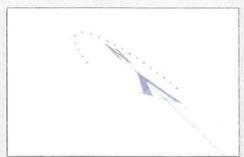
Request for SEAR's for Epiq Lennox Concept Plan & Project Approval MP007_0026

PREPARED FOR CLARENCE PROPERTY CORPORATION LIMITED

Our Ref: 14/351

Date: November 2017





Document Control Sheet

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USAGE NOTE:

The plans to this document were prepared for the exclusive use of Clarence Property Corporation Limited to accompany a request from the Department of Planning & Environment for the SEAR's associated with a Section 75W Application for the development of land described herein and is not to be used for any other purpose or by any other person or corporation. Newton Denny Chapelle accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

The maps, development plans and exhibits shown in this report are suitable only for the purposes of this report. No reliance should be placed on this information for any purpose other than for the purposes of this report. All dimensions, number, size and shape of lots/buildings as shown on plans in this document are subject to detailed engineering design plans and final survey and may vary subject to conditions of consent issued by Council.

The information contained in this report is based on independent research undertaken by Newton Denny Chapelle. To the best of our knowledge, it does not contain any false, misleading or incomplete information.



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Executive Summary



1.1 Introduction

Newton Denny Chapelle ("NDC") in association with Planners North is engaged by Clarence Property Corporation Limited ("Proponent") to submit a request to the Minister for Planning & Environment for the Secretary's Environmental Assessment Requirements (SEAR's) to modify the Concept Approval and Project Approval (MP 07_0026) for Epiq Lennox (formerly known as 'Pacific Pines'), pursuant to the provisions of Section 75W of the Environmental Planning and Assessment Act 1979 ("the Act").

The primary purpose of this document is to provide an outline of the proposed modification to enable the Department to issue project SEAR's. Accordingly, the key elements of the Concept Plan & Project Approval (MP 07_0026) which are sought to be amended include:

- Amend the conventional residential layout which currently incorporates 47 torrens title residential lots into 34 residential lots, 26 live –work lots and 2 neighbourhood commercial lots.
- Introduce 'live-work' lots which provide opportunities for integrated housing and employment for small business
- The introduction of neighbourhood commercial lots to provide for the reinstatement of the originally approved tavern lot, in addition to community childcare and storage facility land uses;
- Amend the lot layout and road network to better respond to the topography of Super Lot 7;

Based on the modified Concept Plan described in this submission, the CIV of the proposal is estimated at \$5.3 million. This estimate will be revised and amended when the development proposal is finalised and lodged with Ballina Shire Council post the amendment of the concept plan.

1.2 Project Background

1.2.1 Approved Development

Major Project application 07_0026 was approved by the Minister for Planning on 12 November 2008. The most recent modification (MP07_0026 Mod 5) was approved by the Minister for Planning on 20 April 2017

The approval includes both a Concept and Project Plan for 'Epiq Lennox' at Lennox Head. **Table 1.1** provides the current description of both the Concept and Project Plan developments.

Table 1.1 Approved Development

Approved Bottolopinens			
Concept Approval	Project Approval		
A residential subdivision comprising subdivision for single dwellings, duplexes and medium density, a neighbourhood centre comprising commercial and retail space, a community centre, tavern and retirement village. The project includes: 1. Residential subdivision comprising: a) Large lots on steeper parts of the site (> 1,200m²) b) 'Traditional' lots of around 800m² c) 'Traditional' lots with areas between 600m² and 800m² d) Duplex lots (900m²) e) 'Small affordable' lots (450m² to 600m²) f) 'Rear lane' lots (450m² to 600m²); and g) 'Park court' lots (450m² to 600m²) 2. Neighbourhood centre with maximum retail space of 4,000m² gross leasable area and maximum commercial space of 800m² gross leasable area 3. Multi-purpose community hall with a floor space of 300m²; 4. Retirement community;	65 lot residential subdivision comprising: a) 54 residential lots ranging in size from 632m² to 907m²; b) 8 super lots for future development as follows: i. Super lot 1 (1.43 ha); ii. Super lot 2 (5,730m²); iii. Super lot 3 (2,050m²); iv. Super lot 4 (1,649m²); v. Super lot 5 (4.65 ha); vi. Super lot 6 (2,380m²) viii. Super Lot 7 (5.59 ha) viii. Super Lot 8 (4.98 ha). c) 2 open space lots of 910m² and 641m²; d) Earthworks; e) Associated roads and civil works; and f) Landscaping.		

5. Medium density housing;
6. A green space network of 25.3 ha comprising:
a) Open space 2.1 ha;
b) Water quality control pond and associated open space 3.6 ha;
c) Revegetation in buffer around SEPP 26
Littoral Rainforest 0.9 ha;
d) Wetland conservation reserve 6.5ha;
e) Revegetation around littoral rainforest EEC 6.3 ha; and
f) Rehabilitation works adjacent to Ballina Nature Reserve 5.9ha.
7. Road network; and
8. Other associated infrastructure.

1.2.2 Modified Approvals

A suite of modifications has been lodged with the Department of Planning & Environment for the project since the initial approval in 2008. A summary of the previously determined amendments is provided below within **Table 1.2**.

Table 1.2: Previous Modifications to MP07_0026

Modification Number	Determination Date	Modification Description
	00.0	
1	22 December 2008	To correct a minor error. Over 1 to be a second 14 to 0.
2	8 August 2011	Consolidation of stages 11 to 9; Creation of two additional super lots within Stage 1 to create 8 super lots; Increase in the maximum allowable retail space within the neighbourhood centre; Realignment of Montwood Drive within the site; and Increase in the size of the onsite conservation area and other environmental works.
		The intent of the minor modification was to provide a practical and appropriate approach to meeting the intent and requirements of the approval, particularly in relation to ecological matters.
3	8 September 2011	To correct administrative errors.
4	13 March 2013	 increasing the total area of conservation zone from 7.6ha to 14.07 ha; removing 18 residential lots (approx 2 ha) with direct frontage to the conservation zone, such that the whole of this zone will now be bounded by road reserve; reducing the area of Super Lot 5 (the retirement village site) by approximately 0.5 ha, to enhance

		the connection from the conservation zone east to the conservation zone west; removing Super Lot 2 (the tavern site) (5,750 m2) to enhance connectivity of the conservation zone around the perimeter of the water quality pond; relocating Super Lot 4 (the community hall site) to improve the conservation zone connectivity; and amending the staging of development to reflect removal of Super Lot 2 and reduction in the number of residential lots; exclude the Pacific Pines Estate Design Guidelines, dated 14 February 2008, from the approval amend the lapsing date of the concept plan approval
5	20 April 2017	 increasing the maximum retail floor area of the shopping centre and modify the area of the neighbourhood centre lot (Super Lot 1). re-design the subdivision layout adjoining the neighbourhood centre lot (Super Lot 1); modify the subdivision layout and minimum lot size of specified lot typologies; modify the maximum building height to align with

1.3 Environmental Planning & Assessment Act and Regulations

Schedule 6A, Clause 3C of the Act relates to Transitional Part 3A provisions for Modification of Concept Plans and states that Section 75W continues to apply for the purpose of the modification of a Concept Plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.

