDAY 21st APRIL, 2017, at 10:00 AM in the Mobiling Suite, Local Government Centre, 2 Seventh Street, Murray Bridge.

Michael Sedgman
CHIEF EXECUTIVE OFFICER.

11/04/2017

AGENDA for the DEVELOPMENT ASSESSMENT PANEL
21st April, 2017

SITE INSPECTION
A site inspection will be conducted prior to the meeting.
AGENDA

1. APOLOGIES

2. CONFIRMATION OF MINUTES
   Recommendation:
   That the minutes of the Meeting of Development Assessment Panel held on the 17 March, 2017 as circulated to Members, be taken as read.

3. PRESIDING MEMBER’S REPORT

4. BUSINESS ARISING FROM PREVIOUS MINUTES

5. CONFLICT OF INTEREST DECLARATIONS

6. DEVELOPMENT ASSESSMENT MATTERS

6.1 415/426/2016 - GORDON BAROLO

Lot 100 Schenscher Road
Expansion to existing chicken broiler farm comprising:
- 3 chicken grow out sheds (168 metres x 16.5 metres);
- 3 feed silos;
- 2 ML stormwater dam with irrigation pumps;
- 2 gas tanks;
- associated site works, rainwater tanks and alterations and extension to internal access road;

To be constructed in 2 stages as follows:

**Stage 1:**
2 chicken grow out sheds (sheds 7 & 8), site works, stormwater dam with irrigation pump, rainwater tanks, 3 feed silos, 2 gas tanks, alterations to internal access road

**Stage 2:**
Shed 6 and associated site works

Applicant: Gordon Barolo

Representors: Ms Catherine Bunney (requested to speak)  
Mr Barry Wilson (requested to speak)  
Mrs Laurice Braithwaite (does not request to speak)
6.2 415/C016/2005 & 415/C017/2005 - ANDREW DAVIDSON PROPERTY
DEVELOPMENT CONSULTANTS

Lot 45 Ovens Ave, Murray Bridge
Extension of Time Request

Applicant: Andrew Davidson Property Development Consultants

7. EXECUTIVE OFFICERS REPORT

7.1 DEVELOPMENT ASSESSMENT PANEL ANNUAL REPORT - 2016

8. CORRESPONDENCE

9. FUTURE APPLICATIONS

10. GENERAL BUSINESS

11. NEXT MEETING
The next meeting of the Development Assessment Panel is to be held on FRIDAY 19
MAY, 2017, in the MOBILONG SUITE, LOCAL GOVERNMENT CENTRE, 2 SEVENTH STREET,
MURRAY BRIDGE
1. Background

The subject land is home to an existing chicken grow-out facility which operates under a performance contract with Ingham’s Enterprises. The performance contract involves ongoing inspections and compliance benchmarks with Ingham’s as well as Bio-security SA, Food SA and the RSPCA in addition to random compliance checks from clients such as Woolworths, KFC and McDonald’s.

The existing facility was established on the land in 1996 and initially comprised 4 broiler sheds. In 2000, consent was granted for the expansion to the farm which included an additional 6 poultry sheds, a caretaker’s residence, stormwater retention ponds and landscaping. This 6 shed expansion allowed for the farm to house 42,000 birds in each shed - a total farm capacity of 420,000 in all 10 sheds at any one time.

The existing 10 shed operation currently produces in excess of 2.3 million birds per year over 5-6 batches. This number is significantly less than operations in 2009 due to changes in farm operations and maximum stocking rates and bird weights. Stocking rates have been reduced from 20 birds per square metre to 17.3 birds per square metre, which in turn has reduced the production capacity of the farm however this keeps the farm compliant with the performance contract with Ingham’s. Bird weights have also reduced over this time which has reduced production capacity further despite the bird numbers. With these stocking rates and smaller birds, each of the existing sheds at the farm is currently capable of holding 39,942 birds which is cumulatively much less than the approved production capacity.

This proposal seeks to establish an additional 3 grow-out sheds to increase production capacity by some 16%. This increase in production will enable the operations to achieve the requirements of their
performance contract with Ingham’s and meet the growing demand. The applicant has recently undertaken a boundary realignment to increase the size of the farm parcel of land and thus facilitate the proposed development. The approved plan has been deposited with the Land Titles Office and is currently being processed.

2. Detailed Description Proposal
The applicant seeks Development Plan Consent for the expansion of the existing intensive animal keeping operation proposing the construction of an additional 3 chicken grow out sheds and ancillary infrastructure. Each of the proposed sheds is capable of holding 46,502 birds resulting in a total of 139,507 birds across all three sheds. This will result in a total farm production of 538,929 birds per cycle which is an increase of 76,929 birds above previous approved bird numbers. With 5 – 6 cycles per year, the farm will be capable of producing in excess over 3.2 million birds each year.

The proposal involves the following building work:
- 3 chicken grow out sheds (168 metres x 16.5 metres);
- 3 feed silos;
- 2 ML stormwater dam with irrigation pumps;
- 2 gas tanks;
- associated site works, rainwater tanks and alterations and extension to internal access road;

The works will be developed in 2 stages as follows:

Stage 1:
- 2 chicken grow out sheds (sheds 7 & 8), site works, stormwater dam with irrigation pump, rainwater tanks, 3 feed silos, 2 gas tanks, alterations to internal access road.

Stage 2:
- Shed 6 and associated site works.

The operations and design of the farm expansion will generally replicate that of the existing farm. Specifically, the development includes the following elements:

- The proposed broiler sheds measure 168 metres in length and 16.5 metres in width which is slightly larger than the existing sheds which are 152 metres long and 15.5 metres wide;
- The proposed sheds will be grouped with the existing northern group of sheds;
- The sheds will comprise colorbond or similar white cladding to the walls and insulated zincalume cladding to the roof to match the existing broiler sheds;
- Each proposed shed is fitted with feed and water lines along with a ventilation system comprising 18 ventilation fans per shed;
- An existing strip of planted vegetation will be removed and reinstated in a new position to provide a similar screening strip to the north;
- The sheds will generally operate on a 24 / 7 basis in the same manner as the adjoining 5 sheds at the site; and
- The number of batch cycles is not proposed to increase.

A copy of the application documents and plans are included as Attachment 1.

3. Site and Locality

3.1 Description of Subject Land
The existing farm is established primarily on allotment 136 in Filed Plan 166951, Certificate of Title 5905/757. Parts of the farm spill over onto the adjoining allotment to the north being lot 11 in Deposited Plan 49086, Certificate of Title 5535/11. The site of the proposed development is contained wholly on lot 11 however the development involves land and road connectivity over allotment 136.

The land is sited some 12km from the eastern edge of the Murray Bridge Township and directly adjacent the edge of the Monarto Township. The two parcels are irregular in their shape with a combined area of approximately 194ha noting that this will increase to approximately 206ha once the boundary realignment has been processed through the Land Titles Office.
Lot 136 has a 2184 metre frontage width to Old Princes Highway and a frontage in excess of 550 metres (in two parts) to Schenscher Road. Lot 11 sits directly north of lot 136 and has 468 metre frontage to Schenscher Road along the eastern boundary. No access points to either parcel currently exist from Schenscher Road.

The topography of the land is gently undulating and a large tract of native vegetation is sited centrally and spans the east west length of the land. This vegetation separates the two groups of broiler sheds on the farm. The land is adequately serviced with necessary infrastructure such as water and power and lot 136 contains several service easements.

The subject land contains 10 chicken broiler sheds grouped in two groups of 5 sheds. The southern group of sheds is sited over 200 metres from the southern boundary and some 400 metres from the western side boundary. The other group of sheds is sited north east of the first group and is screened on the northern elevation by a planted vegetation screen. The northern parts of the land are currently cropped and used for sheep and cattle grazing at times.

Both groups of sheds are similar in design and layout comprising a compacted gravel road around the sheds, stormwater detention dams and ancillary infrastructure. A manager’s residence and a number of outbuildings are sited east of the two groups of sheds.

The farms are serviced by a basic network of internal gravel roadways with an access point to Old Princes Highway sited at the south western corner of the land. This access serves as the farm ingress and egress point. A second access point is sited more centrally off Old Princes Highway and services the manager’s residence.

3.2 Description of Locality
The gently undulating locality surrounding the subject land consists of a range of land uses. Old Princes Highway serves as the interface between the Primary Production Zone and the Urban Employment Zone, which covers the Monarto Township. Monarto incorporates a mix of land uses including residential, manufacturing and industry (Australian Portable Camps), processing and packing facilities, intensive animal keeping (Ingham’s hatchery) and transport distribution (Big W).

The Monarto locality also includes some small primary production allotments which contain activities such as horse keeping and cropping and grazing. This is generally consistent with other parts of the locality to the north and west of the subject land with allotment sizes ranging from half a hectare up to 80 hectares or greater. The eastern areas of the locality largely comprise the Monarto Zoo which is separated by a band of allotments on the eastern side of Schenscher Road. The locality is dispersed with large areas of intact native vegetation and a water course sited just north of the subject land.

