

## PLANNING DEPARTMENT LATE REPORT

### 7. DEVELOPMENT APPLICATION – DA121/2019 LIVESTOCK PROCESSING INDUSTRY, 391 HANLEYS CREEK ROAD, HANLEYS CREEK

**FILE NO:** DA128/2018

**ANNEXURES:** A Draft Conditions of Consent  
B Site Plan

**AUTHOR:** Senior Town Planner/Development Officer

**APPLICANT:** Dominic O'Neil

**OWNER:** Dominic O'Neil

**PROPOSAL:** Livestock Processing Industry

**LOCATION:** Lot 45 DP 752457, No 391 Hanleys Creek Road, Hanleys Creek

**ZONE:** RU1 Primary Production

---

#### OFFICERS RECOMMENDATION:

That Consent be granted, subject to the conditions included in Annexure 'A'

---

#### Precis:

The following report considers Development Application No 121/2019 which seeks development consent for a livestock processing industry at Lot 45 DP 752457, No 391 Hanleys Creek Road, Hanleys Creek. The proposed development is identified as 'designated development' under Clause 4 and Schedule 3 of the Environmental Planning and Assessment Regulation 2000 and an Environmental Impact Statement (EIS) has been submitted with the development application. As staff do not have delegations to determine designated development applications, the matter is reported to Council for determination and it is recommended that the application is approved, subject to conditions.

\*\*\*\*\*

#### SUBJECT SITE

The development application has been lodged over Lot 45 DP 752457, which forms part of a larger holding, known as 391 Hanleys Creek Road, Hanleys Creek. Lot 45 has an area of approximately 25 hectares with stockyards and a dam. Hanleys Creek traverses the parcel, as does Hanleys Creek Road, which is a public maintained gravel road. Other than riparian vegetation, the land is dominated by grassland. The site is mapped as being within the Williams River Drinking Water Catchment.

An aerial photograph and site plan is shown in Figure 1 below.



**Figure 1: Aerial Photograph of site and Site Plan**

The subject site forms part of a larger holding as shown in Figure 2. The holding has an area in excess of 200 ha and contains a dwelling and associated outbuildings. The property is currently used for cattle grazing as well as free-range poultry. Surrounding land is also rural and primarily used for cattle grazing. The closest dwellings to the proposed livestock processing industry are in excess of 600m away.



**Figure 2: Aerial Photograph of landholding and surrounds**

## **PROPOSAL**

Environmental Earth Sciences NSW has prepared the EIS on behalf of The Ethical Farmers Pty Ltd to support the application to undertake a livestock processing industry. The livestock processing industry will comprise the use of an approved farm building as a small scale organic and grass fed meat preparation, storage and distribution facility.

As detailed in the EIS, the Ethical Farmers was founded in March 2016 and their vision “is to produce and supply real food grown the way nature intended. All lamb and beef are grass fed and finished, selected from sound genetics and produced on some of the best pristine grazing land. Poultry and pork are pasture raised in paddocks ensuring the animals have healthy and happy lives”.

The activity would include to bone out, cut and pack meat that would be delivered to the site from an abattoir. Approximately 70% of the meat sourced from the abattoir is intended to have been raised on the surrounding agricultural land in other lots on the property.

As detailed in the EIS, the processing will include breaking down the carcasses into smaller cuts of meat, meat products and saleable off cuts which include bones and fat. The products will be packaged in the packing rooms, snap frozen in a freezer and stored on site in a freezer and cool room. Products will be delivered to customers when orders are submitted via the business' website. The site will not be used for retail sales and will not be open to the

public. The application states that four full time staff and two casual staff will be employed to conduct the activity.

The proposed development also includes infrastructure required to operate the activity. The main building has already been granted development consent under DA77/2019, although would require additional internal works and the installation of three shipping containers adjacent to the approved shed. The building would include a bathroom, kitchen utility room, butcher, two packing rooms and a store room as shown on the plans in **Annexure 'B'**.

Adjacent to the building would be three shipping containers, as follows:

- One cool room with dimensions 12 m (L) x 2.4 m (W) x 2.6 m (H)
- One snap freeze freezer with dimensions 6 m (L) x 2.4 m (W) x 2.6 m (H)
- One storage freezer with dimensions 12 m (L) x 2.4 m (W) x 2.6 m (H)

The proposed development also incorporates an on-site waste management system designed to treat and dispose of effluent generated by the ongoing use of the premises.

The EIS states that the facility will be designed to produce approximately 30 tonnes of meat and products annually.

## **BACKGROUND**

DA6/2019 was lodged with Council on 25 January 2019 seeking consent for a Rural Industry – Livestock Processing Industry. An initial review of the application identified that the proposal was considered to be Designated Development under Schedule 3 of the Environmental Planning and Assessment Regulation 2000. As the application had not been accompanied by an Environmental Impact Statement, the application was withdrawn on 30 May 2019.

The applicant applied to the NSW Department of Planning and Environment in May 2019 seeking the Secretary's Environmental Assessment Requirements (SEARS). These were issued on 27 May 2019.

The subject DA was lodged on 15 August 2019.

Whilst the EIS was being prepared for the livestock processing industry, a separate application was lodged on 12 June 2019 seeking consent for the erection of a farm building. This was approved under DA77/2019 on 17 August 2019. Consent is now sought for the use of the farm building for the purpose of a livestock processing industry.

Council staff are also investigating a number of activities on the landholding in relation to whether they are in breach of the *Environmental Planning and Assessment Act 1979*. This includes earthworks undertaken in preparation for the construction of the farm building and the operation of a free-range poultry farm on part of the landholding. These investigations are being carried out separately to the development assessment process. It is recommended that an advice is included on any development consent specifying that the approved use is limited to a livestock processing industry as defined under Dungog Local Environmental Plan (LEP) 2014 and that any use of the premises in association with poultry farm is separately defined under Dungog LEP 2014 and may require separate development consent.

## **STATUTORY CONSIDERATIONS**

### **Designated Development**

Clause 4 of the EP&A Regulation states that Development described in Part 1 of Schedule 3 is declared to be designated development for the purposes of the Act unless it is declared not to be designated development by a provision of Part 2 or 3 of that Schedule. Under

schedule 1, livestock processing industries which meet the following criteria are declared to be designated development:

*Livestock processing industries (being industries for the commercial production of products derived from the slaughter of animals or the processing of skins or wool of animals)—*

- (a) that slaughter animals (including poultry) with an intended processing capacity of more than 3,000 kilograms live weight per day, or*
- (b) that manufacture products derived from the slaughter of animals, including—*
  - (i) tanneries or fellmongeries, or*
  - (ii) rendering or fat extraction plants with an intended production capacity of more than 200 tonnes per year of tallow, fat or their derivatives or proteinaceous matter, or*
  - (iii) plants with an intended production capacity of more than 5,000 tonnes per year of products (including hides, adhesives, pet feed, gelatine, fertiliser or meat products), or*
- (c) that scour, top, carbonise or otherwise process greasy wool or fleeces with an intended production capacity of more than 200 tonnes per year, or*
- (d) that are located—*
  - (i) within 100 metres of a natural waterbody or wetland, or*
  - (ii) in an area of high watertable or highly permeable soils or acid sulphate, sodic or saline soils, or*
  - (iii) on land that slopes at more than 6 degrees to the horizontal, or*
  - (iv) within a drinking water catchment, or*
  - (v) on a floodplain, or*
  - (vi) within 5 kilometres of a residential zone and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.*

As the site is located within the Williams River Special Area Drinking Water Catchment, the proposal is designated development under subclause (d)(iv), despite being of a smaller scale to other types of development listed above.

