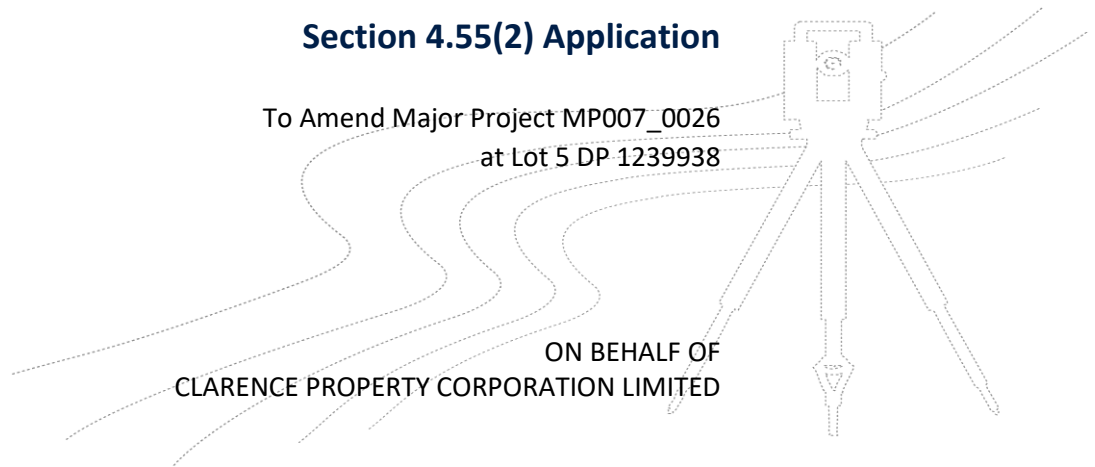


Section 4.55(2) Application

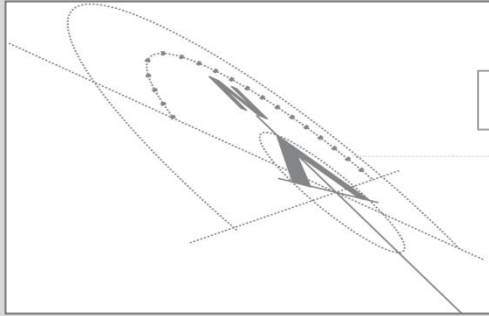
To Amend Major Project MP007_0026
at Lot 5 DP 1239938

ON BEHALF OF
CLARENCE PROPERTY CORPORATION LIMITED



Our Ref: 140351

Date: July 2022



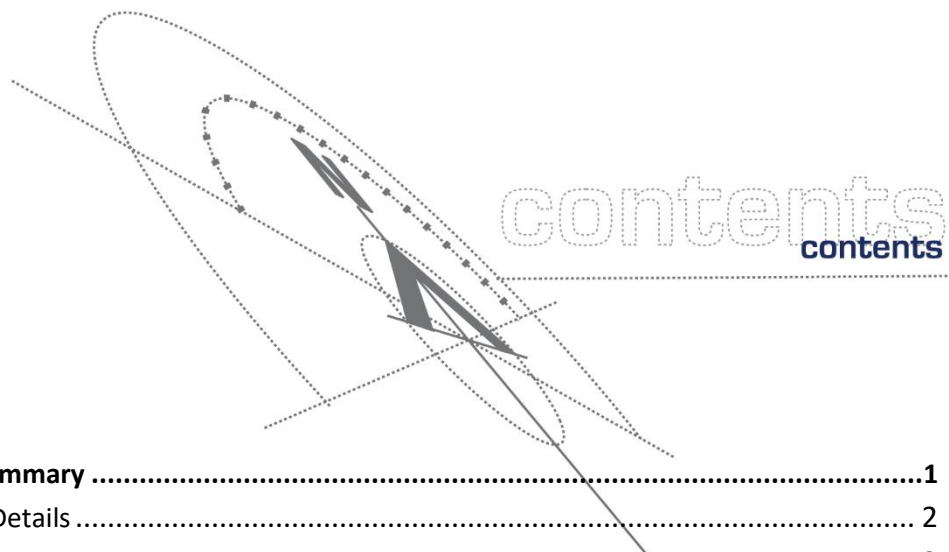
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USAGE NOTE:

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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 the Department of Planning & Environment.



