

Submission to IPC on additional material July 2024. Hills of Gold Wind Farm (SSD- 9679)

Dear Commissioners,

Regarding the legality of CDC 684.1/2020 (also referred to as DAD01), we own the adjoining property and wish to re-state that we do not give access to the property mentioned in the above CDC. The existing access is across our private land, which while it is colloquially referred to as Morrison's Gap Road, does not follow the Crown Reserve easement and divides our property.

I wish to confirm the BBC Planners assessment on Page 7 of their report (see page 54 of Attachment C - Engie Response... 27 March - 2024 redacted) where BBC planners state "The lot does not have direct access Via Lot 210 in DP819485"

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|--|---|--|
| 3D.6 Complying development on bush fire prone land | (2) If complying development under this code is carried out on bush fire prone land, the following development standards also apply in addition to any other development standards— | The development lot contains bush fire prone land. The house site is not on bush fire prone land. The access road is bush fire prone land |
| | (b) the lot on which the development is to be carried out must have direct access to a public road or a road vested in or maintained by the council. | The lot does not have direct access to a public road or a road vested in or maintained by the council as shown on the CDC plans. Physical access is via Lot 210 in DP819485. |

In addition to the above we wish to provide the following information that related to the previous DA on Lot 47 DP753722:

In 2019 when a Development Application was lodged to Tamworth Regional Council (DA2019-0097) for a dwelling in close proximity to the abovementioned CDC. We objected on several grounds.

Our objections included the dwelling's proximity to the source of McDivitts Creek, including the potential location of an on-site septic system. Our objection was raised on the grounds of potential contamination of the creek, on which we hold a Water Allocation Licence for the purpose of aquaculture. This business is conducted under the trading name Arc-en-Ciel Rainbow Trout.

We engaged the services of Moss Environmental Consultants to advise us on the impacts of the DA and to formulate a submission to Tamworth Regional Council.

It was also recorded by Moss Environmental that two dams had been constructed on the neighbouring property which are illegal structures impeding the flow of McDivitts Creek. These could have a detrimental impact on our Water Allocation License.

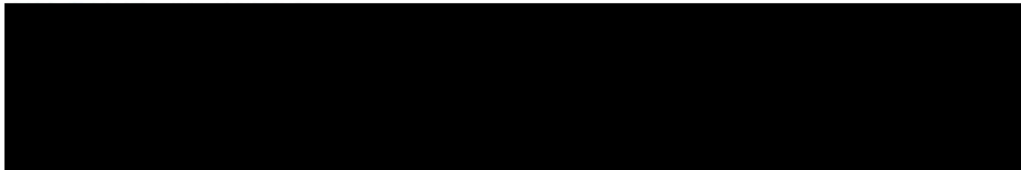
Our objection was supported by:

- NSW DPI Fisheries (see a copy of letter attached Appendix A)
- Report from Moss Environmental (See a copy of the report attached Appendix B.)
- Moss Environmental sampled water at two locations in MCDivitts Creek and declared “Water test results have confirmed that the water quality is consistent with a pristine area.... Etc.”

We maintain that the CDC did not investigate or consider our previous objections. We were not given the opportunity to raise further concerns or objections and believe that the CDC was sought as a mechanism to avoid neighbour objections previously raised to Tamworth Regional Council.

This submission is made as joint owners of Lot 210/DP 819485.

Sincerely,



Russell N. Sydenham

Myrtle (Meg) R. Sydenham

¹ (This DA attracted 50 submissions from 40 individuals which resulted in the issue being raised at a Tamworth Regional Council meeting on the 24th September 2019 at which the DA was refused.)



Tamworth Regional Council

Dear Sir/Madam

Comment on Development Application DA2019-0097 – Replacement Dwelling

I am aware that there is a proposal to demolish and rebuild a dwelling at Lots 46 and 47, DP753733 Hanging Rock and that this lies in close proximity to Arc-en-Ciel trout farm.

I am writing this letter to confirm that Arc-en-Ciel trout farm at Hanging Rock is a current NSW Aquaculture Permit Holder covered for the activities of hatchery, grow-out and fish-out. The farm commenced operations in 1986 and has a history of production of premium fresh and processed product. The facility plays an important role in regional tourism, is well recognised in the restaurant trade and has enjoyed noted success at the Sydney Royal Aquaculture Competition.

