

ASSESSMENT REPORT

PACIFIC PINES ESTATE MP 07_0026 MOD 5

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan and Project Approval (MP 07_0026) for a residential subdivision known as the Pacific Pines Estate at Lennox Head in the Ballina Shire local government area.

The request has been lodged by Newton Denny Chapelle on behalf of Clarence Property Corporation Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to increase the approved retail floor space, amend the subdivision layout (including road and lot layouts, lot typologies and lot sizes), change the trigger for extending Hutley Drive and increase maximum building heights.

2. SUBJECT SITE

The subject site is located at Lennox Head, approximately two kilometres (km) south-west of the North Creek / Lennox Head Village Centre and five km north-west of Ballina. The location of the site is shown in **Figure 1**.

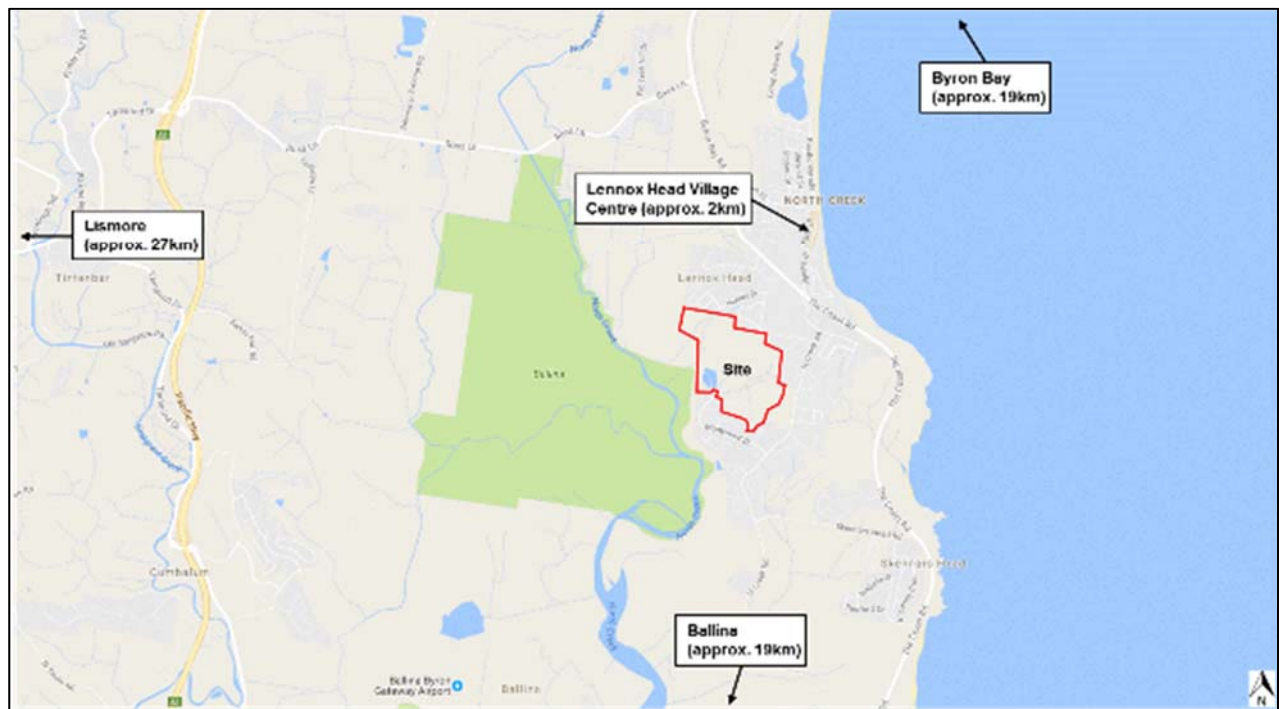


Figure 1: Site Location (Base source: Nearmap)

The subject site has an area of approximately 80 hectares (ha) and is irregular in shape. The site is generally vacant grassland. However, a number of small areas of remnant vegetation exist throughout the site, which are classified as endangered ecological communities (EECs), including littoral rainforest and swamp sclerophyll forest on coastal floodplains. Some initial road and infrastructure works have commenced on site.

