

## COUNCIL ASSESSMENT REPORT

### NORTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSNTH-210 – DA2300720
<b>PROPOSAL</b>	Kempsey Regional Saleyards Infrastructure Upgrade
<b>ADDRESS</b>	Lot 1 DP 530690 and Lot 3 DP623073 42 Saleyards Road West Kempsey
<b>APPLICANT</b>	Kempsey Shire Council
<b>OWNER</b>	Kempsey Shire Council
<b>DA LODGEMENT DATE</b>	7 February 2023
<b>APPLICATION TYPE</b>	Local Development
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1) and Clause 3 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Council related development over \$5 million
<b>CIV</b>	\$12,112,663 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Nil
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>Kempsey Local Environmental Plan 2013;</i></li> <li>• <i>Kempsey Development Control Plan 2013</i></li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS ISSUES SUBMISSIONS</b>	Nil
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	A. Architectural Plans B. Mechanical Services C. Hydraulic Services D. Electrical Services E. Preliminary Design Cost Plan F. Geotechnical Report

	G. BCA Section J Report H. Saleyards Schedule of Innovation I. Saleyard Management Plan J. Fire Engineering K. BCA Assessment Report L. Statement of Environmental Effects M. Civil Engineering N. Structural Plans O. Site Survey  Documents submitted following requests for further information: 1. Site photos on sale days 2. The existing aApproval to operate sewage management system (human waste) 3. The existing Kempsey Regional Saleyards Effluent Treatment System - Operation & Maintenance Manual 4. Tree identification table 5. Revised electrical and civil engineering plans removing works out of the road reserve 6. Solid Waste Management Plan 7. Onsite Wastewater Management Assessment 8. Traffic Impact Assessment
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	Nil
<b>RECOMMENDATION</b>	Development Consent subject to conditions
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	16 October 2023
<b>PLAN VERSION</b>	DRA Architects Project 22016 Version 2 dated 01/02/2023.
<b>PREPARED BY</b>	Chris Pratt Consultant Town Planner Planning Resolutions
<b>DATE OF REPORT</b>	4 October 2023

## EXECUTIVE SUMMARY

The subject site is Lot 1 DP 530690 and Lot 3 DP623073 and is located at 42 Saleyards Road West Kempsey. The subject site is the Kempsey Regional Saleyards which are located approximately 3klm directly north of the Kempsey Town Centre. The site is adjacent to the North Coast Railway Line. Christmas Creek forms the northwestern boundary of the site.

Lot 1 contains the saleyards and carparking area. The existing saleyards are also built over the adjacent road reserve. Saleyards Road carriageway diverts from the allocated road

reserve and continues through the site before rejoining the allocated road reserve to the north. Lot 3 contains the waste treatment areas and stock holding yards.

The applicant seeks development for the following:

- *New roof structure over the incoming and outgoing stock yards, for improved animal welfare (especially reduced heat stress) and site bio-security*
- *Replacement of existing concrete floors with soft flooring, for improved animal welfare (especially reduced heat stress and overall animal comfort) and improved site bio-security*
- *Vehicle and pedestrian access and site operation functionality improvements, being:*
  - o Formalised parking to create three (3) disabled accessible spaces and an associated access ramp to connect the disabled parking area to key saleyard facilities (in addition to the generous existing informal carparking on Saleyards Road adjacent to the saleyards).*
  - o Remodeled laneway (scales to selling ring) and changes to the selling ring configuration*
  - o Reconfigured exit to Livestock scales/weighbridge, for improved functionality and access*
  - o Relocation of the Office/Scale House and achieving additional office space*
- *New grandstand and sales arena, including DDA compliant access*
- *New public amenities, providing customer and staff benefits and achieving DDA compliance*
- *New kiosk/kitchen building, providing customer and staff benefits, an improved networking environment and achieving DDA compliance*
- *Solar panel installation*
- *Stormwater harvesting and rainwater overflow including an upgraded headwall discharge point in Lot 3 for improved environmental outcomes*
- *New and modified dust suppression sprinkler system, for improved air quality*
- *Associated landscaping*

It is proposed to carry out the development in stages. To facilitate the erection of the roofs it is necessary to remove six exotic trees.

The land is within *Zone RU1 Primary Production* pursuant to Clause 2.3 of the *Kempsey Local Environmental Plan 2013*. The proposal is defined as *rural industry*. The proposed use is permitted with consent.

The proposal was notified in accordance with Council's Community Participation Plan. No submissions were received. There were no Government agency referrals.

The main issue that arises from the roofing of the saleyards is the management of the solid waste given the proposed use of the soft flooring (sawdust or the like) in the yards. The applicant was asked to provide a Solid Waste Management Plan. The essential part of the plan provided:

*Manure waste collection will occur on an as-needed basis and will be dependent on the volume of manure in each area, however at a minimum will occur every 13 weeks. Manure will be collected via the use of a skid steer or posi-track and loaded into a truck for transport to the windrow area.*

The windrow composting area was found to be within the flood zone and management of solid waste on the site was therefore not suitable. As such the applicant has agreed that all solid waste generated on the site will be disposed of at a licensed waste facility or suitable offsite location.

A very small section of northwest corner of the existing yards are impacted by the 1% AEP Flood Level but only to a maximum depth of 600mm. Flood impacts can be easily mitigated. Conditions of consent have been recommended that ensure that an adequate flood evacuation plan is developed, and the constructed buildings can withstand the flood impacts.

This is a significant upgrade to the facility and as such the existing key aspects of the saleyard operation should also be reviewed. These aspects should be reviewed even though the applicant doesn't expect that the proposed works will significantly increase the through put of livestock. Therefore, recommended conditions of consent also include:

- a) The consolidation of the lots and formalisation of the location of Saleyards Road,
- b) Traffic management enhancements,
- c) Upgrade of the existing onsite sewage management system,
- d) Preparation of a Neighbourhood Management Plan, and
- e) Review of the stock effluent treatment system management plan

The development satisfies a legitimate need of providing enhanced livestock selling facilities in the Macleay Valley and beyond. The management of traffic, waste and neighbour impacts will be improved for the ongoing operation of the facility. The application proposes a form of development that is consistent with the intent of the planning controls.

The key issues have been resolved satisfactorily through amendments to the proposal, additional assessment reports and/or in the recommended draft conditions. Development consent should be granted for the proposed development.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The subject site is Lot 1 DP 530690 and Lot 3 DP623073 and is located at 42 Saleyards Road West Kempsey. The subject site is the Kempsey Regional Saleyards which are located approximately 3klm directly north of the Kempsey Town Centre. The site is adjacent to the North Coast Railway Line. Christmas Creek forms the northwestern boundary of the site.

Lot 1 contains the saleyards and carparking area. The existing saleyards are also built over the adjacent road reserve. Saleyards Road carriageway diverts from the allocated road reserve and continues through the site before rejoining the allocated road reserve to the north. Lot 3 contains the waste treatment areas and stock holding yards.

There is a screen of mature trees along both the eastern and western sides of the saleyards. The eastern screen is within the road reserve. There is also a scattering of exotic tree species planted in the yard area.

The statement of environmental effects indicated that the site was only impacted in the PMF event. However, this only took into consideration the flooding from the main channel of the Macleay River and not the flooding from Christmas Creek to the west of the site. Kempsey Shire Council's engineer has now provided a 1% AEP Flood Level for the site of R.L.8.03m AHD, taking in climate change from the latest model CC2100. This means that a very small section of northwest corner of the existing yards are impacted by the 1% AEP Flood Level but only to a maximum depth of 600mm.

The area along the Christmas Creek is partly mapped on the Biodiversity Values Map. The western parts of Lot 3 are mapped as bushfire prone and bushfire buffer.

**Figure 1 - Site Plans and photos**

Below is a site locality plan.





**Below is an aerial image of the site**





**Below are site photos**



**Drone view 26 April 2023 from the southwest**



**Drone view 26 April 2023 from the west showing adjoining rural residential dwellings**





**Existing yard flooring**



**Truck and car parking on sale day (supplied by applicant)**





**Sales arena on sale day (supplied by applicant)**

### **3.1 The Locality**

The site is extensively surrounded by rural residential development to the east and residential development to the south. There are large rural holdings to the west and north of the site.

## **4. THE PROPOSAL AND BACKGROUND**

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### **4.1 The Proposal**

The applicant seeks development for the following:

- *New roof structure over the incoming and outgoing stock yards, for improved animal welfare (especially reduced heat stress) and site bio-security*
- *Replacement of existing concrete floors with soft flooring, for improved animal welfare (especially reduced heat stress and overall animal comfort) and improved site bio-security*
- *Vehicle and pedestrian access and site operation functionality improvements, being:*
  - o *Formalised parking to create three (3) disabled accessible spaces and an associated access ramp to connect the disabled parking area to key saleyard facilities (in addition to the generous existing informal carparking on Saleyards Road adjacent to the saleyards).*
  - o *Remodeled laneway (scales to selling ring) and changes to the selling ring configuration*

- o *Reconfigured exit to Livestock scales/weighbridge, for improved functionality and access*
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- *Associated landscaping*

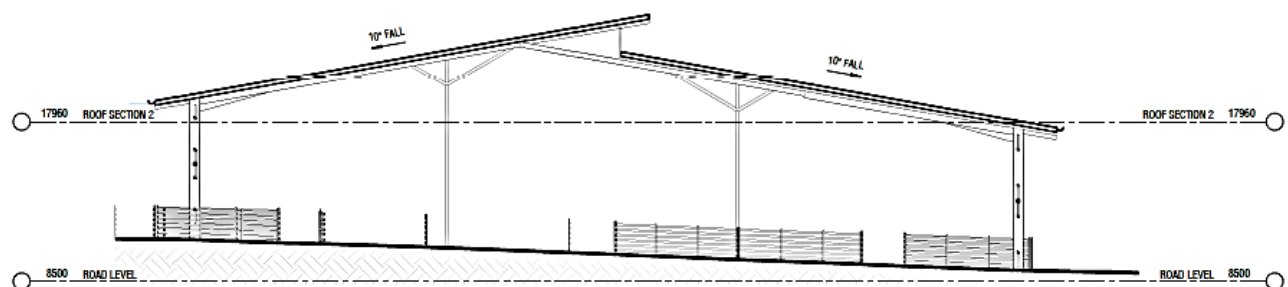
It is proposed to carry out the development in stages.

To facilitate the erection of the roofs it is necessary to remove six exotic trees. The applicant has provided a report to show there are two radiata pines, three paulownia and a white cedar to be removed.

The applicant states that:

*No changes to the existing installed Wastewater Treatment System/Septic System on site or the truck wash bay are proposed.*

**Figure 2 - Extract of a cross section of the proposed roof**





**Figure 3 - Perspectives of the proposed roof complex**



## **4.2 Background**

The development application was lodged on **7 February 2023**. A chronology of the development application since lodgement is outlined in **Table 2**.

**Table 1: Chronology of the DA**

<b>Date</b>	<b>Event</b>
<b>24 April 2023</b>	Exhibition of the application concluded
<b>26 June 2023</b>	Request for information from the applicant
<b>12 July 2023</b>	Panel briefing

<b>5 August 2022</b>	Request for clarification of additional information received
<b>14 September 2023</b>	Request for clarification of additional information received
<b>3 October 2023</b>	Final additional information received
<b>16 October 2023</b>	Panel site inspection

### 4.3 Site History

The applicant has provided the following in the SEE regarding the saleyards.

*The Kempsey Regional Saleyards (KRS) are the largest saleyards within the Hastings-Macleay region, with the only other saleyard being a small privately run saleyard at Wauchope. Furthermore, KRS has the largest throughput of any saleyards located on the Mid North Coast and is therefore, an important regional agricultural asset for the Mid North Coast of NSW. (Kempsey Shire Council, Agri-Business Industry Plan 2021-2026, p.16)*

Further the applicant reports in the SEE that the saleyards have an annual throughput of 25,000 – 40,000 head.

**Table 3: History of approvals and consents**

<b>DA No.</b>	<b>Development</b>	<b>Determination</b>
1984/DA-00117	Drainage control & liquid waste di	Development consent issued 24 May 1984
1984/BA-00268	Kiosk shelter	Building approval issued 1 July 1985
T6-02-646	Erect cover over selling yard	Development consent issued 27 November 2002 Modified 27 January 2003
T6-04-278	Relocate access route and truck wash facility	Development consent issued 09 June 2004 Modified 10 March 2005
T6-05-562	Renovated & Refurbish Canteen	Development consent issued 25 November 2005
T6-06-413	Awning structure (northern end)	Development consent issued 17 November 2006 Construction Certificate issued 17 November 2006 Final Occupation Certificate issued 30 November 2009

## 5. STATUTORY CONSIDERATIONS

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iii) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

### **Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations.**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Kempsey Local Environmental Plan 2013;*
- *Kempsey Development Control Plan 2013*



A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 2: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<b>Chapter 4: Koala Habitat Protection 2021</b> Council's <i>Comprehensive Koala Plan of Management for Eastern Portion of Kempsey Shire LGA</i> applies to the site. The land is not mapped Potential Koala Habitat. None of the trees proposed to be removed are koala habitat trees.	Yes
State Environmental Planning Policy (Planning Systems) 2021	<b>Chapter 2: State and Regional Development</b> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 3 of Schedule 6.	Yes
SEPP (Resilience & Hazards)	<b>Chapter 2 Coastal management</b> The site is mapped as: <i>Coastal Environment Area</i> <i>Coastal Use Area</i> Need to consider waste management impacts. The provided Solid Waste Management Plan satisfactory subject to treatment off site as the proposed treatment area is flood prone. <b>Chapter 4: Remediation of Land</b> Section 4.6 – Complies as the use is not changing with no increase in site sensitivity.	Yes
Proposed Instruments	There are no known relevant draft instruments	Yes
LEP	<i>Clause 5.21 – Flood Planning</i> A very small area of the saleyards is flood prone. Existing solid waste and wastewater treatment areas are flood prone. <i>Clause 7.1 – Acid Sulfate Soils</i> – site of works mapped as Class 5 but the proposal does not involve - <i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum</i> . The site of the saleyards is around 7.5 metres AHD <i>Clause 7.2 – Earthworks</i> – Earthworks are minimal. <i>Clause 7.4 - Koala Habitat</i> – Trees to be removed are not koala habitat tress. <i>Clause 7.9 – Essential Services</i> – a satisfactory on-site sewage management plan has been provided.	Yes

DCP	There is no precinct or land use specific DCP that applies to the proposal. Carparking and traffic aspects have been considered in the issues section below.	Yes
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Consideration of the relevant SEPPs is outlined below.

### **State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)**

#### Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 3 of Schedule 6 of the Planning Systems SEPP as the proposal is development for Council related development over \$5million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

#### Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (*the Resilience and Hazards SEPP*) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The use of the land is not changing, as such the development does not result in an increased sensitivity of land use.

#### Kempsey Local Environmental Plan 2013

The subject development site is within *Zone RU1 Primary Production* pursuant to Clause 2.3 of the *Kempsey Local Environmental Plan 2013*. An extract of the zoning map from the ePlanning Spatial Viewer appears over the page in Figure 4.