Aquaculture relies upon access to high quality water. The farm was established in its current location on the back of the local water source meeting the state's water quality objectives consistent with ANZECC Guidelines. Information on water quality objectives, supply and protection can be found in the NSW Land Based Sustainable Aquaculture Strategy Chapter 5.3. The Strategy was developed by a whole-of-government approach to promote sustainable best practice aquaculture in NSW. See

<https://www.dpi.nsw.gov.au/fishing/aquaculture/publications/general/nsw-lbsas>

Protecting water quality in oyster harvest areas is an ongoing matter for the NSW oyster industry. To this end NSW DPI produced the Healthy Estuaries for Healthy Oyster Guidelines for developers and local government to mitigate impacts on water quality. Sections 2.1 deals with On-site Treatment and Disposal Systems and 2.9 Construction Erosion and Sediment Control and contain relevant information for developments near any waterway. See https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0009/738972/Healthy-Estuaries-for-Healthy-Oysters-Guidelines.pdf

On-site wastewater treatment systems work well when operating to specification. However, if a failure occurs it usually results in a major loss of treatment capacity. Systems must be serviced on a regular basis by a licensed technician to ensure that the system is operating to specification. Preferably the technician will submit their reports to council. Council's system should flag overdue reports and schedule an inspection/follow up when servicing is missed. Details regarding servicing of single domestic secondary treatment sewage management facilities are found in the NSW Health Advisory Note 5.

<http://www.health.nsw.gov.au/environment/domesticwastewater/Documents/adnote5.pdf>

It is the department's expectation that Council is aware of matters relating to water quality protection and that it may refer to Healthy Estuaries for Healthy Oyster Guidelines for additional information in assessing a development close to Arc-en-Ciel trout farm and its water access source.

I would be happy to discuss this matter further and can be reached on 4916 3856

Ian Lyall 

Program Leader Aquaculture 17/7/19



Attention: Amanda Faulkner

Tamworth Regional Council

Ray Walsh House

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Tamworth NSW 2340

Submission made: 19/7/2019

RE: Development Application DA2019-0097

Dear Amanda,

Moss Environmental Pty Ltd have been engaged by Mr Russell Sydenham, Arc-en-Ciel Trout Farm, Morrisons Gap Road, Hanging Rock to obtain expert advice regarding the environmental and social impacts that the above Development (DA2019-0097) would have on their business and property.

Moss Environmental visited Arc-en-Ciel on 2/7/2019 to further discuss their concerns. A site visit was undertaken including the intensive aquaculture facility and water access locations. In addition, water samples were taken of the aquaculture facility, the domestic water supply and factory processing water intake. These points are located on McDivitts Creek. A visual inspection was also undertaken of the proposed location for the development application area and proposed dwelling site which would be located at the source of McDivitts Creek, Arc-en-Ciel's primary water source.

Arc-en-Ciel are both an intensive aquaculture facility and a prominent tourist attraction to the Nundle / Hanging Rock area. The trout facility was initially setup in the mid 1980's, with the Sydenham family purchasing it in 2006. They offer a quality restaurant to tourists, inspections of the facility, fishing attractions for the family and nature experiences to all visitors. They supply most of NSW with their products and have won several major awards, which is a testament to their dedication and facility.

Moss Environmental have reviewed the Development Application and the supporting documentation available from Tamworth Regional Council and Russell's previous communications with the Council and offer the following concerns:

Development Application:

- Stormwater Draining Statement – Has not been supplied with DA. This is vitally important as McDivitts Creek originates on the proposed site and is noted as located in the 20m of Crown Land adjacent to the boundary. If stormwater enters McDivitts Creek from the development site, it has the potential to cause catastrophic implications for the aquaculture facility. This is detailed later in this submission.
- Flora and Fauna Assessment has not been supplied. The surrounding environment includes pristine native vegetation which would lead to the potential for rare, threatened and endangered species, both flora and fauna to exist. The Atlas of NSW Wildlife indicates the possible presence of koalas, powerful owls, olive whistlers, spotted tail quolls, squirrel gliders, boorolong frogs, brown treecreepers which are all noted as vulnerable as well as king ferns, soft tree ferns, rough tree ferns and various orchids being present in the immediate area.

