



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

11th September 2007

DSDS3	PROPOSED CATTLE FEEDLOT LOT 170 DP 754396, LOT 2 DP 1009463 & LOT 3 DP 1009463 No. 188 BACK CREEK ROAD, KINCHELA FILE: T6-07-189 GLR	{Folio No. *}
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SUMMARY:

Reporting that Council has received an application for a proposed cattle feedlot which objections have been received

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Applicant: Environmental Resources Management Australia Pty Ltd

Subject Property: Lot 170 DP 754396, Lot 2 DP 1009463 & Lot 3 DP 1009463
188 Back Creek Road, Kinchela

Zone: 1(a1) (Rural "A1" Zone)

Description of Proposal

Council is in receipt of a Development Application for a feedlot on the property described above. The proposal is to hold 300 beef cattle, progressing to a maximum of 500 beef cattle and to provide supplementary feed via grain feeding bins. The applicant advises that the cattle will be held for periods of 48 hours to 12 weeks for short and long term conditioning for the saleyards.

The subject land has a total area of 61.83ha. It is proposed to divide the land up into 9 smaller paddocks / pens with a maximum of 90 cattle held in each pen. The applicant advises that the paddocks / pens will be on average 1ha in size, indicating that some will be smaller areas. [\(Appendix D – Page G12\)](#)

The cattle are to be transported to the site via trucks which the applicant describes as a "mini B-double" truck, between 17.5m and 19m.

Heads of Consideration

The proposal has been assessed having regard to the heads of consideration under s79C Environmental Planning and Assessment Act 1979, with the following matters considered to be of relevance.

Kempsey Local Environmental Plan (KLEP) 1987 –

Clause 5 – Landuse Definition

The proposal may be defined as a “feedlot” and is permissible with consent in the (1A1) zone pursuant to the provisions of Clause 9 of the KLEP.

The objectives of the 1(a1) (RURAL “A1” ZONE) are;

- (a) *predominantly provide for agricultural uses;*
- (b) *to preserve the visual amenity of the land;*
- (c) *to provide for compatible tourist and industrial areas.*

The proposal is not considered to be inconsistent with the objectives of the zone.

Clause 56 – Development of Land Containing Acid Sulfate Soil

The subject land contains high risk acid sulfate soil. The applicant is not proposing to disturb the acid sulfate soil in the proposed development.

State Environmental Planning Policy (SEPP) - 30

SEPP 30 Intensive Agriculture – Clauses 6 and 7

Clause 6(1)(a) of SEPP 30 specifies that a person may not carry out development for the purpose of a cattle feedlot having a capacity to accommodate 50 or more head of cattle except with the consent of the consent authority. In this instance the consent authority is Council.

Clause 7 of SEPP 30 specifies that if clause 6 applies to a proposed development, the advertising and notification provisions of the EP & A Act apply to that as if it were a designated development. The proposed development has been advertised and notified in accordance with these provisions. The details of the submissions are recorded under the heads of consideration for S79C(1)(d) of this report.

Clauses 7(2) and 7(3) of SEPP 30

The information supplied, by the applicant, is considered to be inadequate in several areas. While the relevant issues and potential impacts are noted in the SEE and the addendum, the means of addressing those impacts is considered to be inadequate particularly with respect to flood management planning, disposal of manure, assessment of impacts of ground water and surface flows, the assessment of odour and impacts upon soil.

Odour

The information supplied by the applicant to assist with the assessment of odour impacts, includes an assessment in accordance with the DECC guidelines “Assessment and Management of Odour from Stationary Sources”

in NSW relating to feedlots for a class 4 feedlot, the applicant calculates an acceptable separation distance of 221.4m, based on there being 269 Standard Cattle Units (SCU) on the site.

The feedlot is presently operating with only one feedbin which is within 250 to 300m of the nearest dwelling. As far as Council is aware, approximately 200 head of cattle are held at any one time on the subject land. The proposal is for a minimum of 300 head to a maximum 500 head, equating to 4 feedbins (1 per pen holding 90 cattle). It is considered that an increase in the intensity of the operation is likely to result in an increase in adverse odour amenity impacts upon the residents in the vicinity.

The Department of Primary Industries has advised that land use conflict between the proposed development and adjoining residents should not be underestimated. This is more relevant in this instance where Council is in receipt of advice which indicates that odour is a problem for adjoining residents. The DPI further note that the proposed stocking rates are likely to result in odour impacts, particularly in summer months.

Consequently it is considered that the odours from the proposed activity are likely to result in an adverse odour impact on the residents and landuse within the area.

Water Quality

It is considered that insufficient information has been provided by the applicant to assess the actual impact of the proposal on surface water and ground water. The location of the proposed development on floodprone land indicates that the potential exists for pollution of surface waters and ground water.

The impact upon groundwater is not able to be assessed given that the applicant has provided no specific details on the location of groundwater reserves.