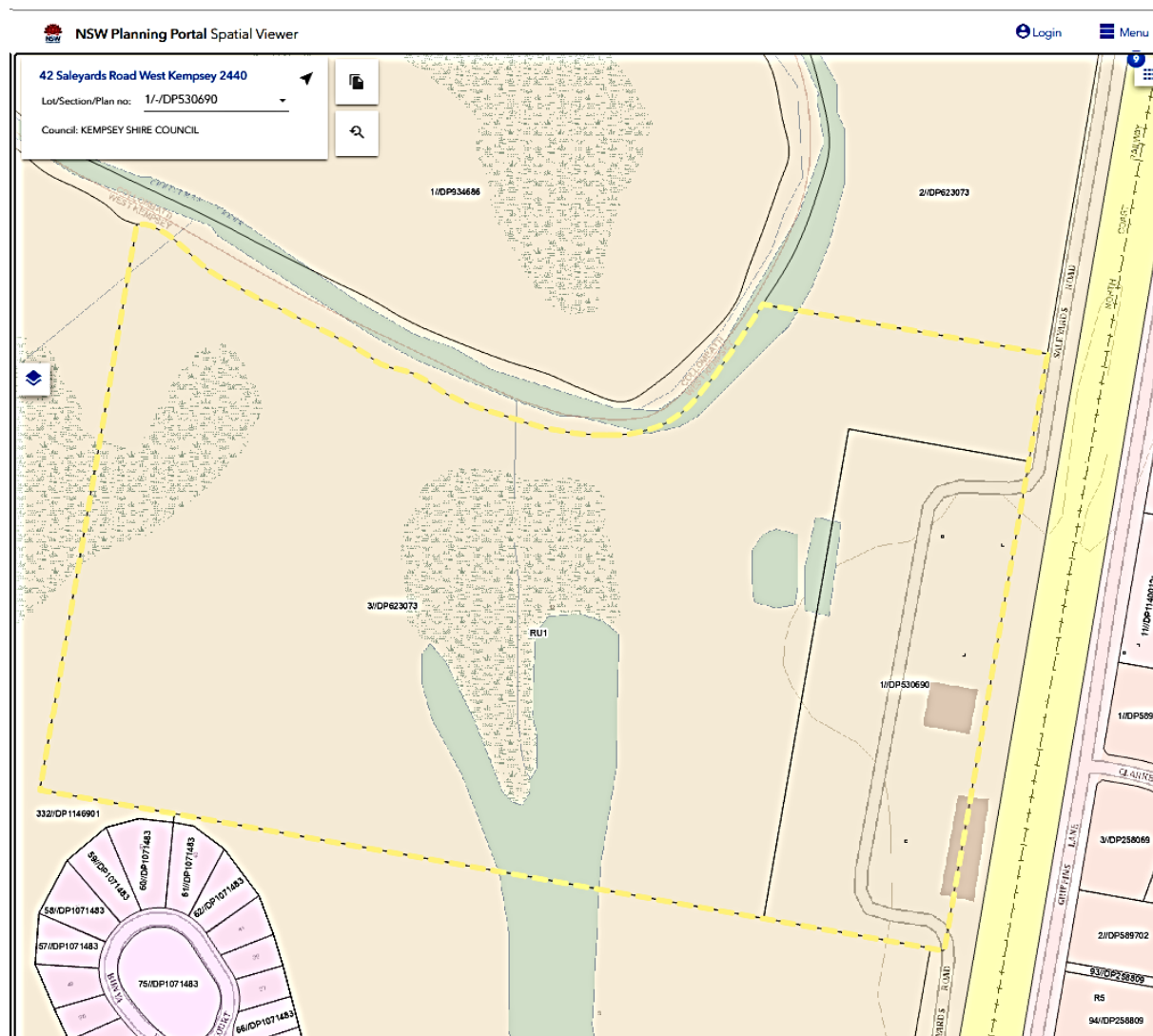
The proposal is defined as **rural industry** as follows:

***rural industry*** means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following—

- (a) *agricultural produce industries,*
- (b) *livestock processing industries,*
- (c) *composting facilities and works (including the production of mushroom substrate),*
- (d) *sawmill or log processing works,*
- (e) *stock and sale yards,*
- (f) *the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.*

The proposal is permissible in the zone with consent.

**Figure 4 - Zoning map**



The zone objectives are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage consolidation of lots for the purposes of primary industry production.
- To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.
- To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.



The proposed development is an important facility to support the *primary industry production* mentioned in the first two objectives. A central facility to sell livestock is essential both for producers restocking and the meat processing industries.

Additional assessment effort has been undertaken to reduce the potential conflict between the saleyard use and near residents. The lack of public submissions is a significant indicator of the general acceptance of the facility. Conditions of consent have been recommended that will provide the residents certainty that any future adverse impacts will be satisfactorily addressed. In particular the preparation of a neighbourhood management plan is recommended to ensure that the apparent acceptance of this facility by the residential neighbours continues.

The addition of a very large roof will have some adverse impacts on the *scenic quality of the locality*. However, the existing trees and required additional plantings will help to minimise the impact on scenic qualities.

Considering the above the proposal is consistent with the zone objectives.

The proposal is generally consistent with the LEP. A detailed review of the relevant clauses in Kempsey LEP 2013 is included in Attachment B.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no relevant to the draft environmental planning instruments.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- ***Kempsey Development Control Plan 2013***

There is no precinct or land use specific DCP that applies to the proposal. There is a limited range of general matters that are required to be assessed and these are mostly assessed via other planning controls. The only matter not covered elsewhere is the carparking requirements under **B2 Parking, Access and Traffic Management**. Compliance with these requirements is covered in the issues below.