Figure 1 below identifies the subject land and locality. Figure 2 identifies the subject land with respect to surrounding zones.
4. **Zone and Application Type**
The subject land is situated in the Primary Production Zone, Central Policy Area 3. Within this zone, intensive animal keeping is a non-complying development unless one of four possible exemptions is satisfied. The exemption relevant to this proposal is exemption (b) which states:

“(b) if it involves the alteration, extension or redevelopment of existing development.”

As the proposal involves the extension of an existing intensive animal keeping operation, exemption (b) is achieved and as such, the application is to be considered on merit.

5. **Summary of Representations and Applicant’s Response**
In accordance with Section 38 (2) (c) of the Development Act 1993, the proposal is not designated as a form of category one or two development within the Development Plan or the Development Regulations 2008. As such, the development application is assigned category 3 for the purpose of public notification.

The application underwent public notification from the 24th November 2016 until the 8th December 2016 during which time 3 representations were received. A copy of the representations and the applicant’s response to the representations is contained in Attachment 2 and summarised below.

<table>
<thead>
<tr>
<th>Representor</th>
<th>Nature of Interest</th>
<th>Key Comments</th>
</tr>
</thead>
</table>
| Mr Barry Wilson (wishes to be heard) | Owner and resident of adjoining land    | • The existing farm operations are non-compliant with the conditions of the previous approval for the existing sheds  
• Council has not enforced the conditions of the previous consent so expansion shouldn’t be able to occur.  
• Unforeseen circumstances from previous planning conditions including litter on the road.  
• If approval granted, no progress should occur on the new sheds until the conditions of the existing approval are met i.e. tree planting,  
• There is no ongoing maintenance of tree plating  
• With extra trucks, entrance driveway to be shifted to entrance to APC.  
• There are no drawings of the caretaker’s residence |
| Ms Catherine Bunney (wishes to be heard) | Owner and resident of property in the vicinity | • The application should be denied  
• I wish to be heard to make sure my concerns are heard and understood |
| Mrs Laurice Braithwaite              | Resident of land in the vicinity         | • I was not informed in writing of the proposal prior to the public notice in the Standard.  
• I have doubts about the compliance of the existing structures and functionality and would appreciate Council’s assurance of this before any decision on the new application.  
• The smells and odours from the existing farm can be inhaled from our property on a regular basis which is a factor of concern to any potential buyers.  
• The Monarto Masterplan includes a range of assertions about the area which I believe the Council need to consider when making a decision on this matter |

The applicant’s response to the representations is briefly summarised in table 2 below.
<table>
<thead>
<tr>
<th>Representer</th>
<th>Applicant’s Response</th>
</tr>
</thead>
</table>
| Mr Barry Wilson        | • The proposal fully complies with boundary setbacks and separation distances of the development plan.  
• We do not accept the assertion that there is already non-compliance with the existing consent.  
• Litter from contractors will be discussed directly with Ingham’s for immediate correction.  
• The tree planting required by the previous consent has been undertaken.  
• Truck arrivals comply with the agreed hours except where they have been a break down at the feed mill and feed is required on site for animal welfare reasons.  
• As a result of changes to farm operations and bird sizes, the number of truck movements will be about the same as they were 12 months ago.  
• Litter removal trucks will increase slightly over the year and will turn away from Mr Wilson’s residence.  
• Once the new feed mill is established, feed supply trucks will increase slightly but will also turn away from Mr Wilson’s property taking the shortest route to the South Eastern Freeway. There might be a slight increase in trucks during the construction phase.  
• The zone is set up for primary production and farming activities must be allowed to operate. We run an environmentally friendly farm and provide employment opportunities in the wider community and economic boost in the region. |
| Ms Catherine Bunney    | • The separation distance from the farm to Ms Bunney’s property is above the 500m required by the development plan and the 920m required by the EPA.  
• Odour at the farm has reduced over the last 10 years due to improved operational practices and even with the new sheds will still remain less than previous levels.  
• There have been no complaints from neighbours against the farm in recent years.  
• The farm has recorded excellent results from auditors over the last 4 years which is largely the reason for a reduction in odour levels.  
• The zone is set up for Primary Production and farming activities must be allowed to operate.  
• We run an environmentally friendly farm and create a considerable number of jobs in the region. |
| Mrs Laurice Braithwaite| • No specific items of non-compliance have been identified.  
• The separation distance is well above the 500metres required by the development plan. The separation is also much greater than the minimum required by the EPA.  
• Continuous operational improvements over the last 10 years have seen odour levels close to the sheds markedly reduced. Even with increased bird numbers, odour levels will remain less than that of 4 years ago.  
• No complaints have been made in recent years.  
• We received excellent results from the RSPCA and Ingham’s auditors over the last 4 years. The high performance standards have reduced odour emissions and the farm expansion will operate in the same conditions.  
• Even on those days considered to be potentially the worst conditions at the farm, odour cannot be significantly detected beyond 200 metres from the sheds.  
• As a result of changes to farm operations and bird sizes, the number of truck movements will be about the same as they were 12 months ago.  
• Litter removal trucks will increase slightly over the year and will turn to the east.  
• The new zoning of the land in Monarto took into account the presence of this farm evident in the bio-security exclusions zone in favour of the farm.  
• The comments about the Monarto Masterplan relate to the recent zone changes in Monarto. |
6. **Internal and Agency Referrals**

The application was referred externally to the Environment Protection Authority as the development involved an activity of environmental significance (as listed in Schedule 21 of the Development Regulations 2008). The EPA is generally satisfied with the proposal, noting some difficulty in determining if the development complies with noise requirements. The following is an extract from the EPA advice:

<table>
<thead>
<tr>
<th>Table 3 - Extract from EPA referral response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The proposal is to expand the existing poultry farm by an additional three sheds, creating a total of eight sheds. The proposal anticipates an additional 76929 birds at the site, which represents a 16.6% increase from current operations.</td>
</tr>
<tr>
<td>As an acoustic report prepared by a suitably experienced, professional acoustic engineering consultant (as requested by the EPA) was not provided with the application, the EPA was unable to determine if the proposed development would meet the Environment Protection (Noise) Policy 2007.</td>
</tr>
<tr>
<td>The EPA considered that the potential for adverse odour, waste management and water quality impacts to be within acceptable limits provided the proposed activity is developed as proposed by the applicant and in accordance with the recommended conditions.</td>
</tr>
</tbody>
</table>

A full copy of the EPA comments and recommended conditions is included as Attachment 3.

The application was also reviewed by Council’s engineer who is generally satisfied with the proposal. A summary of the engineering advice is provided below in table 4:

<table>
<thead>
<tr>
<th>Table 4 - Summary of Internal Advice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officer</td>
</tr>
<tr>
<td>Council Engineer</td>
</tr>
</tbody>
</table>

7. **Development Assessment**

The application was lodged on the 19th October 2016 and the application fees paid on the 1st November 2016. The Rural City of Murray Bridge Development Plan Consolidated 11th August 2016 is the relevant Development Plan and the application must be assessed against the provisions contained therein.

The key considerations of this assessment relate to the appropriateness of the land use, management of the interface with sensitive receptors, stormwater, waste management and traffic management.

Whilst an assessment of the whole Development Plan has been undertaken, it is considered that the following listed provisions of the Development Plan are most relevant to the assessment of the application.

7.1 **Land Use**

**Primary Production Zone (Zone Section)**

*Obj 3* Protection of primary production from encroachment by incompatible land uses and protection of scenic qualities of rural landscapes.

*Obj 5* Development that contributes to the desired character of the zone.
Extract from Zone Desired Character statement
“This zone covers the majority of the rural area throughout the Rural City of Murray Bridge. The zone will incorporate environmentally sustainable rural activities and maintain a rural character. Development will be undertaken in a manner that minimises adverse impacts on water resources, biodiversity or the visual and scenic quality of the environment, and does not result in air and land pollution, weed infestation, vermin proliferation or the uneconomic provision of infrastructure”.

PDC 1 The following forms of development are envisaged in the zone:
- bulk handling and storage facility
- commercial forestry
- dairy farming
- farming
- horticulture
- intensive animal keeping
- tourist accommodation (including through the diversification of existing farming activities and conversion of farm buildings)
- wind farm and ancillary development
- wind monitoring mast and ancillary development.

PDC 2 Development listed as non-complying is generally inappropriate.

PDC 10 Any development likely to visually impact or create excessive odour, noise, dust or other nuisances, should be located 500 metres or more from the Monarto Zoological Park Zone.

Central Policy Area 3 (Zone Section)
OBJ 1 A policy area accommodating mixed farming including horticulture and some intensive animal keeping.

OBJ 3 Development that contributes to the desired character of the policy area.

Extract from Policy Area Desired Character statement
The most sensitive of all the Primary Production Zone policy areas, this area contains a diverse range of general farming, intensive animal keeping, mushroom farming, composting, Monarto Zoological Park and freeway activities. Protection of the existing agricultural uses within the area is important if the environmental quality and agricultural viability of the area is to be maintained.

The area is subject to strong southwest prevailing winds and due to the prevailing wind conditions and the proximity of parts of the area to the Murray Bridge and other townships, it is desirable that future intensive animal keeping operations encompass the highest standards with respect to effluent treatment and waste disposal and that generally, future development have regard to the existing primary production activities located within the area.

