



ProTen

ProTen Ltd
Ph +61 2 9458 1700
Fax +61 2 9929 7968
P.O. Box 1746
North Sydney
NSW 2060

10 February 2025

NSW Department of Planning, Housing & Infrastructure
Locked Bag 5022
Parramatta NSW 2124

To whom it may concern;

**Amendment Request to Enforceable Undertaking – SSD 7704
Rushes Creek Poultry Production Farm**

The purpose of this letter is to notify the NSW Department of Planning, Housing and Infrastructure (DPHI) of revisions to the Enforceable Undertaking (Undertaking) (commenced on 31 July 2023) given under section 9.5 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act) by ProTen Tamworth Pty Limited (ProTen) (ACN 109 715 513).

This letter details the minor changes made to the EU due to the requirements of the research program and amendments to the formal site details following previous boundary adjustment.

SUMMARY OF CHANGES

On 21 November 2024, the EU was revised to:

- Amend the site details to reflect the current Lot and Deposited Plan (DP) applicable to the development. This revision is necessitated by the boundary adjustment previously undertaken to consolidate all Farm 2 infrastructure onto one Lot. Refer to *Section 2.a.*
 - Remove the reference to “Part Lot 1 DP 1108119”, as it no longer exists.
 - Remove the reference to “Lot 85, 165 and 166 DP 752169”, as they no longer exist.
 - Remove the reference to “Lot 1 DP 1141148”, as it no longer exists.
- Include additional details of the four alleged breaches, as requested by NSW DPHI.
- Amend the wording requiring the timing of the second payment by removing the provision for it to occur “no later than 12 months from the first payment”. The facility booked by UNE for the physical research program lacks cooling capabilities, making it unsafe to conduct the program during the warmer months of spring and summer. Consequently, the physical program will commence in April 2025, when temperatures are more suitable. UNE has confirmed that the next payment will be required upon submission of the final research report. Refer to *Section 4.a.ii.1.* and *Section 4.a.iii.*
- Include language to clearly define the commencement of the research program. The program is considered to have commenced upon the issuance of the first payment, which facilitated the University officers to draft the preliminary report, engage with relevant stakeholders, and present the proposal to the Animal Ethics Committee for approval. Approval from the Animal Ethics Committee has since been obtained and physical commencement may occur. Refer to *Section 4.a.v.*
- Update the execution date. Refer to Execution Page.

These changes are reproduced below:

Section 2.a. –

ProTen is the operator of the Rushes Creek Poultry Production Farm (Rushes Creek Farm) located on Rushes Creek Road, Rushes Creek NSW (otherwise known as Lot 1 DP 44215; Lot 1 DP 1132298; Lots 26, 86, 101, 118 and 171 DP 752169; Part Lot 143 DP 752189; Lot 1 DP 1132078; Lot 62 DP 1276824; and an unformed Council public road traversing through Lot 171 DP 752169).

Section 2.e. –

Please refer to Sections 2.e.i., 2.e.ii., 2.e.iii., and 2.e.iv. EU for details of four alleged breaches.

Section 4.a.ii.1. –

A sum of \$50,000 will be provided to the University of New England (UNE) / Poultry Hub for a new research program. The Invoices to ProTen will be made by PHA as per the following:

- \$25,000 (ex gst) after contract execution.
- \$25,000 (ex gst) made upon provision of the final report.

Section 4.a.iii. –

Pay the \$50,000 to the University of New England (UNE) / Poultry Hub Australia in two installments. \$25,000 (ex gst) after contract execution and \$25,000 (ex gst) made upon provision of the final report. Note UNE and the Poultry Hub Australia are the same entity.

Section 4.a.v. –

It is proposed to commence the research program in Quarter 1 to Quarter 2 of 2024. The initial payment of \$25,000 (ex gst) made to UNE / Poultry Hub Australia marks the official commencement of the research program.