Low density residential areas are located to the north and south of the site, and a mixture of residential and pasture areas are located to the east and west. The Ballina Nature Reserve is also located to the west (refer to **Figure 2**).

The closest existing commercial/retail areas are located within Lennox Head Village Centre and at Ballina.



Figure 2: Aerial view of the site and its immediate surroundings (Base source: Nearmap)

3. APPROVAL HISTORY

On 12 November 2008, the then Minister for Planning approved a Concept Plan and Stage 1 Project Application (MP 07_0026) for the Pacific Pines Estate subdivision at Lennox Head (the Concept Approval and Project Approval).

The Concept Approval includes:

- residential subdivision of approximately 505 lots (between 450 m² and greater than 1,200 m²);
- a neighbourhood centre comprising up to 3,000 m² of retail floor space, 800 m² of commercial space, approximately 20-25 'shop-top' dwellings and approximately 280 parking spaces;
- a community hall;
- a retirement community including approximately 113 retirement units with a mixture of assisted and independent living and approximately 124 retirement lots, on-site leisure, open space and recreational facilities;
- medium density housing of up to 10 dwellings (density of around 1 dwelling per 250 m²);
- 25.1 ha of green space incorporating areas for conservation, revegetation and rehabilitation; and
- a road network connected to various existing roads.

Stage 1 Project Approval includes subdivision of 63 lots in three sub-stages to provide:

- six super lots (for a neighbourhood centre, tavern, child care centre, community centre/ hall, retirement community and medium density housing);
- 54 residential lots in the south of the site averaging around 740 m²;
- two open space lots;
- residual lot of 57.7 ha;
- construction of Montwood Drive, Main Street, Hutley Drive and the western connection to the adjoining playing fields within the site; and
- associated earthworks across the site.

The proposal has been previously modified on four occasions, as summarised in **Table 1**.

Table 1: Summary of modifications

MOD no.	Summary of Modifications	Approval Date
MOD 1	Administrative changes	22 December 2008
MOD 2	Creation of two additional superlots in Stage 1, increase of retail space by 1,000 m ² (from 3,000 m ² to 4,000 m ²), realignment of roads and increase the size of the ecological conservation area and other environmental works, and consolidation of development staging (from 11 to 9 stages).	08 August 2011
MOD 3	Administrative changes	8 September 2011
MOD 4	Deletion of 18 residential lots, reduction in the size of the retirement village lot, deletion of the tavern lot, relocation of the community hall lot, associated amendment to development staging, increase the size of the conservation zone, exclude the Pacific Pines Estate Design Guidelines, and amendment to lapsing date of the Concept Approval.	13 March 2013

Works relating to the development of the site for residential subdivision have commenced on the site as shown in **Figure 2**.

4. PROPOSED MODIFICATION

On 18 November 2016, the Proponent lodged a section 75W modification application (MP 07_0026 MOD 5) seeking approval for the following amendments:

- increase the maximum retail floorspace by 1,500 m² (from 4,000 m² to 5,500 m²);
- increase the size of the neighbourhood centre lot by 6,600 m² (from 1.44 ha to 2.106 ha);
- redesign the subdivision layout, including amendment of road layouts, lot typologies, sizes and revised staging;
- increase the maximum building height by 2.1m (from 6.4 m to 8.5 m);
- relocation of Superlot 3 and deletion of Superlot 6;
- change the trigger for the extension of Hutley Drive from the number of lots released to the number of daily vehicle movements; and
- associated environmental works.

The Proponent has confirmed the proposed amendments would not:

- increase the overall residential density on the site;
- change the approved development footprint;
- reduce the environmental conservation areas on the site; or
- encroach on any adjoining environmentally sensitive areas.

The modification is requested for the following reasons:

- the expansion of retail floorspace is in response to an updated local retail demand forecast;
- the amended lot and road layouts reflect / better respond to the site topography; and
- administrative changes to the Concept and Stage 1 Project Approval would provide greater consistency with the Ballina's Shire Council's current (updated) planning controls.

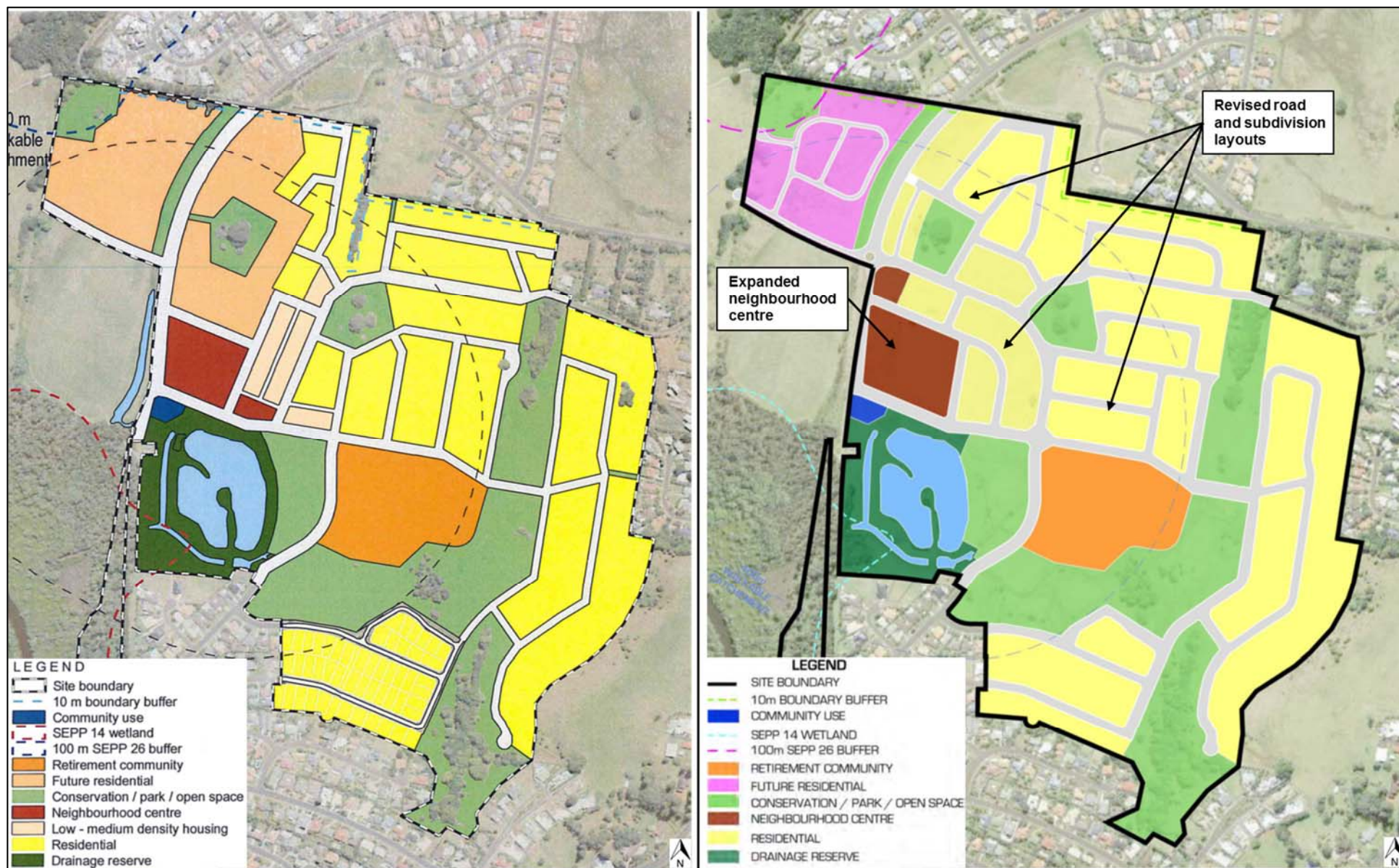


Figure 3: Approved (left) and proposed (right) Concept Plan layout

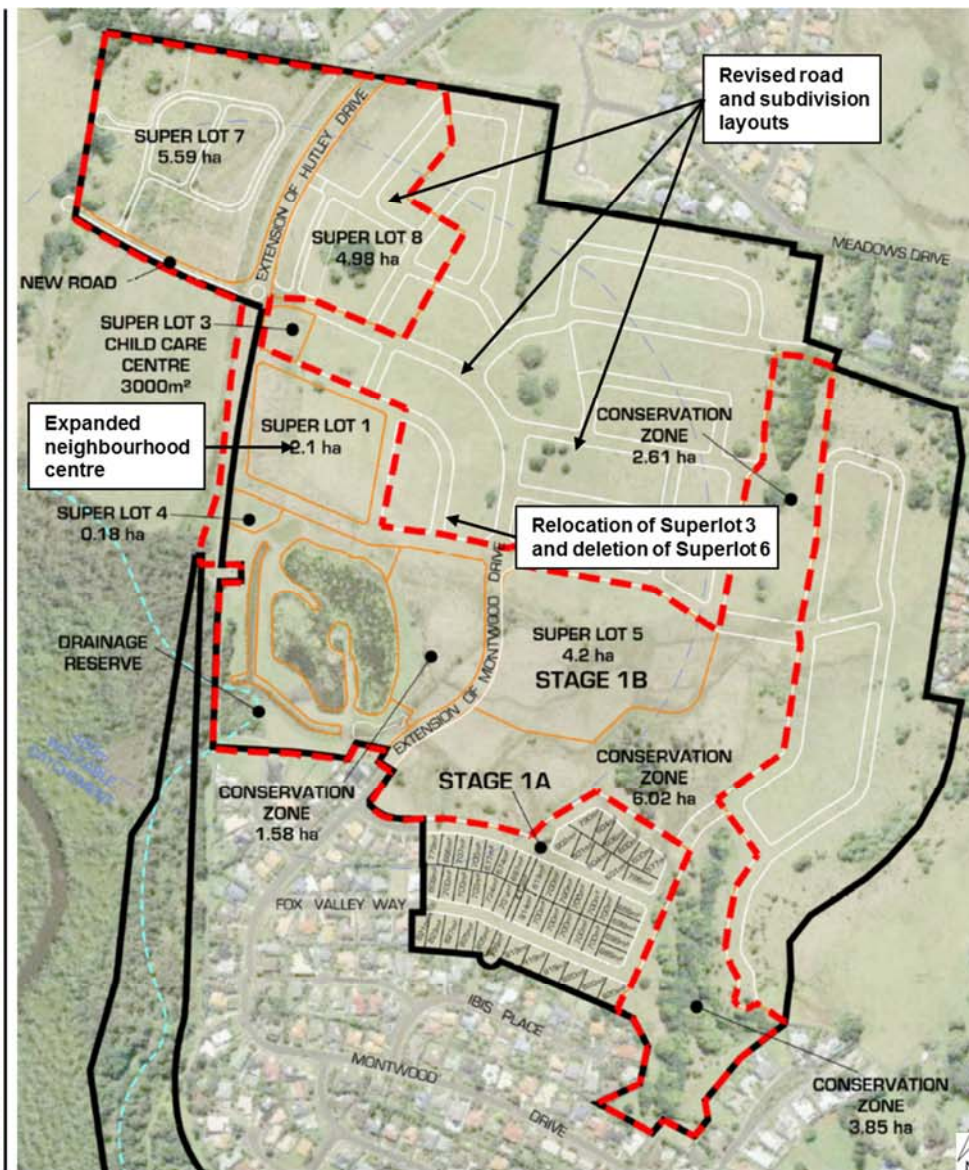
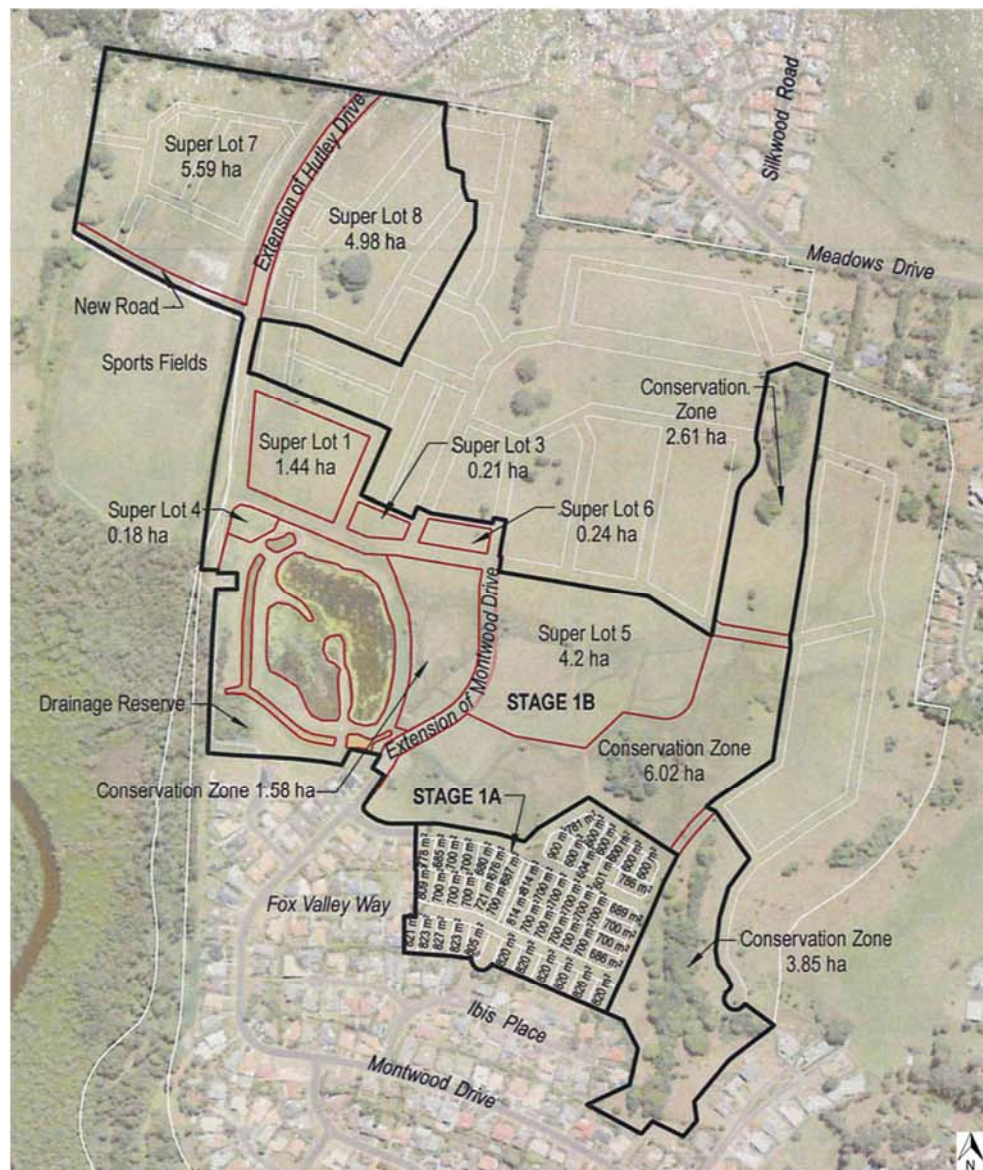


