



Animal Defenders Office

Using the law to protect animals

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The Animal Defenders Office Inc. is accredited by the National Association of Community Legal Centres.

General Manager
Hilltops Council
Locked Bag 5, Young NSW 2594

By email: planning@hilltops.nsw.gov.au

18 May 2020

Dear Sir/Madam

Objection: Blantyre Farms DA 2020/0005, Intensive Piggery, Eulie Road, Harden, NSW

Thank you for the opportunity to make a submission in relation to the abovementioned Development Application (DA) for a large-scale intensive piggery to be situated near the Harden Murrumburrah township.

The Animal Defenders Office (ADO) is a nationally accredited not-for-profit community legal centre that specialises in animal law. The ADO is run by volunteer lawyers and law students and other volunteer professionals. It offers information and representation for individuals and groups needing legal assistance to protect animals. The ADO also produces information to raise community awareness about animal protection issues, and works to advance animal interests through law reform.

The ADO is a member of Community Legal Centres NSW Inc., the peak body representing community legal centres in New South Wales. It serves the greater Capital region, including the Australian Capital Territory and neighbouring parts of New South Wales such as Harden, Young and Boorowa.

Further information about the ADO can be found at www.ado.org.au.

We have reviewed the Environmental Impact Statement (the EIS) that formed part of the DA.¹ Our objections to the development proposal are set out below.

Animal Welfare

The EIS states² that the proposed piggery will be operated in accordance with:

- The Model Code of Practice for the Welfare of Animals Pig 3rd Edition – National Welfare Code for Pigs ('the national code of practice').
- The NSW Animal Welfare code of practice commercial pig production in NSW ('the NSW code of practice').
- Ongoing Quality Assurance (QA) from the industry's QA system; APIQ[√]™.

¹ Environmental Impact Statement (EIS) 3 April 2020. Proponent: Blantyre Farms Pty Ltd.

² Pages xvi-xvii.

The ADO is extremely concerned that **there is no reference to, or consideration of, the main legislation in NSW dealing with animal protection**—that is, the *Prevention of Cruelty to Animals Act 1979* (NSW) and the *Prevention of Cruelty to Animals Regulation 2012* (NSW) (POCTAR) anywhere in the EIS. This is an astounding omission.

In particular, there is no reference to clause 26 in POCTAR, which sets out important requirements in relation to the conduct of animal trades including commercial pig establishments. It would therefore be open to conclude that the applicant has no understanding of the animal welfare compliance framework set out in the POCTAR and NSW code of practice. Such a conclusion would be reinforced by the EIS's failure to discuss requirements in the NSW code of practice, compliance with which is **mandatory** under POCTAR.

The EIS also states that 'A review of available literature, industry guidelines and legislation relating to ...animal welfare ... for intensive livestock operations has been undertaken'. This was done 'to understand best practise [sic] management'.³

After reviewing the EIS the ADO submits that it is impossible to accept this assertion for the following reasons:

- Model codes of practice recommend minimum standards, not best practice.
- The claim to have reviewed 'available literature' is not referenced so it is impossible to assess how extensive, or not, the purported review was.
- The only animal-welfare specific documents referred to are two codes of practice.
- The two codes of practice referred to are now out of date. The EIS indicates that the national code of practice is published in 2007.⁴ The NSW code of practice is published in 2009.
 - The national code of practice explicitly acknowledges 'The Code is based on the knowledge and technology available at the time of publication' (1.2).
- In essence, **the applicant is committing to knowledge and technology regarding animal welfare that are more than 12 years old**. This is unacceptable for a new (or any) intensive animal enterprise.
- The EIS does not refer to consideration of any recent animal welfare literature, even material produced by the industry.
 - For example, this could have included the *Review of the scientific literature and the international pig welfare codes and standards to underpin the future Standards and Guidelines for Pigs*, APL Project 2017/2217.⁵

³ EIS p123.

⁴ EIS p125.

⁵ <http://www.animalwelfarestandards.net.au/files/2019/01/APL-Project-2017-2217-review-of-pig-welfare.pdf>.