Section 75W (as in force immediately before the repeal of that Part) facilitates the lodgement and determination of an application to modify a Part 3A approval. Section 75W is in the following terms:

Modification of Minister's approval 75W

(1) In this section:

Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.

Modification of approval means changing the terms of a Minister's approval, including:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
- (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.
- (2) The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.
- [3] The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.
- [4] The Minister may modify the approval (with or without conditions) or disapprove of the modification.
- (5) The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request with 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.
- (6) Subsection (5) does not apply to a request to modify:
 - (a) an approval granted by or as directed by the Court on appeal, or
 - (b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.

1.4 Consistency with Concept and Project Approvals

The proposed modification is considered having regard to the sought modification to be generally consistent with the Concept and Project Approval for MPO7_0026. The current Concept Plan provided for the development of a residential subdivision to create approximately some 505 lots, development of a retirement community, neighbourhood centre, including a shopping centre, a tavern, green space and an integrated road network.

This application retains the core land uses encompassed within the Concept Plan and Project Approvals, however seeks to modify the development in response to current planning controls and forecast local residential and neighbourhood commercial demand.

Specifically, the modification will provide for the retention of residential housing within Super Lot 7, albeit through the adoption of the 'live-work' concept interspersed through the conventional lots and proposed neighbourhood commercial area.

The neighbourhood commercial component seeks to reinstate a Tavern lot in a manner commensurate with the originally approved Concept plan for the estate. The introduction of a neighbourhood scale storage premises recognises the lack of storage for residents within the broader Lennox Head area, who are currently forced to travel to either Ballina or Byron Bay for their storage requirements.

The environmental management lot is also retained within the north-western corner of the site. The configuration of the lot has been modified to accord with the proposed road layout. However, importantly, the environmental management lot satisfies the prescribed 100m buffer to the mapped 26 littoral rainforest located west of the subject land and therefore does not prejudice the delivery of the approved EMP ameliorative management recommendations.

1.5 Further Information

Should any additional information be required or clarification of any technical matter raised by this proposal or submissions made to same, please consult Mr Damian Chapelle on 02 6622 1011 or dchapelle@newtondennychapelle.com.au, prior to the issue of the SEAR's.

Site Analysis



Epiq Lennox is impacted by a series of inter-related planning, physical and environmental considerations which have been subject to detailed assessment throughout the Concept Plan & Project approval process and subsequent development applications. These issues are discussed in more detail below.

2.1 Cadastral Description

The Development Application relates to Lot 54 in DP 1222919, Parish of Ballina, County of Rous. The subject land is located at Lennox Head and comprises the landholding known locally as Epiq Lennox to Ballina Shire Council.

Plan 1 and Plate 1 illustrate the subject land and surrounds.



SITE BOUNDARY EGEND:

Newton Denny Chapelle Surveyors Planners Engineers

Email: office@newtondennychapelle.com.au LISMORE 31 Carrington St. Lismore 2480 PH: 6522 1011 CASIND 100 Barker St. Casino 2470 PH: 6562 5000 ABN: 85 220 045 469

PLAN 1 - LOCATION **EPIG LENNOX HEAD**

SUPERLOT 7

CLIENT: CLARENCE PROPERTY CORPORATION LOCATION: LOT 234 DP1104071 LENNOX HEAD NSW

DATE: 22.11.17 SCALE: NTS

REF: 14/351 DRAWN: bk

SOURCE PLAN: www.maps.six.nsw.gov.au - accessed 22.11.17

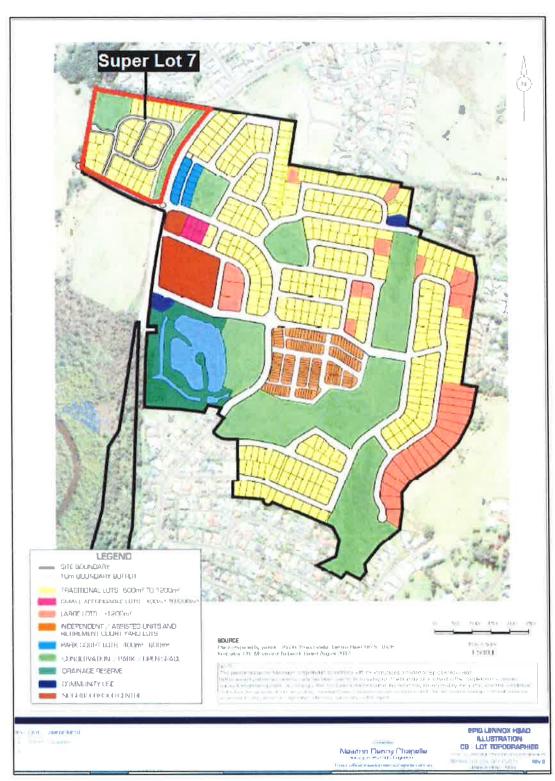


Plate 1: Super Lot 7 - Subject land area for the proposed Modification within Epiq Lennox

2.2 Land Use Context

Lot 54 is located in the general area of the following existing or planned residential subdivisions:

- <u>Lennox Meadows (north)</u> is a conventional residential estate containing a range of lot sizes (generally between 600m² to 850m²) containing one and two storey detached dwellings and occasional dual occupancies;
- <u>Pacific Pines Estate (early stages south)</u> Much of this Estate is currently undeveloped, however approvals are in place for the staged development of the site for a residential subdivision including a range of allotment types and playing fields.
- Henderson Farm [Deferred Commencement west] Henderson Farm is located west of Super Lot 7 approved as part of the Epiq Lennox Concept Plan.
 Ballina Shire Council has issued deferred commencement consent on 27 November 2014 for a residential subdivision comprising of 159 residential lots.