The applicant submits that there is a potential for the pollution of ground water and surface waters, but rather than undertake a detailed groundwater assessment, the SEE and Site Management Plan (SMP) attempt to put in place measures to mitigate potential impacts from leaching or runoff of effluent and nutrients from the site. The applicant proposes methods such as excluding paddocks 7 and 9 that adjoin an ephemeral watercourse at the rear of the property, and creating a riparian zone along the edge of the ephemeral watercourse.

The Department of Energy and Water have recommended that a groundwater monitoring program be implemented on the site. Further discussions with Department of Energy and Water have indicated that while a monitoring program could be required by a condition of consent for the proposed development, that ultimately no assessment of the impacts is possible given that insufficient detail regarding groundwater has been provided.

It is considered that there is a potential for the pollution of surface and ground water by the proposed development. Assessment of the means of

mitigating these potential impacts in the absence of detailed studies of the site hydrology is not possible to any meaningful extent.

Soil Degradation

The applicant submits that the proposal could impact upon soils by construction of the fences for the pens, and via increased cattle traffic around the feed bins and in the pens in general. The applicant has proposed that these impacts can be mitigated by placing the feed bins on level gravel and hardstand surfaces. The manure buildup is proposed to be removed every three to four weeks.

In addition the applicant proposes to manage the removal of manure to keep it at levels that would be consistent with normal low intensity grazing practices.

Further the applicant submits that existing vegetation buffers exist and will be used across the property to aid in the control of wind erosion and provide shade.

It is considered that the mitigation measures proposed to address potential soil degradation are insufficient to address the potential for soil degradation. The current limited operations of the site indicate that the management of the site is not sufficient to reduce the potential for soil erosion. The recent rain event in August 2007, and the management of the paddocks, pens and manure during that time, and the resulting condition of the paddocks, indicates that the measures being used on the site are not sufficient to reduce the potential for soil degradation.

The DPI has also raised concerns about the ability to maintain adequate groundcover on the site.

Animal Welfare and Relevant Guidelines

The applicant has indicated that they will operate the feedlot in accordance with the "Primary Industry Standing Committee Model Code of Practice for the Welfare of Animals: Cattle, 2nd Edition, PISC Report 85" published by the CSIRO.

The Department of Primary Industries has advised that they have concerns about the proposal to comply with animal welfare standards in very wet conditions.

The applicant has submitted that the NSW Feedlot Manual does not apply to the development as it is not a feedlot as defined by the Manual. The DPI has advised that they consider the manual does apply. As a consequence the proposal may not be consistent with the Manual. The SEE does not refer to any of the policies noted by the DPI, and as such it is considered that the proposal has failed to provide sufficient information for the assessment of the proposal in accordance with this definition.

North Coast Regional Environmental Plan

Clause 12 requires that Council shall not consent to development on rural land unless it has considered the likely impact of the proposed development

on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The proposal is for a feedlot which is also an agricultural based development. The complaints received would indicate that its effect is more upon the residents on the adjoining land rather than on the agricultural use of their land.

Clause 15 requires that Council consider the impacts of development on wetlands and fishery habitats. Insufficient information has been submitted with respect to the nutrient loads and runoff from the site to assess the impact of the proposal on wetlands or fishery habitats. Several ephemeral streams run through the property, which ultimately drain to the adjoining waterways. Additional nutrients and sediment entering waterways have the potential to affect fishery habitats and the health of nearby waterways.

Based on the information submitted by the applicant, it is considered that there has been no meaningful assessment of the potential for groundwater impacts. The SEE proposes some methods for managing the manure on the site, however it is not certain that these methods will address surface and groundwater pollution.

Council’s Policy - Cattle Feed Lots – Establishment of - Policy No C23:3 – Adopted 11 April 1994

The following table summarizes the relevant provisions and requirements of this policy:-

Requirement	Assessment / Comment
Clause 3.1 states that “New Cattle Feedlots may not be established on land having an area of less than 10 hectares”.	The site has a total area of approximately 61.83ha. The proposal covers three lots, one of which has an area of 2.7ha. It is noted however that the feedlot is not proposed over all the lots, rather it is proposed to be undertaken in 9 pens which are on average one hectare in area. The applicant notes that two of these will not be used; as such the area occupied will be less than 9 hectares.
<i>5.1 - All Dead cattle are to be collected daily and buried below the ground surface with not less than 600mm of compacted soil over them. Any other means of disposal shall receive consent of Council.</i>	Disposal of dead cattle by burial on this site is not considered suitable given its location in flood prone land and the potential for the site to contain acid sulfate soils. The applicant proposes to dispose of cattle off site on a daily basis.
<i>5.2 - Spilt and wet feed shall be removed daily and not permitted to become rancid.</i>	The applicant does not address this particularly in the SEE or the Addendum, however this could be included in any conditions of consent should the application be approved. The applicant does propose a daily inspection to check odours around feed bins.
5.3 - Manure	The applicant is not proposing to dispose of manure