Pursuant to Section 7.18 of the EP&A Act Council has adopted a *Kempsey Local Infrastructure Contributions Plan* dated 6 July 2023. A condition of consent has been recommended to levy the required contribution.

**(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

#### **(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

#### **5.1 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

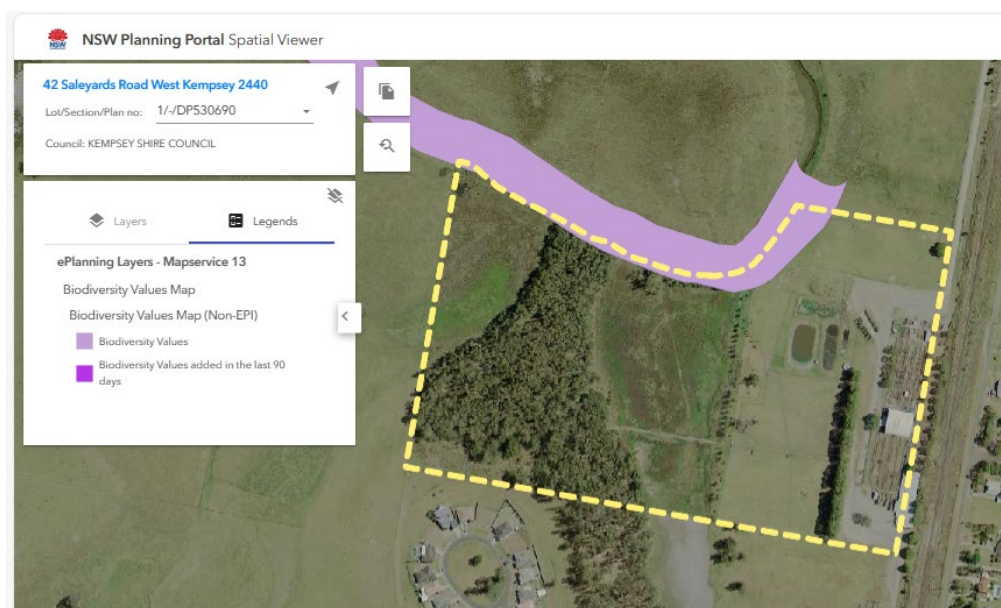
The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is consistent with the context of the site. The large building has an appropriate bulk and scale given its long-term use as saleyards and essentially rural location. The additional plantings will assist with integrating the building into the landscape.
- Access and traffic – The road network has the capacity to service the proposed development with the additional of a number of active traffic management measures. Council will receive some developer contributions that can be put towards an upgrade of the road network.
- Public Domain – The proposal provides for contemporary improvements to an important existing public facility.
- Utilities – The site is currently connected to water and electricity supplies. The current development relies on the on-site treatment of human waste. The sewer main is located nearby but connection would require connection through neighbouring properties. The onsite sewage management assessment report has shown that on site treatment is feasible.
- Heritage – The site does not contain any European heritage items. Due to the high level of disturbance, particularly relating to the main saleyard area, there is a very low likelihood that Aboriginal sites would be disturbed. Conditions of consent are recommended to ensure an appropriate protocol for any unexpected finds.
- Other land resources – It is not expected that the alterations and additions to the existing saleyards will have any adverse impacts on the adjoining agricultural land or the adjacent railway line.
- Water/air/soils impacts – The development will result in reduced impacts on water air and soil resources with:
  - A significantly reduce volume of animal manure treated on site,
  - An updated stock effluent treatment system management plan, and
  - A contemporary onsite sewage management system to deal with human waste.
- Flora and fauna impacts - The land is highly modified and the main part of the development already has hardstand saleyards. Much of the remainder of the property is covered in car parking areas and grazing paddocks. There is an area of remnant bushland in the western part of the land, but this is not impacted.

The area of the land the subject of the development supports very limited habitat suitable for native fauna and has few conservation attributes. There are no threatened species, endangered populations or endangered ecological communities that will be impacted by the development works. The trees to be removed are all exotic species.

The development does not involve key threatening processes. Only the area along Christmas Creek is mapped on the Biodiversity Values Map for the purposes of the *Biodiversity Conservation Act 2016*. See the extract of the map below. This area is not impacted.