2.3 Planning Background

A. Strategic Planning Framework

The land the subject to this application forms part of what is referred to locally as "Epiq Lennox". The site has been identified in various Council and State Government Strategies as being a potential urban growth area, including:

- Ballina Local Environmental Plan 1987;
- Ballina Urban Land Release Strategy 2000;
- Lennox Head Community Aspirations Strategic Plan 2002;
- Lennox Head Structure Plan 2004;
- Far North Coast Regional Strategy 2006; and
- Ballina Shire Growth Management Strategy 2012.

2.4 Ecological Characteristics

The Epiq Lennox estate has been the subject to detailed ecological assessments as part of the rezoning and Major Project (MPO7_0026) proposals. As a result of the environmental assessments completed, the development is subject to both a Conservation Zone Management Plan and an Environmental Management Plan which provides the overarching environmental management initiatives for nominated areas of the estate.

In specific regard to the land area encompassed within Super Lot 7, the approved Environmental Management Plan has included Management Zone 1 within the boundary of Super Lot 7 as illustrated within **Plate 2** below.



Plate 2: Epiq Lennox Environmental Management Zones

The EMP as it relates to Super Lot 7 provides the following commentary;

Zone 1 occurs in the far north-west corner of the site and is defined as a 100 m x 100 m designated buffer area to protect an area of SEPP 26 Littoral Rainforest, occurring to the north-west of the site. The area also includes a strip of vegetation extending along the northern boundary of the site from the designated 100 m x 100 m buffer area, east to the proposed alignment of Hutley Drive (refer to Illustration 4.1).

Existing native vegetation within Zone 1 includes a remnant of littoral rainforest/
Camphor Laurel forest occurring in the far north-western corner of the site (refer to
Plate 4.4). Numerous native saplings are present within the lower stratum of this area
as well as a suite of weed species, including Lantana (Lantana camara), Camphor
Laurel (Cinnamomum camphora), Asparagus Fern (Asparagus densiflorus) and Silverleaved Desmodium (Desmodium uncinatum). There is a relatively high diversity of native
species present within this area, which is a consequence of this area being contiguous
with larger areas of littoral rainforest to the north. Similar littoral rainforest vegetation
and weed species are present within vegetation extending along the northern boundary
of the site (refer to Plate 4.5).

Larger areas of cleared pasture land are present throughout much of this area, providing habitat for the threatened species, Hairy Joint Grass, which occurs in isolated patches. The primary objectives for Management Zone 1 are to provide a buffer zone to areas of SEPP 26 Littoral Rainforest occurring directly to the north of the site and to retain and enhance existing areas of HJG.

Additionally, this area would allow for retention and extension of areas of similar littoral rainforest and associated fauna habitats as those occurring to the north of the site. The isolated individual of the threatened species Rough-shelled Bush Nut (Macadamia tetraphylla) that occurs just south of Management Zone 1 would have ongoing protection through a restriction on the title of the relevant block.

The broad strategy to achieve these objectives is as follows:

 retention and rehabilitation of remnant vegetation occurring in the north-west corner of the site and along the northern boundary of Zone 1;

- removal and ongoing control of noxious and environmental weed species;
- extension of retained vegetation by planting and maintenance of a dense, unfragmented 20 m band of littoral rainforest species adjacent to littoral rainforest remnants in the northwest and north of Zone 1;
- Enhancement of existing HJG in non-forested parts of this zone through a maintenance program of annual slashing; and
- formalising opportunities for public access and visitation on the periphery of this zone and preventing access to ecologically sensitive areas within the buffer zone.

2.5 Bushfire Prone Land

The land area occupying Super Lot 7 is not mapped bushfire prone land. However, a small area within the south-western portion of Lot 54 is mapped as containing bushfire vegetation and therefore any future development application will be assessed pursuant to s100B of the Rural Fires Act 1979 and trigger integrated development provisions under S91 of the Environmental Planning & Assessment Act.

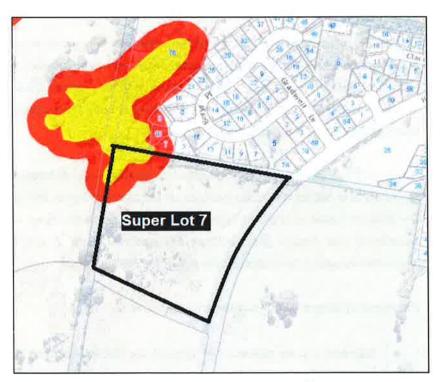


Plate 3: Ballina Shire Council Bushfire Prone Land Mapping (source BSC Intermaps 2017)

2.6 Soil

2.6.1 Acid Sulfate Soils

Super Lot 7 is mapped as containing Class 2 & 5 acid sulfate soils as evidenced from Ballina Shire Council mapping (**Plate 4**). The proposed development will trigger future consent requirements in this instance.

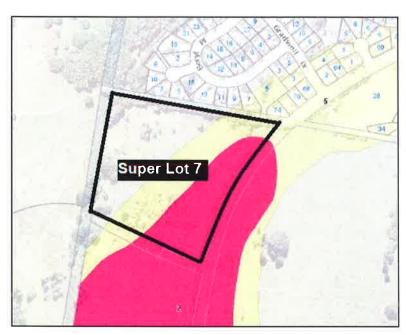


Plate 4: Acid Sulfate Soil Mapping (source BSC Intermaps 2017)

2.6.2 Land Contamination

A desk-top review of the site history and land use pursuant to SEPP 55 was undertaken By *Ardill Payne & Partners* for the Concept Plan approval. The desk-top site history review confirmed the Epiq Lennox land was historically used for cattle grazing and concluded that the existing and historical use of the subject land and surrounding properties are unlikely to have caused contamination of the site and that the site is considered suitable for the proposed development.

Through the lodgement of a series of development applications for the subdivision of lands within Epiq Lennox, current soil analysis completed has ratified the initial assessment completed for the Concept Plan approval. To this end, no areas of the site have been identified as containing potentially contaminated lands.

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Proposed Modification to Concept Plan & Project Application



3.1 Description of Sought Amendments

The proposed modification will seek to undertake amendments to the Concept Approval (MP 07_0026). The key changes proposed for the approved development:

- increasing the number of residential lots from 47 to 60 residential lots comprising of 34 conventional residential lots and 26 live-work lots;
- introduce 2 neighbourhood commercial lots to re-introduce a tavern lot and the commencement of a community child care and storage facility; and
- modify the subdivision design and road network within Super Lot 7.

The proposed modified Subdivision and Land Use Plan prepared by RPS is provided within **Attachment 1** of this report.

3.1.1 Modify the residential lot typology and associated lot numbers

The residential lots within Super Lot 7 have been redesigned to provide improved opportunities for housing on sloping land commensurate with the lot layout afforded within Stages 2, 3, & 6. To this end, there is an increase in lot numbers from 47 to 60 residential lots. The lots will comprise 34 conventional residential lots, 26 'live-work' lots and two (2) commercial lots.

Post the approval of the original Concept Plan in 2008, the residential model adopted for the estate has since evolved. To this end, the opportunity to provide housing which more readily meets the daily needs of residents has become the focus of current residential housing models.

The introduction of the 'live-work' lots within Super Lot 7, seeks to address the segregation of land uses and high level of car dependency especially found in regional areas. Accordingly, the 'live-work' concept sought for Epiq Lennox head seeks to create housing where residents also have a designated workspace through a purpose designed built form.

The proposal provides for improved accessibility to housing, greater scope for business development, purpose planned for interface with adjoining land uses and recognises the transformation of the global economy through increased home-based business activity. The concept of a live-work environment is that people can operate commercial premises, technology centres or studios and live onsite.

Demand for this form of development is growing in northern NSW as evidenced through recent approvals for this type of development. In this regard, reference is made to the recently approved Habitat development the Byron Bay area (see Byron Shire Council DA 10.2011.162.1 & Byron DCP 2010, Chapter 20]. 'Live-work' dwellings in Stage 1 of the development are now fully sold with Stage 2 currently under construction.

The proposed live-work concept as illustrated in **Attachment 3** of this request outlines clear analysis of critical elements which contribute to the success of the 'live-work' concept for Super Lot 7, namely;

- Land use, management and environmental assessment;
- Car parking;
- Building design;
- · Site and open space design;
- Lot size and subdivision;
- Street design;
- Connectivity to neighbourhood retail centre; and
- Ecological enhancement.

The creation of the 'live-work' lots would be integrated with the associated built form. That is the live-work development would be integrated so the future development application provides for both the subdivision and construction of the built form. This will ensure the desired architectural and operational features of this type of development are embodied into an integrated approval.

The modification also provides for the introduction of a residential lot layout and road network which better responds to the topography of the land. In this respect, the Concept Plan as approved required excessive retaining walls in order to create level sites for the rear lane lots in addition to difficulties in design a compliant road network. Accordingly, the subdivision layout provides a curved road alignment which still preserves the connection to the western link road and Hutley Road.

The proposed conventional residential lots comprise areas ranging from 375m² to 870m². Reference is made to the current lot typology for Super Lot 7 which stipulates a minimum lot size of 600m². Notwithstanding this lot size requirement, regard is made to the approval of the 'Park Lots' in Stage 2 of Epiq which enjoy a minimum area of 392m². The 'park lots' have associated design guidelines which address building design, open space, car parking, fencing, solar access and privacy. Each building design will be approved through a design review panel. Ballina Shire Council have approved this design review process through development consent condition for Stage 2.

In the case for Super Lot 7, we seek to adopt the methodology approved for the 'Park Lots' in Stage 2 through the preparation of residential dwelling design guidelines which will be applied to the Super Lot 7 conventional 'live-work' residential lots.

3.1.2 Introduce two Neighbourhood commercial Lot

The proposal shall seek to introduce two (2) neighbourhood commercial lots which will be dedicated to a proposed tavern, community child care centre and a storage facility. The proposed lots have been designed within Super Lot 7 to integrate with the approved neighbourhood supermarket site through their location in the south-eastern corner fronting Hutley Drive.

The siting of the proposed lots is deemed to be the optimal location through providing improved accessibility from the neighbourhood shopping centre, proximity to Hutley

Drive, compatible interface with the live-work allotments and importantly afforded a landscape buffer on the eastern frontage of the land to assist with the visual amenity of the development.

In respect to the Tavern use, reference is made to the fact on 12 November 2008, the then Minister for Planning gave Concept Plan and part Project Approval to Epiq Lennox [formerly *Pacific Pines*] residential estate at Lennox Head. The project included in addition to the residential subdivision, the development of a development lot for the purpose of a tavern.

The Tavern site was later deleted from the Concept Plan by the previous landowner through Modification 4 for MP 07_0026. The deletion of the Tavern site was due to the originally proposed to being encompassed into the Conservation Zone within Epiq and to improve the east-west connectivity for the Conservation Zone.

Importantly, the land uses approved under the Concept Plan had not removed the Tavern from the Concept Plan, hence the use was retained for future siting within the estate.

The re-introduction of the Tavern site seeks to provide the residents of Epiq Estate and the broader Lennox Head community with a family friendly environment which affords the local residents a multi-facet building, including a licensed premise, dinning and community meeting place. In this respect, it is clear the focus for a Tavern in Epiq Lennox is on providing a family orientated tavern.

In regard to the community child care facility, Ballina Shire Council has approached Clarence Property Corporation Ltd concerning the opportunity to locate such a facility within the Epig Estate.

With the increase in demand for housing within the Lennox Head area, Ballina Shire Council has taken the proactive position to secure land for a community childcare centre. Accordingly, the proposed location of the community childcare centre in Super Lot 7 consolidates the mixed-use precinct created through the 'live-work' and neighbourhood commercial lots, whilst importantly providing greater accessibility to the primary population expansion area within Lennox Head at the Epiq estate.

Lennox Head is not currently services with any storage facility. The proposal includes a smaller neighbourhood scale facility to be provided for the residents of Lennox Head and Epiq Estate itself. The proposal would seek to incorporate a 2 storey structure which is able to articulate to the Hutley Drive and live-work interface to the east and west respectively. Importantly, the land area for the storage facility has terminated short of the northern boundary of Super Lot 7 to ensure live-work and residential lots provided adjoin the existing residential lots which adjoin to the north within the Meadows Estate.

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Statutory & Policy Planning



Section 4 documents the range of planning controls and policies applicable to the proposed modification as outlined within Section 3 of this report.