Yours sincerely,



James Wentworth
Chief Executive Officer – ProTen Pty Ltd
PO Box 1746
North Sydney NSW 2059
Mobile: 0407 936 896
Email: jamesw@proten.com.au

ENFORCEABLE UNDERTAKING

Enforceable Undertaking

This is an Enforceable Undertaking (**Undertaking**) given under section 9.5 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) by ProTen Tamworth Pty Limited (**ProTen**) (ACN 109 715 513).

1. Person Giving the Undertaking

- a. This Undertaking is given to the Planning Secretary, Department of Planning, Housing and Infrastructure (formerly Department of Planning and Environment) (**Planning Secretary**) by ProTen for the purposes of Section 9.5 of the EP&A Act.

2. Background

- a. ProTen is the operator of the Rushes Creek Poultry Production Farm (**Rushes Creek Farm**) located on Rushes Creek Road, Rushes Creek NSW (otherwise known as Lot 1 DP 44215; Lot 1 DP 1132298; Lots 26, 86, 101, 118 and 171 DP 752169; Part Lot 143 DP 752189; Lot 1 DP 1132078; Lot 62 DP 1276824; and an unformed Council public road traversing through Lot 171 DP 752169).
- b. On 14 April 2020 the Planning Secretary granted consent for State Significant Development (**SSD**) 7704 (the consent) which allows for the construction and operation 54 fully enclosed climate-controlled poultry sheds, where a maximum of 3,051,000 broiler birds are grown for the purpose of producing poultry meat (for human consumption), and associated support and servicing infrastructure.
- c. SSD 7704 has been modified four times.
- d. Between 13 July 2022 and 7 October 2022, the Department of Planning, Housing and Infrastructure (then Department of Planning and Environment) (NSW Planning) issued multiple requests for information relating to alleged breaches of conditions of SSD 7704 as modified (the consent) undertaken at the Rushes Creek Farm.
- e. On 14 October 2022, NSW Planning issued a Show Cause Notice related to four alleged breaches of the consent. The alleged breaches were:
 - i. Breach 1 – Construction of the North-East and South-West borrow pits, in contravention of Schedule 2, Part A, Condition A2 of the consent.
 1. During an inspection of the site by NSW Planning investigation officers on 30 June 2022, it was observed that a borrow pit had been constructed at the North-East corner of the site.
 2. During a review of Google Earth Imagery on 29 August 2022, NSW Planning became aware of a second borrow pit in the South-West corner of the site.
 3. A search of the Environmental Impact Statement titled 'Rushes Creek Poultry Production Farm – SSD 7704', prepared by SLR Consulting Australia Pty Ltd dated August 2018 (EIS), Response to Submissions (RTS) and Supplementary RTS located on the Major Projects Portal has not identified any mention of 'borrow pits'.
 4. Responses to NSW Planning requests for information (RFI-46264708 and RFI-48918214) note that a mixture of topsoil/clay and brown/blue shale were excavated from the borrow pits, with brown shale screened and used as aggregate for internal road construction and the subbase layer of the poultry sheds, and blue shale screened and used as aggregate for the flooring of the poultry sheds.
 5. Schedule 2, Part A, Condition A2 of the consent states, in part, that 'The development may only be carried out...in accordance with the EIS, Response to Submissions and Supplementary Response to Submissions'.
 6. Section 4.3.4 of the Rushes Creek Poultry Production Farm EIS states that 'Raw materials (for example, crushed rock, sand and cement), building materials and fit-out equipment will generally be delivered to the Site in rigid trucks and/or semi-trailers throughout the construction period.'