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1. Executive Summary

Newton Denny Chapelle (“NDC”) is engaged by Clarence Property Corporation Limited (“Proponent”) to submit a request to the Minister for Planning & Environment to modify the Concept Plan 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 key elements of the Concept Plan & Project Approval (MP 07_0026) which are sought to be amended via the current application relate to approved ‘Super Lot 5’ (Lot 5 DP 1239938) and involve:

- Amending the residential use under the Concept Plan for Super Lot 5 from ‘retirement community’ to ‘small lot integrated housing’ to be developed as Stage 1C under the Project Approval;
- Establishing detailed design guidelines for the proposed subdivision and development of Super Lot 5 to supersede the current retirement community design guidelines;
- Amending the lot layout and road network to respond to the revised proposal;
- Amendment to Project Approval conditions to address current standards; and
- Minor administrative amendments to reflect development approvals issued for the Subdivision;

A formal request for the Secretary’s Environmental Assessment Requirements (SEARs) was lodged with the Department of Planning & Environment. The Department upon review of the sought amendments and consultation with relevant government agencies issued the SEARs in January 2018.

The modification will result in Project Approval being issued for the subdivision of Super Lot 5, whilst a separate development application will be required to be lodged with Ballina Shire Council for the proposed dwellings. Reference is made to the fact the torrens title lots will not be sold as vacant land with the proponent to create house and land packages, and thereby constructing the homes pursuant to the proposed design guidelines prior to their sale.

Ballina Shire Council will be the Principal Certifying Authority for civil works associated with this amendment.

1.1 Site Details

The site details relevant to the proposed development are provided within the below table.

Table 1: Site Details

Property Description	Lot 5 DP 1239938 Parish of Ballina County of Rous
Registered Owner	Clarence Property Corporation
Proponent	Clarence Property Corporation
Applicant	Newton Denny Chapelle for and on behalf of the proponent
Local Authority	Ballina Shire Council
Site Area	4.17 hectares
Easements	No
Existing Land Use	Vacant
Local Planning Instrument	Ballina Local Environmental Plan 2012
Land Zoning	R3 – Medium Density Residential

1.2 Purpose

This report is intended to accompany the S.4.55 Application prepared by Newton Denny Chapelle for and on behalf of the proponent of the subject development.

This report provides an assessment of the proposed amendment pursuant to the provisions of S4.55(2) of the Environmental Planning & Assessment Act.

1.3 Structure of Report and its Scope

This report is divided into the following structure.

Section 2 – Proposed Development: Describes the proposed amendment to the approved development for which this application is seeking planning consent.

Section 3 – Statutory and Policy Planning Assessment: Examines the consistency of the proposed development with the provisions of relevant planning policies, objectives, statutory instruments and legislation.

Section 4 – Conclusion: Provides a summary of the planning report and demonstrates the suitability of the development.

1.4 Additional Information

Should the Department of Planning and Environment require any additional information, or wish to clarify any technical matter raised by this proposal or submissions made to same, the Department is requested to consult **Mr Damian Chapelle** on **6622 1011** or **dchapelle@ndc.com.au** prior to the determination of this application.

2. Amendment

2.1 Proposed Amendment

The proposed modification as outlined in further detail within the NDC modification report (August 2018), seeks to undertake amendments to the Concept Plan & Project Approval (MP 07_0026). The key changes proposed for the approved development:

- Amending the Concept Plan for Lot 5 from 'retirement community' to 'small lot integrated housing' to be developed as Stage 1C under the Project Approval;
- Establishing detailed design guidelines for the proposed subdivision and development of Lot 5 to supersede the current retirement community design guidelines;
- Amending the lot layout and road network to respond to the revised proposal to secure Project Approval for 102 residential lots; and
- Minor administrative amendments to reflect development approvals issued for the Subdivision;

3. Assessment of Environmental Planning Instruments

The proposal encompasses the modification of a Major Project approval for an urban subdivision pursuant to Section 4.55 of the Environmental Planning & Assessment (EP&A) Act. The assessment of the proposed amendment is undertaken in accordance with the relevant provisions of the EP&A Act which in this instance is:

- Section 4.55(2) Other Modifications
- Section 4.15(1) Evaluation

3.1 Section 4.55(2) Environmental Planning & Assessment Act 1979

Pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, the following assessment is provided with respect to the proposed modification to Major Project MP 07_0026

Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (the Act) addresses modifications to a development consent involving minimal environmental impact and provides that a consent may be modified if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:
(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be*

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all),

Comment: In seeking the modification to Major Project MP 07_0026 regard is made to *Agricultural Equity Investments Pty Limited v Westlime Pty Limited (No.3) [2015] NSWLEC 75* where Justice Pepper sets out a useful summary of the relevant principles to the consideration of "substantially the same". She observed the applicable legal principles governing the exercise of the power may be stated as follows:

1. the power contained in the provision is to "modify the consent". Originally the power was restricted to modifying the details of the consent but the power was enlarged in 198. Parliament has therefore "chosen to facilitate the modification of consents, conscious that such modifications may involve beneficial cost savings and/or improvements to amenity";
2. the modification power is beneficial and facultative;
3. the condition precedent to the exercise of the power to modify consents is directed to "the development", making the comparison between the development as modified and the development as originally consented to;
4. the applicant for the modification bears the onus of showing that the modified development is substantially the same as the original development;
5. the term "substantially" means "essentially or materially having the same essence";
6. the formation of the requisite mental state by the consent authority will involve questions of fact and degree which will reasonably admit of different conclusions;
7. the term "modify" means "to alter without radical transformation";
8. in approaching the comparison exercise "one should not fall into the trap" of stating that because the development was for a certain use and that as amended it will be for precisely the same use, it is substantially the same development. But the use of land will be relevant to the assessment made under s 96(2)(a);
9. the comparative task involves more than a comparison of the physical features or components of the development as currently approved and modified. The comparison should involve a qualitative and quantitative appreciation of the developments in their "proper contexts (including the circumstances in which the development consent was granted)"; and
10. a numeric or quantitative evaluation of the modification when compared to the original consent absent any qualitative assessment will be "legally flawed".

Having regard to the referenced principles from *Agricultural Equity Investments Pty Limited v Westlime Pty Limited (No.3) [2015] NSWLEC 75*, the proposed amendment to the Major Project Concept Plan and Project Approval is considered to be substantially the same based on the following assessment, derived from both a qualitative and quantitative assessment of the proposed amendments.

The proposed amendments encompassed into this modification would not result in any of the following:

- significant change to the nature or intensity of the use;
- significant change to the relationship to adjoining properties;
- adverse impact on neighbours from the changes (drainage overflow, overshadowing; visual and noise intrusion; traffic generation, etc); and
- change to the scale or character of the development.

Accordingly, the proposed modification would not change the essential features of the approved development. The proposal simply seeks to provide for the development of Lot 5 for integrated residential housing which transitions from the approved retirement village courtyard units. We highlight Modification 2, removed the aged care component of the retirement village, resulting in the provision of independent living units with no overarching aged care provider.

Importantly, the proposal retains the same footprint as that originally approved and ensures the 20m buffer to the Conservation Management Zone is included in the layout to address Condition B10 of the Concept Plan.

Further, the proposed modification is substantially the same as originally approved given, in our view, the original consent for MP 07_0026 provided some latitude in relation to its design and operation when reference is made to the approved Concept Plan. In this regard, we are of the view that the proposed residential use and associated subdivision are within the scope of works originally consented to and can therefore be approved as part of a modification application.

We believe the proposed subdivision layout is substantially the same as envisaged for the subject site, for the following reasons:

- The subject development area was approved for residential housing (retirement) with an associated subdivision layout. The proposed modification provides for the continued utilisation of Lot 5 for residential accommodation. The transition from retirement village to integrated residential housing will ensure the key components of the Concept Plan are retained within the modified approval. Specifically, the key elements of medium density housing, proximity to key neighbourhood facilities and housing affordability are deliverables maintained through this amended proposal.
- The consent did not contain definitive design specifications for the future housing, civil design and road layout. As such, it is reasonable to assume that some latitude would have been available in the detailed design of the approved works. Importantly, the form of subdivision is retained by the current proposal as the Concept Plan identified smaller residential housing lots (180m²) which are already below the prescribed area pursuant to Clause 4.1A of the Ballina LEP. Reference is also noted to the fact the approval for the retirement community envisaged some 124 residential lots, hence at a density comparable to that proposed (102 residential lots) in this instance.

- There is little detail in the approved plans, including no final approved levels or grades of land. As mentioned above, this is because the Concept Plan allows a reasonably broad scope of works. The works proposed in this modification application generally accord with the original approval. Reference is made to the fact the amended proposal adheres to the bulk earthworks plan (Plan C5) and stormwater concept plan (Plan C7) for the site.
- The consent was for a Major Project, approved by the then Minister. The area the subject of that consent was at least 80 hectares, and involved significant earthworks, landscaping and construction. In this context, the final detailed design of the internal layout for Lot 5 was not specified and, as discussed above, only broadly defined. The works the subject of this modification application are, in our view, squarely consistent with the originally approved scope, particularly if such works contribute to the delivery of residential housing as envisaged by MP 07_0026.

With respect to remaining Section 4.55 (2) matters it is relevant to note that:

- this 4.55(2) application concerns modifications to an approved development that does not require the concurrence of the relevant Minister, public authority or other approval body.
- the proposed modifications would not result in anything other than minor environmental impacts, as illustrated within the technical reports which support the proposal and the amended layouts consistency with the requests from the Biodiversity Conservation Division to incorporate the 20m buffer to all residential lots pursuant to condition (B10) of the Concept Plan.
- notification of this application is a matter for the DPE. Based on DPE notifying the application and receiving any submissions the applicant requests the opportunity to provide a response to any issues raised, prior to the application being determined.