PDC 1 The following forms of development are envisaged in the policy area:
- farming including mixed broadacre farming
- horticulture
- intensive animal keeping.

PDC 2 Development should not be undertaken unless it is consistent with the desired character for the policy area.

Infrastructure (General Section)
PDC 1 Development should not occur without the provision of adequate utilities and services, including:
(a) electricity supply
(b) water supply
(c) drainage and stormwater systems
(d) waste disposal
(e) effluent disposal systems
(f) formed all-weather public roads
Orderly and Sustainable Development (General Section)

PDC 1 Development should not prejudice the development of a zone for its intended purpose.

PDC 2 Land outside of townships and settlements should primarily be used for primary production and conservation purposes.

PDC 3 The economic base of the region should be expanded in a sustainable manner.

PDC 9 Development should be undertaken in accordance with the following concept maps: Concept Plan Map MuBr/3 - Monarto South

The development involves the expansion of an existing intensive animal keeping operation and does not seek to alter or change the use of the land. Whilst it is noted the site of the farm will expand further into lot 11 and reduce the cropped area, with the recent alteration to the boundary, the area on the allotment to be cropped will not be significantly reduced.

The development is consistent with the objectives of the zone and policy area which specifically lists intensive animal keeping as a desired land use. This is further supported by the desired character statement for the policy area which highlights the importance of protecting existing agricultural uses in order to maintain the agricultural viability of the area. This proposal seeks to do this by way of expansion and continued operation of the existing facility. Additionally, the non-complying table of the zone provides an exemption for the alteration, extension or redevelopment of an existing intensive animal keeping facility, which further suggests that this kind of land use is important to the area and expansion should be encouraged where appropriate.

Importantly, the representations highlighted concerns with the operation and development of the existing farm and its compliance with the existing Development Approval. This matter has been carefully examined by Council staff and a review of the existing consent was undertaken. During inspection of the land, discussions with the applicant and a review of the approved plans and conditions, it has been determined that the existing farm operations are consistent with the approved land use and conditions of consent. Therefore, it is appropriate to consider this current application for expansion of the facility.

Given the development is not a new land use but rather the expansion of a well-established intensive animal keeping facility, the development is ideally suited to the zone and consistent with the above listed principles of the Development Plan. The zone is established for primary production land uses so it must be reasonably expected that an existing suitable farming activity be able to expand the operations with appropriate management provisions in place. Furthermore, the site is adequately serviced with appropriate infrastructure to support the proposed expansion.

7.2 Separation Distances

The Development Plan prescribes buffer separation distances for intensive animal keeping operations. These separation distances are directed towards protecting natural resources (such as water sources), preserving the amenity of townships and avoiding conflict between land uses. The EPA emphasises the importance of separation distances for poultry farming in managing odour, air quality and noise. The following general principles are relevant to the discussion about separation distances:

Animal Keeping (General Section)

Obj 2 Animal Keeping development sited and designed to avoid adverse effects on surrounding development.

Obj 3 Intensive animal keeping protected from encroachment by incompatible development.
PDC 1 Animal keeping and associated activities should not create adverse impacts on the environment or the amenity of the locality.

PDC 10 Intensive animal keeping operations and their associated components, including holding yards, temporary feeding areas, movement lanes and similar, should not be located on land within any of the following areas:
(a) 800 metres of a public water supply reservoir
(b) the 1-in-100 year average return interval flood event area of any watercourse
(c) 200 metres of a major watercourse (third order or higher stream)
(d) 100 metres of any other watercourse, bore or well used for domestic or stock water supplies
(e) 2000 metres of a defined and zoned township, settlement or urban area (except for land based aquaculture)
(f) 500 metres of a dwelling (except for a dwelling directly associated with the intensive animal keeping facility)
(g) 100 metres of a dwelling on the same property
(h) 500 metres of the Monarto Zoological Park Zone
(i) 1000 metres from another intensive animal keeping activity
(j) 250 metres from the front boundary or public road
(k) 300 metres from a side boundary.

Interface Between Land Uses (General Section)
OBJ 1 Development located and designed to prevent adverse impact and conflict between land uses.

PDC 2 Development should be sited and designed to minimise negative impacts on existing and potential future land uses desired in the locality.

Orderly and Sustainable Development (General Section)
OBJ 3 Development that does not jeopardise the continuance of adjoining authorised land uses.

The siting of the proposed sheds being further north of the existing sheds offers the best location for expansion due to the restrictions presented by the vegetation on the land and the location of the existing operations. The proposed sheds will be grouped with the existing sheds which is practical from an operational perspective. It also ensures that the area of the existing cropping and grazing land is not significantly reduced.

The applicant has undertaken a boundary realignment on the land to alter the existing northern and western boundaries of the site. The resulting boundary configuration will increase the size of lot 11 and subsequently allow the new sheds to achieve increased boundary setbacks. This is important to note as it provides greater ability for the farm to manage any potential impacts within the boundaries of the farm.

There are several dwellings within the locality, the nearest are located on the two allotments directly north of the subject land. These dwellings are some 840 metres from the site of the proposed sheds. Importantly, these two parcels of land are owned by the applicant and are used in association with the existing farm as managers and workers residences despite being on separate parcels. The nearest dwelling to the proposed development is further north at a distance of 952 metres.

The EPA consider separation distances using a specific formula to determine appropriate evaluation of separation distances from poultry farms to potential sensitive receivers (dwellings). These evaluation distances are calculated based on the specific circumstances of the proposal and not a blanket approach. The separation distance calculated by the EPA indicates that all dwellings (other than the two owned by the applicant) are sited equal to or outside of the calculated distance of 952 metres and thus is generally satisfied that separation distances are reasonable to manage the potential impacts of the development.

With regard to the setback distances listed in principle 10 (above), the siting of the farm expansion well exceeds the minimum setback distances from a dwelling on another site. The development also complies with the other setback distances listed in the principle. The sheds are over 500 metres from
the Monarto Zoological Park Zone, over 200 metres from water courses, and well over 500 metres from any dwellings. In this regard, the separation distance is appropriate to ensure that any impacts of the farm expansion can be effectively managed.

### 7.3 Odour & Waste Management

#### Animal Keeping (General Section)

**Obj 2** Animal keeping development sited and designed to avoid adverse effects on surrounding development.

**PDC 1** Animal keeping and associated activities should not create adverse impacts on the environment or the amenity of the locality.

**PDC 2** Storage facilities for manure, used litter and other wastes should be designed and sited:
- (a) to be vermin proof
- (b) with an impervious base
- (c) to ensure that all clean rainfall runoff is excluded from the storage area
- (d) outside the 1-in-100 year average return interval flood event area.

#### Interface Between Land Uses (General Section)

**PDC 1** Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:
- (a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants
- (b) noise
- (c) vibration
- (d) electrical interference
- (e) light spill
- (f) glare
- (g) hours of operation
- (h) traffic impacts.

**PDC 2** Development should be sited and designed to minimise negative impact on existing and potential future land uses considered appropriate in the locality.

**PDC 9** Traffic movement, spray drift, dust, noise, odour, and the use of frost fans and gas guns associated with primary production activities should not lead to unreasonable impact on adjacent land users.

#### Waste (General Section)

**Obj 1** Development that, in order of priority, avoids the production of waste, minimises the production of waste, reuses waste, recycles waste for reuse, treats waste and disposes of waste in an environmentally sound manner.

**PDC 1** Development should be sited and designed to prevent or minimise the generation of waste (including wastewater) by applying the following waste management hierarchy in the order of priority as shown below:
- (a) avoiding the production of waste
- (b) minimising waste production
- (c) reusing waste
- (d) recycling waste
- (e) recovering part of the waste for reuse
- (f) treating waste to reduce the potentially degrading impacts
- (g) disposing of waste in an environmentally sound manner.

**PDC 2** The storage, treatment and disposal of waste materials from any development should be achieved without risk to health or impairment of the environment.

**PDC 3** Development should avoid as far as practical, the discharge or deposit of waste (including wastewater) onto land or into any waters (including processes such as seepage, infiltration or carriage by wind, rain, sea spray, stormwater or by the rising of the water table).
Odour is an established issue with chicken farming and known to cause discomfort to the locality if not well managed. Odour can emit from the sheds during a cycle but this is usually localised to the immediate areas surrounding the sheds. The odour impacts are heightened during the cleaning and sanitising of the sheds which occurs at the end of each cycle. Chemicals used during this process along with the waste management practices are the main sources of odour. If the clean out process is poorly managed, the air quality can be significantly diminished having unpleasant impacts on the locality.

