

# EPIQ Lennox Head Modification 6

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Increase residential lots, amend the lot mix, introduce live-work lots, provide new commercial lots, amend lot layout and road network.

Section 75W Modification Assessment  
(MP 07\_0026 MOD 6)

September 2020



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# Glossary

Abbreviation	Definition
<b>Council</b>	Ballina Shire Council
<b>BCD</b>	Biodiversity and Conservation Division
<b>DA</b>	Development Application
<b>Department</b>	Department of Planning, Industry and Environment
<b>EESG</b>	Environment, Energy and Science Group, DPIE
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>EPI</b>	Environmental Planning Instrument
<b>LEP</b>	Local Environmental Plan
<b>Minister</b>	Minister for Planning and Public Spaces
<b>SEARs</b>	Planning Secretary's Environmental Assessment Requirements
<b>Planning Secretary</b>	Secretary of the Department of Planning, Industry and Environment
<b>Proponent</b>	Clarence Property Corporation Limited
<b>SEPP</b>	State Environmental Planning Policy
<b>TfNSW</b>	Transport for NSW

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# 1 Introduction

## 1.1 Background

This report provides the NSW Department of Planning, Industry and Environment's (Department) assessment of an application to modify the concept approval (MP 07\_0026) for a residential subdivision known as EPIQ Lennox (formerly Pacific Pines Estate) at Lennox Head in the Ballina local government area.

The modification application as originally submitted sought approval to amend the Concept Plan Approval and Project Approval for Super Lot 7, to:

- increase the number of residential lots from 47 lots to 59 lots
- introduce live-work lots
- amend the lot mix
- provide three neighbourhood commercial lots (for a tavern, storage facility and childcare)
- amend the lot layout and road network.

The application was lodged by Clarence Property Corporation Limited (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposal has since been amended in response to submissions and the current proposal is detailed in section 2 of this report.

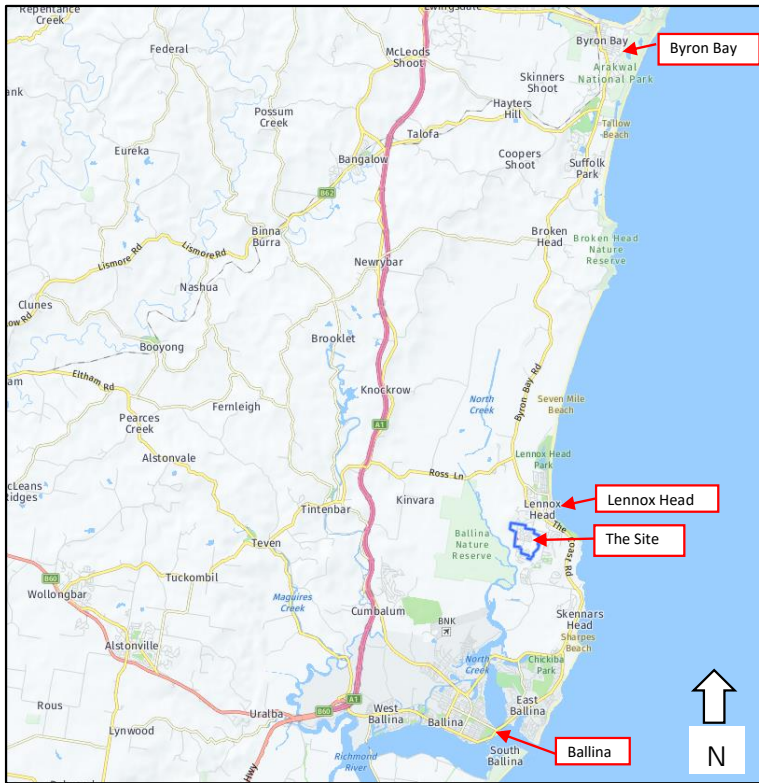
## 1.1 Subject site

The site is located at Lennox Head, approximately five kilometres (km) north-west of Ballina and 18 km south of Byron Bay. The site is also located approximately 2 km south-west of the Lennox Head Village Centre (**Figure 1**).

The site has an area of approximately 80 hectares (ha) and is irregular in shape. Works relating to the subdivision of the site have commenced, with Stages 1A, 1B, 2 and 3 having been subdivided and constructed and Stages 4 and 5 now in progress.

The modification application relates to an area identified as retirement community in the Concept Plan and Project Approval and is referred to as Super Lot 7 (5.6 ha) (**Figure 2**).

Low density residential areas, (either developed or planned) are located to the north and west of the site, and newly created lots on the site are located to the east. To the immediate south of the site are Council owned sports fields owned by Council, and to the south-west is the Ballina Nature Reserve.



**Figure 1 | Regional Context Map (Source: Mod 6 application documents)**



**Figure 2 | Local Context Map with the EPIQ site outlined in blue and Super Lot 7 outlined in red (Source: Mod 6 application documents)**

## 1.2 Approval history

On 12 November 2008, the then Minister for Planning granted concept approval for a mixed-use subdivision (then called Pacific Pines Estate) at Lennox Head (MP 07\_0026), comprising:

- residential subdivision of approximately 505 lots (between 450 m<sup>2</sup> and greater than 1,200 m<sup>2</sup>)
- a neighbourhood centre comprising up to 3,000 m<sup>2</sup> of retail floor space, 800 m<sup>2</sup> 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 m<sup>2</sup>)
- 25.1 ha of green space incorporating areas for conservation, revegetation and rehabilitation
- a road network connected to various existing roads.

The then Minister for Planning also granted approval for Stage 1 (MP 07\_0026), which included subdivision of 63 lots in the first three sub stages.

In addition to this modification, the concept and project approvals have been modified on six occasions and one other modification is currently under assessment, as summarised in **Table 1**.

**Table 1 | Summary of Modifications**

<b>Mod No.</b>	<b>Summary of Modifications</b>	<b>Approval Authority</b>	<b>Type</b>	<b>Approval Date</b>
<b>MOD 1</b>	Administrative changes ( <i>Project Approval</i> )	Department	75W	22 December 2008
<b>MOD 2</b>	Creation of two additional super lots in Stage 1, increase of retail space by 1,000m <sup>2</sup> , realignment of roads, increase the site of the ecological conservation area and other environmental works, and consolidation of staging ( <i>Project Approval and Concept Plan</i> )	Department	75W	8 August 2011
<b>MOD 3</b>	Administrative changes ( <i>Project Approval and Concept Plan</i> )	Department	75W	8 September 2011
<b>MOD 4</b>	Deletion of 18 residential lots, reduction of the retirement village lot size, deletion of the tavern lot, relocation of the community hall lot, associated amendment to staging, increase the size of the conservation zone, exclude the Pacific Pines Estate Design Guidelines, and amendment to the Concept Approval lapsing date ( <i>Project Approval and Concept Plan</i> )	Department	75W	13 March 2013
<b>MOD 5</b>	Increase retail floor space by 1,500 m <sup>2</sup> , increase the size of the neighbourhood centre lot by 6,660 m <sup>2</sup> , redesign the subdivision layout, including amend road layouts, lot typologies and lot sizes, relocation of Super Lot 3 and deletion of Super Lot 6, and associated environmental works ( <i>Project Approval and Concept Plan</i> )	Department	75W	20 April 2017
<b>MOD 6</b>	Increase the number of residential lots in Super Lot 7 from 47 lots to 59 lots, amend the lot mix, provide two neighbourhood commercial lots and amend the lot layout and road network ( <i>Project Approval and Concept Plan</i> )	Department	75W	Subject modification
<b>MOD 7</b>	Amendments to Super Lot 5, including to change the retirement community to small integrated housing, establish new detailed design guidelines for the proposed subdivision and development of Super Lot 5 and amend the lot layout and road network ( <i>Project Approval and Concept Plan</i> )	Department	75W	Under assessment
<b>MOD 8</b>	Amendment to the Concept Plan Statement of Commitment requiring delivery of a Community Hall within the Epiq site to require delivery of a Community and Sports Amenities Building on the adjacent Epiq sports fields ( <i>Concept Plan</i> )	Department	75W	23 June 2020