From the above it is evident that the proposal satisfies all provisions of Section 4.55 (2) and that DPE can categorise the application as one having minimal environmental impacts.

3.2 Section 4.55(3) Environmental Planning & Assessment Act 1979

Section 4.55 (3) of the Act requires that in determining an application for modification of a consent, the consent authority must take into consideration such of the matters referred to in Section 4.15 (1) of the Act as are of relevance to the development the subject of the application.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take

into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

3.2.1 Section 4.15(1)(a) Evaluation

(a) the provisions of:

(i) any environmental planning instrument,

Ballina Local Environmental Plan 2012

The Ballina Local Environmental Plan 2012 applies to the site identified as being suitable for urban purposes. Discussion regarding the application of Ballina Local Environmental Plan to the proposed subdivision is provided below.

Zoning Objectives & Planning Permissibility

Plate 1 illustrates the zoning framework applied to the land via Ballina Local Environmental Plan 2012.

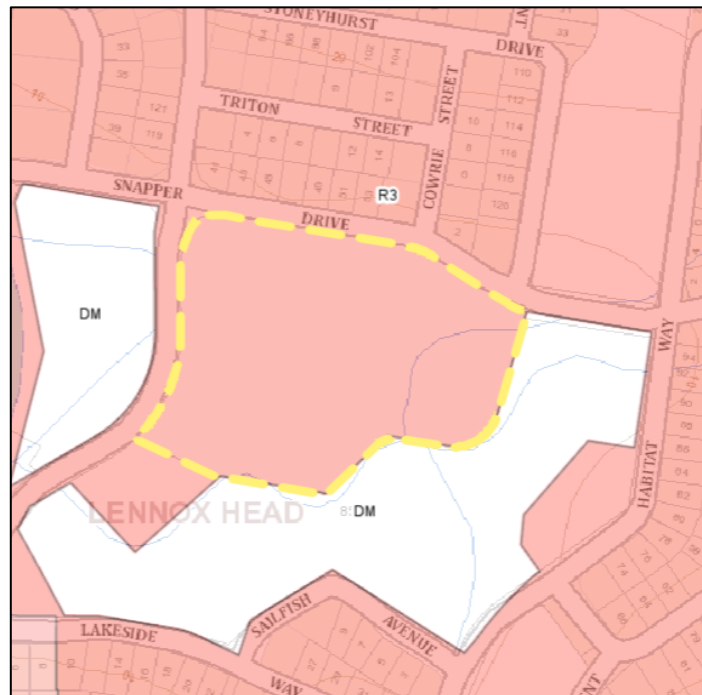


Plate 3: Extract BLEP 2012 Zoning Map

(Source: Planning Portal 2022)

As illustrated above, Lot 5 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 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.*

Comment: The proposed residential subdivision and future dwellings are identified consistent with the R3 zone objectives in so far as the development will provide for the housing needs for the Lennox Head community through a variety of housing types within the Epiq Lennox estate. Importantly, the R3 zone specifically relates to a medium density environment which this proposal will achieve.

The density of the development upon Super Lot 5 is commensurate to the current approval for the site under the Concept Plan, albeit for retirement living. Furthermore, the Ballina DCP 2014 whilst not establishing a specific dwelling density for the subject land nominates a density of 1 dwelling/250m² for the Lennox Head village area. Applying this density to Super Lot 5 (4.2 ha) would equate to some 168 dwellings which is in excess of the density sought under the proposed amendment.

Further to the zone objectives, residential dwellings permissible are under the BLEP 2014 as illustrated 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 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

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

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.