<p>deposited in close proximity to feeding areas is to be removed and disposed of on a daily basis, and manure deposited on the remainder of the enclosure is to be removed and disposed of on a regular basis, and in a manner acceptable to Council.</p>	<p>on a daily basis, but is proposing to inspect it and remove it as required. The disposal of manure (excess to that required for fertilization of fallow paddocks) is proposed to be disposed of to Council's waste facility. This is permissible according to Shire Services, provided that it complies with the Department of Environment and Climate Change definition of "dry waste".</p>
<p>5.4 - An ongoing programme of effective fly and rodent control with sprays and bait shall be carried out. Chemicals shall be varied on a regular basis to reduce the possibility of resistance to the insecticide being developed.</p>	<p>The applicant has provided no specific details about this issue; however it is considered that should the development be approved, consent conditions could require a programme to be implemented.</p>
<p>5.5 - A screen of at least three rows of closely planted, fast growing and minimum care native trees and shrubs shall be planted between the Cattle Feed lot and a road or an existing dwelling on any adjoining allotment to provide a barrier to wind, vision and noise. Such barrier is to be maintained and replanted with replacement trees where necessary, to the satisfaction of Council.</p>	<p>The applicant has not proposed tree planting for this purpose, however they have proposed it with respect to protection of water quality protection and soil erosion. If approved consent conditions requiring planting could be imposed.</p>

Access, Transport and Traffic

The applicant has advised that the proposed development will result in 10 to 15 truck movements, including the delivery of cattle and grain.

The road system supporting the proposal has been deemed to require upgrading to support the increase in traffic and the loading upon the bridge.

Council has received submissions regarding the size of the trucks used to deliver cattle, and complaints about the time that deliveries are taking place, with submissions indicating deliveries occurring at 1am. Concerns have also been raised with respect to the suitability of the bridge to accommodate the cattle delivery trucks.

Council has considered the existing Road Infrastructure. It is considered that the life of the pavement, due to the proposed additional traffic and the existing traffic will be reduced to 7.5 years instead of the 25 year life without the additional traffic generated by the feedlots. This is based on the road being in good condition, which it is not.

Conditions to address the impact of the development on the surrounding road network should be imposed if Council determines to approve the development.

Utilities

The applicant is proposing to use the town water supply to service the feedlot requirements. Macleay Water has advised that they have concerns about the quality of the water supply to that area. The additional demand for water supply may result in insufficient holding time for water to be treated properly before entering the supply main. As a consequence, Macleay water requires that the applicant have some means of on site retention (preferably from their own roof catchments) in order to ease the demand upon town water supplies.

The proposed development has a high demand on town water resources. The applicant has indicated that the proposed development will use between 10,000 and 14,000 litres per day with 400 head of cattle on the site. Council's Engineers have advised that Council records indicate that the current site operations are using approximately 23,353 litres per day. This is with stocking levels below 400 head of cattle. Council's Engineers have advised that consent conditions requiring contribution will be imposed if the development is approved.

Upgrading of the existing water supply main, which is presently a 100mm pipe is required at the applicant's expense.

Waste

Waste generated by the proposed development consists of carcasses, wet grain, and excess manure. The applicant has proposed to dispose of carcasses and excess manure off site in Kempsey's waste disposal facility. Shire Services have advised that this is permissible for carcasses with prior notice, and manure is acceptable provided that it meets the Department of Environment and Climate Change definition of "dry waste".

Noise and Vibration

Noise impacts have been identified as relating to the delivery of cattle and the bellowing of cattle if they are yarded overnight. The applicant proposes to mitigate this impact by restricting delivery times, however they note that this is not always possible to control, and if the trucks are delayed they are not able to hold them on the trucks overnight. Council has received submissions noting that deliveries have occurred at 1am and that the vibration from the trucks is shaking houses located along Back Creek Road.

It is considered that the proposed development has the potential to have adverse noise impacts for surrounding residents.

Flooding

The flood management plan provided is considered to be unsuitable to the proposed land use. The SEE has identified several means of addressing flood issues, including;

- Limiting stock numbers,
- Relocation of Stock to another property,
- Relocation of the feed bins by mechanical means to either the elevated pad the house is situated on (minor floods) or to the higher portions of the property (major floods),
- Management of manure to minimize the potential impacts of manure on flood waters.

It is noted that in the recent rains (August 2007) resulted in minor flooding. A site inspection revealed that the feed bins had not been removed and were left in a position such that they were surrounded by effluent. Stock was observed in pens that were at least 50% covered by water. No adequate means of preventing effluent runoff from the site to adjoining properties were in evidence, nor are any adequate measures proposed.