- The Applicant also states that the development would require the removal of four gum trees, however from our inspection we believe this to be understated. From aerial photos, it is obvious that there is a large native tree stand that would require destruction in order to access the proposed site. In addition to this point, it would be negligent to allow this dwelling to be approved prior to determining what tree species will be removed to ensure that they do not constitute a section of endangered ecological community.
- Bushfire Assessment under Rural Fires Act 1997 – Not supplied however a search of the area indicates the proposed dwelling lies in the area designated as a bush fire prone area and as such requires a full assessment to be included with the application.
- Materials as detailed in the DA are not consistent with the details presented in the proposed plans; ie: steel floor vs timber floor, hardiplank walls vs steel walls vs timber and iron cladding, steel roof vs colourbond roof; steel frames vs timber frame. These inconsistencies should not be accepted in the current format of the DA.
- There is no design or locality of the proposed carport in the design, although it is mentioned as an inclusion in the DA.
- The location of the proposed on-site sewerage system is less than 180m from the head of McDivitts Creek. Arc-en-Ciel's domestic and process water pickup is less than 800m from the proposed sewerage system and the aquaculture water pickup is located about 1300m downstream from the proposed sewer system. The proposed location of the system could result in effluent entering the catchment of McDivitts Creek thus impacting on the viability of the aquaculture facility through potential contamination of their water supply.

Statement of Environmental Effects:

- Passive solar design implies using the natural environment in a way that optimises the internal temperature of the house. Generally, to achieve this, the house collects heat and stores it in the thermal mass of the building (using dense materials like concrete and brick) to retain the heat. Additional measures to achieve this goal also includes the use of slabs instead of stumps, tiles or slate floors, feature walls or wood heaters. None of these are incorporated into this design.
- The Documentation presented to Council does not mention the adjacent intensive aquaculture facility. It notes that the neighbours consist of farming land. Whilst this may be true of one neighbour, it does not take into consideration this proposal could have on the Aquaculture facility, who also shares a boundary with the Applicants' land. This facility houses thousands of trout, ranging from trout eggs, fingerlings through to adult trout. From research, trout are very susceptible to specific water quality, including Zinc, which if detected in receiving waters can be fatal to each of their lifecycle stages. With the Applicant utilising steel and iron in the structure and roof, runoff from these areas may impact on the financial viability of the Arc-en-Ciel. This potential impact on the aquaculture facility as well as the local tourism industry currently supported by Arc-en-Ciel would be adversely impacted.
- The application states Sepp 44 - Koala habitat Protection does not apply. However, a check of coordinates for the proposed development and those on the Atlas of NSW Wildlife shows Koalas being present in the area. Our site visit did not permit time to study or observe the presence of koalas.
- In addition, several other vulnerable species were also listed at that location in online databases including the Powerful Owl, Olive Whistler, Spotted Tail Quoll, Squirrel Gliders, Booroolong Frog, Brown Tree creeper and various protected species of fauna. Several plants were also identified including the protected King Ferns, various orchids, soft tree Fern and rough tree fern. The existence of these in searchable databases should instigate further examination into flora and fauna.
- Bushfire prone land was highlighted on the Application however no bushfire attack level certificate (BAL) certificate was supplied. It is noted however that the BAL is indicated on the plan for the proposed development as being rated at 19. Given the location of the property on the crest of a major range, this rating may be underestimated, thus giving rise to non-complying development.

- Rainwater tanks are mentioned in the application however it is not detailed as to the construction of these tanks. If they are metal tanks, they can interact with the surrounding McDivitts Creek and increase the heavy metal content, and which can cause irreversible damage to the aquaculture facility.
- The domestic septic system and absorption trench as detailed in the application can also impact on the pristine water quality of McDivitts Creek.
- It is stated also in the application that any stormwater overflow from house tanks would be directed to troughs; however, any overflow from troughs will ultimately enter McDivitts Creek upstream of the aquaculture facility thus impacting the metal contamination and the aquaculture water supply.