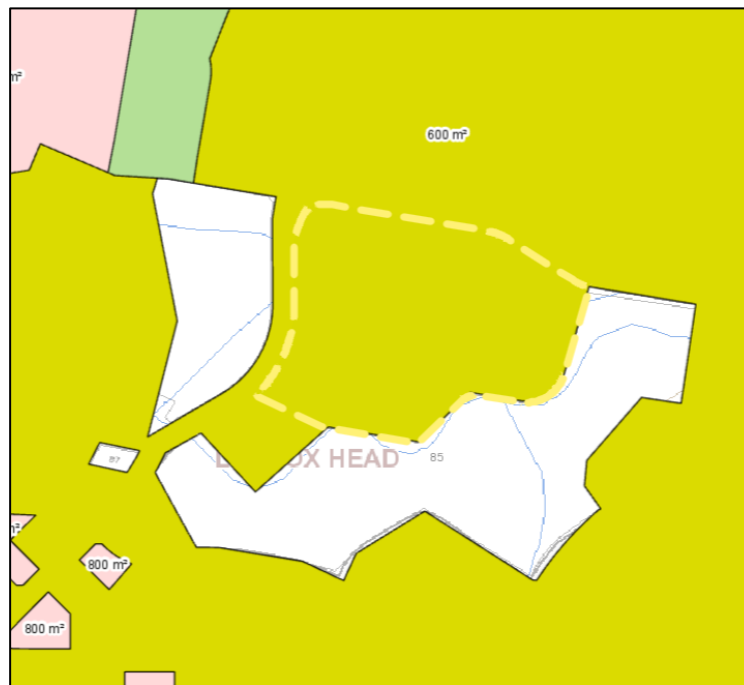


Plate 4: Extract of Ballina LEP 2012 Lot Size Map showing subject land.

(Source: Planning Portal 2022)

Comment: The minimum lot size nominated for the land under the Ballina LEP is nominated at 600m², whilst Clause 4.1A permits torrens title lots down to 300m² for proposals over 4 lots comprising integrated housing. The current Concept Plan provides for the creation of 'Retirement Lots' within Super Lot 5 with lots of some 180m², thereby already below the prescribed LEP minimum lot size.

This modification will seek to incorporate a minimum lot size of 135m² for the proposed torrens title residential lots. Reference is made to the fact the retirement lots under the current Concept Plan did not have a prescribed minimum lot size, despite a subdivision configuration being provided on Concept Plan C8.

Reference is made to the *Pacific Pines Lennox Head Design Guidelines* (2008) which included specific provisions for the Retirement Village as endorsed under the Concept Plan. Section 5.2 of the guidelines identified lot sizes for the retirement village ranging from 180m² – 270m² as illustrated in **Plate 3** below.

Based on the lot design and areas contained within the endorsed design guidelines, there was recognition within the Concept Plan that the lots would be below the prescribed 600m² lot size for this portion of the site.

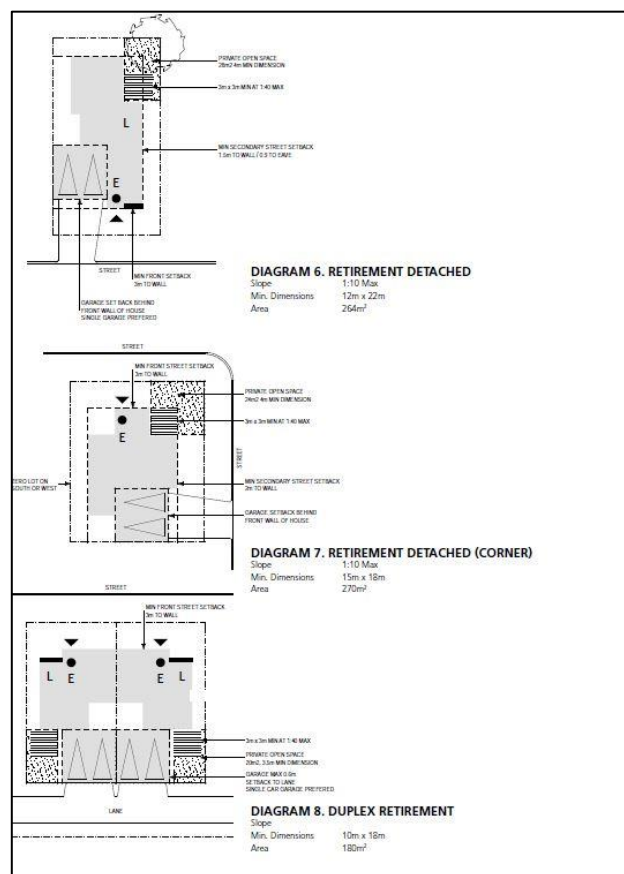


Plate 5: MP07_0026 Pacific Pines Estate Lennox Head – Design Guidelines ((Dieke Richards- 2008)

Clause 7.1 – Acid Sulfate Soils

Comment: Super Lot 5 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 which is addressed in greater within the Engineering Services Report contained within Attachment 4 of the Major Project Amendment Report (August 2018).

In this regard, the site has previously been filled as part of previous stages of the Epiq Lennox Development. Any excavation below the original natural surface level will be undertaken in accordance with the Acid Sulfate Soil Management Plan – Pacific Pines Stage 1B plan prepared by Geolink (dated 27/08/2014). This plan is attached in Appendix B of the Engineering services Report.