## 2 Proposed modification

### 2.1 Modification

The modification request (MP 07\_0026 MOD 6) seeks approval to amend the concept plan and project approval for Super Lot 7 by increasing the number of residential lots from 47 lots to 59 lots, introducing live-work lots, amending the lot mix, providing two new commercial lots, and amending the lot layout and road network. Amendments to the Design Guidelines for future development are also proposed.

A comparison of the original concept approval with the modification request as submitted and as amended post notification is shown in **Table 2** below:

**Table 2** | Comparison of original approval and Mod 6

Element	Concept Plan Approval	Original Mod 6 proposal	Current Mod 6 proposal
<b>Number of lots</b>	47	60	59
<b>Min. Lot Size</b>	Small affordable lots and park court lots - 400m <sup>2</sup> Traditional Lots - 600m <sup>2</sup> to 800m <sup>2</sup>	Live-work Lots – 187m <sup>2</sup> to 294m <sup>2</sup> Traditional Lots – 375m <sup>2</sup> to 870m <sup>2</sup>	Live-work Lots - 187m <sup>2</sup> to 294m <sup>2</sup> Traditional Lots – 366m <sup>2</sup> to 870m <sup>2</sup>
<b>Lot Mix</b>	47 residential lots	34 residential lots 26 live-work lots* 3 commercial lots	33 residential lots 26 live-work lots* 2 commercial lots

\*Live-work lots are integrated housing and employment for small business



**Figure 3** | Comparison of existing approved Concept Plan (left) and the proposed modification (right)

## 2.2 Proponent's Justification

The proponent has requested the modification on the following basis:

- meets forecast demand for residential and commercial development
- there is an identified need for the 'live-work' concept. This may reduce car dependency and provide workspace (commercial, technology centres, studios or similar) using the Design Guidelines submitted by the Proponent.
- commercial lot no. 61 will enable reinstatement of a tavern consistent with the Concept Plan. Under Mod 4, the tavern was placed within what is now the Conservation Zone
- commercial lot no. 60 will address unmet demand for local, neighbourhood scale, storage premises (the nearest existing storage facilities being located at Ballina and Byron Bay)
- the amended lot layout and road network responds better to the sloping land.

## **3 Strategic context**

### **3.1 North Coast Regional Plan**

The regional plan indicates that the Ballina to Lennox Head coastal strip has unique landscapes and cultural values that will form the basis for ongoing lifestyle and economic opportunities. In the Ballina Shire Local Government Area the plan seeks to support employment lands and jobs at Ballina, Wollongbar and Lennox Head and to deliver housing at Cumbalum, Wardell, North Creek Road and Lennox Head. The modification application is consistent with the regional plan in terms of delivering both jobs and housing within Lennox Head.

### **3.2 Ballina Shire Growth Management Strategy 2012**

This strategy sets the framework for managing population and employment growth in Ballina Shire up to 2031. The Strategy identified Lennox Head as coastal village within the regional settlement hierarchy and a key future growth area with new land releases to support the major regional centre of Ballina. Further growth of retail and commercial activity in the Lennox Head village centre was anticipated as well as smaller neighbourhood scale shopping facilities within the EPIQ Lennox site. The modification application is not inconsistent with the Strategy.

### **3.3 Lennox Head Structure Plan 2004**

This plan prepared by Ballina Shire Council provides a framework for the development of new urban release areas within Lennox Head. The subject site falls within Area K of the Structure Plan which is specific to the Pacific Pines Estate (now known as EPIQ Lennox Head). The plan requires that any future development of the site comply with the development principles within the plan and that the subdivision layout include community and commercial infrastructure envisaged in the layout within Ballina Shire Development Control Plan No.1 – Urban Land (note: DCP1 has now been replaced by Ballina Shire Development Control Plan 2012). The proposal has been designed taking into account the development principles within the plan.