Additional to our findings with the development application:

- Further understanding of McDivitts Creek is warranted;
- The surrounding topography of the proposed site and adjacent land has all surface and sub surface water drain into McDivitts Creek;
- McDivitts Creek, the only permanent water source for Arc-en-Ciel, originates on the applicant's land upstream of Arc-en-Ciel;
- It was observed that there are two dams located on McDivitts Creek upstream of Arc-en-Ciel, one at the head of the creek and one below the head of the creek. These are located on the Applicant's land. These are illegal structures as they are impeding water flow of the creek. (This matter has been referred to NRAR). These dams are visible on publicly available map sites (Google Maps, Sixmaps, Google Earth Pro Two). From the satellite photos (taken in 2019) available in Google, one of the dams appears full, impacting on the water availability to Arc-en-Ciel. It should be noted that the Applicant does not have any rights to extract water from McDivitts Creek; and
- Arc-en-Ciel hold a current water access licence (WAL) as well as an Environment Protection Licence (EPL) and can prove full compliance to each licence.

Water sampling was undertaken during the inspection. The water test results have confirmed that the water quality is consistent with a pristine area. These results will be held for future reference should the development application be approved and the quality of Arc-en-Ciel's water declines.

It was noted that previously, animal carcasses were found disposed of in the upper reaches of McDivitts Creek on the Applicant's property. These consisted of horse and bison remains. This practice demonstrates poor management practices by the applicant regarding the proper disposal of dead animals, particularly near a permanent water course and demonstrates disregard for downstream neighbouring properties.

In addition to the above, a point needs to be made regarding the rainbow trout and the requirement for pristine water supply. These fish require pristine water to survive. They are sensitive to increased sedimentation and if zinc is found to be present in the water it will result in reduced growth rates, cataracts, dwarfism associated with disturbances in bone metabolism, fin and skin erosion, skeletal abnormalities and mortality. These are all documented in various research papers world-wide. The applicant's structural details have a mix of steel and colourbond in the application which rainfall and runoff will eventually find its way into McDivitts creek and into Arc-en-Ciel's stock. This will have financial implications as well as impacting on its sustainability and the regions tourism impacts.

NSW Department of Primary Industries have advised that Arc-en-Ciel operate under a current NSW Aquaculture Permit covering the activities of hatchery, grow-out and fish-out. They also confirm that aquaculture relies upon access to high quality water. The facility has been established in its current location meeting the NSW water quality objectives consistent with ANZECC Guidelines resulting in sustainable best practice aquaculture in NSW. (refer to the NSW Land Based Sustainable Aquaculture Strategy Chapter 5.3 for more info). The NSW Department of Primary Industries commented on on-site wastewater treatment systems failing to meet required operating specification and the impact this could have on facilities such as Arc-en-Ciel.

Arc-en-Ciel have a long-established aquaculture facility that is known Australia wide for its produce. It is a popular tourist attraction for the New England region, being open to the public for tours and fine dining. They produce around 12% of the States Rainbow Trout revenue. They have developed specific techniques for smoking the trout and have been rewarded for their efforts through gold medals being won at major Royal Shows and fine food awards across Australia. They also employ local people. Despite this they were not recognised in the applicant submission but have been referred to as a grazing property.

Moss Environmental are of the opinion that this application may be motivated by desired outcomes other than simply building a dwelling in this location. The Applicant states that it is to be off the grid with solar power and alternative locations are available on either of the Lots 46 and 47, that would not impact on Arc-en-Ciel.

In summary, Moss Environmental have assessed Arc-en-Ciel Trout Farm and the potential impacts that this proposed development would have on them should it be approved. We believe that development application has been submitted without due consideration of the environment and the environmental and financial impacts it will create. Due to the above considerations and inconsistencies in the completion of the required documentation, we would like to firmly lodge an **OBJECTION** to this application.

The applicant's proposal, if approved by Tamworth Regional Council, has the potential to adversely impact on the aquaculture facility. No consideration has been given by the applicant to their impact on Arc-en-Ciel.

Moss Environmental would be happy to attend Tamworth Regional Council on behalf of Russell Sydenham, Arc-en-Ciel Manager and Owner to further discuss our findings.

Yours Sincerely,

Pam Simpson

Senior Environmental Consultant

Moss Environmental Pty Ltd

(on behalf of Mr Russell Sydenham, Arc-en-Ciel)

19/7/2019

Disclosure Statement of Political Donations and Gifts

There have been NO donations or gifts made to any Political Party within the past 2 years of this submission being made.

Pam Simpson

Senior Environmental Consultant

Moss Environmental Pty Ltd

19/7/2019