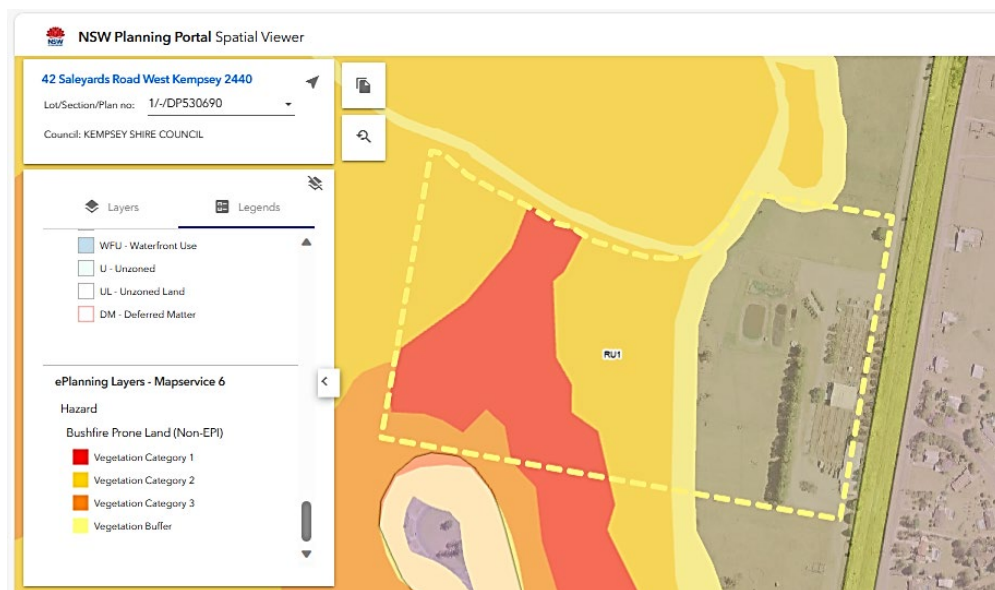
**Figure 5- Biodiversity Values map extract**



- Natural environment – The earthworks are limited to those required for the foundation of the buildings. The buildings will sit over existing facilities. Conditions of consent have been recommended to adequately control any sediment and erosion impacts.
- Noise and vibration – Noise and vibration are not expected to be a significant issue during construction given the types of works proposed. Standard mitigating conditions have been recommended. A neighbourhood management plan is also proposed to deal with any changes to noise impacts from the new works or any future changes to the operation of the sale facility.
- Natural hazards – The site is impacted by flooding. The impacts are very small existing impacts and can be easily mitigated. The recommend flood mitigation conditions will ensure assessment measures will be implemented in perpetuity.

The proposed buildings are not impacted by bushfire hazards. See the extract of the mapping over the page.

**Figure 6 – Bushfire hazard map**



- Safety, security and crime prevention – The site is subject to regular passing traffic. Standard measures can easily be implemented to ensure public safety.
- Social impact – The proposed development will have a positive social impact on the community providing a contemporary facility with reduced impacts on the local area. There appears to be general community support for the proposal.
- Economic impact – The proposed development will generate employment through construction and ongoing operation as well as the positive impact on the local livestock industry from the improved selling facilities. The development will also have a multiplier effect on the local economy.
- Site design and internal design –The proposal is set out appropriately on the site to mitigate potential impacts.
- Construction – Potential impacts from construction have been adequately mitigated in the recommended conditions.
- Cumulative impacts –There are no significant cumulative impacts from the proposed development. The recommended conditions of consent will address existing issues such as animal waste treatment, flood evacuation, legality of the Saleyards Road, traffic management and future mitigation of potential neighbourhood impacts.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality.

## **5.2 Section 4.15(1)(c) - Suitability of the site**

The site is suitable for the proposed development for the following reasons: -

- a) The proposed development is permissible under Kempsey LEP 2013 land use zone provisions,
- b) The development can be serviced with water and sewer services and has adequate road access,



- c) Flooding impacts can be readily mitigated, and
- d) The proposed alterations and additions enhance and assist in maintaining this important asset of the stock saleyards.

### **5.3 Section 4.15(1)(d) - Public Submissions**

No submissions were received.

### **5.4 Section 4.15(1)(e) - Public interest**

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and predominantly in accordance with the prevailing planning controls. The proposed enhanced saleyard facility will attract several public benefits. The proposed development:

- a) Will generate additional construction activity in the local area,
- b) Provide enhanced livestock selling facilities in the Macleay Valley and beyond, and
- c) Ensure that the management of traffic, waste and neighbour impacts are improved for the ongoing operation of the facility.

## **6. REFERRALS AND SUBMISSIONS**

### **6.1 Agency Referrals and Concurrence**

There were no agency referrals.