## 4 Statutory context

### 4.1 Section 75W

The concept plan was originally approved under Part 3A of the EP& A Act. This means the project satisfied the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP Regulation), which came into effect on 1 March 2018.

Under the ST&OP Regulation, the power to modify transitional Part 3A projects under section 75W of the Act, as in force immediately before its repeal on 1 October 2011 is being wound up. However, as the request for this modification (in the form of Secretary's Environmental Assessment Requirements (SEARs)) was made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the carrying out of the project.

The Department of Planning and Environment (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.

### 4.2 Secretary's Environmental Assessment Requirements

In November 2017, the Proponent requested that the Secretary provide SEARs for the proposal and on 16 January 2018, the Department issued the SEARs for the modification request.

The Department has reviewed the EA against the SEARs and is satisfied that it adequately provides the information required in the SEARs to enable the assessment and determination of the request.

### 4.3 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the modification request. However, the Director, Regional Assessments, may determine the application under delegation, dated 9 March 2020, as

- Council has not made an objection
- a political disclosure statement has not been made
- there is one public submission objecting to the proposal.

### 4.4 Environmental Planning Instruments

The original concept approval (MP 07\_0026) was assessed against the provisions of the following Environmental Planning Instruments (EPIs):

- State Environmental Planning Policy (Major Projects) 2005
- State Environmental Planning Policy (Infrastructure) 2007

- State Environmental Planning Policy No. 14 (Coastal Wetlands)
- State Environmental Planning Policy No. 26 (Littoral Rainforests)
- State Environmental Planning Policy No. 55 (Remediation of Land)
- State Environmental Planning Policy No. 71 (Coastal Protection)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Ballina Local Environmental Plan 1987

While SEPPs 14, 26 and 71 have been replaced, the Department is satisfied the proposed modification remains consistent with those EPIs and does not significantly change the conclusions made as part of the original assessment.

The Department has also considered the proposal against relevant provisions of more recent EPIs, including SEPP (Coastal Management) 2018, SEPP (State and Regional Development) 2011 and the Ballina Local Environmental Plan 2012 and is satisfied that the proposal is consistent with these controls.

*State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)*

The Coastal SEPP consolidates and replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The Coastal SEPP identifies the site as being located within the Proximity Area for Coastal Wetlands and Coastal Environment Area and therefore, clauses 11 and 14 apply. The Department has considered the proposal against those clauses and is satisfied that the proposal is consistent with the Coastal SEPP as it does not seek to change the footprint of the development and would not result in any additional coastal impacts beyond those already assessed and approved in the original assessment.

# 5 Engagement

## 5.1 Department's engagement

The Department notified the modification request for 15 days between 25 October 2018 and 8 November 2018. The request was made publicly available on the Department's website as well as notified to surrounding landowners, occupiers, Council and relevant State agencies.

The Department received submissions from Ballina Shire Council (Council), The Office of Environment & Heritage (now NSW Heritage) and Transport for NSW (**Table 3**). The Department of Industry advised it had no comments. No public submissions were received when the modification was originally notified, although 11 public submissions (10 in support and one objection) were received when the Response to Submissions was notified.

## 5.2 Public Authority Submissions

The issues raised by public authorities are summarized in **Table 3** below. A link to the submissions is provided in **Appendix A**.