4.1 Local Environmental Plans

The following Local Environmental Plans apply to the subject land:

- Ballina Local Environmental Plan 2012 applies to the areas of the site identified as being suitable for urban purposes. and
- Ballina Local Environmental Plan 1987 applies to the portions of the site identified through the Comprehensive LEP process as being suitable for an environmental protection zone.

Discussion regarding the application of these two documents to the current subdivision application is provided below.

4.2 Ballina Local Environmental Plan 2012

4.2.1 Zoning & Planning Permissibility

Plate 5 illustrates the zoning framework applied to the land via Ballina Local Environmental Plan 2012.

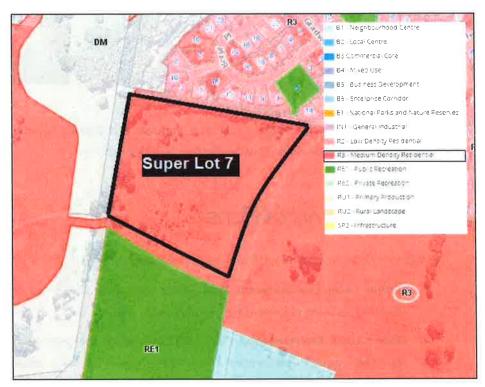


Plate 5: Extract BLEP 2012 Zoning Map.

As illustrated above, Super Lot 7 contains an R3 Medium Density Residential zone. The planning objectives for the R3 zone, together with the proposal's response, are provided below.

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To anable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide development that is competible with the character and amenity
 of the surrounding neighbourhood.
- To encourage housing and infrastructure that supports the againg population.
- To provide for development that meets the social and cultural needs of the community.
- To encourage development that achieves the efficient use of resources such as energy and water.

Comment: Council has no zone in its Local Environmental Plan where a 'live-work' land use is specifically encouraged. Based on similar proposals which are currently either approved or alternatively progressing through a Planning Proposal, for the proposed live-work area of the site, Ballina Shire Council is facilitating provisions for a 'live-work' built form within Schedule 1 of the Ballina LEP 2012.

For a 'live-work' project at Burns Point Ferry Road, West Ballina, Council is looking to include the following provisions.

"No. 4 Use of Certain Land at Burns Point Ferry Road, West Ballina

- 1) this clause applies to land at the northern extremity of Burns Point Ferry Road and identified as 'Area D' in the Additional Permitted Uses Map.
- development for the purpose of small scale commercial premises and light industries in association with a dwelling house are permitted with development consent."

The above process outlines the proposed amendment to the Concept Plan is not antipathetic to Ballina Shire Council's strategic planning framework to permit 'live-work' development on residential zoned land. In this regard, with an LEP amendment would not be deemed necessary as the overarching permissibility for future development for 'live-work' would be provided through the Concept Plan.

Notwithstanding this, currently in the R3 Zone, some uses sympathetic to live-work concept is permissible with Clause 5.4 specifying controls in relation to miscellaneous permissible uses as follows:

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide development that is compatible with the character and amenity of the surrounding neighbourhood.
- To encourage housing and infrastructure that supports the ageing population.
- To provide for development that meets the social and cultural needs of the community.
- To encourage development that achieves the efficient use of resources such as energy and water.

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Boarding houses; Centre-based child care facilities; Community facilities; Extensive agriculture; Group homes; Home industries; Kiosks; Markets; Multi dwelling housing; Neighbourhood shops; Places of public worship; Respite day care centres; Roads; Roadside stalls; Seniors housing; Any other development not specified in item 2 or 4

4 Prohibited

Advertising structures; Agriculture, Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Dairies (pasture-based); Depots; Eco-tourist facilities: Farm stay accommodation; Forestry, Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Recreation facilities (major); Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Wharf or boating facilities; Wholesale supplies

In addition to the above land use table provisions, the following controls also apply.

5.4 Controls relating to miscellaneous permissible uses

(2) Home businesses

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.

(3) Home industries

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.

(7) Neighbourhood shops

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.

The current R3 zoning provisions limit the employment of persons (other than residents) to no more than two and thereby impact the commercial footprint for home industries and home businesses. It is envisaged that the Epiq Lennox live-work precinct will often require more than just two persons working in association with the live-work business and require a floor area of more than 50m^2 for such occupation. The modification to the Concept Plan will provide the mechanism to permit this proposed live-work in a manner which reflects the desired land use.

Reference is made to the fact the Tavern is already embodied within the Concept plan approval.

Storage premises are currently prohibited under the R3 zone, however the desire by Council to locate a child care centre and the reintroduction of the Tavern within the estate creates the opportunity for a mixed use prescient which is developed to a neighbourhood scale to service the direct needs of local Epiq Lennox residents in addition to the Lennox Village itself.

4.2.2 General Provisions

Clauses 2.6 and 4.1 - Subdivision Consent Requirements

Clause 2.6(1) of BLEP 2012 requires that development consent be received for the subdivision of land, whilst Clause 4.1 and the associated Lot Size Map nominates the minimum lot sizes to be created on the various parts of the site.



Plate 6: Extract of Ballina LEP 2012 Lot Size Map showing subject land.

Comment: The minimum lot nominated for the land under the Ballina LEP is nominated at 600m°. The current Concept Plan provides for the reduction in lot size to 400m° for nominated lots within the Epiq Estate. The proposed modification will seek to incorporate a minimum lot size of 365m° for the conventional residential lots and 185m° for the integrated live-work lots.

Clause 5.5 - Development within the Coastal Zone

Comment: The subject site is located within 1km of the coast and is therefore located within the coastal zone and subject to the NSW Coastal Policy. The following comments are made with respect to the provisions of Clause 5.5

2(a) Foreshore Access – The subject site does not have direct access to the coastal foreshore and, as such, the application does not provide opportunities for improved pedestrian access to the foreshore area.

- 2(b) Relationship to Surrounding Area The proposed land use is compatible with the existing and approved Concept Plan for Epiq. Reference is made to the inclusion of the storage facility, however this will be directly utilised by residents and businesses within the Lennox Head community and this is planned to be of a neighbourhood scale..
- **2(c) Impact on Amenity of Foreshore** The subject site is removed from the foreshore area and the development of the land as proposed will not adversely impact on the amenity of the foreshore area.
- 2(d) Visual Amenity and Scenic Qualities The site is removed from the coastal foreshore and will not have a direct impact on the visual amenity of the coast line.
- 2(e) Conservation of Biodiversity and Ecosystems The Concept Plan and Project Plan approvals over the land provides for the retention of the core habitat areas. These areas are subject to environmental restoration and enhancement via the Conservation Zone & Environmental Management Plan which sits over the parent property for Epiq Lennox.
- **2(f)** Cumulative Impact -Council's strategic planning for the locality has envisaged that the subject site will be developed for urban & neighbourhood commercial purposes. The cumulative impact of the long-term expansion of Lennox Head (including the subject site) was considered as part of these processes.
- 3 (a) Foreshore Access Refer comments above.
- 3 (b) Effluent Disposal The application involves connection to Council's reticulated sewerage system and no untreated effluent will be discharged into the environment.
- 3(c) Disposal of Stormwater Future development of the land will achieve an integrated approach to the disposal of stormwater, with the proposed approach compliant with Council's DCP targets. No untreated stormwater will be discharged into the environment.
- **3(d)** Coastal Hazards The site is removed from the immediate coastline and is not subject to Coastal Hazards.

Clause 5.9 - Preservation of Trees or Vegetation

This clause specifies that development consent must be obtained for the removal of trees and vegetation as nominated in Council's Development Control Plan.

Comment: The proposal will seek to undertake tree removal within the boundaries of Super Lot 7. Reference is however made to the overarching EMP which relates to the site and governs the preservation of vegetation within the estate. The proposed modification is consistent with the EMP and its associated recommendations.

Clause 7.7 - Essential Services

Clause 7.7 of BLEP 2012 requires that development be supplied with adequate and appropriate levels of infrastructure servicing.

Comment: Details outlining access and servicing requirements for essential services are discussed below.

Water:

Potable and reticulated water will be provided to all allotments (excluding reserves). The existing lines adjacent to Road 5 will be extended to service the development. Modelling of the greater potable water reticulation network has been previously undertaken by H2One as part of the greater Epiq Lennox development. Should the expected demand of the development exceed the modelled amount for the site, the modelling will be revised to confirm there is sufficient capacity in the surrounding water reticulation networks.

Sewer:

It is anticipated that gravity sewer connections will be provided to all allotments (excluding reserves). Connection to the greater sewer reticulation network will be via the existing stub line provided to the site as part of the Stage 1B works. This stub is located approximately halfway along the eastern boundary and drains into the existing gravity sewer network located within Hutley Drive.

Stormwater:

Modelling of the stormwater management across the greater Epiq Lennox development site has been previously undertaken by Gilbert and Sutherland. The stormwater discharge from the Super Lot 7 site will be in accordance with the Gilbert and Sutherland plan, with the discharge point into the existing swale and attenuation basin on the western side of Hutley Drive. This swale and basin will be modified to

ensure any increase in impervious area (above that modelled) causes no net increase in the average annual pollutant loads or increase in peak flows for the 100 year event. This is in accordance with the Concept Approval. End of line treatment devices and an all weather access track will be provided for maintenance in accordance with Ballina Shire Council requirements.

Access:

Access to the site will be via Road 5 with no direct access onto Hutley Drive proposed. On street parking will be provided for the 'live-work' allotments in accordance AS2890.5 at a ratio of approximately 2 parks per an allotment. It is anticipated that access to these allotments will be via a rear lane 5.5m wide within a 6.5m road reserve. Roads used to access the residential component of the development will be 7m wide within a 15m wide road reserve in accordance with the residential road characteristics specified in the Northern Rivers Local Government Development Design Manual.

4.3 North Coast Regional Plan 2036

This Plan came into effect in March 2017 and replaces the Far North Coast Regional Strategy 2006-2031. The subject land is mapped within the Urban Growth Area for the Lennox Head area as illustrated in **Plate 7**.

Reference is made to Directions 23 & 25 which seek to encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036 and housing which respond to changing housing needs, including household and demographic changes, and support initiatives to increase ageing in place. The proposed modification will be consistent with the aforementioned actions.

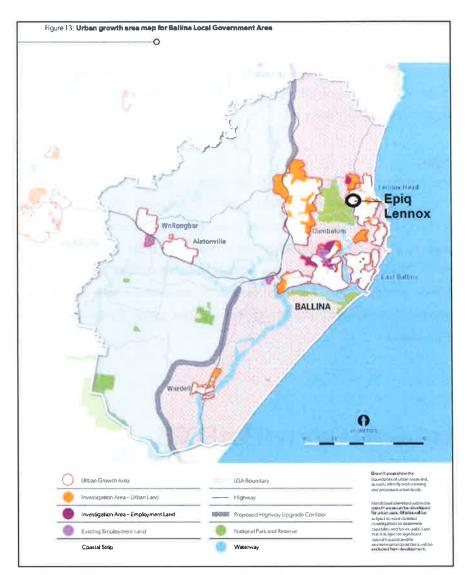


Plate 7: North Coast Regional Plan Urban Growth Area Map 2035 - Figure 13

4.4 State Environmental Planning Policies

4.4.1 SEPP No. 55 - Remediation of Land

Comment: A desk-top review of the site history and land use pursuant to SEPP 55 was undertaken for the Concept Approval by the Department of Planning & Environment. The desk-top site history review confirmed the Epiq Lennox land was historically used for cattle grazing and concluded that the existing and historical use of the subject land and surrounding properties are unlikely to have caused contamination of the site and

that the site is considered suitable for the proposed development. A preliminary contamination assessment prepared by Ardill Payne & Partners was provided with the original Concept plan and Project approval and found no likely contaminated lands.

Detailed assessments have been completed for Releases 2 & 3 together with the neighbourhood supermarket lot (Super Lot 1) which is adjacent to Super Lot 7.

4.4.2 SEPP No. 26 - Littoral Rainforest

SEPP 26 aims to provide a mechanism for the consideration of applications for development likely to damage or destroy littoral rainforest areas with a view to the preservation of those areas in their natural state.

The north-western corner of the site is mapped as being within the designated 100 m buffer to SEPP 26 [No. 39]. This buffer area will be rehabilitated with endemic rainforest species under the approved Environmental Management Plan. The proposed modification does adjust the alignment of the environmental management zone, however does not encroach into the 100m buffer nor require the removal of any additional vegetation than required under the current approval.

4.4.3 SEPP No. 71 - Coastal Protection

The northern portion of the site is located in the coastal zone to which SEPP 71 applies. It is also within 100m of a SEPP 14 Coastal Wetland found within the Ballina Nature Reserve. It is therefore defined as being a sensitive coastal location.

A. Master Plan/DCP

On 23 March 2006 a SEPP 71 Master Plan was adopted by the Minister for Pacific Pines. This Master Plan included a slightly different area than that subject to the current application. This proposal does not rely on this Master Plan. This position is by virtue of the Department of Planning & Environment issuing the Concept Plan approval for the Epiq Lennox land area, being MPO7_0026.

B. SEPP 71 - Clause 8

Table 4.3 sets out the matters for consideration as contained within Clause 8 of SEPP No. 71 as well as comments in relation to those matters. Having regard to the assessment within this table, it is submitted that the application complies with SEPP No. 71.

Table 4.3 - SEPP 71 Matters for Consideration

Part/Clause	Matter for Consideration	Comments
Part 2 Clause 8	The aims of the Policy set out in Clause 2.	
	Natural, cultural, recreational and economic attributes of the NSW coast.	The Epiq Lennox Concept Plan demonstrated the urban development of the land should provide for the retention and embellishment of existing natural vegetation on the site. The proposed subdivision is consistent with the approach advocated via the Concept Plan.
	Public access to coastal foreshores.	The subject site does not provide any opportunities for enhanced coastal foreshore access.
	New opportunities for public access to coastal foreshores.	The site proposed for development contains no opportunities for coastal foreshore access.
	Aboriginal heritage.	The development site is not known to be recorded on any register as being a place of Aboriginal heritage.
	Visual amenity.	Views of the site from the coast are restricted by surrounding vegetation and landform. The subdivision retains the key vegetation features along the ridgeline.
	Beach environments and amenity.	No direct access to beach environments exists.
	Native coastal vegetation.	The subdivision layout ensures that existing native vegetation on the site is retained and embellished. Detailed assessment regarding this matter is provided elsewhere in this report.
	Marine Environment	Stormwater from the site will be treated prior to discharge into the local waterway system.
	Rock platforms.	No rock platforms are located in the vicinity of the development site.
	Ecologically sustainable development.	The proposed subdivision provides for the development of the urban zoned portions, whilst adhering with the environmental management initiatives and overarching stormwater management plan for the land.
	Type, bulk and scale of the development in relation to the location and natural scenic qualities.	Super Lot 7 is not visible from the coastal foreshore and the proposed development will not impact on the amenity of the foreshore area. The suitability of the site for urban development was established via the Concept plan process

Strategic approach to coastal management.	The suitability of the site for the planned mixed-use development draws on the established land use pattern embodied within the Concept Plan and other strategic planning processes undertaken by Council and the Department of Planning & Environment.
Public access to coastal foreshores.	The site is not located along the coastal foreshore.
New opportunities for public access to coastal foreshores.	The site is not located along the coastal foreshore.
Suitability of the development given its type, location and design and its relationship to the surrounding area.	The proposed subdivision is responsive to the endorsed Concept Plan and Environmental Management Plan for Epiq Lennox.
Amenity of the coastal foreshore.	The amenity of the coastal foreshore is not likely to be adversely impacted by the proposal.
Scenic qualities of the NSVV coast.	The scenic quality of the coastal foreshore is not likely to be adversely impacted by the proposed development.
Threatened Ecological .	The proposed subdivision and associated land uses will retain significant vegetation on the site. Detailed assessment of this matter is provided within the S75W Modification Environmental Assessment.
Fish and marine vegetation and habitats.	No adverse impacts are expected on habitats for fish and marine vegetation as demonstrated through the Concept and Project approvals [MP07_0026].
Wildlife corridors.	The subdivision layout does not impact upon the ability to deliver the environmental management and conservation zone management recommendations identified within the Concept Plan for the site.
Coastal processes and hazards.	The subject land is not designated as being subject to coastal processes.
Conflict between coastal activities.	Surrounding land uses have been considered in this report. The land use recommendations adopted by Ballina Shire Council for the Concept Plan associated with Epiq Lennox are preserved within the subdivision layout.

	Aboriginal heritage.	Refer to previous comments.	
	Water quality.	Stormwater will be treated prior to discharge in accordance with the stormwater management plan annexed to this report.	
	Items of heritage, archaeological or historical significance.	No items of historical significance have been identified on the site	
	Draft LEP	No draft Local Environmental Plan applies to the subject site.	
Part 3	Significant Coastal Development	The proposed development is not impacted upon by the provisions of Part 3.	
Part 4	Flexible Zone Provisions	No flexible zone provisions are utilised in the delivery of the proposed subdivision.	
	Public Access	Reference should be made to previous comments regarding public access.	
	Effluent Disposal	Effluent generated by the development will be directed to Council's reticulated sewage system.	
	Stormwater	Stormwater will be treated prior to discharge in accordance with the stormwater management plan for Epiq.	

4.5 Integrated Development

Section 91 of the Environmental Planning and Assessment Act 1979 identifies the following development as integrated development.

Dun-1 Fin A-h	- 400D	A	Amaliaabla
Rural Fires Act	s 100B	Authorisation	Applicable
1997		under section	
		100B in respect	l J
		of bush fire safety	
		of subdivision of	
		land that could	
		lawfully be used	
		for residential or	
		rural residential	
	II.	purposes or	
		development of	
		land for special	
		fire protection	
		purposes	

4.6 Consultation

As part of the due diligence process in relation to the proposed amendment to the Concept plan [MP07_0026], consultation was made with Ballina Shire Council and the Department of Planning & Environment.

The key response from both agencies is outlined below in Table 4.4.

Table 4.4 - Government Agency Consultation

Government Agency	Response	
Ballina Shire Council	 Council raised the opportunity to locate a community child care centre within the Epiq Lennox Estate. Would prefer to see the land use designation for live-work development achieved through the Concept Plan modification 	
Department of Planning & Environment	 Raised an issue with the original modified plan which included light industry and potential land use conflict with the adjoining northern residential lots. (Note: The light industrial component has been removed from this proposal). 	

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Impact Identification & Assessment

Section 5

Section 5 seeks to highlight those matters which directly relate to the proposed amendment to the approved Concept Plan. In identifying the key considerations, the proposed environmental assessment regime is also outlined.

5.1 Traffic Generation

Traffic generated by the Epiq Estate has been identified as an issue associated for the residents on Montwood Drive. In response to the concerns of the local residents associated with their environmental amenity, the current Concept Plan incorporates Condition B7A which ensures no traffic greater than the prescribed limit for Montwood Drive is generated prior to Ballina Shire Council Constructing the Hutley Drive north link. Condition B7A is provided below;

B7A Limits on Land Release

- 1) The concept plan is modified such that no subdivision certificate may be issued for further development once the approved capacity of 7,456 vehicles per day on the local road network (Montwood Drive & Henderson Lane) is met or exceeded, until such time as Hutley Drive is extended north from the site to North Creek Road.
- 2) Notwithstanding (1), if further traffic analysis demonstrates that the extension to Hutley Drive is required at another stage, the Director-General may restrict the release of further subdivision certificates beyond that stage until Hutley Drive is extended.
- 3) To allow for the monitoring of the total number of vehicle movements referred to in (1) above, a report outlining current traffic generation numbers shall be submitted with each subdivision certificate and commercial development occupation certificate. Traffic Counts for the purposes of this Terms of Approval shall be undertaken no later than 3 months prior to the applications for the subdivision certificate or occupation certificate being made.

Notwithstanding the inclusion of Condition B7A4, a detailed traffic impact assessment will be prepared which addresses traffic generation, car parking to service the live-work land use.

5.2 Acid Sulphate Soils

As indicated on Plate 5, a portion of Super Lot 7 is mapped as Class 2.

Clause 7.1 of BLEP2014 requires any Development Application involving excavation below natural ground level (Class 2 land) to be accompanied by an Acid Sulphate Soil Management Plan. Whilst the proposed modification does not alter the requirement to prepare the management plan, we submit such a report will accompany the future development application should the Concept plan be amended.

5.3 Vegetation

Based on the Environmental Management Plan approved for the estate, an assessment against the applicable provisions will be required to be completed to demonstrate the amendment to the management zone boundary does not adversely impact the environmental attributes of the mapped zone or the ability to meet the designated ameliorative measures.

A detailed ecological assessment of the site would be required to accompany the modification proposal.

5.4 Bushfire

As indicated on **Plate 4**, the north-western part of the site is mapped as bushfire prone. The bushfire hazard is the narrow cluster of littoral rainforest external to the Epiq site. Given the location of the hazard and the asset protection zone provided by the environmental management zone and adjacent road reserve, bushfire risks are not considered to be a significant constraint.

5.5 Contamination

The site has previously been used for grazing purposes. There have been no known intensive activities involving the mixing of chemicals or cleaning of chemical containers on the site and therefore the site is unlikely to be contaminated. However, any future development application for the site will be accompanied by a Contamination Assessment prepared in accordance with relevant Ballina Shire Council and Environmental Protection Authority Guidelines. To this end, likely land contamination will not prejudice the proposed modification.

5.6 Water Quality

Modelling of the stormwater management across the greater Epiq Lennox development site has been previously undertaken by Gilbert and Sutherland. The stormwater discharge from the Super Lot 7 site will be in accordance with the Gilbert and Sutherland plan, with the discharge point into the existing swale and attenuation basin on the western side of Hutley Drive.

This swale and basin will be modified to ensure any increase in impervious area (above that modelled) causes no net increase in the average annual pollutant loads or increase in peak flows for the 100 year event. This is in accordance with the Concept Approval. End of line treatment devices and an all weather access track will be provided for maintenance in accordance with Ballina Shire Council requirements.

5.7 Land Use Conflict Risk

Through the introduction of the live-work lots and the neighbourhood commercial lots to entertain the tavern, community childcare centre and storage premises, the opportunity for land use conflict with the adjoining northern residential area of the Meadows Estate will be required to be assessed.

A detailed Land Use Conflict Risk Assessment (LUCRA) will be prepared to accompany the modification to the Concept Plan. The key issues to be assessed within the LUCRA include primarily traffic and noise.

In response to noise and the existing residential amenity for the adjoining northern residents, the modified lot layout provides for the separation of the neighbourhood retail lots to the residential dwellings through the retention of the 10m biological buffer on the northern boundary. Furthermore, the storage premises are planned to be located in the most northern extent of the neighbourhood lots, thus providing a buffer between the residential dwellings and the tavern/community childcare centre land uses.

Conclusion



This report addresses the relevant matters contained in the Department of Planning and Environment's Online Lodgement Documents for requesting SEARs.

The proposed modification to MPO7_0026 on behalf of Clarence Property Corporation Limited will deliver an improved design outcome which importantly preserves the core land uses identified within the Epiq Lennox estate as originally approved by the Department of Planning & Environment.

The proposed inclusion of the 'live-work' residential lots will provide greater opportunity for purpose built dwellings which offer start up businesses a purpose designed environment where matters such as residential amenity, car parking, NBN services and proximity to essential services (retail & community facilities) are provided.

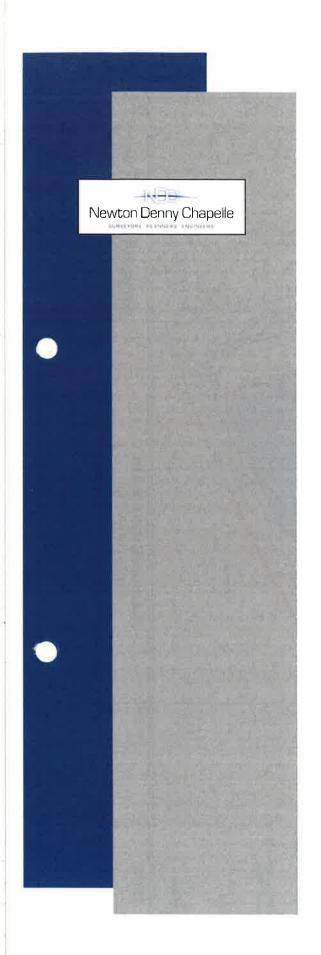
In turn, the provision of a neighbourhood scale storage premises will negate the need for residents of Lennox head to travel to Ballina for storage needs. The neighbourhood scale will service the local storage requirements, whilst preserving Ballina as the key storage premises locality for larger commercial storage premises.

The proposed modification of the approval is considered to be in the public interest and therefore we respectfully seek the Department issue the required SEAR's for the modified proposal for super Lot 7.

Dai Clapelle.

DAMIAN CHAPELLETown Planner. BTP CPP

Date: 18th November 2017



ATTACHMENT 1

Proposed Subdivision &

Land Use Concept Plan

RPS

