



ProTen

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North Sydney
NSW 2060

19 March 2024

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). The letter responds specifically to DPE's request to provide a summary of changes made to the Undertaking on the 4 March 2024 and include a revision to the Undertaking's wording surrounding the timing of the second payment Ref: *(FW:Rushes Creek – Research Program dated 14 March 2024)*.

SUMMARY OF CHANGES

On 4 March 2024, the Undertaking was revised to:

- Amend payment schedule to be split payments of two lump sum amounts of \$25,000. This will replace the existing arrangement as per the Undertaking (refer Section 4) which previously proposed one lump sum payment of \$50,000.
- Amend wording to state the research program will commence in "Q1 to Q2", 2024 (refer Section 4).
- Amend the the Executioner on the final Page from the "Director" to "Authorised Representative" (refer Execution Page).
- Update the execution date (refer Execution Page).

On the 19 March 2024 the Undertaking was revised to:

- Amend wording on the timing of payment of the Undertaking to state the second payment will be "*made upon provision of the final report, or no later than 12 months from the first payment, or provision of the final report. Whichever comes first*" (refer Section 4).
- Update the execution date (refer Execution Page).

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 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; Part Lot 1 DP 1108119; Lot 1 DP 1132298; Lots 26, 85, 86, 101, 118, 165, 166 and 171 DP 752169; Part Lot 143 DP 752189; Lot 1 DP 1132078; Lot 1 DP 1141148; 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 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 and Environment (**Department**) issued multiple requests for information relating to alleged breaches of conditions of SSD 7704 undertaken at the Rushes Creek Farm.
- e. On 14 October 2022, the Department issued a Show Cause Notice related to four alleged breaches. The conditions of consent allegedly breached were:
 - i. Schedule 2, Part A, Condition A2.
 - ii. Schedule 2, Part C, Condition C7.
- 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 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, or no later than 12 months from the first payment, or provision of the final report, whichever comes first.

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, or no later than 12 months from the first payment, or provision of the final report, whichever comes first. Note UNE and the Poultry Hub Australia are the same entity.
 - iv. Provide evidence of the above payments to DPE within 14 days of the payment.
 - v. It is proposed to commence the research program in Quarter 1 to Quarter 2 of 2024.

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 the Department will make this Undertaking publicly available including by publishing it on the Department's public register of section 9.5 undertakings on its website.
 - iii. That there is no conflict of interest with proposed research program.
 - iv. That the Department will, from time to time, make public reference to this Undertaking including in news media statements and in Department's 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 the Department 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

19 March 2024

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

19 March 2024

and signed on behalf of the Department:



.....
Planning Secretary or Delegate

19 March 2024



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

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- c. SSD 7704 has been modified three times.
- d. Between 13 July 2022 and 7 October 2022, the Department of Planning and Environment (**Department**) issued multiple requests for information relating to alleged breaches of conditions of SSD 7704 undertaken at the Ruses Creek Farm.
- e. On 14 October 2022, the Department issued a Show Cause Notice related to four alleged breaches. The conditions of consent allegedly breached were:
 - i. Schedule 2, Part A, Condition A2.
 - ii. Schedule 2, Part C, Condition C7.
- 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.
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 - iii. Pay the \$50,000 to the Poultry Hub Australia as a lump sum upon commencement of the research program. Note UNE and the Poultry Hub Australia are the same entity.
 - iv. Provide evidence of the above payments to DPE within 14 days of the payment.
 - v. It is proposed to commence the research program in Quarter 1 of 2024.

5. Acknowledgments

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 - v. that the Department 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 127(1) the *Corporations Act 2001*:

Signature of Director



Name of director (print)

William Williams

Date

11 July 2023

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

26 July 2023

and signed on behalf of the Department Planning Secretary or Delegate



Director Compliance

26 July 2023



APPENDIX A

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

ProTen Pty Ltd and SLR Consulting Pty Ltd approached Poultry Hub Australia to explore potential opportunities to lead a research program that investigates the effects of different litter depths on Broiler Chicken growth and welfare with the overall objective to reducing the amount of waste produced in Broiler Chicken production. The following research program and methodology has been determined.

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

Introduction:

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Research Question:

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

Experimental Design:

The study will involve raising approximately 200 broiler chickens, randomly assigned to one of four pens. The four pens will be set up as follows;

1. Control pen – 5cm litter depth and standard ventilation
2. Experimental pen – 2.5cm litter depth and standard ventilation
3. Experimental pen – 2.5cm litter depth, standard ventilation, plus additional circulating fans
4. Experimental pen – 3.5cm litter depth, standard ventilation, plus additional circulating fans

Note that this trial is subject to approval from the University of New England's Animal Ethics Committee.

The following parameters will be measured, recorded and analysed:

- Body weight: The birds will be weighed weekly to measure growth performance.
- Feed consumption: Feed intake will be recorded to determine feed conversion ratio (FCR).
- Litter moisture content: The moisture content of the litter will be measured at regular intervals to assess its effect on the birds' welfare and the potential for bacterial growth.
- Health status: The birds will be monitored for any signs of disease or mortality throughout the study.

Budget

The study is to be commercially funded by ProTen Pty Ltd, which is estimated to cost \$50,000 + GST, however it must be noted that this is subject to change due to continual rises in feed and energy costs, date of trial and availability of researchers.

Researchers

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 (depending on availability). 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.

Impact of Research:

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.

Yours Sincerely,



Professor Tamsyn Crowley
Director, Poultry Hub Australia