- This is fundamental given the heightened concern in Australia about the welfare standards for intensively confined animals,⁶ supermarkets moving away from the more inhumane aspects of this method of confining pigs,⁷ and relevant international developments.
- A commitment to codes of practice more than 10 years old is no guarantee that **contemporary** minimum animal welfare standards will be met. For example, the NSW code of practice allows male piglets up to 21 days old to endure a ‘surgical procedure to render [the] pig sterile’ **without anaesthesia** and not performed by a veterinary practitioner.⁸ This is arguably unacceptable by today’s animal wellbeing standards.
- The EIS does not address other matters that are now regarded as important welfare issues, such as environmental enrichment, or pain relief for other husbandry procedures such as tail docking or teeth clipping.
- This reliance on out-of-date information is a feature of the EIS. The justification for the entire project is based on alleged demand for pig products. Yet the data relied on to support this claim is more than seven years old,⁹ and would not reflect the recent exponential growth in popularity of plant-based foods in Australia. It must therefore be rejected as unreliable and incapable of supporting the contention that the project is ‘an economically ... sustainable intensive livestock operation’.¹⁰
- There is no reference to other relevant codes of practice or standards and guidelines on matters such as loading and transporting livestock, which would be relevant if animals are being moved in and (more likely) out (eg to slaughter) of the facility.¹¹
- Table 26 in the EIS sets out ‘mitigation measures to protect biosecurity, animal welfare and manage disease’.¹² The Table spans 3 pages. Animal welfare has a single ‘mitigation measure’ of one line. This is clearly inadequate given the myriad problems that can arise confining over 25,000 pigs¹³ in intensive conditions and managed by no more than 25 people split across the facility and with no one present between 5pm and 7am¹⁴.
- The ADO notes that the reference to APIQ is based on an *assumption* that the intensive piggery will be accredited in accordance with this system. Moreover, even if accredited, this industry QA system cannot substitute for a required operational and risk management plan

⁶ See Futureye (for the Cth Department of Agriculture), *Australia’s Shifting Mindset on Farm Animal Welfare* (2018): <http://www.agriculture.gov.au/SiteCollectionDocuments/animal/farm-animal-welfare.pdf>. The nationally representative survey found that “many of the public now support the activist views that animal welfare isn’t being sufficiently delivered by the agricultural sector for today’s values” (p20). It also found that:

- 95% of people view farm animal welfare to be a concern;
- 92-95% view farm animals as sentient; and
- 91% of people want to see some reform to address their concerns.

⁷ See for example the separate section in the APIQ standards manual (V4.5 5/2019) for ‘customer specifications for supply to Coles supermarkets Australia Pty Ltd’.

⁸ Clause 24.

⁹ EIS p4.

¹⁰ Ibid.

¹¹ *Australian Animal Welfare Standards and Guidelines —Land Transport of Livestock*. Animal Health Australia 2012, Canberra.

¹² EIS p128.

¹³ EIS pxii.

¹⁴ EIS p51.

which complies with *legislation*.

- Members of the public, including the ADO, would disagree with the assertion in the EIS that the applicant has ‘proven experience with managing animal welfare’¹⁵, in light of independent footage captured at the applicant’s existing intensive piggeries.¹⁶
- Finally, the author of the section on animal welfare in the EIS does not appear to have any discernible experience or expertise in the complex regulatory framework governing animal welfare, or in animal law in general.¹⁷

For these reasons the ADO submits that the applicant has failed to demonstrate that animal welfare, including cumulative impacts, would be adequately monitored, avoided, minimised, mitigated and managed, and the DA should be rejected on these grounds alone.

Housing

The ADO submits that the proposal to build a large intensive piggery that will confine pigs in accommodation that has been banned on welfare grounds in a neighbouring jurisdiction should be a significant concern for any consent authority.

Our concerns about the proposed housing are set out in detail below.

The development plans to house ‘up to 2,200 sows’¹⁸ in group housing¹⁹ for non-lactating female pigs.

The housing of lactating female pigs is of particular concern from a welfare perspective. The ‘clarification’ document dated 15 May 2020 regarding the confinement of female pigs used for breeding²⁰ states that farrowing crates will be ‘utilised for farrowing (giving birth) and during lactation’.