Figure 4: Approved (left) and proposed (right) Project Application layout

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the Act.

The Department is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and the proposal does not constitute a new application.

5.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Executive Director, Key Sites and Industry Assessment may determine the application under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification application publicly available on its website, and consulted with Ballina Shire Council (Council), Roads and Maritime Services (RMS) and Office of Environment and Heritage (OEH).

Council did not object to the proposal and has provided the following comments:

- additional information relating to the increase in retail floorspace is required, including:
 - a response to Council's commercial hierarchy policy provisions in the Lennox Head Aspirations Strategic Plan;
 - the Lennox Head Village Centre should be maintained as the primary retailing area in Lennox Head;
 - justification for the scale of the retail / commercial area proposed; and
 - scope of the expected trade area.
- street classifications should refer to the *Northern Rivers Local Government Development Design Manual*;
- a condition should be imposed requiring the road layout/intersections to be redesigned to prevent the creation of a 'rat-run' through the estate; and
- the amendments to Term of Approval (ToA) B7A are supported as they provide a more flexible approach to the extension of Hutley Drive.

RMS did not object to the proposal but raised the following concerns:

- the Transport Impact Assessment (TIA) has underestimated the daily traffic movements generated by the proposed development. In particular:
 - the TIA adopts a traffic generation rate of 6.45 daily residential trips. However, the *Guide to Traffic Generating Developments* (TDT 2013/04a), suggests an average daily traffic generation rate of 7.4 external trips for low density residential developments in regional areas;
 - the TIA does not provide adequate justification for the discounted trip rate for retail floorspace and it may underestimate traffic generated by link trips with an origin and destination external to the site; and
 - the design of the Henderson Lane and Montwood Drive intersections with North Creek Road should be further investigated to ensure sufficient separation of intersections treatments can be achieved.

OEH did not object to the proposal and provided the following comments:

- the removal of the boundary buffer and area of applied vegetation protection covenant is not supported;

- details of potential flooding impacts should be provided to Council at development application stage; and
- the boundary amendment to Fig Park is supported.

There were three public submissions received on the proposal. Key issues raised in public submissions include:

- adverse traffic impacts;
- road infrastructure should be provided earlier;
- the increase of retail floorspace would adversely impact on the Lennox Head Village Centre;
- impact of mosquitos on the development and surrounding area.

On 27 January 2017, the Proponent provided its response to submissions (RtS), which includes a response to the issues raised by Council, RMS, OEH and in public submissions. The RtS includes the following key amendments to the proposal:

- all plans have been amended to include a 10 m buffer to the Littoral Rainforest and Arrow Head vine;
- street classifications have been updated to reflect the *Northern Rivers Local Government Development Design Manual*; and
- the Proponent agrees to Council's conditions preventing 'rat-runs' and requiring external traffic generation analysis.

The RtS was updated on 10 March 2017 to provide further clarification of traffic and transport impacts. It did not include any additional amendments.

The Proponent's RtS was made publicly available on the Department's website and the Department notified relevant State and local public authorities of the RtS. Additional submissions were received from Council, RMS and OEH. These are summarised below:

RMS confirmed it no longer raises any concerns to the proposal.

Council is satisfied the RtS has addressed its comments.

OEH is satisfied the RtS has addressed its comments.

7. ASSESSMENT

The Department considers the key issues associated with the proposed modification are:

- increase in retail floorspace; and
- traffic.

All other issues are considered in **Table 2** below.

7.1. Increase in retail floorspace

The modification seeks to increase the total amount of retail floorspace by 1,500 m² (from 4,000 m² to 5,500 m²). To accommodate this increase, the footprint of the neighbourhood centre subdivision (Superlot 1) would increase by 6,600 m² (from 1.44 ha to 2.106 ha).

Concern was raised in a public submission that the increase in retail floorspace would have an adverse economic impact on the Lennox Head Village Centre. Council did not object to the proposed increase in retail floorspace.

The Proponent has undertaken an economic assessment to determine the likely demand for additional retail floorspace, and in particular a potential supermarket. The economic assessment concluded there is demand for increased retail capacity in the trade area and the proposed neighbourhood centre could support a total of 5,500 m² comprising:

- a supermarket of 3,400 m²;
- speciality floorspace of 1,470 m²; and
- non-retail / commercial floorspace of 630 m².

The Ballina Retail Strategy and the Lennox Head Strategic and Structure Plans provide a retail hierarchy within the surrounding area that identifies the Lennox Head Village Centre (approximately 6,850 m² of retail floorspace) as the principal commercial centre in Lennox Head, with the Pacific Pines Estate capable of providing retail and commercial activities at a neighbourhood scale (although this scale is not defined).

The Department notes the proposal has previously been modified (MP 07_0026 MOD 2) to increase the total amount of retail floorspace by 1,000 m² (from 3,000 m² to 4,000 m²). In assessing the merits of that proposal, the Department concluded the increase was acceptable and the size of the Pacific Pines Estate neighbourhood centre would maintain the retail centre hierarchy within the area.