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7. Section 6 of the Rushes Creek Poultry Production Farm RTS states that 'LRCE has balanced the cut and fill across the Development Site as far as practical and this should avoid the need to import fill material or export any fill material'.
- ii. Breach 2 – Construction of poultry shed flooring in a manner similar to road construction, in contravention of Schedule 2, Part A, Condition A2 of the consent.
 1. During an inspection of the site by NSW Planning investigation on 30 June 2022, it was observed, and, at the close out meeting confirmed by ProTen representatives on site, that the poultry shed floors (with the exception of a small section at each main entrance) were being constructed in a similar fashion to roads, with a subbase layer, base layer and 'asphalt like' top layer.
 2. Schedule 2, Part A, Condition A2 of the consent states, in part, that 'The development may only be carried out...in accordance with the EIS, Response to Submissions and Supplementary Response to Submissions'.
 3. Section 4.10.1 of the EIS states that 'Each shed will have fully sealed concrete flooring'.
 - iii. Breach 3 – Construction of traditional house at the site, in contravention of Schedule 2, Part A, Condition A2 of the consent
 1. On 24 August 2022, NSW Planning received a complaint regarding the construction of a traditional house at the site.
 2. The response to NSW Planning request for information (RFI-48918218) provided by an SLR employee confirmed the construction of a traditional house at the site.
 3. Schedule 1 of the consent states, in part, that 'Additional works, as described in the application include...eight manufactured homes to accommodate farm managers...'.
 4. Schedule 2, Part A, Condition A2 of the consent states, in part, that 'The development may only be carried out...in accordance with the EIS, Response to Submissions and Supplementary Response to Submissions'.
 5. Section 4.11 of the EIS states that 'Each house will be a "manufactured home" delivered to the Development Site for installation on engineered pre-cast blocks, with...and Colourbond steel roofing'.
 - iv. Breach 4 – Commencing operations at the site without an Operational Environmental Management Plan approved by the Planning Secretary in place, in contravention of Schedule 2, Part C, Condition C7 of the consent.
 1. On Wednesday 21 September 2022, NSW Planning was advised that hatchlings would be arriving on the site Friday 23 September 2022. NSW Planning advised that this would constitute a breach of the consent as the OEMP and associated sub plans had not been approved by NSW Planning.
 2. On 23 September 2022, a NSW Planning investigation officer placed a phone call to the ProTen CEO to enquire as to the presence of birds on site. The CEO confirmed that birds had arrived on site on the morning of 23 September 2022.
 3. The response to NSW Planning request for information RFI-48928206 confirmed that hatchlings had arrived between 10.50am and 12.00pm on 23 September 2022.
 4. The OEMP and associated sub plans were approved by the Planning Secretary late on Friday afternoon 23 September 2022.
 5. Schedule 2, Part C, Condition C7 of the consent states, in part, that 'The Applicant must...not commence operation until the OEMP is approved by the Planning Secretary....'
 - f. On 3 November 2022 ProTen issued a response to the Show Cause Notice (INV-46299464), acknowledging the following activities were undertaken not in accordance with the conditions of SSD 7704:
 - i. Construction of the North-East and South-West borrow pits at the site in contravention of

Schedule 2, Part A, Condition A2.

- ii. Construction of poultry shed flooring in a manner that is not fully sealed concrete in contravention of Schedule 2, Part A, Condition A2.
- iii. Construction of traditional house at the site in contravention of Schedule 2, Part A, Condition A2.
- iv. Commencing operations at the site without an Operational Environmental Management Plan approved by the Planning Secretary in place in contravention of Schedule 2, Part C, Condition C7.

3. Commencement of this Undertaking

a. This Undertaking comes into effect when:

- i. this Undertaking is executed by ProTen, and
- ii. this Undertaking so executed is accepted by the Planning Secretary or delegate.

Being on Monday 31 July 2023.

4. Undertaking

a. ProTen undertakes that it will do the following:

- i. Cease the conduct that breached the conditions outlined in paragraph 2(e) above.
- ii. Provide sole funding contribution for an agricultural biosecurity and waste minimisation research program commencing in Quarter 1 to Quarter 2 of 2024:

1. A sum of \$50,000 will be provided to the University of New England (UNE) / Poultry Hub for a new research program. The Invoices to ProTen will be made by PHA as per the following:

- \$25,000 (ex gst) after contract execution.
- \$25,000 (ex gst) made upon provision of the final report.