The (mandatory) NSW code of practice does **not** require or even recommend that pigs kept in stalls or crates (‘individual housing’) are able to turn around.²¹ Farrowing crates therefore keep the mother pig isolated and without room to move or turn around.

According to the national code of practice and the NSW code of practice, female pigs can be kept in these crates for up to six weeks.²²

Neither the EIS nor the ‘clarification’ doc dated 15 May 2020 regarding the confinement of female pigs used for breeding discuss the length of time that female pigs will be confined in farrowing crates. In the absence of any specific reference, we must assume that pigs will be kept for up to six weeks in spaces so narrow they cannot even turn around.

¹⁵ EIS p123.

¹⁶ <https://www.aussiefarms.org.au/companies/499-edwina-beveridge-blantyre-farms>.

¹⁷ <https://urbis.com.au/people/clarebrown/>.

¹⁸ EIS pp xx, 1, 17, etc.

¹⁹ From the ‘clarification’ document dated 15 May 2020 regarding the confinement of female pigs used for breeding, par. 5, p1.

²⁰ Ibid, par. 9, p2.

²¹ Clause 16.

²² Page 6 and clause 18 respectively.

The crates proposed to be used in the facility would be expected to have extremely low welfare outcomes for the mother pig. The ADO notes it would be illegal animal cruelty if a person were to confine a dog or cat in this way for even a short period of time, let alone up to six weeks.

There is also no indication as to whether the proposed group housing for non-lactating female pigs will provide the animals with access to fresh air, daylight, enrichment material (eg straw), or mental stimulation. It is therefore difficult to comment on what physical and psychological impact this type of housing will have on these sensitive and intelligent animals during pregnancy.

Furthermore, the ADO notes that intensive indoor housing of pigs in general, and farrowing crates in particular, are **banned** in the neighbouring jurisdiction of the ACT under the *Animal Welfare Act 1992* (the Act). 'Appropriate accommodation' for pigs is defined in the Act²³ as accommodation:

- (a) that allows the pig to—
 - (i) **turn around**, stand up and lie down without difficulty; and
 - (ii) have a clean, comfortable and adequately drained place in which it can lie down; and
 - (iii) maintain a comfortable temperature; and
 - (iv) **have outdoor access**;

A person commits an offence under the Act²⁴ if:

- (a) the person keeps a pig; and
- (b) the pig is not kept in appropriate accommodation.

Maximum penalty: 50 penalty units.

The ban was inserted into the Act in 2014 by the Animal Welfare (Factory Farming) Amendment Bill 2013 (the bill). The Explanatory Statement for the bill states that:

*The bill's aim of greater protection of animal welfare can be justified in a free and democratic society. The community expects that animals will be treated well and not be exposed to cruelty, pain or suffering.*²⁵

Communities across the greater Capital region, including the ACT and NSW shires such as Harden, Young and Boorowa, would hold these same expectations that animals will be treated well and not exposed to unnecessary cruelty, pain or suffering. This applies equally to animals kept for food as much as to the animals we keep as companions.

As mentioned earlier, a proposal to build a large new intensive piggery that will house pigs in accommodation that has been banned on cruelty grounds in a neighbouring jurisdiction should be a significant cause for concern for any consent authority.

Moreover, it is reasonable to expect that the welfare standards for pigs raised for food as mandated in the ACT will also be mandated in NSW. When that happens, the proposed factory will be outdated and even viewed as barbaric.

²³ Section 9B(3), emphases added.

²⁴ Section 9B(1).

²⁵ Page 4.

Husbandry practices

Another key measurement of animal welfare outcomes is how surgical procedures will be carried out. As previously mentioned, there is a lack of information in the EIS about the use of pain relief for routine husbandry practices such as castration, tail docking, and teeth clipping, and about how the impact of such practices on the pigs' welfare will be monitored. This is a concern when these practices can be extremely painful for pigs.²⁶

As mentioned earlier, the only proposed mitigation measure relating to the risk that animal welfare is 'compromised' is that the 'operation will be compliant with the APIQ system, which includes independent audits.'²⁷ At most these audits appear to be annual (ie infrequent)²⁸, and no information is provided as to whether they are routine or unannounced. It is difficult to have any confidence that the risk of compromised animal welfare will be mitigated given the extraordinarily high number of pigs (over 25,000) and the very low number of potential full-time staff (25).