The existing farm operations incorporate advanced management practices to manage the waste produced at the farm and the odour impacts caused by the land use. These practices are required by the RSPCA, Ingham's and other companies (such as McDonald’s and Woolworths) in order for the farm to achieve the appropriate accreditations and to continue to supply these companies with their produce. These management practices will be adopted with the new sheds and include the following measures:

**Farming Practices:**

- The sheds are fitted with an advanced tunnel ventilation system which assists in managing conditions in the shed and also odour emissions from the sheds during each cycle.
- New and deeper bedding is required with each batch and the litter is tilled 4-5 times every batch to keep the litter dry and conditions optimum for the health and welfare of the birds. The tilling also frees up the lower levels of ammonia for much more even expulsion.
- Conditions in the sheds (feed, drinking water, temperature, humidity, ammonia levels and litter conditions) are managed through fully automated systems. This monitoring ensures optimum growing conditions and fewer mortalities.
- Mortalities are removed daily and disposed of in fully sealed aerated BiobIN’s equipped with a filter fan and bio-filter unit to treat air and remove odour. The BiobIN’s are regularly emptied by an approved contractor.
- Birds are harvested in greater numbers at an earlier time in the batch (50% thinned at 33 days) with the final catch of birds being harvested at a reduced weight (grown out to 48 days where previously it was 51-54 days).
- Although the volume of litter will increase, the mass of the litter will not increase as new farm practices result in drier litter, thus less odour.

**Clean Out practices:**

- At the end of each cycle, the sheds are thoroughly cleaned. Spent litter is removed from the sheds and stockpiled in a bunded area adjacent the sheds. The litter will then be trucked to a nearby composting facility.
- For bio-security reasons, the spent litter and organic materials of the completed batch must not cross contaminate with the next batch of chickens so this process is cautiously managed.
- The sheds are mechanically swept and cleaned by an external contractor using a high pressure, low water volume cleaning process to minimise waste water. The sheds are sanitised and sprayed (to prevent vermin and pests) and left open to dry out over a 4 day period.
- No wastewater, chemicals or sprays used during the clean out process will leave the sheds.

Odour impacts were highlighted in the representations which is not an uncommon concern with a development of this nature. The applicant has acknowledged that there may be times where particular environmental and weather conditions could result in some minor odour experience beyond the site of the farm, but due to stringent farming practices, this odour is not likely to be significant or frequent (not more than around 4 days per year). This is not considered an unreasonable impact particularly given meteorological conditions cannot be controlled.

Given the above measures, odour and waste management has been carefully considered. The continuation of best cleaning and management practices, coupled with appropriate consideration of separation distances mean that the development is unlikely to cause in unreasonable odour impacts beyond the site. Additionally, the waste management practices on the site are effective to minimise environmental harm and amenity impacts. The EPA has also indicated that the farm
expansion will achieve effective waste management practices and a suitable separate distance so as to not result in additional odour impacts at the closest sensitive receivers.

7.4 Noise

Interface Between Land Uses (General Section)

PDC 1 Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:
(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants
(b) noise
(c) vibration
(d) electrical interference
(e) light spill
(f) glare
(g) hours of operation
(h) traffic impacts.

PDC 2 Development should be sited and designed to minimise negative impact on existing and potential future land uses considered appropriate in the locality.

PDC 7 Development that emits noise (other than music noise) should include noise attenuation measures that achieve the relevant Environment Protection (Noise) Policy criteria when assessed at the nearest existing noise sensitive premises.

PDC 14 Traffic movement, spray drift, dust, noise, odour, and the use of frost fans and gas guns associated with primary production activities should not lead to unreasonable impact on adjacent land users.

PDC 15 Existing primary production and mineral extraction should not be prejudiced by the inappropriate encroachment of sensitive uses such as urban development.

Potential noise sources from the development include ventilation fans, generators and pumps, vehicle noise and animal noise. Given the development seeks to intensify the existing land use, noise impacts from the site may also increase. The proposal seeks to establish 3 additional sheds, each with 18 ventilation fans – totalling 54 additional fans at the site. This is likely to be the primary noise source with this proposal along with additional traffic movements on the land.

The Development Plan asks that noise be managed in a manner which minimises negative impacts on adjacent land uses and is consistent with the current EPA Noise Policy. Importantly, the EPA indicate that a suitable assessment of the noise impacts has not occurred as the information required to make this assessment was not provided by the applicant.

The applicant has provided some commentary on the noise matters highlighted by the EPA with respect to the proposed development and particularly the ventilation fans. Below is an extract from an e-mail to the EPA (dated 16/2/17 and included with the application documents) from Leon Byass who is acting on behalf of the applicant (Mr Barolo):

• The ratio of lighter weight birds being caught at thin out has increased very markedly from 10 - 15% to near 60%. The final catch numbers are therefore not only down markedly but the birds are also caught at a lighter weight of 3.3 to 3.4 kg at 48 days (c f previously 3.8 kg at 52 days). Density of birds placed has also dropped. Both of these trends are market driven and almost certainly will not be reversed for several reasons.

• This means the Monarto farm only operates at near (the now reduced) full kg/m2 rating for about 5 days near thin out and 5 days running up to final catch in each batch. With 5.7 batches per year this equates to about 16% of the days in the year. This means there are significant reductions in the time all the fans run in full tunnel with corresponding reductions in times the fans run at about 65dBA measured 10m directly in front of the fans pointing to the west. This is why the farm runs with lesser periods of the loudest noise of 65dBA and much under the 2000 approved levels. This DA therefore merely picks up on lost kg production earlier approved i.e. even with the
3 shed addition to the farm the newly configured farm operations will generate LESS noise than that approved by the ERD Court in 2000.

- Given that winter full tunnel fan operation is quite limited (little cooling required) and in summer most hot weather results in moderately strong and noisy winds from the NE, N and NNW meaning the fan noise of about 65 dBA that is directionally pointed to the West will largely be masked quite a short distance towards the North. Given the earlier 2000 readings and the recent readings recorded we can confidently predict this noise will abate well under the 50 dBA night time requirement in no more than 100 – 150m from the northern most shed well short of the two receptors at 840m and 865m to the North.

- To back this claim up we have forwarded the 2000 ERD Court figures on noise. At 60m from the sheds noise was below 50 dBA required at night. To the North the measurements quickly fell to 37 – 41 dBA half way to the then fence (about 150m). We have shifted the boundary to the North to a separation distance of 300m. At the time of the 2000 readings there were two minimum ventilation fans pointing North. With the additions there will be NO fans pointing to the North on the northern most shed. This means there will be marginally less noise. The two houses (owned by the Barolo’s) should not experience any noise build up rather a small reduction – not that it is audible anyway.

- There have been no references to noise in any of the three submissions received by the RCMB on this DA application for 3 shed additions.

- There appears to be no complaints on fan noise recorded against this farm since 2000 and most unlikely any before that date.

Whilst a firm conclusion cannot be drawn as to whether or not the proposal is within the acceptable guidelines of the relevant EPA Noise policy, the applicant has provided a great deal of information to demonstrate that noise levels from the ventilation fans will not unreasonably increase as a result of the proposal. The change in the design of the fans and their position on the sheds, the reduced demand for the ventilation fans and the changes in farm operations indicate that fan noise can be managed so as to not result in detrimental impact to the locality.

With regard to truck movements, the applicant has demonstrated that the proposal will not result in an increase in vehicle movements to and from the land than has been previously occurred at the site when the intensity of the farm operations was much higher. Changes to farm practices since 2007 have reduced the traffic demands at the farm which in tum has reduced noise emissions. With the additional sheds, traffic movements at the farm will increase but not above levels which have already been approved as part of the previous consents applying to the farm. Given the farm has an existing right to a greater number of traffic movements at the land, there will not be any unreasonable change to vehicle noise impacts on the locality.

Having regard to the EPA advice on noise, and based on the detailed information provided by the applicant, the development demonstrates sufficient measures to ensure the cumulative effect of noise resulting the proposed development will not significantly exceed existing levels of noise. These measures include:

- The exhaust fans are located as far as practical from the nearest sensitive receptors and on the eastern and western ends of the sheds.
- Noise from Old Princes Highway is audible at the site of the sheds and will conceal potential noise impacts from the site.
- Adequate separation distances from the farms to the nearest sensitive receptors are maintained and consistent with those imposed by the Development Plan.
- The development will not result in a significant increase in vehicles on the site.
- The main operations of the site are undertaken during daylight hours. Heavy vehicles to and from the site and on site machinery use will be generally restricted to these hours.
- The chickens are contained in enclosed and insulated sheds which will contain animal noise.
The nearest sensitive receptors are sited to the north which is not within the direction of the fans (which will emit noise at the eastern and western ends of the sheds). Given this, it is likely that any noise experienced from the fans to these nearest properties will be not increase or change as a result of the proposal. Furthermore, all dwellings not associated with the farm are sited outside of the EPA’s minimum calculated separation distance for poultry farms. As such, the development is considered reasonable from a noise perspective, and not likely to have adverse impacts on the locality.

7.5 Stormwater
Natural Resources (General Section)

PDC 7 Development should be sited and designed to:
(a) capture and reuse stormwater, where practical
(b) minimise surface water runoff
(c) prevent soil erosion and water pollution
(d) protect and enhance natural water flows
(e) protect water quality by providing adequate separation distances from watercourses and other water bodies
(f) not contribute to an increase in salinity levels
(g) avoid the water logging of soil or the release of toxic elements
(h) maintain natural hydrological systems and not adversely affect:
   (i) the quantity and quality of groundwater
   (ii) the depth and directional flow of groundwater
   (iii) the quality and function of natural springs.

PDC 9 Development should include stormwater management systems to protect it from damage during a minimum of a 1-in-100 year average return interval flood.

PDC 10 Development should have adequate provision to control any stormwater over-flow runoff from the site and should be sited and designed to improve the quality of stormwater and minimise pollutant transfer to receiving waters.

Additional roof stormwater will be generated on the sites and measures to contain this additional flow have been considered. An additional stormwater dam will be constructed on the land to accommodate the additional flows at the site. Roof and any additional surface water will be directed to the dam via a network of open aggregate drains located on either side of each proposed shed. This clay lined dam has a 2ML capacity which is more than adequate to accommodate heavy winter rains and over flow from the existing dams on the site if needed.

Council’s engineer is satisfied that the stormwater management system proposed and that no water will leave the site. Detailed designs and calculations of the stormwater system will be required prior to the commencement of any works on the subject land. A condition to this effect is recommended to be included with Development Plan Consent if granted. The EPA are also satisfied with the proposed stormwater management system as it will not give rise to any water quality issues and will be suitable for irrigation purposes. Given the above advice and proposed management system, the development addresses the relevant stormwater management principles of the Development Plan.

7.6 Traffic Management
Transportation and Access (General Section)

OBJ 2 Development that:
(a) provides safe and efficient movement for all motorised and non-motorised transport modes
(b) ensures access for vehicles including emergency services, public infrastructure maintenance and commercial vehicles
(c) provides off street parking
(d) is appropriately located so that it supports and makes best use of existing transport facilities and networks.

PDC 22 Development should have direct access from an all weather public road.

PDC 23 Development should be provided with safe and convenient access which:
(a) avoids unreasonable interference with the flow of traffic on adjoining roads
(b) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision
(c) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.

Two separate access points from Old Princes Highway currently service the farm. The western access serves as the farm entrance for trucks, delivery vehicles, litter removal and staff vehicles. This existing access point is well formed and established and will continue to service the farm with the additional 3 sheds. A central access point is used for access to the manager’s residence and is not intended for farm visitors, deliveries or staff. There is also proposed to be no change to the nature of vehicle movement of this access point.

The volume and nature of traffic to and from the farm will not considerably increase above existing approved levels. Although changes to farm practices over the years has reduced traffic movements at the farm, the additional sheds will increase traffic movements but within the accepted limits approved as part of a previous development approval. The table below demonstrates how the truck movements associated with the farm have changed since 2007 and how the proposal will retain a suitable number of vehicle movements.

<table>
<thead>
<tr>
<th>Per cycle vehicle movements</th>
<th>2007</th>
<th>2016</th>
<th>Proposed additional</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gas truck deliveries</td>
<td>1 - 2</td>
<td>1 - 2</td>
<td>No change</td>
<td>1 - 2</td>
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<tr>
<td>Shavings</td>
<td>30</td>
<td>15</td>
<td>4</td>
<td>19</td>
</tr>
<tr>
<td>Feed Deliveries</td>
<td>97.5</td>
<td>64.2</td>
<td>21.3</td>
<td>191.3</td>
</tr>
<tr>
<td>Catching</td>
<td>116</td>
<td>80</td>
<td>28.5</td>
<td>109.5</td>
</tr>
<tr>
<td>Poultry Manure</td>
<td>-</td>
<td>42</td>
<td>15</td>
<td>57</td>
</tr>
</tbody>
</table>

It is noted that there will be an increase in manure trucks to and from the site. However, total vehicle frequency will not be excessive beyond what has previously occurred on the site during when operational capacity of the farm was much greater.

Staff numbers at the site are also not anticipated to significantly increase. There will be at least one additional full time staff member and an additional catching team of 5 to twelve staff. The catching team will be on site 3 days every 9 weeks or so. Whilst there may be additional staff vehicles to and from the site during this time, it is not considered an excessive increase which will impact on the existing traffic network.

Despite the intensification of the land use, the development demonstrates traffic movements and management are not going to increase or create additional demands to the road network. The development fulfils the relevant traffic management provisions of the Development Plan. Additionally, council’s engineer is generally satisfied with the traffic movement and management resulting from the proposed development.

7.7 Design and Appearance
Design and Appearance (General Section)

PDC 2 Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.

PDC 5 Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.

PDC 11 Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.

PDC 18 The setback of buildings from public roads should:
(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
(b) contribute positively to the streetscape character of the locality
(c) not result in or contribute to a detrimental impact upon the function, appearance or character of the locality.

Natural Resources (General Section)
PDC 26 Development should retain existing areas of native vegetation and where possible contribute to revegetation using locally indigenous plant species.

PDC 28 The provision of services, including power, water, effluent and waste disposal, access roads and tracks should be sited on areas already cleared of native vegetation.

Siting and Visibility (General Section)
PDC 2 Buildings should be sited in unobtrusive locations and, in particular, should:
(a) be grouped together
(b) where possible be located in such a way as to be screened by existing vegetation when viewed from public roads.

The development has been thoughtfully designed to accommodate the operational needs of the farms, achieve a co-ordinated appearance with existing buildings and minimise visual impacts beyond the sites. This is achieved by the following:

- The farm sheds will take a similar format to the existing buildings in terms of height, width, roof pitch, and bulk and scale.
- Buildings will be finished using materials which are similar in colour and appearance to the existing buildings on the land.
- Silos and ancillary structures will be similar to those which are currently on the site to ensure a consistent appearance.
- The new sheds will form a compact extension to the existing farm operation by being grouped with the existing northern sheds.
- Sufficient side and rear setback distances are achieved in accordance with those set out by the Development Plan.
- Visual impacts to sites north of the farm will not alter significantly given a vegetation strip will be planted north of the sheds to assist in screening the sheds from view.
- The development is sited to avoid the clearance on native vegetation however some existing planted vegetation will be removed with a new, denser strip reinstated.

The design and siting of the proposal is generally consistent with the design of the existing sheds on the land. The three additional sheds will be off-set 8 metres east of the western building line of the existing sheds, and extend for a length of 168 metres. The new sheds are slightly larger than the existing broiler sheds, but remain of a similar scale and design consistent with the existing built form on the land.

The existing sheds on the site are not highly visible from Old Princes Highway or Schenscher Road as they are largely screened by vegetation on the road reserve and a planted vegetation screen which was a requirement of an existing consent. The existing sheds are generally not visible from Old Princes Highway but are exposed to sites north of the farm, and parts of Hartmann Road. A vegetation screen exists adjacent the northern most shed, and whilst this screen assists in minimising the visual impact of the buildings, they still remain somewhat exposed in the landscape.

With the additional 3 sheds on the land, the existing northern band of vegetation will be removed. It is proposed to be replanted 100 metres north of the new sheds and comprises a minimum of 168 metres in length and 15 metres in depth. The 100 metre setback from the sheds will function as a fire break and assist in minimising the hazard risk in the event of a bushfire. The depth establishes a density which will perform a greater screening function, and the minimum length replicates the length of the proposed sheds.
This screening is valuable to assist in minimising the visual impact from the new sheds and maintain the existing visual outlook from the northern parts of the locality. Whilst the vegetation screen will not completely screen the development, it contributes to softening the exposure of the sheds. It is recommended that a condition of consent be attached to ensure the type and timing of the plantings are suitably enforced.

Given the above, it is unlikely that the development will detract from the character of the area. The scale and design of the sheds will complement the existing built form on the farm and the use of vegetation to screen the development will result in minimal visual impact than that which currently exists.

7.8 Assessment Summary
The application has been assessed against the Murray Bridge Development Plan consolidated 11th August 2016. The proposal has also been reviewed by the EPA against the Environment Protection Act (1993) who determined the proposal to be generally acceptable.

The use of the land for intensive animal keeping is established. The development seeks to appropriately expand this land use which is encouraged by the zone and policy area provided potential impacts are minimised and the development is well managed. This includes guidelines in relation to the management of odour, waste, stormwater and traffic and the impacts of these matters on the locality.

Three representations have been received in relation to this application and it is obvious from these representations that there is concern regarding the impact of the development on the locality and in particular the existing dwellings located nearby. Whilst the representations raised have been carefully considered, the application demonstrates that the land use can be effectively managed in a manner which addresses the concerns of the representations.

Having regard to the relevant provisions of the Development Plan, the subject land and locality, the comments provided by the EPA and the issues raised by the representations, the proposal is determined to:

- Be consistent with the existing use of the land and meet the recommended EPA separation distances.
- Be effectively designed and sited to minimise the impacts of noise and odour on sensitive receptors.
- Include appropriate management systems for on-site waste storage and disposal.
- Achieve effective stormwater management.
- Not increase the demands on the existing road network to an unreasonable level.
- Be of a scale, design and siting so as not to impair to the open rural character of the locality
- Maintain existing native vegetation.

It is therefore considered that the proposed development is not seriously at variance with the relevant provisions of Development Plan and on this basis displays sufficient merit to warrant support.

RECOMMENDATION
Following a detailed assessment of the proposal against the relevant provisions of the Rural City of Murray Bridge Development Plan dated 11th August 2016, referrals and consideration of written & verbal representations the Development Assessment Panel resolves that:

A. That pursuant to Section 35 (2) of the Development Act, 1993, the proposal is not seriously at variance with the relevant provisions of the Murray Bridge Development Plan.