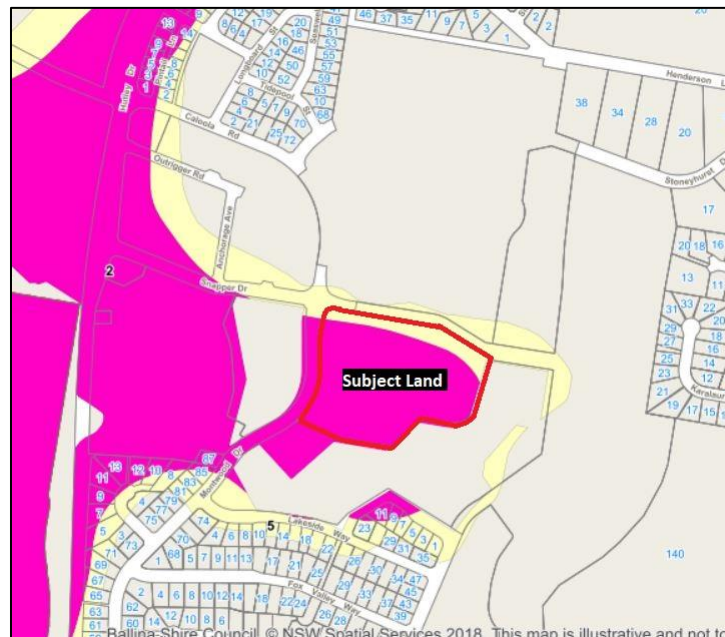


Plate 6: Acid Sulfate Soil Mapping (source BSC Intramaps 2022)

Clause 7.2 – Earthworks

Comment: The site has been filled as part of previously completed civil works as part of the earlier stages of Epiq Lennox. The Release 3 temporary sediment basin is currently located on the northern portion of the site. Upon completion of Release 3 this basin will be backfilled to a Level 1 Standard. All building sites will be filled to a level above 3m AHD above the prescribed level of 2.65m AHD for flooding.

Retaining walls will be required along the northern and western boundaries of the site. The walls along the northern boundary will be in cut to a maximum depth of 2.2m expected. The retaining walls along the western boundary will be in fill to a maximum height of 1.6m. The site is expected to require 2,220m³ of additional fill (excluding remediating the temporary sediment basin) with a maximum fill depth of 2.0m and cut depth of 1.75m.

The final bulk earthworks will be subject to detailed civil designs to be lodged with Ballina Shire Council to secure the required Subdivision Works Certificate.

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). It is anticipated that the site will be provided with two connection points to the surrounding Lennox Head reticulation network. One connection will be into the existing mains within Montwood Drive with the other connection into the new mains within Snapper Drive (to be installed as part of Release 3).

Modelling of the greater water reticulation networks 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:

A new gravity reticulation network will be installed throughout the development to service all residential allotments. A new sewer pump station with access from Montwood Drive will be installed in the south west portion of the site to service the development. Extensive feasibility investigations have determined that connection of the site to the existing surrounding gravity sewer network is not possible.

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 5 site will be in accordance with the Gilbert and Sutherland plan. Stormwater treatment and attenuation will be provided downstream by the Water Quality Control Pond (WQCP) in accordance with the plan. The WQCP has already been constructed as part of the previous stages of the Epiq Lennox development.

Access:

Access to the development will be from Montwood and Snapper Drives in accordance with the approved Concept Plan. The Road and Road Reserve widths are generally in accordance with the residential road characteristics specified in the Northern Rivers Local Government Development Design Manual.

Reference should be made to the Engineering Services Report provided within the modification application report dated August 2018 for further discussion on infrastructure services.

Ballina Shire Affordable Housing Strategy (2010)

The purpose of this strategy is to outline a range of initiatives that Council and others may pursue to improve housing affordability in Ballina Shire. The viability of these strategies is dependent, however, on a number of factors 'coming together', in terms of Federal and State Government activities, private and/or 'third-sector' interests and financial circumstances.

The Strategy identifies the competition for housing in Ballina Shire is strong, due to rapid and sustained population growth and tourist pressures, particularly because of the increasing popularity of the area as a 'sea change' destination for retirees.

In respect to income levels, the Ballina Shire is an area where incomes are relatively low, while rents and housing prices are relatively high. The level of income an individual or household earns has a significant impact upon the type of housing that they are able to access.

In identifying measures to address housing affordability, the Strategy highlights Council's important role in encouraging developers to provide a greater diversity of dwelling types in residential developments. To this end, the Strategy states;

In Ballina Shire's case, consideration may also need to be given to the potential for intensification of residential development in existing urban areas in proximity to commercial and community services and facilities.