In accordance with Section 4.12(8) of the EP&A Act, the application has been accompanied by an Environmental Impact Statement (EIS), prepared by Environmental Earth Sciences NSW.

## **Evaluation**

Section 4.15 of the *Environmental Planning and Assessment Act* (EP&A) stipulates key heads of consideration for the assessment of development applications. The application has been assessed against the relevant heads of consideration with the main considerations addressed as follows:

### ***Provisions of any environmental planning instrument.***

#### State Environmental Planning Policy No. 44 – Koala Habitat Protection

This SEPP applies to land having an area of more than 1 hectare and where a development application has been lodged. Before a council may grant consent to an application for consent to carry out development on land to which this SEPP applies, it must satisfy itself whether or not the land is a potential koala habitat. Potential koala habitat is defined as areas of native vegetation where the trees of the types listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

Council's mapping identifies the site as containing grassland and the vegetation type White Mahogany/ Turpentine moist shrubby tall open forest. This vegetation type is not

characteristic of the feed trees listed within Schedule 2 of the SEPP and is satisfied that the site does not comprise core koala habitat.

#### State Environmental Planning Policy No. 55 – Remediation of Land

The aim of this policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of the SEPP states:

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

*(a) it has considered whether the land is contaminated, and*

*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The EIS states that the site is currently and has previously been used for Agricultural production and that the site has been consistently grazed for many years and pastures have been intermittently maintained over this time. Council holds no other information regarding previous land uses. Based on the site inspection, the site is used for grazing purposes and includes stock yards. The location of the proposed livestock processing industry is located clear of the stock yards within an area which has undergone substantial earthworks. It is not considered that any additional investigations are required in relation to whether the land is contaminated.

#### Dungog Local Environmental Plan 2014

Under the definitions of Dungog LEP 2014, a Livestock Processing Industry is a type of Rural Industry, which is listed as being permissible with the consent of Council in the RU1 Primary Production Zone. A livestock processing is defined as follows:

***livestock processing industry** means a building or place used for the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals and includes abattoirs, knackeries, tanneries, woolscours and rendering plants.*

#### **Note.**

*Livestock processing industries are a type of **rural industry**.*

The objectives of the RU1 Primary Production zone are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To provide for recreational and tourist activities that are compatible with the agricultural, environmental and conservation value of the land.
- To promote the rural amenity and scenic landscape values of the area and prevent the silhouetting of unsympathetic development on ridgelines.

The proposed livestock processing industry is compatible with the objectives of the RU1 Primary Production zone.

Other clauses within Dungog LEP 2014 that are applicable to the application include:

#### *6.5 Drinking water catchments*

The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages. The site is located within the Williams River Drinking Water Catchment. In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following:

- (a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following:*
  - (i) the distance between the development and any waterway that feeds into the drinking water storage,*
  - (ii) the on-site use, storage and disposal of any chemicals on the land,*
  - (iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development*

The site is bisected by Tabbil Creek which flows through the site in an easterly direction. This section of the creek appears to be ephemeral in nature. Tabbil Creek is a tributary to the Williams River, which is located approximately 11 km downstream. The EIS does not detail any on-site use, storage or disposal of chemicals, although given the nature of the development, being the processing of carcasses for human consumption, there is expected to be minimal chemical use. The treatment, storage and disposal of waste water is proposed to be contained within the site and modelling has shown that it is unlikely to have an adverse impact on the quality of water within the drinking water storage.

#### *6.6 Riparian land and watercourses*

This clause applies to land identified as "Watercourse" on the Riparian Lands and Watercourses Map and all land that is within 40 metres of the top of the bank of each watercourse identified on the map. Tabbil Creek traverses the site and is mapped on the riparian land and watercourse map. The proposed development and associated works would be located more than 40 metres from the top of bank and would not have an adverse impact on the watercourse, subject to conditions relating to the wastewater management.

#### *6.10 Williams River catchment*

The site is located within the Williams River Drinking Water Catchment and therefore clause 6.10 of the LEP applies. Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development:

- (a) promotes the sustainable use of land, water, vegetation and other natural resources within the Williams River Catchment, and*
- (b) promotes the protection and improvement of the environmental quality of the Williams River Catchment, and*
- (c) will have any significant adverse impacts on water quality within the Williams River Catchment, and*
- (d) is consistent with the Williams River Catchment Regional Planning Strategy published in September 1997 by the Department of Planning and Environment.*

The land for which the proposed site is located is within the Williams Drinking Water Catchment. However, due to the small scale and low impact nature of the development, it is not considered to result in any adverse impact on the drinking water catchment.

The sites wastewater treatment system is designed to take the load of the proposed activity and will suitably treat wastewater to avoid any significant adverse impact on water quality and flows.

#### *6.12 Protection of rural landscapes in rural and environment protection zones*

The objective of this clause is to protect the rural amenity and character of the land to which it applies by managing visual impact. For the subject application, the clause applies as the land is zoned RU1 Primary Production. Subclause 3 states that:

*Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

- (a) any buildings that form part of the development will blend into the landscape and not become silhouetted on a ridgeline, and*
- (b) the design, bulk and colours of any such buildings will be compatible with the surrounding landscape.*

The main farm building has already been approved on the site. Three shipping containers are proposed to be located adjacent to the approved building. The EIS states that “the proposed farm building within which the activity will be undertaken will be screened with plant species that are endemic to the area and that will grow to a height to provide visual screening of the development from Hanleys Creek Road”.

#### ***Any development control plan***

##### Dungog Development Control Plan No 1

Development Control Plan No 1 applies to the proposed development, specifically:

##### *Part C – General*

- C.3. – Building Line Setbacks
- C.9. – Employment Development
- C.23 – On-Site Sewage Management
- C.24 – Site Waste Minimisation and Management

The proposal is consistent with the requirements and aims and objectives of the DCP where applicable.

#### ***The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality***

As part of the preparation of the EIS a preliminary environmental risk assessment was undertaken to identify potential environmental and socioeconomic impacts that would require further detailed assessment to be addressed within the EIS. The key issues identified both within the EIS for the proposed livestock processing industry and as part of Council’s assessment are addressed below:

#### Land Use Conflict

The primary surrounding land use is agriculture which is consistent with the region. Due to this, the EIS considers that there will be a very low risk of any conflict between the development and surrounding production activities.

### Services

The site is not connected to the Hunter Water reticulated water or sewage. The EIS states that water is to be harvested from farm building roofs around the property, stored within water tanks and used to supply the activity. Neither the EIS or the plans document the proposed location or size of water tanks. However, the development consent for the farm building included a condition that the building be connected to a 20,000 litre rainwater tank.

The site is connected to mains power and has back up diesel powered generators for freezers and cool rooms that may be utilised in the event of a power outage.

### Wastewater Management

A Wastewater Management Report prepared by Decentralised Water Consulting has been submitted with the application to demonstrate that wastewater management can be safely accommodated on the site. The site is located within the Williams River Drinking Water Catchment and as such performance modelling and overall impact assessment is required under the Dungog Shire Council Development Assessment Framework.

The EIS describes the impact assessment undertaken by Decentralised Water Consulting as involving the assessment of the potential impact of the system on background water quality conditions and human health criteria. Daily modelling was conducted to assess nutrient and hydraulic loads in accordance with Council's Development Assessment Framework. Viral die-off modelling was undertaken using steady state effluent plume modelling. A mass balance was conducted utilising background loads and modelled loads from the operation of the system to determine the potential human and environmental impacts to soil and water both on and offsite. The modelling concluded that greater than 95% of total wastewater generated by the activity will be contained on-site and that hydraulic failure risk from land application was negligible. In addition, average annual loads for nitrogen, phosphorus and viruses for the proposed on-site system were calculated to meet required performance objectives of less than or equal to 10% increase in background loads at receiving waters.

The wastewater management system designed for the development comprises a secondary treatment with subsurface irrigation. This system is deemed sufficient to handle the potential load from the activity. Further mitigation measures identified in the Wastewater Management Report and EIS to ensure no adverse impacts include:

- Periodic clean out of grease arrestor/ dosing tank by an approved contractor (should be monitored monthly) and disposal of waste at a licensed waste facility.
- Periodic desludging of the septic tank (approximately every 5 years) by an approved contractor and disposal at a licensed waste facility.
- Inspection of the arch trench to confirm operation (annual); and
- Monthly mowing of arch trenches, including the removal of clippings (owner).
- Periodic checking operation of the effluent transfer pump (annual).

The applicant already has approval to install an onsite sewage management system associated with the previously approved farm building. The system will need to be inspected by Council prior to the use of the livestock processing industry commencing.

### Stormwater

The EIS states that all stormwater will be managed and reused onsite. No stormwater will come in contact with meat processing areas. Stormwater is proposed to be collected in a rainwater tank on site, which will need to be conditioned as no details have been provided. It is not considered that stormwater water quality modelling is required.

### Odour

The risk of potential odour issues associated with the land application of the wastewater treatment system were identified within the waste water management report and provisions for prevention of the spread of foul odours has been incorporated into the design of the wastewater management system. Additionally, large natural onsite buffers exist to neighbouring properties and other land uses on site.

### Traffic and Transport

The EIS estimates traffic volumes as a result of the proposed activity as follows:

- Average of six return light vehicle trips per day along Hanleys Creek Road and Clarence Town Road toward Dungog accounting for staff travel and delivery van movements.
- Average of one return truck trip per month along Hanleys Creek Road and Clarence Town Road toward Clarence Town for delivery of various supplies.

However, the EIS does not provide an adequate assessment of the traffic generated by the proposed development or the impacts of the generated traffic on the surrounding road network. The EIS relies on assumptions of the traffic generated by the development, with no justification provided. No comment has been included in relation to the existing traffic volumes on the surrounding road network, the existing standard of the surrounding road network or the impact of traffic generated by the proposed development on the surrounding road network.

In particular, it is not clear whether Hanleys Creek Road, the intersection of Hanleys Creek Road and Clarence Town Road, or the existing bridge over Hunter Water's main have been constructed to an adequate standard to cater for the increase in traffic generated by the proposed development including heavy vehicle movements. Additional information was requested from the applicant, although the information provided by the applicant's traffic consultant has not addressed the request for information. In particular, Council's Consultant Development Engineer has identified the following shortcomings:

- No justification for traffic generated by the development has been provided. The letter simply reiterates the assumption provided in the EIS.
- Regarding the intersection of Hanleys Creek Road and Clarence Town Road, the letter asserts that the "intersection can cater for large vehicles". The existing intersection of Hanleys Creek Road and Clarence Town Road inclusive of the bridge over the Hunter Water pipeline can not safely cater for heavy vehicle movements. This is particularly the case for a heavy vehicle heading northbound on Clarence Town Road turning left into Hanleys Creek Road, which would have to cross the centreline to provide sufficient manoeuvring area to cross the very narrow bridge.
- The letter does not consider Council's Roads Management Strategy and the road standard required to cater for the proposed development.
- The letter does not consider the safety concerns raised for vehicles travelling along Hanleys Creek Road.

Nevertheless, the application has been assessed by Council's Consultant Development Engineer as detailed below.

### *Existing Road Environment*

The Hanleys Creek Road formation varies in standard. Hanleys Creek Road includes a very narrow bridge approximately 3.6m wide immediately adjacent to the intersection with Clarence Town Road. The existing intersection of Hanleys Creek Road and Clarence Town Road inclusive of the bridge cannot safely cater for heavy vehicle movements. This is particularly the case for a heavy vehicle heading northbound on Clarence Town Road turning left into Hanleys Creek Road, which would have to cross the centreline to provide sufficient manoeuvring area to cross the very narrow bridge.

Hanleys Creek Road is an 80km/h speed environment.

From the intersection with Clarence Town Road to the golf clubhouse (Ch0 to approximate Ch 1km) Hanleys Creek Road has been constructed to a 6m wide bitumen sealed standard. This length of road pavement would be considered a Rural Local 2 (RL2) standard, allowing for up to 200 vehicle movements per day.

Beyond the golf clubhouse for an additional 700m (approximate Ch 1km to Ch 1.7km) Hanleys Creek Road is constructed to a bitumen sealed standard but narrows to approximately 4m wide. Passing opportunities are available by utilising the grassed road shoulders. A rural 4m wide sealed formation is not classified under Council's Roads Management Strategy, however from the strategy a 4m wide road formation with passing opportunities would be considered to allow for up to 100 vehicle movements per day.

Beyond this point to the development site, Hanleys Creek Road has been constructed to a 4m wide gravel standard. This length of road would be considered a Rural Local Unsealed 2 (RLU2) standard, allowing for less than 50 vehicle movements per day. The road is maintained by Council but can be difficult to traverse in a 2 wheel drive vehicle in wet conditions due to having been constructed to Council's minimum standard. No constructed passing bays are provided and passing opportunities are severely limited due to deep table drains and unformed road shoulders. Sight distance is poor at crests.

An inspection of Hanleys Creek Road was completed on Thursday 10/10/19 by Council's Consultant Development Engineer, with the following road safety concerns noted:

- Approximate Ch 2.05km – Crest, poor sight distance
- Approximate Ch 2.3km – Crest, poor sight distance
- Approximate Ch 2.93km – Crest, poor sight distance
- Approximate Ch 3.5km – Crest, poor sight distance
- Generally, very limited passing opportunities due to steep table drains and unformed road shoulders.

### *Existing Traffic*

At Hanleys Creek Road adjacent to the intersection with Clarence Town Road the information provided by the Applicant's Traffic Engineer suggests an AADT of approximately 120 vehicles per day, based on traffic counts provided for a nearby development application.

At Hanleys Creek Road west of the golf club the information provided by the Applicant's Traffic Engineer suggests an AADT of approximately 72 vehicles per day, based on RMS Guide to Traffic Generating Development generation figures for 8 dwellings.