### **6.2 Council Officer Referrals**

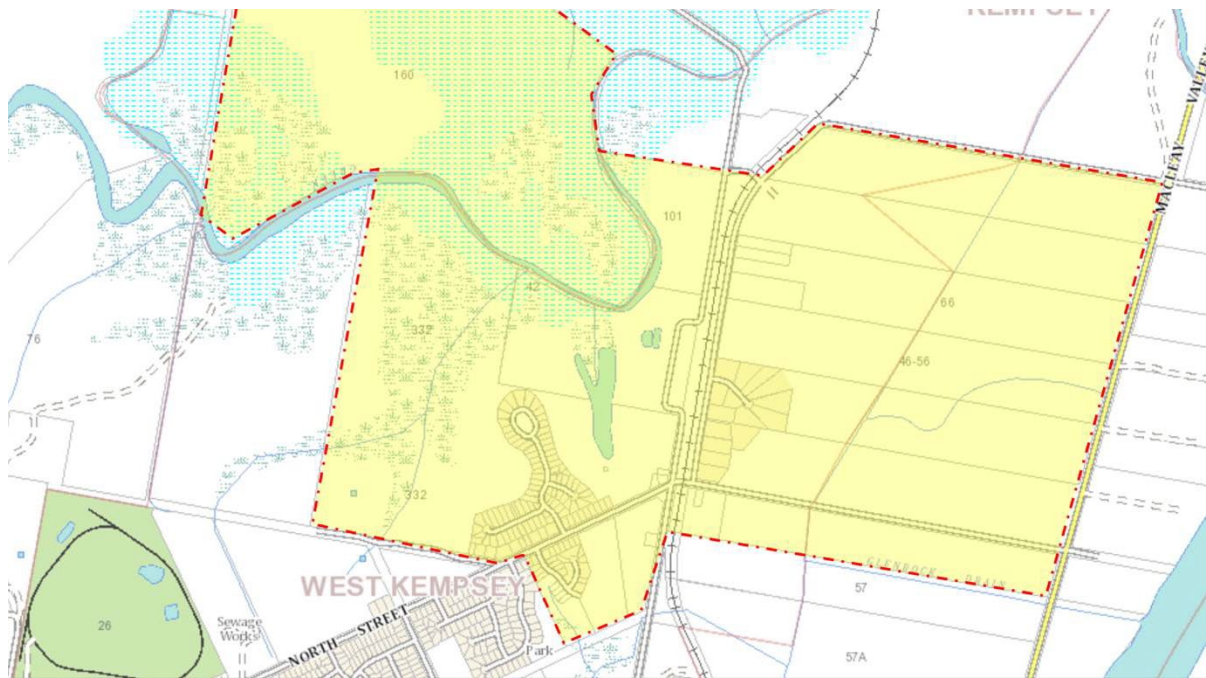
The development application has been submitted by Kempsey Shire Council, therefore no Council staff have been engaged in the assessment of the development application. At my request environmental consultant Heather Murphy of Whitehead & Associates and consultant engineer Michiel Kamphorst of Ingen Consulting have been engaged to assist me with the assessment of the development application.

Consultant engineer Michiel Kamphorst of Ingen Consulting was engaged to assist me with the assessment of the traffic impact assessment that was lodged. Ingen Consulting has assisted in formulating the draft conditions of consent. The issues raised by the consultant civil engineer are considered in the Key Issues section of this report.

### **6.3 Community Consultation**

The proposal was notified in accordance with Council's Community Participation Plan with submissions closing 22 April 2023. The written notification included an extended area as shown in Figure 7. No submissions have been received.

**Figure 7 – Neighbour notification map**



#### **6.4 Applicant's review of draft conditions**

The applicant was provided with a copy of the draft conditions of development consent for review. They have responded as follows:

*Thanks for the Draft Conditions. I have reviewed and hoping that we can move conditions 5, 6, 7, 9 and 17 to the 'Conditions prior to OC' section?*

*Reason: We are under pressure from the funding body to get the main works to market and progress with the works. I currently have the builder programmed to commence on site in the Jan/March quarter. I feel that the conditions which I've mentioned are unlikely to affect what is built, so hoping they can be addressed post CC but prior to the OC. If acceptable to you, I'll then be able to obtain the CC much sooner, get the builder started, and therefore stay on track with the revised programme.*

I have moved conditions 5, 6, 7 and 17 to prior to the Occupation Certificate (consolidation, right of way, flood evacuation plan and neighbourhood management plan). These are now conditions 28 to 31. It is reasonable to delay these conditions until prior to occupation as they are existing potential issues with the operation of the existing saleyards but still should be rectified as part of this development application.

I have left condition 9 (now condition 6) to be resolved prior to the issue of the construction certificate as the Solid Waste Management Plan arises as a direct result of the erection of the roof. Additionally, the Solid Waste Management Plan has already been prepared and only needs a minor amendment for final approval.

## 7. KEY ISSUES

The roofing of the existing saleyards has obvious benefits for livestock management and welfare. The other significant benefit of the roof is the management of the livestock effluent. Without the input of rain over the yards the total quantity of wastewater will be greatly reduced. The floors of the stockyards will be covered in sawdust or similar material, and this will be removed and replaced periodically.

The applicant states that the *upgrades proposed will simply improve overall function, update amenities and sales areas and deliver animal welfare benefits. No intensification of the current saleyard use of the site is proposed.* The applicant further states that *no changes to the existing installed Wastewater Treatment System/Septic System on site or the truck wash bay are proposed.*

This is a significant upgrade to the facility and as such these key aspects of the saleyard operation should also be reviewed. These aspects should be reviewed even though the applicant doesn't expect that the proposed works will significantly increase the through put of livestock. As such the applicant was asked to address these matters. The following key issues are all additional issues generated by the upgrade of the facility and are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

1. The location of the road reserve
2. Traffic management and car parking
3. Solid waste management
4. Review of the existing onsite sewage management system
5. On going management of the current stock wastewater management system

### 7.1 The location of the road reserve

Lot 1 contains the saleyards and carparking area. The existing saleyards are also built over the adjacent road reserve. Saleyards Road carriageway diverts from the allocated road reserve and continues through the site before rejoining the allocated road reserve to the north. Lot 3 contains the waste treatment areas and stock holding yards. The lots firstly should be consolidated to ensure the waste treatment systems remain part of the saleyards. Further the location of the road carriageway of Saleyards Road through the site should be formalised. The Council has expressed a desire to reconstruct the road back onto the road reserve east of the saleyards. However, there is no funding for this and as such a formal right of carriage way or road dedication should be required to formalise the road location.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

### 7.2 Traffic management and car parking

The applicant was asked to provide a plan showing the layout of car and truck parking and manoeuvring on site and an assessment of the adequacy of the existing arrangements. They were also asked to assess the impact of the public travelling through the site to access the northern end of Saleyards Road. A Traffic Impact Assessment dated 4 September 2023 was prepared by StreetWise Road Safety & traffic Services Pty Ltd.