The Research program shall study the potential:

- Environmental benefits, and animal growth and welfare resulting from reducing the required litter depths within a broiler production shed. Minimising the depth of litter will directly benefit the broader environment and wider community by reducing demand for wood shavings (and other litter material) resulting in the generation of less waste following a production cycle. The study shall examine and investigate the effect of different litter depths and shed management parameters on the growth and welfare of broiler chickens. The objective of the study is to minimise the demand for litter material and reduce total waste produced throughout the poultry industry Australia wide. See **Appendix A** for further details. The Poultry Hub Australia will lead this research together with scientific experts from the University of New England and Agri-Science Queensland, Department of Agriculture and Fisheries. See **Appendix A** for Poultry Hub Australia's endorsement of the proposed research. RSPCA would be consulted prior to any trial work being completed and at regular intervals during the project to ensure the research considers any concerns that the RSPCA may have. The information from the trial will be available to the wider Poultry community through project reports via the poultry hub website as well as the research institution. Success of wider trials may be made available through poultry magazines following consultation with the RSPCA.
- iii. Pay the \$50,000 to the University of New England (UNE) / Poultry Hub Australia in two installments. \$25,000 (ex gst) after contract execution and \$25,000 (ex gst) made upon provision of the final report. Note UNE and the Poultry Hub Australia are the same entity.
- iv. Provide evidence of the above payments to NSW Planning (compliance@planning.nsw.gov.au) within 14 days of the payment.
- v. It is proposed to commence the research program in Quarter 1 to Quarter 2 of 2024. The initial payment of \$25,000 (ex gst) made to UNE / Poultry Hub Australia marks the official

commencement of the research program.

5. Acknowledgments

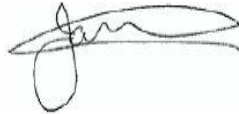
- a. ProTen acknowledges:
 - i. that it has contravened Section 4.2(1)(b) of the EP&A Act by breaching conditions of SSD 7704 (as modified)
 - ii. that NSW Planning will make this Undertaking publicly available including by publishing it on the NSW Planning public register of section 9.5 undertakings on its website.
 - iii. That there is no conflict of interest with proposed research program.
 - iv. That NSW Planning will, from time to time, make public reference to this Undertaking including in news media statements and in NSW Planning publications. This Undertaking in no way derogates from the rights and remedies or liabilities available to or affecting any other person arising from or associated with the subject matter of this Undertaking.
 - v. that NSW Planning is not barred from future enforcement or other actions arising as a result of any contraventions or incidents in the future, including with respect to the enforcement of this undertaking.

Execution page

Executed as an Enforceable Undertaking

Executed by ProTen (ACN 109 715 513) in accordance with s 127(1) the *Corporations Act 2001*:

Signature of Authorised Representative



Name of Authorised Representative (print)

James Wentworth

Date

10 February 2025

Accepted by the Secretary of the Department of Planning, Housing, and Infrastructure pursuant to section 9.5 of the *Environment Planning and Assessment Act 1979* (NSW):

14 February 2025

and signed on behalf of the Department:



.....
Planning Secretary or Delegate

14 February 2025



APPENDIX A

The Effect of Different Litter Depths on Broiler Chicken Growth and Welfare - Proposal

The Effect of Different Litter Depths on Broiler Chicken Growth and Welfare

Introduction:

The welfare and growth of broiler chickens are influenced by a range of environmental factors, including litter quality. Litter quality is important for the birds' comfort, disease prevention, and overall health. Current standards recommend a litter depth of 5cm, however there is limited scientific evidence that supports the depth of litter being the crucial measure, rather the literature states that the litter must remain 'dry and friable' throughout the growth period. While litter is important for the health and welfare of broiler chickens it also poses an environmental challenge for industry, both in terms of obtaining appropriate sustainable litter and its eventual disposal. Hence, if the Australian poultry industry is able to reduce the amount of litter required while maintaining the health and welfare of the birds there will be a reduction in the industry's impact on the environment.

The reduction in overall waste has the potential to be greatly reduced if the Australian poultry industry is able to use less litter per batch of birds. For example, a 16 shed farm using a litter depth of 5 cm would use 136m³ of bedding per shed, equalling 2,176m³ across the farm. Approximately 2,580m³ of spent litter is removed from the farm at the end of batch. If the litter depth is reduced to 2.5cm depth there would be a total of 1,088m³ bedding put into the 16 sheds at the beginning of the batch and approximately 1,492m³ out. Over a year, reduction of bedding depth by 2.5cm would reduce the bedding required for one 16 shed farm by 6,092.8m³ per year (5.6 batches per year). Spent litter would decrease by the same amount, highlighting the potential environmental gains that a reduction in litter would generate. This study aims to investigate the effect of different litter depths and shed management parameters on the growth and welfare of broiler chickens.

Research Question:

What is the effect of different litter depths and shed management parameters on the growth and welfare of broiler chickens?

Trial Design:

The study will involve raising 200 broiler chickens over 35 days, with birds randomly assigned to one of four treatments as per the table below.

Description	Litter Depth	Ventilation
Industry Standard (control)	5cm	Standard
Reduced Litter	2.5cm	Standard
Reduced Litter with additional ventilation	2.5cm	Standard plus additional circulating fans
Industry Standard (control) with additional ventilation	5cm	Standard plus additional circulating fans

Birds will be fed a commercially available three stage diet consisting of Starter (0-10days), Grower (11-21days), and Finisher (22-35days) during the trial.

Observations, Examinations and Tests:

The follow data will be collected during the trial.

Litter:

- Total weight. (Days 0, 35)
- Moisture content. (Days 0, 10, 21, 35)
- Total carbon. (Days 0, 10, 21, 35)
- Total nitrogen. (Days 0, 10, 21, 35)
- C:N ratio. (Days 0, 10, 21, 35)
- Quality score. (daily)

Environmental:

- Ammonia, methane and carbon dioxide gas levels. (Days 0, 21, 35)
- Outdoor climate conditions: (daily)
 - temperature
 - relative humidity

Birds:

- Body Weight. (Days 0, 10, 21, 35)
- Water intake. (Days 0, 10, 21, 35)
- Welfare scoring: (Days 10, 21,35)
 - Breast blisters.
 - Foot pad lesions.
 - Plumage cleanliness.
 - Leg deformity and lameness.
- Morbidity, mortality and behaviour (dust bathing) (daily)

Reporting:

Milestone	Description	Date Due	Deliverable
1	Contract Execution	Upon contract execution	Executed contract
2	Animal Ethics	TBA*	Animal ethics approval
3	Final Report	TBA*	Final report submitted
4	Final Report Meeting	TBA*	Meeting to discuss final report results.

**Dates will be dependent on researcher and facility availability.*

Consultancy Fees:

In consideration for the services rendered by PHA, Proten Pty. Ltd. shall pay to UNE on behalf of Poultry Hub Australia \$50,000 (ex gst)

Invoices to Proten will be made by PHA as per the following schedule.

- \$25,000 (ex gst) after contract execution
- \$25,000 (ex gst) after submission of the final report.

Potential Secondary Shed Scale Trial.

In order to accurately replicate industry standard conditions, a secondary, shed scale trial may be undertaken. This trial would also allow for testing of differing litter tilling practices as well as industry representative stocking rates and ventilation systems. This trial has not been costed in the current agreement and would need to be costed and contracted separately.

Potential treatments could include.

- Litter depth
- Ventilation/circulation
- Litter tilling practices
- Litter material