We therefore object to the proposed development because insufficient information has been provided in relation to measures for the health and welfare of the animals. In addition, the applicant has failed to demonstrate that an acceptable standard of animal welfare would be adequately provided for, monitored and managed.

Community and Stakeholder Engagement

The Engagement and Communications Outcomes Report (Appendix G) mentions that the previous application drew attention from the site's near neighbours and animal welfare organisations.²⁹ There has been, however, no consultation with animal welfare organisations as part of this engagement process, so we do not know if the issue of animal welfare was discussed (there is no evidence to suggest this occurred) and even if it was raised, it was not discussed with stakeholders who have a special interest in this matter.

This renders the engagement process incomplete and unsound and should not be relied on as properly representing stakeholder and community views.

The Global Pandemic and Biosecurity Risk

We are in the midst of a global pandemic in which animal trade and agriculture are prime factors.³⁰ Further, animal trade has been a major factor in previous disease outbreaks and smaller current outbreaks taking place around the world.³¹ While the focus has been on animal markets, the risk is endemic within all animal agriculture operations.

²⁶ See <https://www.voiceless.org.au/the-issues/pigs> for references.

²⁷ EIS p129.

²⁸ EIS p125.

²⁹ Appendix G Engagement and Communications Outcomes Report p2.

³⁰ Whether termed animal trade or agriculture, the context is the same: large amounts of animals kept in confined conditions leads to outbreaks.

³¹ Oie.int. 2020. Questions And Answers On The COVID-19: OIE - World Organisation For Animal Health. [online] Available at: <<https://www.oie.int/en/scientific-expertise/specific-information-and-recommendations/questions-and-answers-on-2019novel-coronavirus/>> [Accessed 21 April 2020].

Scientists are warning that future such contagions are likely unless we enact significant changes.³² Thus, it is alarming that a large-scale animal production facility, with all its attendant disease, environmental, and welfare perils, is being contemplated during this time.

The ADO submits that biosecurity risk must now be at the forefront of consideration of proposals such as this one. We now know the risks attached to animal trade and agriculture can affect the entire globe. It is extremely concerning that this is absent from a DA for an intensive piggery.

We are still grappling with the pandemic and there have been clusters of COVID-19 outbreaks at animal operations in Victoria.³³ In other similar countries such as the US, outbreaks amongst workers in animal enterprises³⁴ are causing operations to grind to a halt and masses of animals are killed prematurely and then either burned or buried. As we are seeing unfold in Victoria regarding the Cedar Meats facility, this further heightens the risk to public health due to workers being more susceptible because they work close to living and dying animals and other employees.

At the very least, the ADO submits that the current crisis should have been reflected in any development applications proposing to establish or expand animal agricultural facilities. Particularly given that we now know there are global health consequences attached to animal trade/agriculture.

The ADO submits that the DA should be rejected because it does not include detailed plans for *how* the proposed facility plans to deal with such events.

Biosecurity Risks and Compliance with Relevant Legislation Inadequately Addressed

Appendix E Draft Operational Environmental Management Plan

‘Eulie will operate in accordance with the biosecurity and disease management measures and animal welfare measures outlined in National Farm Biosecurity Manual for Pork Production [‘the Manual’], November 2019, prepared by Animal Health Australia (Appendix C).’

While the proposal states that the Manual outlines the *minimum* biosecurity requirements that producers should implement on-farm, we submit that this is now inadequate in the current context of the COVID-19 pandemic and recent other global outbreaks such as swine flu.

The ADO further notes that African swine fever (ASF) reached Timor-Leste, less than 700km from Australia’s borders, in late 2019.³⁵

The ADO is concerned about the lack of information on the following issues:

- Isolation/quarantine sections, including where pigs would be moved to if suspected infection or exposure.

³² https://www.businessinsider.com.au/coronavirus-natural-jump-from-bats-more-likely-than-lab-leak-2020-4?utm_source=Business+Insider+Australia+-+10+things+you+need+to+know+in+the+morning+in+Australia&utm_campaign=05366081b1-businessinsider_2020_05_18&utm_medium=email&utm_term=0_8a990bd96b-05366081b1-281428583.