B. That pursuant to Section 33 of the Development Act, 1993, Development Application Number 415/426/2016 be GRANTED Development Plan Consent subject to the following conditions
Development Plan Consent Conditions:

1. That except where minor amendments may be required by other relevant Acts, or by conditions imposed by this application, the development shall be established in strict accordance with the details and plans submitted in development application number 415/426/2016

   Plan numbers listed here:
   
   • Letter to Council dated 12th October 2016, pages 1-10
   • E-mail from Gordon Barolo to Leon Byass titled “Truck Movements” dated 21st December 2016
   • E-mail from Leon Byass to Council (Giulia Zillante) dated 19th February 2017
   • Onsite Boundary Change and Separation Distances (shown on proposed plan of division by Mosel Steed 8/9/16), dated 2/10/2016
   • Distances to Neighbours dated 2/10/16 shown on Mosel Steed Plan (reference no. M16008DR1.2 19/8/16)
   • Localised Site plan amended 19/2/17
   • Localised site plan of stormwater dam (undated)
   • Planview & Elevations, drawing no. B-DA-01, sheet 1 of 2, dated 24/05/2016
   • Planview & Elevations, drawing no. BO-01, sheet 1 of 5, dated 24/05/2016
   • Typical 2 shed layout dated 2/10/2016
   • Fire Distances/Extinguishers/Signs dated 2/10/16
   • Typical Section & Detail, drawing no. B0-02, sheet 2 of 5, dated 24/05/2016
   • Elevations, drawing no. DD-PA-02, sheet 2 of 2, dated 24/05/2016

   Reason: To ensure the development proceeds in an orderly manner.

2. Prior to the issue of Development Approval for Stage 1, a landscaping plan (for the vegetation screen to be planted north of the sheds) shall be provided to Council for review and endorsement by Council’s Senior Environmental Officer. The landscaping plan shall be prepared in accordance with the requirements listed in Development Plan Consent Condition 3 listed below.

3. A vegetation strip shall be planted on the land and be undertaken in accordance with the approved plans and documents referenced in Development Plan Consent condition 1 and the following:

   • Be sited 100 metres north of the northern most broiler shed (proposed shed 8 as identified on the approved plans listed in development plan consent condition 1)
   • Be 15 metres in depth and a minimum of 168 metres in length
   • Be sited so it is aligned with the entire 168 metre length of the sheds
   • Be planted in a manner and density so that when mature, the plantings have a screening effect
   • Comprise a range of native tube stock and semi mature trees and shrubs which when mature will have an effective height of at least 2 metres.
   • The species of plants shall include only those listed on Table MuBr/6A – Monarto South Landscaping Schedule from Council’s Development Plan (consolidated 11th August 2016).
   • Be maintained and nurtured at all times with any diseased or dying plants replaced as soon as practical
   • Be planted no later than 3 months after completion of the construction of shed 8 as part of Stage 1

The above requirements shall be undertaken to the reasonable satisfaction of Council.

Reason: To ensure the visual amenity of the locality is preserved and the northern view of the sheds is adequately screened.
4. Prior to the issue of Development Approval, detailed engineering drawings and calculations shall be provided to Council for endorsement by Council’s engineer. The drawings shall include cross sections of all drainage swales and stormwater dams.

   **Reason:** To ensure the technical designs comply with engineering design requirements.

5. Alterations to the internal driveway network shall be undertaken as part of the stage 1 works and be constructed in accordance with professional engineering practices, and to the reasonable satisfaction of Council.

   **Reason:** To ensure the safe and orderly movement of vehicles through the site.

6. The broiler sheds shall not be stocked at a rate any higher than 17.3 birds per square metre or 46,502 birds per shed.

   **Reason:** To ensure the development proceeds in an orderly manner.

The following conditions are advised by the Environment Protection Authority:

7. Burial of dead birds (mortalities) must not occur on site. All dead birds must be removed from the sheds immediately upon discovery before being removed off site for appropriate disposal.

8. In the case of a disease outbreak or fire resulting in large quantities of mortalities, dead birds must be removed to a licensed landfill facility that is capable of receiving the birds.

9. On completion of each bird production cycle the litter must be removed from the sheds within 48 hours to a facility licensed to take such waste.

**Advisory Notes:**

1. The development must be substantially commenced within 12 months of the date of this Notification, unless this period has been extended in writing by Council.

2. You are also advised that any act or work authorised or required by this Notification must be completed within 3 years of the date of the Notification unless this period is extended in writing by the Council.

3. You will require a fresh consent before commencing or continuing the development if you are unable to satisfy these requirements.

4. You have a right of appeal against the conditions which have been imposed on this Development Plan Consent or Development Approval.

5. Such an appeal must be lodged at the Environment, Resources and Development Court within two months of the day on which you receive this notice or such longer time as the Court may allow.

6. Please contact the Court if you wish to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide. (Telephone number 8204 0300).

7. Dust, emissions, noise and other pollution from the site shall be effectively managed so as to not unreasonably impact on the amenity of the locality.

The following is advised by the Environment Protection Authority:

10. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.
11. Without a quantitative noise assessment having been prepared for the site, there is no way of confirming the level to which nearby noise sources (such as road traffic) contribute to the ambient noise environment, nor the noise impact of the proposed development or the site as a whole. If the planning authority has any concerns or future complaints regarding the noise impact of the proposed development, they are advised to seek an acoustic assessment report to confirm the above.

12. EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site: http://www.epa.sa.gov.au.

**Attachments**

1. Attachment 1 - Application Documents - 415-426-2016
3. Attachment 3 - Environment Protection Authority Response - 415-426-2016
6.2 Date of Panel Meeting: 21 April 2017

<table>
<thead>
<tr>
<th>DA NUMBER</th>
<th>PROPOSAL</th>
<th>APPLICANT</th>
</tr>
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<tr>
<td>415/C016/2005 and 415/C017/2005</td>
<td>Extension of Time Request</td>
<td>Andrew Davidson Property Development Consultants</td>
</tr>
</tbody>
</table>

LOCATION Lot 45 Ovens Ave, Murray Bridge

ASSESSING OFFICER Cherry Getsom

ZONE / POLICY AREA / PRECINCT Residential

NATURE OF DEVELOPMENT
Two Community Title land divisions:
415/C016/05 creating 5 lots and one common driveway
415/C017/05 creating 7 lots and one common driveway

PUBLIC NOTIFICATION CATEGORY n/a

REPRESENTATIONS n/a

AGENCY CONSULTATIONS n/a

INTERNAL REFERRALS n/a

DEVELOPMENT PLAN Applications assessed against Development Plan Consolidated

RECOMMENDATION Extension of time request be refused

1. Background
On 14 September 2004 an application was lodged seeking to create 13 community title allotments on the corner of Ovens Avenue and Hume Avenue, Murray Bridge, with access provided via a common driveway from Ovens Avenue.

Development Application 415/D084/04 was also lodged on the same date. This Torrens title land division sought to create 10 allotments along the outer boundaries of Ovens Avenue and Hume Avenue.

These two applications were presented to Council’s Development Assessment Panel (DAP) at their meeting of 19/1/2005. At this meeting the Panel determined:

After general discussion it was agreed that the applications be deferred to allow time for the applicant to submit amended plans. Amended plans need to address issues including the width and usability of the community title common access, open space and how the proposal deals with the adjacent public roads (eg. kerbing, drainage and pavement)

The applications were again discussed at the DAP meeting of 16 February 2005, where the Panel determined:

After lengthy discussion it was agreed that DA 415/D084/04 be approved, subject to amended plans being received detailing the narrowing of Lots 1 & 2 to allow a ten (10) metre access road into the proposed Community Title division.

It was agreed that the amended plans, only as described above, be approved subject to the relevant conditions and to the satisfaction of the Presiding Member, under delegated authority.

It was also agreed that the Community Title application 415/C086/04 be refused with the reasons for refusal prepared in consultation with, and to the satisfaction of the Presiding Member.

Development Application 415/D084/04 was again presented to the DAP at their meeting of 16 March 2005 as it contained two access points from Ovens Ave rather than the one described in the DAPs determination of 16 February 2005. At this meeting the DAP resolved to approve the application subject to conditions.
A decision notification was issued dated 16 March 2005; however file notes indicate there were some minor amendments and the decision notification was re-issued on 14 July 2005.

Development Application 415/D084/04 received Section 51 Clearance in October 2005, titles were created and the allotments have been developed.

On 15/3/2005 Community Title Land Division Application 415/C016/2005 was lodged seeking to create 5 community lots and one common driveway. These allotments ranged in size from 421m² to 474m² with access via the common driveway. This application received development approval on 7 September 2005, subject to 14 conditions.

On 5/4/2005 Community Title Land Division Application 415/C017/2005 was lodged, seeking to create 7 community title lots and one common driveway. These allotments ranged in size from 387m² to 504m² with access via the common driveway. This application received development approval on 7 September 2005, subject to 14 conditions.
On 30 May 2008 - an extension of time request was received for Development Applications 415/C016/05 and 415/C017/05 which were due to expire on 7 September 2008. This request noted the focus had been on achieving the Torrens Title division (415/D084/04) with the intention that 415/C016/05 be constructed over the following 18 months before work on application 415/C017/05 commenced. As such the applicant requested a three (3) year extension.

