

**SUPPLEMENTARY 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 KEY IN 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 Approval 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 (S7.24)</b>	Nil
<b>RECOMMENDATION</b>	Development Consent subject to conditions
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	18 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>	17 October 2023

I have been asked to address the following matters by one of the Panel members. I have provided my response below each item.

- **EPA licencing**

Confirmation that EPA licencing is not required for proposed development

Response:

The Environmental Protection Authority rejected a referral of the DA as they advised that they had no statutory role.

Schedule 1 (Scheduled activities) of the *Protection of the Environment Operations Act 1997* at Item 22 lists *Livestock intensive activities* and this includes “animal accommodation” that involves “*capacity to handle more than 50,000 cattle or 200,000 animals of any type (including cattle) per year*”. Such a scheduled activity requires a license.

- **Stormwater**

The assessment report refers to “Stormwater harvesting and rainwater overflow, including an upgraded headwall discharge point in Lot 3 for improved environmental outcomes”. However, they are unable to find any relevant discussion of the issue of the improved outcomes and how they will be realised? It is assumed that because the existing facility has a concrete floor, that the amount of increased run off from roofing will be limited. Confirmation is requested

Response:

The improvements relate to the diversion of stormwater and runoff as clean water through the stormwater harvesting and reuse system, which has beneficial reuses prior to any release to the environment, rather than capture and treatment as contaminated water in the stock effluent treatment system after passing through the concrete stock yards as they currently exist. The volume of contaminated water entering the stock effluent treatment system will be significantly reduced by the introduction of the roof and the use of the soft flooring.

Consultant engineer Michiel Kamphorst of Ingen Consulting has recommended an additional condition to ensure the stormwater design includes any new impervious areas from the upgrade of trafficable areas. The condition also ensures the discharge point is appropriately designed.

- **Annual throughput of livestock**

The applicant reports in the SEE that the saleyards have an annual throughput of 25,000 – 40,000 head (p.13 SEE).

Condition 38 now proposes:

*The annual throughput of livestock, for the purposes of sale, auction or exchange or transportation by road, rail or ship, is to be less than—*

*a) 50,000 head of cattle, or*

*b) 200,000 animals of any type, including cattle.*

Potentially that is a huge increase in (b) – and if (b) includes cattle it is potentially ambiguous and in conflict with (a). How were these figures arrived at and what implications would these numbers have for site operations if realised? (see also parking provision comment below)

Response:

The wording comes directly from Schedule 3 (Designated development), Item 41 of the *Environmental Planning and Assessment Regulation 2021*. Also, it is noted that these same stock figures are used to define “Scheduled activities”. Figures provided by the managing agent shows that average number of livestock varies greatly for each sale depending on the type of livestock to be sold. There is on average one sale a week. The maximum number of

livestock sold at any one sale is around 2000 head. I am advised that this is about the capacity of the yards. Any increase to near 50,000 head is going to occur from having more consistent numbers at each sale or having more sales. Not by having larger sales.

It seems that from the designated development and schedule activities limitations the effluent from cattle is the major concern with the limitation on the numbers of over livestock much higher. However, the sale yards are only selling cattle and the addition of 150,000 head of other stock may have unknown impacts. Therefore, it is recommended that the limit be 50,000 animals of any type. The recommended condition has been adjusted accordingly.

- **Parking provision(cars and large vehicles)**

Request for assessment of the adequacy of parking provided, noting that the architectural plans largely just seem to show existing parking, with new concrete areas to the north (no spaces specified) and west (5 spaces assumed are new). The assessment report quotes the traffic study that "Particular attention should be given to the creation of adequate 'manoeuvre space' between the rear of the car parking spaces and the edge of the road travel lane, which allows for manoeuvring in and out of the car space without obstructing through traffic." Noting that this is conditioned, but is there adequate room for this purpose on the western side of the building where the existing spaces abut the existing Saleyards Road? However, when looking at the Traffic Assessment, quite a different picture emerges. At p.14 it states: "This operation can easily provide the 20 spaces with up to 72 light vehicles and 33 heavy vehicle space [sic] including 2 disabled / accessible spaces and a shared space and 1 19m B Double space and a truck washdown bay.

Figure 7.30 on p.13 of the Traffic Assessment shows a whole load of blue shaded parking areas on the west side of the building, which is not indicated on the architectural plans, perhaps because it is theoretical or unsealed? Then there is a plan at p.28 of the traffic assessment report which shows parking spaces outlined in red. The proposed condition 14 only mentions the sealing of 24 spaces and the spaces shown on the approved plans and compliance with the DCP (20 spaces?). The review of the Traffic Assessment quoted at p26 of the assessment report also doesn't appear to raise the quantum of parking required?