³³ <https://www.theguardian.com/australia-news/2020/may/09/cedar-meats-cluster-why-abattoir-workers-are-on-the-coronavirus-frontline>.

³⁴ https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e3.htm?s_cid=mm6918e3_x.

³⁵ http://www.nswfarmers.org.au/NSWFA/Posts/The_Farmer/Trade/How_prepared_is_the_Australian_pork_industry_for_an_African_swine_fever_outbreak.aspx.

- Additional measures for staff, such as segregation of staff and additional personal protective equipment for staff dealing with pigs suspected of infection.
- Separate quarters for staff and decontamination for staff in contact with infected pigs.
- Details of staff training to deal with possible and actual outbreaks.

Social impacts

Paragraph 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* (NSW) requires consent authorities to take into account social impacts in the locality of proposed developments.

It is still reasonable to expect that there would be negative impacts on people working in the proposed piggery.

Working in such facilities may affect an individual's emotional and mental health and general wellbeing due to the animal suffering and death a worker would cause or witness on a daily basis. Many of the tasks workers would be expected to undertake would involve practices that would not be considered humane or ethical if undertaken on companion animals. For example, regularly delivering 'blunt trauma to the head' of piglets³⁶ or docking tails, clipping teeth, or notching or punching ears³⁷ without anaesthetic or pain relief, or violently prodding mother pigs to stand up in their cramped farrowing crates, would have a psychological effect on workers, and could potentially lead to desensitisation, anger, depression and substance abuse, as occurs with abattoir workers.³⁸

Ongoing exposure to, and participation in, these aspects of the proposed piggery would not be consistent with a positive and healthy workplace, and could produce serious negative social impacts, including higher crime rates in the local community. A well-publicised study in the USA found an increased rate of violent crimes in communities surrounding slaughterhouses, suggesting that the victimisation of animals leads to victimisation of people. It draws a link between the inherent violence in the killing of animals and violence in human relationships, especially rape and child abuse.³⁹ Other studies also point to a link between cruelty to animals and domestic violence.⁴⁰

It is understandable that consent authorities are concerned with the potential for increased employment opportunities for their communities. However, responsible authorities should foster and encourage positive workplaces that offer skills development and rewarding career paths for those in their localities and avoid the negative impacts of intensive animal production and slaughter.

The number of objections to this and previous related development applications lodged with the

³⁶ This is the method for euthanasing piglets in the Model Code of Practice for the Welfare of Animals—Pigs, 3rd Edition, CSIRO Publishing, 2008, p29

³⁷ As permitted under paragraph 5.6.17 of the Model Code of Practice for the Welfare of Animals—Pigs, *ibid.*

³⁸ *Perpetration-Induced Traumatic Stress: The Psychological Consequences of Killing*, Rachel M. MacNair (Praeger, 2002); *Killing for a Living: Psychological and Physiological Effects of Alienation of Food Production on Slaughterhouse Workers*, Anna Dorovskikh, University of Colorado thesis, USA (2015).

³⁹ *Slaughterhouses and Increased Crime Rates. An Empirical Analysis of the Spillover From "The Jungle" Into the Surrounding Community*, Amy Fitzgerald (University of Windsor), 2010.

⁴⁰ *Child Abuse, Domestic Violence and Animal Abuse*, Frank R Ascione, and Phil Arkow (1999); 'The Relationship Between Family Violence and Animal Abuse: An Australian Study', Prof. Elenore Gullone and others, *Journal of Interpersonal Violence*, 23: 1277–1295 (2008).

consent authority shows that the community has serious concerns about the development of another large-scale, intensive animal facility.

The existence of independent footage revealing animal welfare conditions in the applicant's existing intensive piggeries has been noted earlier. There is no suggestion that the conditions at the proposed operation in Harden would be any different from the conditions revealed in the footage. The footage is a clear demonstration as to why the community is so concerned about the prospect of another intensive facility being constructed in the area and replicating the low animal welfare standards revealed in existing facilities.

Thank you for the opportunity to submit our objections to the proposed development application.

Yours faithfully

Carolyn Brock, Sel Burek and Tara Ward

On behalf of

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The Animal Defenders Office acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.