At Hanleys Creek Road at the unsealed section, allowing for 5 dwellings serviced by the road and RMS traffic generation rates provided by the Applicant's Traffic Engineer an AADT of approximately 45 vehicles per day could be anticipated.

At Hanleys Creek Road adjacent to the development site, allowing for 2 dwellings serviced by the road and RMS traffic generation rates provided by the Applicant's Traffic Engineer, an AADT of approximately 18 vehicles per day could be anticipated.

In the absence of further detailed traffic count data, the above estimates for AADT on Hanleys Creek Road are considered reasonable.

*Proposed Traffic*

The EIS estimates that the proposed development will generate 6 return light vehicle movements per day (staff vehicles) and 1 return "truck" vehicle movement per month for delivery of various supplies. i.e. up to 14 vehicle movements per day.

As indicated previously in the report, traffic generation figures from the EIS are not accepted as the EIS relies on assumptions only, with no justification provided. The assumption relied upon are not considered reasonable e.g. no consideration of staff vehicle movements during the day; no consideration of service vehicles; no allowance for outbound delivery vehicle movements; 1 inward delivery per month would not be considered reasonable for a commercial operation.

From the RMS Guide to Traffic Generating Developments, the most appropriate land use classification for the proposed development is industrial. Food and beverage industry are considered by the RMS guide to be a medium traffic generator, and staff density rates proposed by the EIS are similar to those suggested in the RMS guide, therefore adoption of the RMS AADT figure of 5 vehicle movements per day per 100m<sup>2</sup> GFA is considered reasonable.

Scaling from plans, the proposed development has a gross floor area of approximately 360m<sup>2</sup>. The AADT is therefore estimated to be:

$$\text{AADT} = 5 \text{ veh/day}/100\text{m}^2 \times 360\text{m}^2 = 18 \text{ vehicles per day}$$

*Impact of generated traffic*

Considering existing and proposed traffic:

Hanleys Creek Road	Existing	Capacity	Proposed	% increase	Compliance with Council's Roads Management Strategy
At intersection	120	200	138	15%	Has capacity
West of golf club (sealed)	72	100	90	25%	Has capacity
West of golf club (unsealed)	45	50	63	40%	Non-compliant
At development site	18	50	36	100%	Has capacity

In summary:

- It is considered that the sealed portions of Hanleys Creek Road have sufficient capacity to accept traffic generated by the proposed development (when assessed in accordance with Council's Roads Management Strategy).
- Traffic generated by the proposed development will result in an AADT increase of up to 40% on the unsealed portion of Hanleys Creek Road. The increase in AADT

means that the road formation no longer meets the requirements of Council's Roads Management Strategy. As such road upgrades must be considered.

- Traffic generated by the proposed development will result in an AADT increase of approximately 100% on Hanleys Creek Road at the development frontage. Doubling the AADT is obviously significant and as such road upgrades must be considered.

In accordance with Council's Roads Management Strategy, upgrading of at least part of the unsealed portion of Hanleys Creek Road to a Rural Local 2 (RL2) standard is warranted to cater for additional traffic generated by the proposed development. In addition to the 18 additional vehicle movements likely to be generated by the proposed development, the existing road formation can cater for 4 dwellings before the capacity of the existing RL2 road formation is exceeded. This will occur east of 273 Hanleys Creek Road. A condition of consent is recommended requiring upgrading of the gravel road, from the end of the existing bitumen seal at approximate Ch 1.7km to Ch 2.73km, a distance of approximately 1km.

Road safety upgrades must also be considered to cater for the safety of road users, particularly at crests previously detailed, where sight distance is poor and the likelihood of a head on collision would be increased due to additional traffic generated by the proposed development. As an absolute minimum, the development application should be conditioned to include road widening at crests to provide a minimum 6m wide Rural Local 2 (RL2) pavement allowing 2 vehicles to pass in compliance with Austroads sight distance requirements for an 80km/h speed environment. A condition of consent is recommended.

The applicant and traffic consultant have advised verbally that the development will be serviced by small rigid vehicles only. As the bridge adjacent to Clarence Town Road is not suitable for heavy vehicle movements (and no information has been submitted to demonstrate that movements can be made safely) it is recommended that a condition of consent also be included limiting vehicle movements associated with the development to vehicles no larger than a small rigid 7.1m long vehicle.

### Noise

The EIS anticipates that impact arising from noise are unlikely to occur due to the distance between sensitive receptors and the time of day when operations will occur. Potential sources of noise due to operation of the activity are identified as road traffic. Control measures for potential noise generation will include the scheduling of standard operating hours between 6am to 6 pm limiting noise generation from vehicles on their way to and from the site.

The EIS does not consider any noise from the fridge and freezer units, which are external to the main building. It is anticipated that these would be likely to run 24 hours a day, seven days per week. However, given the distance from the property boundaries and to the nearest sensitive receptors, this is likely to have minimal impact.

### Biodiversity

No vegetation clearing is proposed as a result of the development.

### Bushfire Risk

The site is not mapped as Bushfire Prone Land. However, Council's bushfire prone land mapping does not currently map grasslands as a bushfire threat. Adequate asset protection zones are provided around the proposed building and recommendations previously made in relation to road upgrades would improve the safety of the road network.

### Visual Amenity

The proposed development will involve the placement of three mobile storage units (shipping containers) around the approved shed. Due to the topography of the site and distance to neighbouring properties, no visual amenity impacts are likely to occur from nearby residences. The EIS states that the proposed farm building within which the activity will be undertaken will be screened with plant species that are endemic to the area and that will grow to a height to provide visual screening of the development from Hanleys Creek Road. This is to be included in the conditions of consent.

### Heritage

No matters of Aboriginal Cultural Heritage were identified by the AHIMS Basic Search undertaken for the site. Similarly, the site is not listed as a heritage item or identified as being within a Heritage Conservation Area under Dungog LEP 2014.

### Waste Management

Any waste generated on site is to be reused where appropriate or disposed of in an appropriate manner to a licenced waste facility. All components of a carcass will be utilised into meat products and saleable off cuts which include bones and fat. Waste from the wastewater treatment system's grease arrestor will be removed by a licensed contractor and disposed of at a licensed waste facility.

### **The suitability of the site for the development**

The site is considered suitable for the proposed development in terms of zoning, area and landform, although there are constraints including the capacity for the existing road network to accommodate the additional vehicle movements associated with the rural industry and the location within the Williams River drinking water catchment.

As discussed previously in the report, wastewater management is expected to be adequately treated and disposed of on the site without having a detrimental impact on the quality of water entering the waterways. The estimated increase in traffic has been assessed by Council's Consultant Development Engineer as being a significant increase when compared to existing and resulting in the capacity of the existing road to be exceeded, having regard for Council's Roads Management Strategy. In this regard, it is recommended that conditions are imposed in relation to road widening along certain sections of Hanleys Creek Road.

### **Any submissions made in accordance with this Act or the regulations**

Division 5 of the EP&A Regulation outlines the public participation requirements for designated development. This includes specific requirements for notices in the newspaper and on the site. The public notification period extended from 28 August 2019 until 27 September 2019. No public submissions were received.