**Response:**

The DCP does require at least 20 car spaces be provided. It was thought reasonable in the circumstances to condition the development consent to require the 24 car spaces under the roof to be fully constructed. The other areas west of the through road indicated in the TIA are informal overflow parking areas.

From Figure 7.30 in the TIA it appeared that there is adequate space for the parking and loading described in the TIA. There is adequate space on site to achieve the required outcome, if necessary, the through road can be widened to the west to ensure the required manoeuvring areas. It is reasonable that this detail be left to the construction certificate stage of the development process.

- **Roof and solar Panels**

Confirmation of the finish of the large new roof, noting that the drawings note cream colour.

Is the Assessment happy or would a light green colour be preferable visually? Also where are the proposed solar panels to be located?

Response:

The topography in the locality is very flat and as such the roof surface will not be readily seen. The nearest land that is elevated above the site is some 2 kilometres to the southwest and 3 kilometres to the north east. As can be seen in the photo opposite there is an extensive screening of mature trees east and west of the saleyards.



The elevation plans of the building show a dull cream colour for the roof to match the existing roof. The applicant has advised that:

*The Section J report notes that the roof sheeting cannot exceed a Solar Absorbance Factor of 0.45. Therefore, we would consider only the following Colourbond colours; Surfmist, Southerly, Shale Grey, Evening Haze, or Paperbark.*

*Evening Haze, or Paperbark* are similar to the tone and colours shown on the elevation plans. *Surfmist* would not be a suitable colour with a *Solar Absorbance* of only 0.33. It is recommended that a condition be added that the roof is to have a *Solar Absorbance* of between 0.40 and 0.45.

Regarding the solar system the applicant advises:

*Although mentioned within early project documents, we have not designed a PV System as we can't to justify such an investment. Majority of the energy usage is through artificial lighting and consumed after dark, so there is little benefit in the traditional 'feedback to grid system'. Please note that the structure has been designed so that it can withstand the additional loading of the solar panels, so we will have option to install PV in the future, and as battery technology improves.*

*State Environmental Planning Policy (Transport and Infrastructure) 2021* provides generous exemptions for solar panels.

- **Suggested Condition amendment**

1 - Refers to supporting documents but they are all plans I think?

Response:

The plans listed fully describe the proposed development. Adopting documents such as the SEE and incomplete reports may have unknown consequences. The recommended conditions rely on adopting the plans and modifying them via conditions, subsequent approvals and management plans.

Though it is noted that I have only referenced the modified stormwater site plan. This was modified to remove some drains out of the road reserve. The entire set should be referenced. The recommended condition has been modified.

5 "submitted to the Principal Certifying Authority" perhaps?

Response:

Section 6.10 (1) of the Act requires in that "An occupation certificate must not be issued unless any preconditions to the issue of the certificate that are specified in a development consent have been complied with." Evidence of the consolidation of the lots is a precondition.

11 CSMP – should this not go to a specified position at Council rather than just 'Council' for OK? Why is it to be prepared "with the assistance of" a suitable person rather than by that person?

Response:

Approval by Council's Development Engineer has been added to the recommended condition.

Ideally the plan is prepared by the project manager with assistance from the necessary experts. That way the plan is more likely to be properly implemented if the project manager has been involved.

16(a) Typo 'exclusive' not exclusively.

Response:

The recommended condition has been corrected.

16/17 "Such plans and specifications must be approved [by who?] as part of the Construction Certificate".

Response:

*Landscaping work and erosion and sedimentation control works* are both matters that Section 73 (Certifiers may be satisfied of certain matters) of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* provides that a certifier may be satisfied. So even if a Council employee was to be specified in the condition of consent the satisfaction can revert to the certifier.

30/44 Noted flood evacuation plan being signed off by an expert. But having been submitted prior to CC and without any Council sign off, should this not at least be specifically mentioned in c44 as something for the facility management to implement?

Response:

The flood evacuation plan has been added to the draft conditions.

31 Neighbour Management – condition has similarity to that we accepted at Kempsey Airport but doesn't include complaint handling protocols or dispute resolution?

Response:

The wording from the Adventure Park development consent have been added to the recommend condition of consent.

37 Can the updated stock effluent treatment system details safely be postponed until after the CC is issued. Not clear from discussion at p.23 of AR?

Response:

Yes, this requirement can be safely deferred until prior to occupation as this stock effluent treatment system and the related management plan are in existence. The roof significantly reduces the effluent through the system and therefore there is no urgency to the update. By the time the occupation certificate is sought the roof is likely to have been in place over the existing yards. This will provide a valuable insight to the updating of the management plan.

38 See comment above re numbers derivation, also are a and b in conflict?

Response:

The condition has been amended as noted above.

41/45 Not clear who is to do the required reviews and sign off if needed?

Response:

Additional wording has been added to indicate who needs to sign off these updates.

43 Maybe 'Approved' landscaping? (per c.16)

Response:

The word approved has been added.