The retention of a residential housing project is achieved through the sought modification. The ability to recognise the medium density zoning of the land and to provide an integrated housing project provides the opportunity to present the market with entry level housing which critically is within walking distance to the planned neighbourhood shopping facility, sporting facilities and childcare. The proposal is considered to adhere to the strategic direction of Council's Affordable Housing Strategy.

Lennox Head Structure Plan (2004)

The Lennox Head Structure Plan provides the framework for the development of new urban release areas in the Lennox Head district. The need for the Structure Plan was identified in the Lennox Head Community Aspirations Strategic Plan, which was adopted by Ballina Shire Council in November 2002.

The Lennox Head Structure Plan outlines Ballina Shire Council's broad strategy or "Blue Print" for the growth and development of Lennox Head. All development of new release areas in Lennox Head will need to comply with the framework established by the Structure Plan.

The subject land is located within Area K of the Structure Plan. Area K involves the remaining stages of Pacific Pines Estate (now called Epiq Lennox Head). The Structure Plan provides the following outline for the estate.

Ballina Shire Development Control Plan No.1 – Urban Land identifies the Council endorsed layout for the Estate and nominates land use designations for all land within the Estate. This layout includes sites for a neighbourhood shopping centre, community centre, playing fields and local playgrounds. However, the recent introduction of State Environmental Planning Policy No.71 - Coastal Protection (SEPP 71) has meant that it is necessary to revisit the layout of the Estate to ensure that it is consistent with contemporary planning practice. This requires the preparation and approval of a Master Plan pursuant to SEPP 71. A draft Master Plan for the subdivision of the remaining 580 lots has been lodged with the Department of Infrastructure, Planning and Natural Resources. The Master Plan proposes significant changes to the layout of future stages of the Estate.

Of particular reference to the proposed modification is the requirement to address the development principles contained within Section 2.2.3 of the plan. Accordingly, an assessment of the relevant provisions is contained within **Table 2** below.

Table 2: Lennox Head Structure plan Development Principles Assessment

Structure Plan Provisions	Assessment Commentary
Village Atmosphere & Lifestyle Principles	
Housing Design	<ul style="list-style-type: none">• The planned subdivision layout and associated built form is sensitive to the form and character to the natural environment and terrain through the ability to utilise land already approved for earthworks to create the final landform.• The proposal provides the impetus to supply the Lennox Head area and more specifically Epiq Lennox with a range of housing types and densities. Of critical importance is the proposed higher density development planned for Lot 5 is located close to activity nodes,

	<p>thereby servicing the daily needs of future residents and within walking distance.</p> <ul style="list-style-type: none"> • The subdivision will result in differing housing options within the Epiq Lennox Head estate. In this respect, residents will be offered conventional lots on 800m² through to integrated housing. The proposed dwelling designs provide four (4) design options which are based on coastal lightweight construction and associated colour schemes. • The scale of development is responsive to the already approved retirement village lots whereby 124 lots are approved within the Concept Plan for Lot 5. In this regard, the proposed subdivision and associated design guidelines will offer a style and scale of development which is sensitive to the character, climate and topography of the immediate locality. • The proposed residential subdivision affords predominantly a north-south lot orientation thereby providing scope to maximise solar access for each residential dwelling. The building designs also adopt architectural elements to capture the prevailing summer breezes; incorporate eaves & overhangs for sun and rain protection.
Transportation & Walkability	<ul style="list-style-type: none"> • The subject land is located within 250m of the Epiq Market Place shopping centre which is accessed by a public footpath network. Internally, the proposed subdivision provides a pedestrian network through the development and will connect to both Montwood Drive and Snapper Drive. Accordingly, the proposal encourages walking and cycling where practicable to community and neighbourhood retail services.
Visual Character	<ul style="list-style-type: none"> • Given the location of the proposal and the two storey building design, the development will not materially impact views and vistas to and from prominent ridgelines consistent with the local context for the Epiq Lennox Head estate. • Ecological systems surrounding the site are preserved by the CMZ. The subdivision layout affords sufficient setback (20m) to the CMZ.
Community Consultation	<ul style="list-style-type: none"> • Active and timely community consultation has occurred through the community drop in day as outlined within Section 1.6 of this report.
Environment Principles	
Environment	<ul style="list-style-type: none"> • The development does not seek to increase the footprint of development outside the bounds of Lot 5 commensurate to that approved for the retirement community. To this end, the eastern and in part southern boundaries are defined by the CMZ. Due regard is made to the design of the subdivision to address

	<p>stormwater management and to afford a 20m buffer to the common boundary.</p> <ul style="list-style-type: none"> • The proposal is located on land already approved for housing. Notwithstanding this point, the site satisfies the buffer to known mosquito breeding areas, whilst screening will be applied to all dwellings consistent with the Ballina Development Control Plan between urban development and areas identified as being key mosquito habitats or at high risk of bushfire hazard;
Cultural Heritage	<ul style="list-style-type: none"> • The subject land is not identified as a site containing any cultural significance as outlined within the Cultural Heritage Assessment completed for the project (refer Attachment 7).