Clause 77 of the Regulation also requires the consent authority to give written notice of a development application for designated development to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the consent authority, may have an interest in the determination of that development application. In this regard, the application was referred to the following authorities, which had been consulted during the preparation of the EIS:

- Hunter Water
- NSW Office of Environment and Heritage
- NSW Department of Primary Industries – Agriculture
- NSW Natural Resources Access Regulator (NRAR)

Council received a response from NRAR and Hunter Water. NRAR confirmed that for the purposes of the *Water Management Act 2000*, a controlled activity approval is not required and no further assessment by the agency is necessary.

Hunter Water advised as follows:

*Hunter Water's Operating Licence requires compliance with the Framework for Management of Drinking Water Quality that is part of the Australian Drinking Water Guidelines (ADWG). The Framework requires adoption of a multiple barrier approach to water quality, and states that "the most effective barrier is protection of source water to the maximum degree practical". Protection of land within the Special Area is key to ensuring that this barrier is effective. In accordance with the Hunter Water Regulation 2015, prevention of pollution or contamination of water in the Special Area is of paramount importance to the Corporation.*

*Hunter Water expects that all development in drinking water catchments will demonstrate a Neutral or Beneficial Effect on Water Quality (NorBE). A development is considered to demonstrate NorBE if the development:*

- a) has no identifiable potential impact on water quality, or*
- b) will contain any water quality impact on the development site and prevent it from reaching any watercourse, waterbody or drainage depression on the site, or*
- c) will transfer any water quality impact outside the site where it is treated and disposed of to standards approved by the consent authority.*

*The primary ways in which the proposed development could adversely affect water quality are through wastewater and stormwater discharge during the occupation phase, which can introduce sediment, pollutants and pathogens into water bodies.*

*The documentation provided in support of the application specifies that all stormwater and wastewater will be retained on site. Stormwater from the shipping containers will be collected in a rainwater tank, and wastewater will be collected and treated to a secondary standard prior to onsite subsurface irrigation.*

*It is noted that there are a number of inconsistencies in the information provided in the Wastewater Management Report, particularly in relation to parameter values reported in tables and text. These include design loading rates (variably referred to as 3.5mm/day, 8mm/day, 6.8mm/day and 1.8mm/day) and description of the treatment processes to be applied to the wastewater (in places referred to as raw wastewater, primary treatment - septic and secondary treatment). It is unclear which values were actually used in the calculations.*

*Based on Hunter Water's assessment of the site parameters and nature of the development, however, it is considered that the development has the potential to sustainably manage wastewater onsite. As such, once Council is satisfied that the Wastewater Management Plan satisfactorily meets the requirements of Council's On-site Sewage Development Assessment Framework and relevant Development Control Plans, Hunter Water will consider the development to achieve NorBE provided secondary treatment of wastewater and subsurface irrigation are employed.*

### **The public interest**

The establishment of a new sustainable business within the Dungog LGA is considered to be in the public interest. It is considered unlikely that the proposed development would have a detrimental impact on the public interest, subject to conditions of consent.

### **CONCLUSION**

The proposal has been assessed against the matters for consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979. It is recommended that development consent is granted, subject to the conditions in Annexure A.

## ANNEXURE 'A'

### Draft Conditions of Consent

#### General and At All Times (Including Ongoing Operation of the Rural Industry)

1. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent, or as modified in red.

Supporting Document	Reference	Prepared by	Dated
Environmental Impact Statement	119051 Draft	Environmental Earth Sciences	14 August 2019
Wastewater Management Report	Revision 0 R.00281.001.00_Ethicalfarmersruralindustryfacil lty_391hanley screekrdhanleyscreek WMR	Decentralised Water Consulting	9/04/2019

Plan No	Reference	Prepared by	Dated
Site Plan	119051 Fig 2	Environmental Earth Sciences	July 2019
Floor Plan	119051 Fig 3	Environmental Earth Sciences/Dukes Workshop Pty Ltd	July 2019
Elevation Plan - North/South	119051 Fig 4a	Environmental Earth Sciences/Dukes Workshop Pty Ltd	July 2019
Elevation Plan - East/West	119051 Fig 4b	Environmental Earth Sciences/Dukes Workshop Pty Ltd	July 2019
Wastewater Treatment System Layout	Figure 5	Environmental Earth Sciences/ Decentralised Water Consulting	-

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

2. The livestock processing industry is limited to the production of 30 tonnes of meat and/or products annually.
3. This development consent does not authorise the slaughter of animals on the site. All carcasses delivered to and/or processed on the site are to be received from an approved abattoir.
4. The hours of operation for the activity, including all deliveries to and from the site are restricted to between 6am and 6 pm each day. Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.
5. Access to the development site shall not be permitted by vehicles larger than the 7.1m long medium rigid vehicle specified by AS2890.2 Parking Facilities – Off Street Commercial Vehicle Facilities.

6. Ongoing maintenance of the waste water management system is to undertake to ensure satisfactory operation, including (but not limited to):
  - Periodic clean out of grease trap by an approved contractor (monitored monthly); and
  - Periodic desludging of the septic tank (approximately every 5 years) by an approved contractor; and
  - Inspection of the arch trench to confirm operation (annual); and
  - Mowing of arch trenches, including the removal of clippings (monthly); and
  - Periodic checking operation of the effluent transfer pump (annual).
7. A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures, other than those that are exempt development or permitted without consent by Council.
8. Colour and texture of the external materials of the buildings are to be chosen to ensure they blend into the natural surroundings. In this regard, non-reflective materials shall be used in all external finishes.
9. The work must be carried out in accordance with the requirements of the Building Code of Australia.

#### **Prior to Commencement of Work**

10. Prior to the commencement of work for the internal fitout or any footings, it will be necessary to obtain a Construction Certificate. Where Council is not the Principal Certifying Authority (PCA), the proponent or private certifier shall submit a Construction Certificate to Council prior to building works commencing on the subject allotment.
11. At least two days prior to the commencement of works, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.
12. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:-
  - (a) stating that unauthorised entry to the work site is prohibited; and
  - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted.
  - (c) identifying the Principal Certifying Authority and a telephone number at which that person may be contacted.Any such sign is to be removed when the work has been completed.
13. The applicant shall ensure that arrangements are made for Council to carry out **CRITICAL STAGE INSPECTIONS** indicated as follows in bold.

Request for inspections may be made either by telephone or in person.

Forty eight (48) hours notice must be given for inspections.

Applicants are required to nominate the relevant Construction Certificate Number and location prior to the inspection request being granted.

**Note: STAGE INSPECTIONS** are required to be carried out in order to ensure that an Occupation Certificate can be issued. In the event that any stage inspection is not carried out, an Occupation Certificate cannot be issued.

- a) After stripping of topsoil from roads and fill areas, all Erosion & Sediment Control devices and Traffic Control signs shall be installed at this stage.**
- b) After completion of road sub grade.**
- c) After placement and compaction of each layer of gravel pavement material.**
- d) After laying and jointing of all stormwater drainage pipelines prior to backfilling.**
- e) After restoration and completion of all works.**
- f) After placement of all steel reinforcing in footpaths and driveways.**
- g) As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls and conditions of Development Consent.**

It should be noted that Council charge fees for inspections and Compliance Certificates. These inspection fees must be paid prior to release of the Construction/Occupation/Subdivision Certificate associated with the Development Consent. Compliance (Inspection) Fees will be adjusted in accordance with Council's Fees & Charges operating at the time of inspection. In the event further additional inspections are required those inspections will attract inspection fees.