**Table 3 | Summary of public authority submissions**

### Ballina Shire Council

Council **did not object** to the proposal, however, it provided the following advice:

- The Biodiversity Assessment Report does not address excavation works close to the littoral rainforest on the northern boundary, nor impacts on the rainforest on the western boundary of the site
- Restoration works by the neighbouring developer to the immediate west may increase bushfire risk and the need for suitable mosquito buffers to residential properties
- The subdivision should be redesigned with a perimeter road to ensure protection of the rainforest and bush nut trees, to act as a bushfire and mosquito buffer and minimise land use conflicts
- The site is bushfire prone and the Bushfire Report does not relate to the development site
- Road no.2 road reserve needs to be widened from 6.5m to 8m (i.e. 6m pavement and 1m verges either side)
- Need for further groundwater investigation and solutions prior to the issue of a construction certificate prior to earthworks commencing
- Suggested undergrounding of existing overhead electricity line where it crosses development lots
- It is unclear how the 'work' component of 'live-work' lots will be regulated. To avoid future land use conflict, it is recommended that future uses be limited to 'business premises' and/or 'office premises'.
- The Live-Work Design Guidelines should be amended to include more prescriptive controls.
- There appear to be numerous discrepancies between the proposed plans e.g. 26 versus 27 live-work lots.
- For clarity and ease of conditioning, Mod 6 and Mod 7 should be contained in separate stages under the project approval (e.g. existing Stage 1C and ID).

## Transport for NSW

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TfNSW **did not object** to the proposal and provided the following advice:

- an updated Traffic Transport and Accessibility Impact Study be provided
- footpaths should be provided on both sides of the road around mixed use and retail facilities, not on one side of the road as proposed

## Office of Environment and Heritage (now Biodiversity and Conservation Division of DPIE)

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BCD **did not object** to the proposal and advised as follows:

- supports adoption of the recommendations made in the *Aboriginal Cultural Heritage Assessment* relating to aboriginal object find procedure, including aboriginal human remains and the conservation principle of avoiding or mitigating impacts.

### 5.3 Response to submissions

On 9 July 2019 the Proponent provided a Response to Submissions (RtS) to respond to the issues raised in submissions (**Appendix A**). The Department made the RtS publicly available on its website.

In their Response to Submissions (RtS), the proponent made the following changes to the proposal:

- removal (supported by a five-part test of significance) of one Rough-shelled Bush Nut tree on Lot 1 given the Council resources required to protect a single threatened species tree within a private lot
- amendments to the subdivision layout and civil design package that:
  - consolidated lots 17 and 18
  - consolidated the three proposed mixed use lots into two lots given that Council is not pursuing community childcare use on Super Lot 7
  - increased Road no.2 road reserve from 6.5m to 7m in consultation with Council's Development Engineer
  - included a 1.8m footpath along the western side of Road 1 and Road 4 in front of the live-work lots in response to comments from TfNSW.
- amendments to the Live-Work Design Guidelines in response to Council comments including lots being limited to low impact uses, the business (work) operator required to reside on site and no part of the live-work developments being separately leased or occupied.

As part of the RtS, the proponent also submitted correspondence from Council indicating that Council no longer raised concerns subject to suitable conditions being imposed.

The RtS was publicly exhibited for 15 days from 12 May to 26 May 2020. The RtS was made publicly available on the Department's website, was referred to Council and relevant agencies and notified to adjoining landowners.

In response to exhibition of the RtS:

- Council advised that the information provided generally addresses Council's previous concerns and council raises no objection to the modification
- BCD raised no further issues
- The NSW RFS provided recommended conditions
- TfNSW raised no further issues
- Eleven public submissions were received regarding the proposed tavern with ten submissions in support and one objection. This is discussed in the Assessment section below.



## 6 Assessment

In assessing the merits of the proposed modification, the Department has considered the:

- modification request and associated documents (**Appendix A**)
- original Environmental Assessment (EA) and conditions of approval, as modified
- submissions received on the proposal
- relevant EPIs, policies and guidelines
- requirements of the EP&A Act.

The Department considers the key assessment issues are the impacts of the proposed new tavern on the local residents, biodiversity impacts, size and operation of the live-work lots, residential lot sizes, and bulk earthworks.