The Department notes while the Concept Approval allows for a quantum of retail floorspace within the neighbourhood centre, it does not specify the type and size of individual components within the retail centre or specifically approve a supermarket. The approval of the final uses and quantum of floor space for each use would be subject of separate Development Applications to be submitted to and determined by Council. This modification application maintains this approach.

The Department considers the proposed increase in retail floorspace is acceptable for the following reasons:

- the amended neighbourhood centre (5,500 m² retail floorspace) is smaller in size than the Lennox Head Village Centre (6,850 m²) and would therefore maintain the retail centre hierarchy;
- Lennox Head Village Centre provides a destination point for the broader local and tourist market benefiting from its coastal location and food and service offerings. Pacific Pines would operate at a different level within the retail hierarchy, focussing on providing convenience retail services for the local community; and
- the economic assessment has confirmed the additional retail floorspace would not have an adverse impact on the viability or vitality of nearby retail centres.

The Department's assessment therefore concludes the additional retail floor space is acceptable and it would not result in adverse impacts on other nearby centres. The Department recommends Term of Approval (ToA) A1 of the Concept Approval and condition A1 of the Project Approval be amended to reflect the increase in the size of the retail floorspace and the neighbourhood centre Superlot accordingly.

7.2. Traffic

In its assessment of the original Concept Approval, the Department concluded the existing traffic network can accommodate up to 7,456 vehicles per day (vpd). Once this maximum has been exceeded Hutley Drive would be required to be extended to connect to North Creek Road to address the predicted traffic congestion and provide additional carrying capacity within the road network.

ToA B7A of the Concept Approval prevents the subdivision from generating more than 7,456 vpd, before the extension of Hutley Drive, by placing a limit on the number of lots that can be released.

The Proponent seeks to amend ToA B7A so the trigger for extending Hutley Drive to North Creek Road is linked to the maximum number of vehicle movements (7,456 vpd) rather than the number of lots released.

Following consideration of the Proponent's RtS, RMS no longer raise any concerns about potential traffic impacts. Council has confirmed the amendment of ToA B7A provides a more flexible

arrangement and does not raise any concerns about vehicle movements / traffic generation impacts. However, Council suggested a condition requiring the road layout/intersections to be redesigned to include two additional T-intersections to prevent the creation of a 'rat-run' through the estate. The Department considers the suggested condition is appropriate as it would minimise traffic impacts within the estate. The Department recommends Council's suggested condition accordingly.

The Department also notes the proposed change to the trigger for extending Hutley Drive (from the number of lots to the maximum number of vehicle movements (7,456 vpd)) would maintain the intention of the original condition to restrict the total number of vehicle movements until Hutley Drive is extended. The Department is also satisfied that once the maximum number of vpd is exceeded, the extension of Hutley Drive would provide additional carrying capacity to address traffic impacts associated with the development. To ensure traffic does not exceed 7,456 vpd before Hutley Drive is extended, the Department recommends ToA B7A be updated to require the Proponent to submit a traffic count prior to the making of subdivision certificates or occupation certificates.

With regard to traffic impacts associated with the additional retail floor space, the Department is satisfied the revised subdivision layout is capable of accommodating the traffic associated with the modified development. In addition, limiting the maximum vehicle numbers until Hutley Drive is extended would ensure traffic impacts associated with the proposal are appropriately mitigated and managed.

The Department therefore considers the proposed modification would not result in any adverse traffic impacts beyond those already assessed and approved.