14. Prior to preparation of any engineering design plans, the consultant preparing the design plans will need to contact Council's Infrastructure & Assets department to discuss the extent and scope of all works and details required on the design plans. Some of the issues to be discussed and incorporated in the design plans include the following:

- Location of passing bays.
- Erosion & sediment controls.
- Stormwater drainage.
- Pavement standards including carriageway widths etc.
- Vehicle access locations.
- Provision of Water & Sewer.
- Road widening.
- Standard of river/creek crossing detail.
- Earthworks details including quantities.
- Traffic control details.
- Restoration details.

#### **Prior to Issue of a Construction Certificate**

15. The area where food is handled and repackaged is to be constructed and fitted out in accordance with the following-

- The Food Act 2003
- Food Regulation 2015
- Australian Standard 4674-2004- construction and fitout of food premises.

Full details shall be submitted to Council for approval prior to the issue of a Construction Certificate.

16. The proposed development shall be constructed so as to be fully compliant with the Building Code of Australia for a Class 8, Type C building. Full details shall be submitted to Council for approval prior to the issue of a Construction Certificate.

17. Prior to the issue of a Construction Certificate a detailed landscape plan nominating the location, species and mature height of the proposed plants is to be submitted to Council for approval.
18. Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 for the works detailed in conditions 19 and 20. For any such works, detailed engineering design plans must be submitted to Council for approval prior to issue of the Construction Certificate.

19. Prior to issue of the s138 approval the developer shall arrange for detailed engineering design plans to be submitted to Council for approval for: -

Upgrade Hanleys Creek Road to a minimum 6m wide Rural Local 2 (RL2) standard, from the end of the existing bitumen seal at approximate Ch 1.7km to Ch 2.73km, a distance of approximately 1km. All works shall be in accordance with the latest Auspec standards and Council's Roads Management Strategy. All works shall be at no cost to Council

All works shall be complete to the satisfaction of Council prior to the release of the Occupation Certificate.

20. Prior to issue of the s138 approval the developer shall arrange for detailed engineering design plans to be submitted to Council for approval for: -

Upgrade Hanleys Creek Road to include road widening at crests to provide a minimum 6m wide Rural Local 2 (RL2) pavement allowing 2 vehicles to pass in compliance with Austroads sight distance requirements for an 80km/h speed environment.

All works shall be in accordance with the latest Auspec standards and Council's Roads Management Strategy. All works shall be at no cost to Council

All works shall be complete to the satisfaction of Council prior to the release of the Occupation Certificate.

**Advice:** The following locations are provided as advice and are approximate only:

- Approximate Ch 2.05km – Crest, poor sight distance
- Approximate Ch 2.3km – Crest, poor sight distance
- Approximate Ch 2.93km – Crest, poor sight distance
- Approximate Ch 3.5km – Crest, poor sight distance

### **During Works**

21. Approved toilet facilities are to be provided, at or in the vicinity of the work site on which the work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every twenty (20) persons employed at the site. The provision of toilet facilities in accordance with the Clause must be completed before any other work is commenced.
22. A waste containment facility to Council's requirements is to be provided on the building site immediately after the commencement of works and is to be regularly serviced.

Council and the Environmental Protection Authority may issue "on the spot" fines if breaches of the Environmental Offences and Penalties Act, are detected.

**Note** - your attention is drawn to your responsibility to control any litter arising from building works associated with this consent.

23. All building materials, plant and equipment is to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves etc.
24. To minimise soil erosion during construction, the owner and builder shall ensure that the following measures are implemented in the sequence outlined:-
- (i) A dish shaped diversion drain or similar structure will be constructed above the proposed house site to divert run-off to a stable discharge area such as an area with a grass cover. (This diversion drain is to be lined with turf or otherwise stabilised if it erodes after rainfall).
  - (ii) A sediment trapping fence using a geotextile fabric specifically designed for such a purpose and installed to manufacturer's specifications is to be placed below the construction area (eg "silt stop").
  - (iii) Vegetation is to be cleared from the construction site only; other areas are to remain undisturbed.
  - (iv) Top soil from the construction site or builders sand is to be stockpiled in a location where it will not be eroded from the site, and is not to be stockpiled on the road reserve.
  - (v) All erosion control measures will require maintenance after rainfall. They should be retained until the site has fully revegetated.
  - (vi) If soil or other materials are spilt accidentally onto the road or gutter, they shall be removed prior to the completion of the day's work.

All erosion and sedimentation controls are to be installed in accordance with Council's erosion and sedimentation control policy and code of practice.

Failure to implement and maintain all erosion and sedimentation control measures is a breach of the Protection of the Environment Operations Act 1997 and is liable to an on-the-spot fine.

25. Any relocation or alterations of public utilities made necessary as a result of the development are to be carried out by the developer at no cost to Council.
26. There is to be no construction and/or demolition works, including deliveries on or to the site prior to 7.00 am or after 6.00 pm Monday to Friday, prior to 8.00 am and after 6.00 pm Saturday and prior to 9.00 am and after 4.00 pm Sunday.

#### **Prior to Issue of Occupation Certificate/Use of Premises**

27. The building shall not be used or occupied until completed and conditions of consent have been complied with and an Occupation Certificate has been issued.
28. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.

Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.