### 6.1 Commercial Lots – Tavern

The proposal includes two commercial lots, one for the purpose of a tavern (4000 m<sup>2</sup>) and one for a storage premises (4600 m<sup>2</sup>). A third commercial lot was originally intended for a Council childcare facility, although this was subsequently removed on Council advice that it would not proceed.

A tavern formed part of the approved concept plan, although the initial location was ultimately included within a conservation area. The focus of all public submissions was the tavern. Of the 11 public submissions, 10 support the proposal on the basis that:

- residents were aware from the concept plan that a tavern was intended within the EPIQ Lennox Estate
- it will be separated from the core residential area within Super Lot 7
- it will provide a family friendly local meeting place as well as create jobs
- potential impacts will be assessed as part of a future DA

The one public objection to the tavern raised concerns with potential visual and noise impacts and drink driving potentially affecting residents 50m away on Hutley Drive and Pintail Lane. The objector indicated that the tavern would be better located near the shopping centre.

The Department is of the view that the tavern is an acceptable use in this location as:

- visual, noise and other potential impacts can be addressed at building design and DA stage including car parking design and layout and landscaping treatments
- it will provide local employment and a community asset
- adequate separation distances to surrounding homes is achieved via roadways on all sides of the tavern lot in addition to a landscaped buffer along Hutley Drive to the east. The location of the adjoining storage facility and live-work lots provides further separation between the tavern and residential lots to the west (**Figure 4**).



**Figure 4 | Separation distance between the proposed tavern and residential uses**

The Department notes, the Modification Report identifies these two lots for “neighbourhood commercial” use, but seeks describe them as “mixed use lots” when amending the Concept Plan. However, it is recommended that the term “commercial lots” be used as there is no intention to incorporate any residential component within these lots.

## 6.2 Biodiversity

The development is subject to an Environmental Management Plan that identifies Management Zone 1 within the boundary of Super Lot 7. Management Zone 1 provides a 100m x 100m buffer to protect an area of SEPP 26 Littoral Rainforest occurring to the north west of the site (**Figure 5**). The configuration of Zone 1 is proposed to be modified to allow for the intended road layout (**Figure 6**). The existing 9,678 m<sup>2</sup> area of this Zone would consequently be reduced by 11% to 8,570 m<sup>2</sup> and will result in the removal of a stand of eight mature littoral rainforest trees.

The modification report submitted with the application indicates that the adjustment of the lot boundary will continue to satisfy the 100m buffer distance to the SEPP 26 Littoral Rainforest. Therefore, adjusting the boundary of Management Zone 1 is acceptable given that the modification will not impede its intended function and the reduction in area is not significant.

A small stand of regrowth Swamp Oak will be removed, although these trees were approved for removal in 2008 within the original DA concept and project approval. A larger area of Swamp Oak has been conserved within the Conservation Zone (**Figure 5**).

It was originally intended to retain a single mature Rough-Shelled Bush Nut tree (which is a threatened species under both the *Biodiversity Conservation Act 2016* and the *Environment*

Protection and Biodiversity Conservation Act 1999) along the western boundary within residential Lot 1, although its removal is now requested. The Proponent has undertaken a five-part test and says the removal of this single specimen would not result in a significant impact, given the retention of numerous other Rough-shelled Bush Nut within the EPIQ Lennox Estate.

The Department considers that removal of the Rough-shelled Bush Nut tree located within proposed Lot 1 could be supported as council has raised concerns regarding ongoing monitoring and protection of a single tree (**Figure 5**). It is the Department's view that an application to remove the single tree should be considered and determined by Council. A condition to this effect has been recommended.



**Figure 5 | Location of Management Zone 1 and impacted vegetation**



**Figure 6 |** Proposed lot configuration for Management Zone 1 (labelled Regeneration Area)

### 6.3 Live-Work Lots

26 live-work lots are proposed to integrate housing with work premises such as commercial, technology centre or studio uses.

#### Lot size

The proposed live-work lots range in size from 187m<sup>2</sup> to 294 m<sup>2</sup>. The proponent justifies the inclusion of these lots as follows:

- a high level of car dependency in regional areas and a growing trend towards home-based business activity
- live-work lots are not a new concept with the approved Habitat development in Byron Bay providing a built example.