This was granted on 20 June 2008, indicating the developments were to have substantially commenced by 7 September 2009 and be completed by 7 September 2011.

In June 2009 Council wrote to the applicant reconfirming these dates and advising the applicant that a new application would be required should these dates not be met.

In August and September of 2009 engineering drawings as required by the conditions of consent were provided to Council.

In December 2009 Council advised the applicant that Section 51 clearance would not be granted as landscaping and fencing detail, as conditioned, remained outstanding.

These plans were received and approved by Council in April 2010.

Whilst plans and details were provided and approved by Council, no physical construction work has been undertaken on the development. Conditions of consent on both applications required this work be undertaken prior to the issuing of Section 51 Clearance.

On 6 July 2016 Council received email correspondence from the applicant requesting a further extension of time for both of the above applications. The Council responded to this email on 11 July 2016 advising that neither of these applications remained valid however the Development Act 1993 did provide the applicant the opportunity to apply for an extension. This email also noted that after a brief review of the files, it was considered unlikely that an extension would be granted.
The applicant replied to this email on 17 August 2016 and provided some additional information. The Council advised the applicant on 18 August 2016 that a formal request for an extension of time and payment of the appropriate fees would be required before a request could be thoroughly reviewed and a decision made.

A formal request for an extension of time was received on 12 January 2017.

2. **How long is an approval valid?**

Panel members may be aware that Part 8, Clause 48 (1) of the Development Regulations 2008 identifies how long an approval remains valid; this identifies that an approval is valid for 12 months from the operative date (this being the date the consent is granted) unless:

- work on the development has substantially commenced within that 12 month timeframe and in which case the consent remains valid for a further two years (allowing a total of three years from the date of consent);
- or, in the case of a land division if the applicant has lodged a Certificate under Section 51 of the Act and the Certificate of Approval Fee has been paid within the first 12 months, then the further two year extension also applies (again allowing for a total of three years from the date of consent).

A certificate under Section 51 of the Development Act allows the Council to advise the Development Assessment Commission that they are satisfied that the conditions of consent have been met and the Commission are then able to issue a Certificate indicating such. It is common practice for surveyors to apply for a certificate under Section 51 of the Act in full knowledge that not all conditions of approval have been met, in order to meet the requirements of 48(1) of the Regulations.

Payment of the Certificate of Approval fee was received 2005, further the provision of the plans and details by the extended date of September 2009, allows that the proposal can be considered to have ‘substantially commenced’ under the provisions of the Development Act (1993).

3. **Extension of time request**

Part 8, Clause 48 (2) of the Regulations allows that the timeframes identified above can be extended by a relevant authority, in this case Council:

48 (2) A period prescribed by subregulation (1) may be extended by a relevant authority—
- (a) when the relevant consent or approval is given; or
- (b) at such later time as may be appropriate.

The Act prescribes no time frames within which such an application may be received.

4. **Assessment of extension of time request**

Again, Panel members may recall requests for extensions of time have been examined by the Courts on a number of occasions; this has provided guidance on how such requests should be considered.

In Hall and Anor v City of Bumside and City Apartments Pty Ltd (2005), Bleby J said:

“The granting or withholding of the extension is discretionary. If there has been a material change in the planning legislation or in the relevant Development Plan such that the consent to the development could not then be given, or if there has been some other material change of circumstances affecting the granting of consent, those may be relevant factors in the exercise of that discretion, to be weighed carefully against the diligence with which the applicant has pursued the development and against other circumstances which may have frustrated that activity.”

This has led to a number of factors being identified by the Court as relevant to the examination of the extension of time request.

These factors include the following:
The length of the delay in applying for the extension;
The reason for the delay;
Whether the applicant has pursued a development approval with diligence;
Whether there has been a change to the Development Plan or planning legislation;
Any prejudice likely to flow from a refusal to grant or refuse an extension; and
Any other factors appropriate in the circumstance.

As such, these will be the factors discussed in the sections that follow.

The length of the delay in applying for the extension:
The original consent was granted in September 2005, with an extension granted until September 2011. Five and half years have lapsed since the date of the original extension and eleven and a half years since the original consent.

Between 2010 and August 2016 when the applicant contacted Council regarding the possibility of an extension of time no correspondence had been received from the applicant. A formal request for an extension of time was then not received until January 2017.

Given the amount of time that has passed since the lapse of the original extension of time it is not considered that the applicant has been diligent in applying for an extension of time.

The reason for the delay:

Applicant’s comments:
The applicant highlights the impacts of the Global Financial Crisis, specifically as it relates to the sale/profitability of allotments in Murray Bridge and identifies that his client has been waiting for the demand to grow before moving forward with these approvals.

They further argue that the Community Title applications were stages of a whole project, with Stage 1 – the Torrens title component completed and the plan deposited in October 2009.

Council comments:
The applicant has noted that their client was affected by the GFC and has been waiting for demand to grow. In Reffold v Development Assessment Commission (No.2) [2012], the Court examined an application for extension of time request for a 34 dwelling cabin park. In this decision Judge Costello noted that the

“general uncertainties’ of the GFC threw doubt into the appellant’s mind re the viability of this development, so an application for an extension of time was received in order to “put the development on hold” while keeping the approval alive.”

Judge Costello determined the appellant had engaged in ‘land speculation’ and did not support this as an adequate explanation. Whilst the specific circumstances may be different, it is considered this judgement clearly identifies that land speculation and the Global Financial Crisis are not an adequate justification for not undertaking development.

The configuration of the Community title divisions and the date of their original lodgment certainly give the appearance that these applications form part of a larger development proposal as suggested by the applicant.

All applications were however lodged as separate entities with no information provided to Council indicating that the whole development proposal consisted of a number of stages. Nor did the applicant take advantage of opportunities available under the Development Act 1993 for an extended approval timeframe, therefore enabling all stages of the development to be appropriately assessed and staged timelines and approvals provided.
Whether the applicant has pursued a development approval with diligence:

**Applicant’s comments:**
The applicant has referred Council to the work already undertaken on the proposed development including engineering documents provided, extension of SA water mains, the installation of water meters for the project, pegging out of allotments and payments of land division fees.

As part of the additional information provided for the extension of time request, the applicant has provided copies of proposed floor plans, elevations and site plans for dwellings it considers suitable for the allotments (although no formal applications were lodged).

**Council Comments**

In Day v Pinglen Pty Ltd & Others the Court said:

> A substantial commencement involves a commitment of resources of such proportions relative to the approved project as to carry the assurance that the work has really commenced.

Whilst under the provisions of the Development Regulations 2008, by having paid the appropriate fees, the applicant has met the land division requirements which identify the proposal as having substantially commenced, the reasoning behind the above comment is still considered relevant.

The paperwork detailed above was undertaken and details provided to Council in 2009/2010. It is understood this work was undertaken in order to achieve the timeframes associated with the original extension of time.

From April 2010 until August 2016 no correspondence had been received from the applicant. It is therefore suggested that the applicant has not been diligent in pursuing the consent.

Whether there has been a change to the Development Plan or planning legislation:

**Applicant’s comments:**
The applicant acknowledges that the Development Plan has changed however notes that the Community Title divisions provide for Group Dwellings which require a minimum allotment size of 350m² under the current Development Plan. All of the allotments within both divisions meet this minimum allotment size. They also believe there is potential to achieve additional allotments; however they do not wish to pursue this. They do not believe that the granting of an extension of time for these proposals will contravene any recent changes.

**Council comments:**
The applications were lodged in March 2005 and as such they were assessed under the Development Plan Consolidated 30 September 2004. Whilst this Development Plan contained a number of provisions relating to land division, in both the Council Wide and Zone sections it prescribed no minimum allotment size (other than for allotments not connected to sewerage facilities).

The Murray Bridge Council Development Plan has had twelve separate consolidations since that date, the most relevant of which was the Better Development Plan process consolidated in December 2009.

This introduced provisions relating to minimum allotment sizes with the Residential Zone, which are still current:
Principle of Development Control: 12

A dwelling should have a minimum site area (and in the case of residential flat buildings, an average site area per dwelling) and a frontage to a public road not less than that shown in the following table only if connected to a sewerage system:

<table>
<thead>
<tr>
<th>Dwelling type</th>
<th>Site area other than for affordable housing (square metres)</th>
<th>Minimum frontage (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detached</td>
<td>500 minimum</td>
<td>15</td>
</tr>
<tr>
<td>Semi-detached</td>
<td>400 minimum</td>
<td>12</td>
</tr>
<tr>
<td>Group dwelling</td>
<td>350 minimum</td>
<td>20</td>
</tr>
<tr>
<td>Residential flat building</td>
<td>300 average</td>
<td>10</td>
</tr>
<tr>
<td>Row dwelling</td>
<td>500 minimum</td>
<td>15</td>
</tr>
</tbody>
</table>

The Development Regulations 2008 define a Group Dwelling as:

**group dwelling**: means 1 of a group of 2 or more detached buildings, each of which is used as a dwelling and 1 or more of which has a site without a frontage to a public road or to a road proposed in a plan of land division that is the subject of a current development authorisation;

As a Community title development it is argued that the access road is a private road, it is also a common property for owners of the Community Title allotments, and as such the group dwelling definition is applicable.

