



## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

11<sup>th</sup> September 2007

<b>DSDS4</b>	<b>PROPOSED CATTLE FEEDLOT</b> <b>LOT 853 DP1048594 AND LOT 122 DP752412</b> <b>57 SUTHERLANDS LANE, BELLIMBOPINNI</b> <b>FILE: T6-07-190 GLR</b>	<b>Folio No. *}</b>
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### SUMMARY:

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

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**Applicant:** Environmental Resources Management Australia Pty Ltd

**Subject Property:** Lot 853 DP1048594 and Lot 122 DP752412  
57 Sutherlands Lane, Bellimbopinni

**Zone:** 1(a3) (RURAL "A3") Agricultural Protection

### Description of Proposal

Council is in receipt of a Development Application for a feedlot on the property above at 57 Sutherlands Lane Bellimbopinni. The proposal is to hold a maximum of 400 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 approximately 36.6ha. It is proposed to divide the land into 9 smaller paddocks / pens with a maximum of 90 cattle held in each pen. The applicant advises that the paddocks / pens will range in size between 1.6 to 2.5 1ha in size. The applicant notes that paddocks 1 and 2 will not be used for supplementary feeding, only delivery and quarantine of cattle. [\(Appendix G – Page G36\)](#)

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 long.

### 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 (1A3) zone pursuant to the provisions of Clause 9 of the KLEP.

The objectives of the 1(a3) (RURAL “A3” ZONE) are;

- (a) *to conserve land particularly suitable for agricultural uses;*
- (b) *to provide for compatible tourist uses;*
- (c) *to protect arterial road frontages from developments which are visually intrusive or which generate excessive traffic.*

The proposal is considered to be generally consistent with objective (a) 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” relating to 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 approximately 250 to 300m of several dwellings. The applicant advises that paddock 3 is located within 250m 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 maximum of 400 head of cattle, equating to 4 feed bins (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 have advised that regardless of the odour assessment suggesting that community amenity will not be impacted, they note that there is no mention of the local school in the vicinity or the extent of rural residences to the east of the proposed establishment. Further they note that odour assessment guidelines may provide a minimum level of separation for such establishments, site specific circumstances should be taken into account as well as a precautionary approach to reduce the incidence of land use conflict in rural areas.

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) claim to put in place measures to mitigate potential impacts from leaching or runoff of effluent and nutrients from the site, such as regular removal of manure. The applicant has provided no real means of preventing effluent from moving off the property in flood events.

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.

The Department of Primary Industries have advised that protection of water needs to be achieved through appropriate stocking rates, maintenance of groundcover, water control design and vegetated buffers where appropriate. The applicant has not provided evidence that these measures will be employed on the site, particularly having regard to the current site practices.

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 DPI has advised that there is inadequate evidence provided in the documentation as to how pastures and soil structure decline and environmental degradation will be avoided.

### **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, 2<sup>nd</sup> 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, however they have advised that they have applied the manual with respect to impact assessment considerations. The DPI has advised that they consider the manual does apply. As a consequence the proposal may not be consistent

with the Manual, particularly with respect to site selection. The SEE does not refer to any other policies noted by the Department of Primary Industries as being relevant to the proposal, 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 36.6ha. The proposal indicates that 7 pens will be used, ranging in size from 1.6ha to 2.5 ha. Ultimately the area is to be close to the 10ha
<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</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.

<p><i>them. Any other means of disposal shall receive consent of Council.</i></p>	
<p><i>5.2 - Spilt and wet feed shall be removed daily and not permitted to become rancid.</i></p>	<p>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.</p>
<p><i>5.3 - Manure 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.</i></p>	<p>The applicant is not proposing to dispose of manure 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><i>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.</i></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><i>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</i></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>

<p>and replanted with replacement trees where necessary, to the satisfaction of Council.</p>	
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**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.

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 6.5 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.

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 indicate that a similar operation based at Kinchela is 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 contributions will be imposed if the development is approved.

Macleay Water has indicated in that insufficient information has been submitted for them to properly determine the amount of water the proposal will be using, and therefore they are unable to determine the impact of the proposal on the water supply to the area.

**Waste**

Waste generated by the proposed development consists of carcasses, wet grain, and excess manure (316 tonnes per year). 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". The applicant proposes to dispose of excess manure at the Cairncross Waste Management Facility.

**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 regarding noise from the delivery of cattle, as the delivery yards are located within 55m of a dwelling on an adjoining property.

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;

- Management of stock during flood events to minimise loss of livestock; and
- Management of feed bins to ensure that they are not lost or swept onto other properties potentially causing damage.

It is noted that in the recent rains (August 2007), which resulted in minor flooding. No apparent change in management practices to manage the site appeared to occur, to the extent what would be considered appropriate in the wet conditions.

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.

However, the owner owns higher land adjoining the land which could be utilized in times of flood such that refusal of such grounds may be difficult to sustain.

**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: [\(Appendix H - Page G37\)](#)

Government Agency Submission	Planning Comment
1. <a href="#">NSW Department of Water &amp;</a>	1. It is considered that

Energy- 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.

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.

In the alternative, should the development be approved, the comments provided will be required to be included in any conditions of consent.

2. Department of Primary Industries The site is a feed lot as stocking rates proposed will result in supplementary feeding the majority of feed supply.

2. The Departments comments confirm that insufficient information has been provided to properly assess the likely impacts of the proposal.

Concern raised about the ability of the site to maintain minimum levels of best practice ground cover.

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.

**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 1 Part 1, Part 2, Part 3, Part 4, Part 5 – Page G40](#)).

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 can be employed to prevent soil degradation due to the proposal stocking rate.**
  - 4. The proposal is likely to create an undesirable precedent for similar proposals within the locality and throughout the Shire.**
  - 5. 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**