The Department is of the view that the proposed small lots for live-work purposes are acceptable given that the lot size range is consistent with lot sizes supported elsewhere in NSW (including Sydney’s Growth Centres) and adequate on and off site parking will be provided.

#### Number of workers and parking provision

The Department is of the view that a limit should be placed on the maximum number of workers that may be permitted for each live-work lot to ensure that these lots meet the intended purpose of catering to small home businesses, are adequately serviced by car parking and minimise potential for land use conflict. The modification report provided by the proponent indicated the likelihood that more than two staff may be required and therefore it is recommended that a limit of four workers (including the owner) be permitted to operate from each live-work lot.

These lots will have two parking spaces for each dwelling in addition to 45 on street parking bays fronting the live-work lots to provide for staff parking. This level of parking provision is considered adequate given:

- not all live-work lots will utilise three staff in addition to the owner of the premises
- not all staff will work full-time and occupy a car space all day

- staff may work from home and not require a parking space
- some workers may walk, cycle or catch as bus to work, rather than drive

#### **6.4 Residential Lot Sizes**

The original concept approval included traditional residential lots with areas between 600 m<sup>2</sup> and 800 m<sup>2</sup>. The proposal seeks to reduce the minimum lot size to include 33 lots with areas between 366m<sup>2</sup> to 870 m<sup>2</sup>. The proponent has justified this variation with reference to the approval of 'Park Lots' in Stage 2 which have a minimum area of 392 m<sup>2</sup>. Reduction of the minimum lot size for traditional residential lots is considered acceptable given the minor variation in minimum area from other residential lots approved within the EPIQ Lennox Estate and that no public or agency objections have been raised regarding the change in lot size

It is noted that Council applied a condition of development consent to the Park Lots requiring that each building design be approved through a design review panel, although Council has not raised this with regard to Super Lot 7. In this case, a design review process is not considered necessary as the proponent has submitted Live-Work Design Guidelines that specifically address the needs of live-work lots and have undergone review and revision as part of the MOD 6 assessment process.

#### **6.5 Bulk Earthworks**

Approximately 27,000 cubic metres of fill will be required utilising an existing temporary stockpile on the site to create a maximum fill height of 2.5m and a maximum cut depth of 2.5m. Due to the slope of the site and the orientation of allotments, most of the terracing and retaining walls will occur along side boundaries. Where street facing retaining walls are proposed however, it is recommended that the walls be constructed of suitable materials that do not detract from the future streetscape.

## 7 Evaluation

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 that the proposed modification is appropriate as it:

- complies with the relevant statutory provisions and remains consistent with relevant EPIs
- is substantially the same development as originally approved, and does not result in adverse environmental impacts
- continues to ensure the delivery of community infrastructure and social benefits to residents within the EPIQ Lennox estate and the wider community

Consequently, the Department is satisfied that the modification request is in the public interest and should be approved.

## 8 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces

- **considers** the findings and recommendations of this report
- **determines** that the application MP 07\_0026 MOD 6 falls within the scope of section 75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent MP 07\_0026 and concept plan
- **signs** the attached approval of the modification (**Appendix B**).

**Recommended by:**



**Lillian Charlesworth**  
Specialist Planning Officer  
Regional Assessments

**Recommended by:**



**Silvio Falato**  
Team Leader  
Regional Assessments

## 9 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink, consisting of the letters 'K' and 'T' followed by a long horizontal stroke.

12 October 2020

**Keiran Thomas**

Director

Regional Assessments

as delegate of the Minister for Planning and Public Spaces



# Appendices

## Appendix A – Relevant Supporting Information

1. Modification request

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9082](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9082)

2. Submissions

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9082](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9082)

3. Additional information

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9082](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9082)

## Appendix B – Modification of Development Consent and Concept Plan

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9082](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9082)