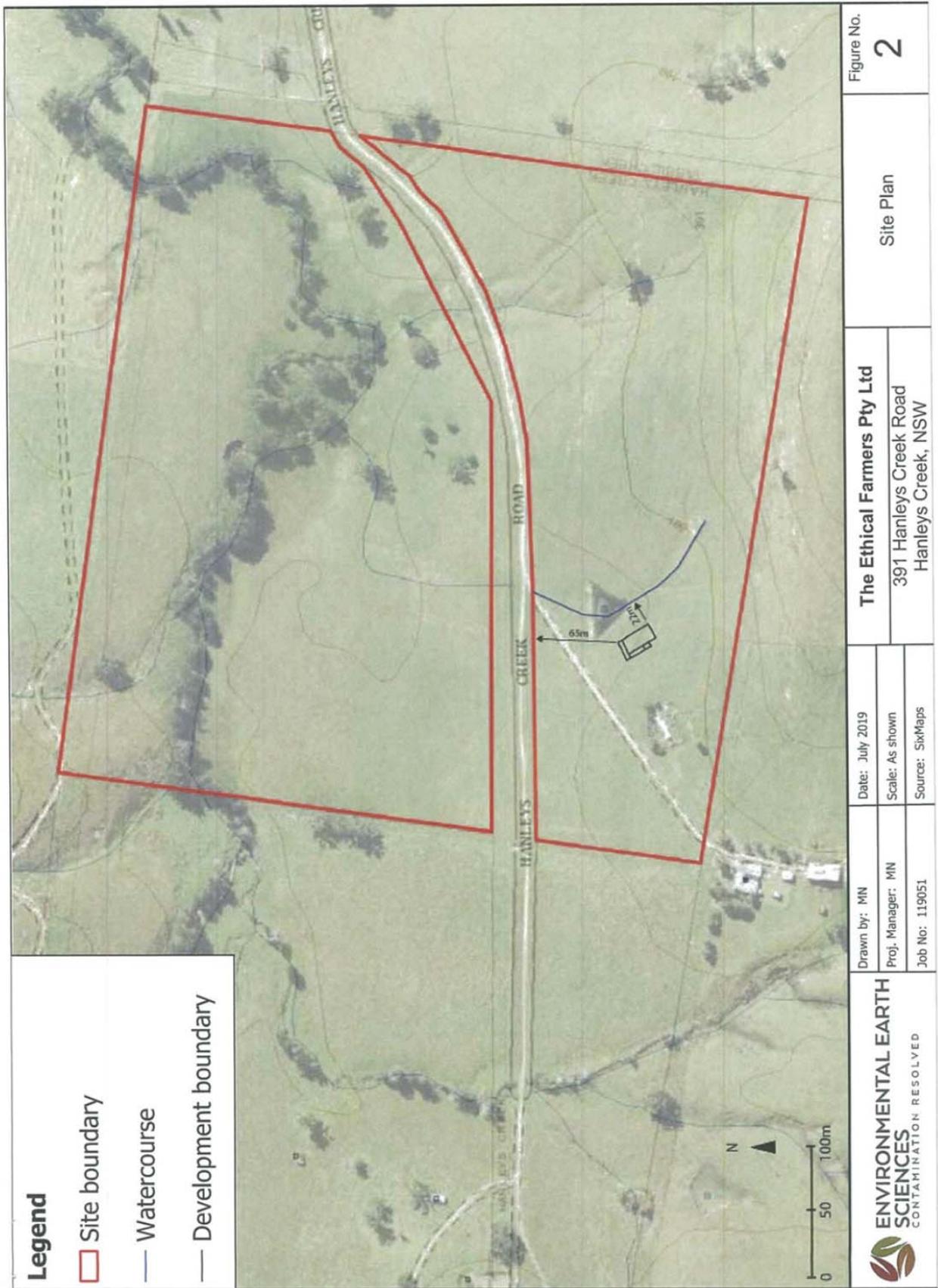
29. All conditions of Development Consent No 77/2019 issued by Dungog Shire Council are to be satisfied prior to the issue of any Occupation Certificate or use of the premises authorised under this consent.

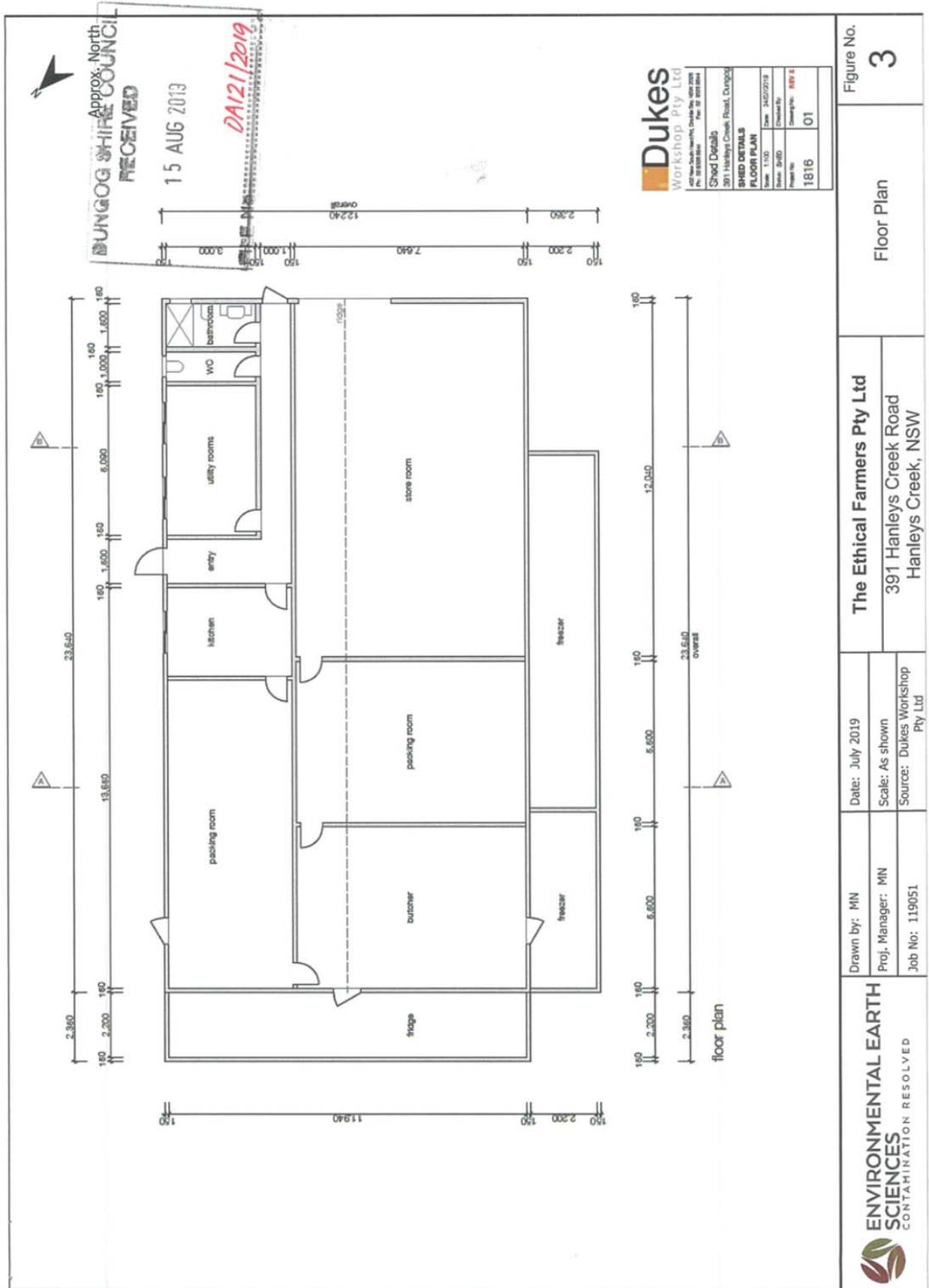
30. Prior to the issue of any Occupation Certificate, a rain water tank with a minimum capacity of 20,000 litres is to be installed to collect rainwater from the building.
31. Prior to the issue of any Occupation Certificate, the building is to be screened with plant species that are endemic to the area and that will grow to a height to provide visual screening of the development from Hanleys Creek Road as detailed in the landscape plan submitted with and approved with the Construction Certificate.
32. Prior to the issue of any Occupation Certificate or use of the building, the onsite sewage management system is to be installed in accordance with its approval, with a satisfactory final inspection to be undertaken by Council.
33. A trade waste service shall be provided that is sufficient for the collection and disposal of waste products generated from the activity. The applicant shall provide details of the trade waste arrangements prior to the Occupation Certificate being issued.
34. Prior to the issue of any Occupation Certificate, all road works included in conditions 19 and 20 of this consent and as approved under Section 138 of the Roads Act 1993 are to be completed, with a satisfactory final inspection being undertaken by Council.