This Traffic Impact Assessment has been reviewed by Michiel Kamphorst of Ingen Consulting. He reports as follows:

### **Traffic management**

Saleyards Road (between the subject site and Second Lane) is currently operating at or above its capacity (~150 vpd AADT capacity) based on its road width. Pavement widening is required to improve its capacity. However, given the subject proposal does not generate additional traffic, it may not be warranted to include a condition of consent requiring such widening. Rather, it would be preferable to require the applicant to implement enhanced traffic management measures.

Firstly, a permanent electronic livestock sign should be placed on Saleyards Road on both sides of the facility. An example sign is shown opposite. The flashing lights would be activated when livestock is on the road.



A permanent electronic truck warning sign should also be placed on Saleyards Road on both sides of the facility. An example sign is shown below. The flashing lights need to be activated on when trucks are manoeuvring within the through lane.



### **Turning speed controls**

Advisory speed signs need to be placed prior to the turns on Saleyards Road either side of the turns. The advisory speed displayed would be subject to the preparation of a technical report determining a suitable advisory speed, taking into account parameters such as vehicle types, design speed, any cross fall or superelevation and wearing course type.



## Car parking

Although the section of Saleyards Road where parking is proposed is not located within the road reserve for all intents and purposes, parking directly off the road pavement should be considered as 'on-street parking'. Therefore, the engineering plans are to be prepared that demonstrate compliance with AS 2890.5:1993 and AS2890.6:2022. Particular attention should be given to the creation of adequate 'manoeuvre space'. This 'manoeuvre space' is the space between the rear of the car parking space and the edge of the travel lane, which allows for manoeuvring in and out of the car space without obstructing through traffic. Dimension requirements are specified in Figure 2.5 of AS2890.5:1993.

## Large vehicle parking and manoeuvring

Prior to issue of Construction Certificate, engineering plans are to be prepared that demonstrate compliance with AS 2890.2:2002 for commercial vehicle parking and manoeuvring areas.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## 7.3 Solid waste management

The applicant was requested to provide a management plan for the solid waste from the use of the soft flooring in the yards. The applicant provided a Solid Waste Management Plan dated 4 September 2023 prepared by environmental consultants GeoLink.

Whitehead & Associates Environmental Consultants Pty Ltd reviewed the Solid Waste Management Plan. The essential part of the plan provided:

*Manure waste collection will occur on an as-needed basis and will be dependent on the volume of manure in each area, however at a minimum will occur every 13 weeks. Manure will be collected via the use of a skid steer or posi-track and loaded into a truck for transport to the windrow area.*

Whitehead & Associates requested details on the volumes of waste to be stored in the windrow area, confirmation of stock wastewater system sludge and stormwater management in the windrow area. A revised report was submitted dated 18 September 2023.

It was noted that the windrow area would be within the flood zone and management of solid waste on the site is not suitable at this time. As such the applicant has agreed that all solid waste generated on the site will be disposed of at a licensed waste facility or suitable offsite location.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## 7.4 Review of the existing onsite sewage management system

The applicant was asked to provide an assessment of the suitability of the existing on-site wastewater management system servicing the toilets and canteen for the proposed development. The applicant provided an Onsite Wastewater Management Assessment dated August 2023 by Midcoast Building and Environmental providing for a new sewage management system.

Whitehead & Associates Environmental Consultants Pty Ltd reviewed the Onsite Wastewater Management Assessment. Whitehead & Associates asked for further clarification regarding the variation across reports of staff and visitor numbers; flows per person used; use of primary treated effluent given the site soils; and requested justification

for the provided water balance modelling. A satisfactory revised assessment was received on 3 October 2023.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## **7.5 On going management of the current stock wastewater management system**

Whitehead & Associates Environmental Consultants Pty Ltd assessment of the current stock wastewater management system found that it appeared it was not being operated and maintained in accordance with good environmental practice. The applicant provided a copy of the January 2006 *Kempsey Regional Saleyards Effluent Treatment System - Operation & Maintenance Manual* prepared by ERM. Whitehead & Associates have recommended that an updated operation and maintenance plan for the stock wastewater management system on the site be prepared and implemented based on reduced inflows due to roofing of the stock yards.

**Resolution:** The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## **8. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls and the key issues identified in this report, it is considered that the application can be supported.

The development satisfies a legitimate need of providing enhanced livestock selling facilities in the Macleay Valley and beyond. The management of traffic, waste and neighbour impacts will be improved for the ongoing operation of the facility. The application proposes a form of development that is consistent with the intent of the planning controls.

The predicated flood impacts can be readily mitigated.

The key issues as outlined in Section 7 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

## **9. RECOMMENDATION**

That the Development Application - DA2300720 Kempsey Regional Saleyards Infrastructure Upgrade be granted development consent pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Detailed assessment of Kempsey LEP 2013 Clauses.
- Attachment C: Architectural Plans