It is considered that if the operation was unable to manage a minor rain and flood event such as the one which occurred in August 2007, with only one feed bin in use, that little reliance can be placed on the management of the site with 400 head of cattle and 3 or 4 feed bins in accordance with the mitigation measures proposed.

The applicant proposes to relocate the cattle to another property at Sutherlands Lane. This property is also subject to flooding and is the site of another proposed feedlot, where it is proposed to hold between 300 to 500 head of cattle under similar conditions as proposed in this Development Application. This flood relocation is considered to be impractical as if Kinchella is flooding, Sutherlands Lane, is also likely to be experiencing flooding, as are the roads on route to the property.

It is considered that the natural hazards of the site, and the inadequate measures of mitigating these hazards, require the development to be recommended for refusal.

Notification under State Environmental Plan Policy 30

The proposal was advertised in accordance with the requirements of SEPP 30 with the following issues raised by Government agencies: [\(Appendix E - Page G13\)](#)

Government Agency Submission	Planning Comment
<p>1. <u>NSW Department of Water & Energy</u>- Groundwater quality monitoring plan should be developed for the site in order to assess and address any water quality issues arising from the proposed development. Licence under Part 5 of the Water Act 1912 is required for any groundwater monitoring bores.</p>	<p>1. It is considered that Department of Water and Energy response indicates that the applicant has not provided sufficient information to determine the impacts of the proposal on surface and ground water quality.</p> <p>In the alternative, should the development be approved, the comments provided will be required to be included in any conditions of consent.</p>
<p>2. <u>Department of Primary Industries</u> The site is a feed lot as stocking rates proposed will result in supplementary feeding the majority of feed supply.</p> <p>Concern raised about the ability of the site to maintain minimum levels of best practice ground cover.</p> <p>There is a lack of detailed soil, nutrient, flooding and enterprise information to substantiate the proposal, and as such the site has not been shown to be suitable, nor the enterprise sustainable.</p>	<p>2. The Departments comments confirm that insufficient information has been provided to properly assess the likely impacts of the proposal.</p>

Public Exhibition

The proposal was advertised in accordance with requirements of the Environmental Planning & Assessment Act 1979 "advertised development", with six (6) submissions received ([Appendix F Part 1, Part 2, Part 3, Part 4 – Page G16](#)).

Public Submission / Objectors	Planning Comment
1 Property is Floodprone	1 See "Flooding"
2 Inappropriate Flood Management Proposed – relocation to Sutherlands Lane not suitable.	2 See "Flooding"

3	Manure Disposal	3	See "Waste"
4	Water Pollution –	4	See "Waste"
5	Air Pollution –	5	See "Odour"
6	Traffic - Road not suitable for the trucks. Property Damage is occurring to nearby dwellings from the vibration of heavy vehicles in the laneway. Some houses are very close to.	6	See "Access, Transport and Traffic"
7	Current Operating Practices not good.	7	Based on complaints received, in the current operating practices seem to indicate that adverse impacts are resulting.
8	Noise	8	See "Noise and Vibration"
9	Effluent Disposal	9	See "Water Quality"
10	Impact upon Bridge	10	See "Access, Transport and Traffic"
11	Insects – flies problematic for adjoining residents.	11	See discussion under consideration of Council's Cattle Feedlot policy.

No further matters require consideration.

REPORT IMPLICATIONS:

- ***Environmental***

The proposed feedlot is considered likely to result in adverse environmental impacts with respect to water quality, air quality and soil erosion. In addition the DPI has advised that the stocking rates for the site are in excess of the expected stocking rates for the locality, even having regard to the supplementary feeding, the area of the pens is considered insufficient.

- ***Social***

The application has attracted numerous submissions in objection to the proposal from surrounding residents objecting to the odours from the existing operation and to other general matters relating to the existing management of the site. It is considered that the continued operation and expansion of the operation will result in an increased adverse impact on the amenity of the residents.

- ***Economic (Financial)***

The economic implications of the proposed development generally considered to be neutral.

RECOMMENDATION:

A. That Consent be refused for the following reasons;

1. The applicant has failed to demonstrate that the proposal will not result in adverse impacts on the amenity of the neighbourhood by reason of odour.
2. The applicant has failed to demonstrate that measures can be employed to control potential adverse impacts on ground and surface water quality.
3. The applicant has failed to demonstrate that adequate measures are in place to facilitate the timely evacuation of cattle in times of flooding.
4. The applicant has failed to demonstrate that adequate measures can be employed to prevent soil degradation due to the proposal stocking rate.
5. The proposal is likely to create an undesirable precedent for similar proposals within the locality and throughout the Shire.
6. Having regarded to the failure of the applicant to adequately address the likely impacts of the proposal approval of the application based on the information provided is not in the public interest.

B. That the objectors be advised of Council decision.

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R B Pitt

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES