

enquiries refer
Peter Drew
in reply please quote
18/83568



27 November 2018

Regional Assessments
NSW Planning & Environment

Attention: Michelle Niles

Dear Michelle

**Re: Submission to Exhibition of Modification - Epiq Lennox (Pacific Pines Estate),
Lennox Head MP 07_0026 MOD 6**

I refer to the abovementioned application to modify Major Project Approval 07_0026 MOD 6 in relation to EPIQ Lennox.

A review of the proposed modification has been undertaken by Council and the following matters are raised for your consideration in the assessment of the application.

1. Impact of Public Infrastructure on Littoral Rainforest

Littoral Rainforest is listed as a critically endangered ecological community under both the *Biodiversity Conservation Act 2016* (BC) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The bulk earthworks plan and the infrastructure plans contained within the Engineering Services Report depict that excavation works are to undertaken in close proximity to the littoral rainforest growing along the northern boundary of the development site. The impact of these works needs to be assessed in accordance with Australian Standard 4970-2009 '*Protection of trees on development sites*'. Council notes the submitted Biodiversity Assessment Report (BAR) does not address this issue.

2. Building Setbacks (Lot 51-54)

To avoid future impacts (e.g. fence construction), Council requests that all future urban structures be adequately separated from littoral rainforest growing on proposed Lots 51 to 54 (Plate 1). Unfortunately, the 10m buffer applied by the Department when the Concept Plan was approved has proved to be inadequate. This problem has arisen as the 'buffer' approved by the Department at Concept Approval, generally follows the extent of the littoral rainforest growing on the site (ie it defines edge of restoration area), rather than the buffer being applied from the outer edge of the rainforest.

As a consequence, dwellings are being constructed immediately adjacent to the retained littoral rainforest (plates 2 and 3). Although the areas depicted in Plates 2 and 3 are being rehabilitated by the developer, residents are requesting for trees to be removed due to this lack of separation and safety issues. These land use conflicts will increase as the vegetation matures.

To resolve this issue, it is Council's preference is for the subdivision to be redesigned to ensure adequate separation is achieved through use of a perimeter road. Alternatively, Australian Standard 4970-2009 '*Protection of trees on development sites*' and Appendix B of Australian standard 2870-2011 Residential Footings and Slabs, adequate building setbacks (no building) zones could be used to determine adequate building setback distances from the edge of the restored rainforest. However, a minimum 15m building exclusion zone should be established from the outer edge of the restored rainforest (Management Zone 1) growing within each proposed residential allotment.



Plate 1: Littoral rainforest growing within proposed Lots 51-54



Plate 2: Approved dwelling and excavation works inappropriately located immediately adjacent to the rainforest restoration areas in Zone 2 of the EPIQ development



Plate 3: Existing conflict between new residential dwellings and retained rainforest (Zone 2) within the EPIQ development. Landholder has now requested removal of some of the existing rainforest. Problems will increase as newly planted vegetation matures. Yellow line depicts edge of restoration area.

3. Rainforest Restoration on adjoining land parcels

Conditions of Consent applied to DA 2014/31 require the neighbouring developer to undertake substantial reforestation works (Plate 4). In addition, an existing road reserve which separates the two developments will become isolated as the two developments proceed. Given this, it is expected that native and exotic vegetation will become established within the road reserve. Whilst the road reserve contains littoral rainforest EEC (Plate 5), Council notes the submitted BAR does not address the impact of the development on the rainforest growing within the road reserve.



Plate 4: Location of required reforestation works on adjoining land parcels.

The abovementioned restoration works and expected plant growth have the potential to increase bushfire risk and increase the need for the development to provide suitable mosquito buffers to residential properties.

Council suggests the introduction of a perimeter road may not only solve these issues but afford better protection of the existing rainforest and threatened bush nut trees found in this portion of the development site.



Plate 5: Littoral Rainforest growing within the adjacent road reserve located immediately adjacent to Lot 1.

4. Retention of Bush Nut Trees

Council notes the threatened species *Macadamia tetraphylla* is to be retained within proposed Lots 1 and either proposed Lot 51 or 52. In this regard the BAR does not address how the subject threatened species will be protected in perpetuity once residents occupy each of the subject lots. Expected impacts are likely to include removal of vegetation due to such things as fence construction and/or general occupation of the land. This has ultimately failed in other developments where Council has required threatened plants to be retained within urban allotments, as residents remove the subject plants with or without the consent of Council.

In addition, it remains unclear how the BAR can conclude the installation of the sewer line will not affect the health of the tree, given the BAR has not calculated the Tree Protection Zone (Australian Standard 4970-2009) for the Bush Nut tree growing on Lot 1

Council is of the opinion the subdivision should be redesigned to ensure protection is achieved by use of a perimeter road. The introduction of a perimeter road in this location will have a range of benefits including;

- Reduce land-use conflicts of residential allotments adjoining the rainforest growing within the road reserve.
- Act as a bushfire and mosquito buffer between the restored habitats depicted in Plate 4 and this development.
- Ensure the fence construction between residential allotments does not impact on the long-term health of the trees.
- Provide adequate separation to ensure the long-term protection of the Bush Nut trees growing on proposed Lots 1 and 51 or 52.

5. Bushfire Assessment

The Bushfire Report attached to the Department's web portal does not relate to the development site. Consequently, Council cannot comment on the adequacy of the submitted bushfire report. However, according to Council's records the development site is bushfire prone.



Plate 6: Ballina Council mapping confirming the development is bushfire prone.

6. Internal Roads

Internal road layout and accesses onto Road No. 5 are considered generally satisfactory. Road No. 2 road reserve width at 6.5m (5.5m pavement and 0.5m verge either side) is not satisfactory and needs to be widened to 8m wide road reserve (6m pavement and 1.0m verges either side).

7. Groundwater

There is concern that the proposed cuttings (to accommodate level splits on the live-work lots) on Sections D, E and F of the bulk earthworks plans may intercept ground water. There appears to be insufficient geotechnical investigation available at this time to clarify this issue. There needs to be further groundwater investigation for these proposed cut areas and solutions provided if groundwater is encountered, prior to issue of the Construction Certificate.

8. Existing Services

An existing overhead electricity line will require undergrounding where it crosses development lots.

9. Intended Land Uses

It is unclear how land uses associated with the 'work' component of the 'work/live' lots will be regulated. The term 'work-live' is considered too broad to regulate future uses, and could result in future land use conflict. It is therefore recommended that the future uses be limited to low impact uses such as 'business premises' and/or 'office premises'.

10. Work-Live Design

The live-work design guidelines are only general and do not include sufficient controls to guide the design and assessment of future proposals. It is recommended that a live-work design guidelines be amended to include more prescriptive controls that will assist in achieving the desired character of the precinct, guide built form and reduce conflicts on these lots (eg minimum requirements for open space, service areas, balcony setbacks and depth etc). As an example, the following additional requirements should also be included:

- Internal access is to be provided between ground and upper floors;
- The entire work component (business/office) shall be provided on the ground floor;
- All residential components shall be located on the upper floors (ie no residential component shall be provided on ground floor).
- The work component must have high ceilings with a minimum of 3.3m floor to ceiling height. The live component must have a minimum 2.7m floor to ceiling height.
- Development must be designed so that garbage collection areas and noise and odour generating operations are located away from living areas.
- The business (work) operator shall reside within the live component of the building on the same site. No part of the live/work development shall be separately leased or occupied.

11. Discrepancies in Plans

There appear to be numerous discrepancies between the proposed plans. For example, one plan shows work/live 27 lots and 26 work/live lots. All discrepancies should be rectified prior to determination of the application.

12. Staging

For clarity and ease conditioning it is suggested that the works relating to Modification 6 and Modification 7 be contained in separate stages under the project approval (eg Stage 1c and 1D), as these developments are unlikely to be undertaken at the same time and do not relate to each other. Once this issue has been addressed Council will be in a position to recommend consent of approval.

13. Conditions

If conditions from the original approval are to be reapplied they should be reviewed for currency to ensure they refer to current legislation, standards and practices.

If you have any enquiries in regard to this matter please contact Peter Drew on 1300 864 444.

Yours faithfully



Per: Matthew Wood
Group Manager
Development and Environmental Health