However, there is an alternate interpretation which suggests that the definition of group dwelling, in noting that one or more dwellings has a site without a frontage to a public road, implies that at least one dwelling should have a frontage to a public road. As this development provides no ‘sites’ with a frontage to a public road, then the group dwelling definition does not apply.

This matter would need to be resolved as part of any assessment, however regardless it is considered that the existing allotments are capable of accommodating residential development.

The most recent consolidation of the Development Plan (27 January 2017) introduced improved water management policies, specifically relating to Water Sustainable Urban Design. In its current form the land division relies on directing all surface stormwater to Council’s stormwater system and the use of detention tank. This is not consistent with the new principles established within the Development Plan.

**Any prejudice likely to flow from a refusal to grant or refuse an extension:**

**Applicant’s comments:**
There would be definite prejudice to the applicant, considering the extent of the plans, drawings and details already submitted to Council.

**Council comments:**
It is considered that there would also be definite prejudice to Council in that the documentation previously submitted is likely outdated. The Stormwater Calculations provided by Herriot Consulting, for example are dated September 2009 and do not take into consideration the significant work Council has recently undertaken in relation to stormwater management, along with new Water Sensitive Urban Design principles incorporated in the Development Plan. The applicant is seeking to rely on a consent which involves outdated information, practices and designs.

It is considered inappropriate to argue that the applicant will negotiate amended details, as this will not be legally enforceable as the information previously provided has already been agreed to, and further these negotiations will require re-assessment of the information provided with no fee payable to Council.
In Refford v Development Assessment Commission (No.2) [2012], His Honour Judge Costello notes:

I accept there is an obvious and arguable substantial prejudice to the appellant in having to make a fresh application in circumstances where there is real doubt as to whether his application is refused.

As against that there is the prejudice against the Authority recognized in Bleby J in Hall (8) namely the risk that good planning may be compromised and a Development Plan rendered sterile if a longstanding approval is allowed to be implemented under an inconsistent planning regime.

Whilst the applicant may suffer prejudice by losing the benefit of a consent, should a fresh application be lodged which seeks to create residential allotments within a residential zone then there is a real possibility of obtaining approval.

**Any other factors appropriate in the circumstance**

No additional factors were identified.

5. **Assessment Summary**

Community Title Land Division Applications 415/C016/05 and 415/C017/05 were lodged, assessed and approved approximately twelve years ago. This approval was extended until 2011. The applicant provided plans and details which would have enabled work on this development to commence but did not complete the work as required by the conditions of consent. These plans and details were received by Council by 2010.

The applicant argues that the Global Financial Crisis affected the profitability of allotments within the Murray Bridge area and as such they have been waiting for demand to grow. This is not considered an appropriate planning argument. Further the applicant suggests that the two Community title divisions form part of a larger development, whilst it is acknowledged that this appears to be the case, there is no documentation on file to support this. It is common practice for staged developments to be identified as such at the beginning of the process and it often considered appropriate that extended timeframes be factored into any consent in order to ensure appropriate development occurs at the appropriate times. In this instance this has not occurred.

The argument provided by the applicant that they were staging the proposal in some way contradicts there argument that they withheld movement on the application while they waited for the effects of the Global Financial Crisis to reduce.

The applicant is not considered to have pursued the application with diligence as to the Council’s knowledge no movement on the proposal has occurred since 2010.

Whilst there has been a significant change in Development Plan provisions since the proposal was originally approved, this does not restrict the ability of the applicant to re-lodge the application and have every likely hood of receiving a consent.

While it is considered that there would be prejudice to the applicant in that they would lose the benefit of a planning consent and all the associated costs involved in obtaining this consent, it is also considered that there would be prejudice to Council in that this consent involves plans and details which are outdated and could result in inappropriate planning outcomes.

6. **Conclusion**

This extension of time request seeks to extend a proposal which in the view of staff has lapsed. However, the Development Act 1993 allows that an extension of time request can be lodged.

In making a decision regarding the request Council are required to examine all criteria and weigh any material changes in the Development Plan and other circumstances affecting the consent against the diligence with which the applicant has pursued the development and other
circumstances which may have impacted upon this.

As noted above it is considered that there has been a considerable length of time, approximately 5 ½ years, since the approval lapsed and the date by which the applicant applied for this extension. The reason for this delay, waiting for the market to improve, is not considered a satisfactory reason, and as noted by Judge Costello in Reffold v Development Assessment Commission (No.2) [2012], has the potential to be considered land speculation and not an adequate explanation.

The Murray Bridge Development Plan has changed since this consent was granted however these changes do not preclude the applicant from obtaining a further consent for residential allotments.

When considered in its most fundamental form, the assessment can be considered as per the table overleaf:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Has the criteria been adequately addressed?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Length of delay</td>
<td>No - a minimum 5 ½ year delay is considered too long.</td>
</tr>
<tr>
<td>Reason for delay</td>
<td>No - waiting for demand to improve is not considered acceptable.</td>
</tr>
<tr>
<td>Diligence</td>
<td>No - prior to the initiation of discussions relating to an extension of time request no correspondence has been received from the applicant since 2010.</td>
</tr>
<tr>
<td>Changes to Development Plan</td>
<td>Yes - whilst the Development Plan has changed there is still potential for the applications to receive approval in a substantially similar configuration.</td>
</tr>
<tr>
<td>Prejudice</td>
<td>There is a neutral response to this criterion. Yes, there will be prejudice to the applicant; however there is also the potential for prejudice to Council as approved plans are likely to be outdated.</td>
</tr>
<tr>
<td>Additional factors</td>
<td>N/A</td>
</tr>
</tbody>
</table>

This being the case it is not considered appropriate to support the request for an extension of time.

**RECOMMENDATION**

Following a detailed assessment of the request for an extension of time for Development Applications 415/C016/2005 and 415/C017/2005 the Development Assessment Panel resolves that:

A. An extension of time **NOT** be granted to Development Application 415/C016/2005 – Community Title land division at Lot 26, 75 Ovens Avenue, Murray Bridge.

B. An extension of time **NOT** be granted to Development Application 415/C017/2005 – Community Title land division at Lot 27, 75 Ovens Avenue Murray Bridge.

**Attachments**

1. Attachment 1 - Extension of Time Request and Associated Documents
7.1 DEVELOPMENT ASSESSMENT PANEL ANNUAL REPORT - 2016

Author Geoff Parsons

**Purpose**

To seek advice from the Council’s Development Assessment Panel on a draft Annual Report, so that they may make comments on trends, issues or policy matters that they wish to include in the Report.

**Background**


Part (2) notes the functions of a Development Assessment Panel, as follows:

“(2) The functions of a council development assessment panel are –

(a) to act as a delegate of the council in accordance with the requirements of this Act; and

(b) as it thinks fit, to provide advice and reports to the council on trends, issues and other matters relating to planning or development that have become apparent or arisen through its assessment of applications under this Act; and

(c) to perform other functions (other than functions involving the formulation of policy) assigned to the panel by the council.”

In order to satisfy Clause (2)(b) it is appropriate that the Development Assessment Panel reports on its activities throughout each calendar year, and provides advice to the Council regarding any trends, issues or policy matters that may require consideration.

**Proposal**

Council administration has prepared the attached draft Annual Report. The Report contains details of the activities of the Panel during the reporting period (1 January 2016 – 31 December 2016) including the membership, frequency of meetings and nature of Applications considered.

The Report also contains a section titled “Trends / Issues / Policy Matters” where the Panel is able to note any matters of significance or relevance which may possibly require the attention of Council’s Strategic Planning & Development Policy Committee.

Council administration has inserted an issue relating to forthcoming changes to the structure and functions of Development Assessment Panels given the implementation of the Planning, Development & Infrastructure Act 2016.

Panel members are invited to give feedback regarding the draft Annual Report and to suggest any additional trends, issues or policy matters which can be included in the Report.

Following any comments provided at the Panel meeting, a final version of the Annual Report will be prepared and will put before the May meeting of the Development Assessment Panel for endorsement. The matter will then be taken to Council for further consideration.
Legislative Requirements
This report is consistent with the intent of Section 56A of Development Act 1993 and the Development Regulations 2008.

Council Policy
Rural City of Murray Bridge Development Plan.

Financial Implications
Not applicable.

Risk
No new risks have been identified as a result of this report.

WHS
No new WHS matters have been identified as a result of this report.

Asset Management
No new asset management matters have been identified as a result of this report.

Implementation & Communication Strategy
Once a final version of the Annual Report has been endorsed by the Development Assessment Panel a copy of the report will be tabled at the next available meeting of Council for their information and receipt.

If required, the report will also be provided to the Strategic Planning & Development Policy Committee for consideration of any policy matters that may be raised.

The Annual Report will be published as part of the Minutes of the Development Assessment Panel meeting at which it is endorsed.

Strategic Plan
Goal 2 - Great People and Lifestyle
2.1 - Land use

Recommendation
1. That item number 7.1 on Development Assessment Panel agenda of 21 April 2017 be received.
2. That a final version of the Annual Report be presented to the next available meeting of the Development Assessment Panel taking into consideration comments from Panel members.

Attachments
1. Attachment 1 - CDAP Annual Report 2016 | Attachment