**Advice:**

The approved use is limited to a livestock processing industry as defined under Dungog Local Environmental Plan (LEP) 2014. Any use of the premises in association with poultry farming or the sorting, packing and distribution of eggs is separately defined under Dungog LEP 2014 and may require separate development consent.

# ANNEXURE 'B'







432 New South Wales St, Croydon Vic 3109-2228  
 Ph: 02 8402 8444 Fax: 02 8402 8444

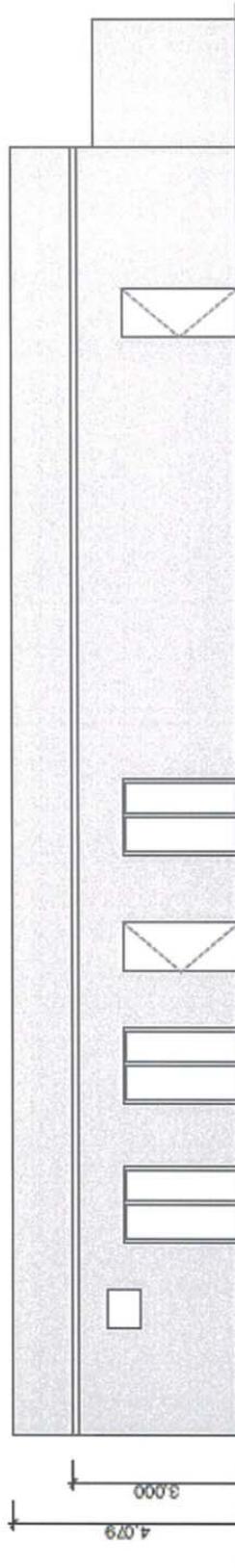
**Shed Details**

391 Hanleys Creek Road, Dungog

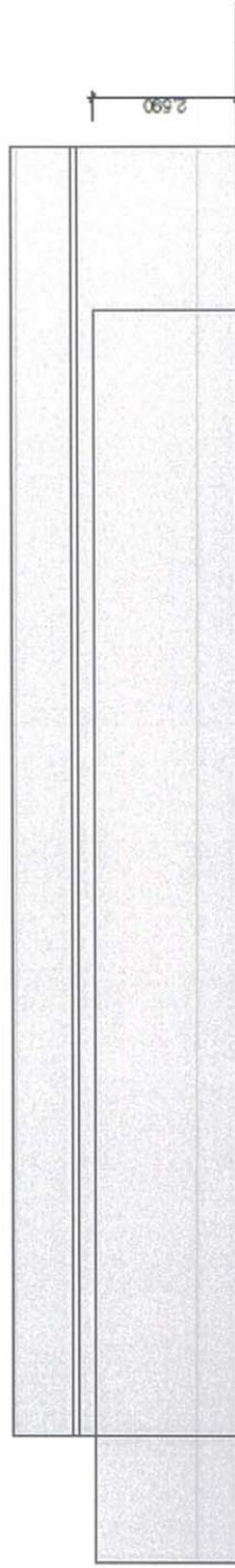
**SHED DETAILS**

**ELEVATIONS & SECTION**

Scale: 1:100	Date: 24/07/2019
Issue: SHEED	Drawn By:
Project No: 1816	Drawing No: REV B
	02



north elevation



south elevation



Drawn by: MN  
 Proj. Manager: MN  
 Job No: 119051

Date: July 2019  
 Scale: As shown  
 Source: Dukes Workshop Pty Ltd

**The Ethical Farmers Pty Ltd**  
 391 Hanleys Creek Road  
 Hanleys Creek, NSW

Elevation Plan -  
 North/South

Figure No.  
**4a**

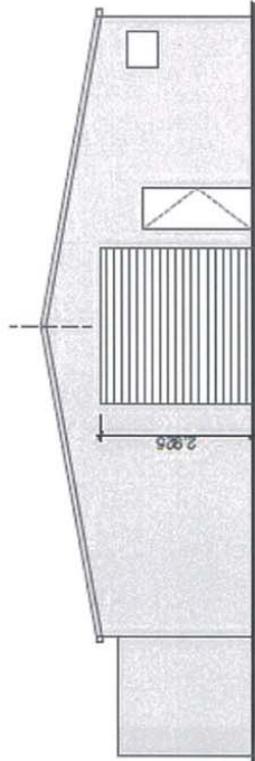


Workshop Pty Ltd  
 427 New South Wales Rd, Dungog NSW 2450  
 Ph: 02 6591 9191

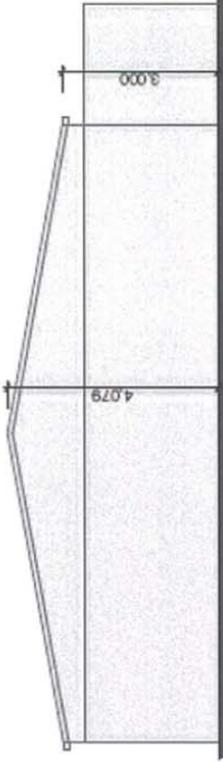
Shed Details  
 391 Hanleys Creek Road, Dungog

SHED DETAILS  
 ELEVATIONS & SECTION

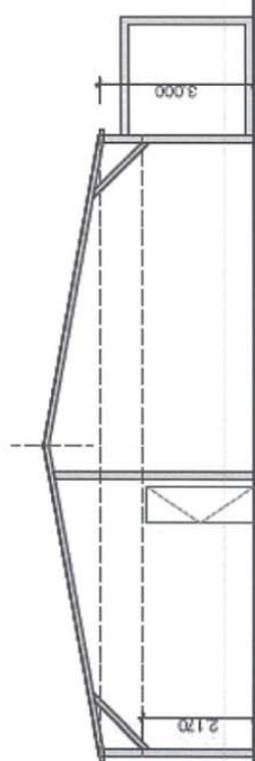
Scale:	1:100	Date:	24/07/2019
Shed ID:	SHED	Drawn by:	
Project No:	1816	Sheet No.:	02
		Change No.:	007 8



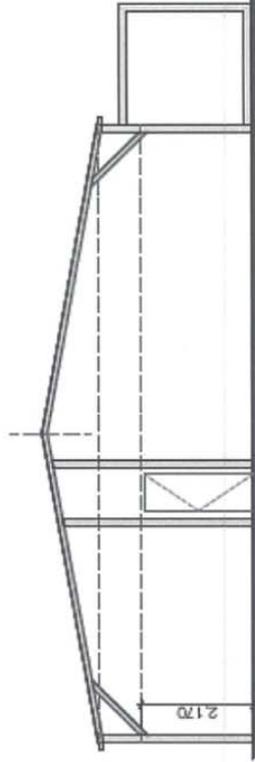
east elevation



west elevation



section A-A



Section B-B



Drawn by: MN  
 Proj. Manager: MN  
 Job No: 119051

Date: July 2019  
 Scale: As shown  
 Source: Dukes Workshop Pty Ltd

The Ethical Farmers Pty Ltd  
 391 Hanleys Creek Road  
 Hanleys Creek, NSW

Elevation Plan -  
 East/West

Figure No.  
**4b**

**Figure 5: Wastewater Treatment System Layout**