7.3. Other Issues

Table 2: Assessment of Other Issues

Issue	Consideration	Recommendation
<i>Lot typology and layout</i>	<ul style="list-style-type: none"> The proposal seeks to amend the lot typology for the subdivision, which results in the following changes: <ul style="list-style-type: none"> creation of new 'traditional' lot type ranging in size from 600 m² to 1,200 m²; deletion of rear lane lots, duplex lots and shop top housing as these are no longer proposed; reduction of the minimum size of 'Small Affordable' and 'Park Court' lot types by 50 m² (to 400 m²); expansion of the neighbourhood centre super lot from 1.44 ha to 2.106 ha; and reconfiguration and rearrangement of lots and roads in response to the amendments to the neighbourhood centre and so lots better respond to the slope of the land. Council raised no objection to the proposed amendments. The Department considers the proposed lot sizes are acceptable as the new 'traditional lot' sizes are consistent with the lots sizes prescribed by the BLEP 2012. Further, the reduced size of the 'Small Affordable' and 'Park Court' lots would be consistent with the minimum lot sizes approved by Council in Superlot 8. The increase in the neighbourhood centre Superlot (to facilitate the additional retail floorspace) results in a regular shaped lot, does not encroach on the neighbouring drainage or road reserves and the associated amendments to the surrounding residential lot and road layouts are acceptable. The Proponent has confirmed the proposal would not change the approved development footprint or encroach on any adjoining environmental sensitive areas. The Department is therefore satisfied the proposal would not result in any additional environmental impacts. The Department's assessment therefore concludes the proposed changes to the subdivision lot sizes and layout are minor and acceptable. 	The Department has recommended Concept Approval Term A1 and Project Approval conditions A1 be amended to reflect the changes. Project Approval condition A6 is recommended to be deleted.
<i>Building height</i>	<ul style="list-style-type: none"> The proposal seeks to increase the maximum building height by 2.1 m (from 6.4 m to 8.5 m) to provide consistency between the Concept Plan and the Ballina Local Environmental Plan (BLEP) 2012. The Department supports the proposed amendment as it would 	The Department has recommended Concept Approval Term B4 be

<i>Issue</i>	<i>Consideration</i>	<i>Recommendation</i>
	ensure the height of future development on the site is consistent with the height controls contained in the BLEP 2012. The Department also notes Council raised no objection to the proposed amendment.	amended to reflect the changes.
<i>Earthworks</i>	<ul style="list-style-type: none"> The proposed expansion of the neighbourhood centre would require additional earthworks to create a level surface for construction. The Proponent has submitted an updated 'Proposed Bulk Earthworks Plan', which provides an indicative area of earthworks. The Department notes condition C6 (Earthworks) of the Project Approval requires the Proponent to submit a detailed Earthworks Report for Council's approval prior to the issue of the Construction Certificate for Stage 1B. Subject to condition C6, the Department is satisfied the impacts of earthworks can be appropriately managed. 	No additional conditions or amendments necessary.
<i>Other changes</i>	<ul style="list-style-type: none"> The proposal includes additional stormwater treatment and attenuation measures in-line with those already approved on-site. In addition, the boundaries of the development staging have been amended to reflect the changes to the road and lot layouts. The Department considers the proposed changes to be minor in nature and are acceptable. 	The Department has recommended Concept Approval Term A2 and Project Approval condition A2 be amended to reflect the changes
<i>Mosquito impact</i>	<ul style="list-style-type: none"> Concern was raised in a public submission about the potential impact of the development on the local mosquito population. The Department notes the application does not modify the boundaries of the residential precincts and therefore no residential lots would be located closer to the known mosquito populations. In addition, the proposal would continue to be consistent with the mosquito impact assessment submitted with the original application. The Department is satisfied the proposal would not result in any additional impacts beyond those already assessed and approved. 	No additional conditions or amendments necessary.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that:

- the additional 1,500m² retail floorspace would not result in an adverse economic impact on nearby retail centres;
- the proposal would not result in additional traffic impacts beyond those already assessed and approved;
- the changes to the subdivision layout (including road layout, lot typology and lot size) and increase in building heights are minor in nature and are acceptable; and
- the impacts associated with the additional earthworks can be appropriately managed.

Consequently, it is recommended the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is RECOMMENDED the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- considers** the findings and recommendations of this report;
- approves** the application under section 75W, subject to conditions; and
- signs** the notice of modification (**Appendix A**).

Prepared by:
Dan Keary (Consultant)

Anthony Witherdin
Director
Modification Assessments

Anthea Sargeant
Executive Director
Key Sites and Industry Assessment

APPENDIX A: MODIFICATION OF CONCEPT AND PROJECT APPROVAL

A copy of the modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5993

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5993

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5993

3. Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5993