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 5**.

The Regional Plan has a number of Directions of relevance to the current Development Application:

Ballina Shire Local Government Narrative: The Regional Plan nominates the subject land parcel within the Ballina Shire Council Urban Growth Area. The supply of additional housing stock within the area directly supports the regional priorities of the Plan through enhancing housing diversity, particularly within the Lennox Head area.

Direction 22 – Deliver Greater Housing Supply: The development provides the addition of 102 residential zoned allotments within the Ballina Shire Council Urban Growth Area which will assist in supporting the region’s projected housing needs.

Direction 23 – Increase Housing Diversity and Choice: The development provides a variety of lot sizes which have been designed to provide housing choice within the Lennox Head area. In particular, some small lots have been created to directly meet the needs of our ageing population and support the reduction of household sizes.

The current proposal is directly consistent with the directions of the Regional Plan.

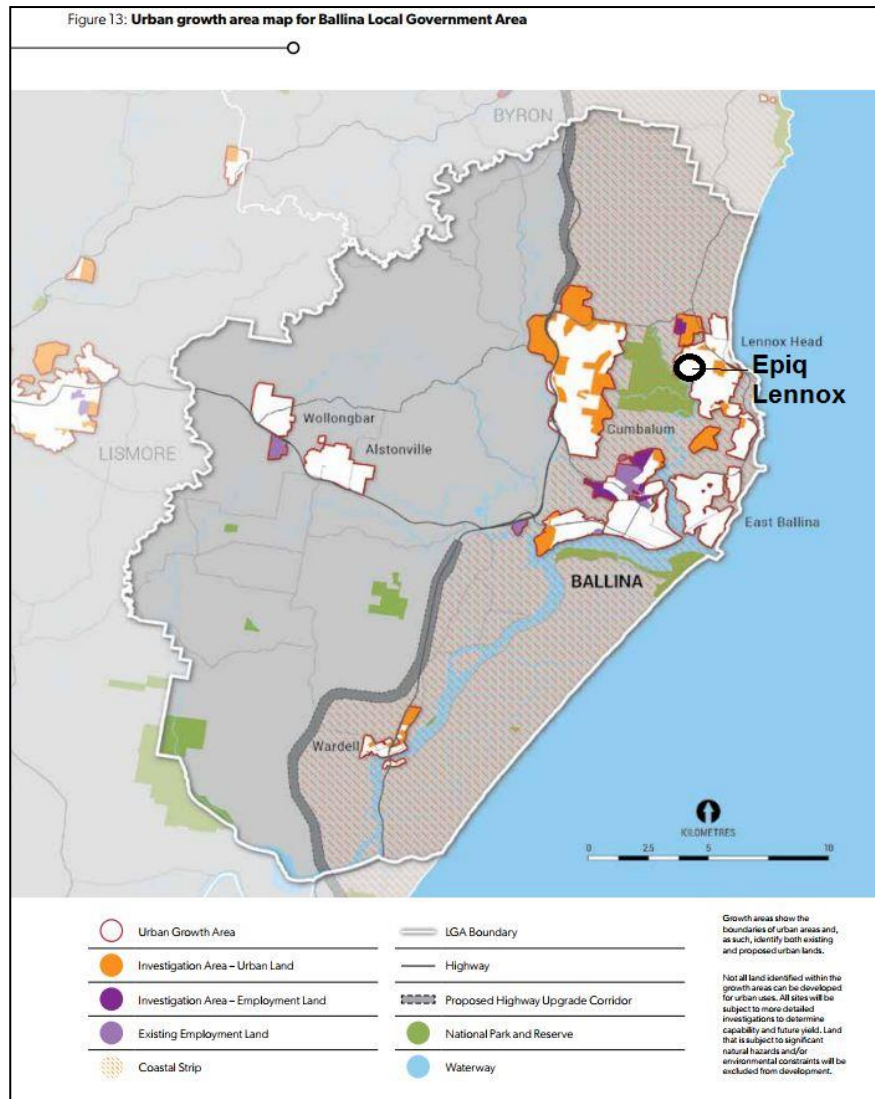


Plate 7: North Coast Regional Plan Urban Growth Area Map 2035 – Figure 13

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The aim of Chapter 2 within the Resilience and Hazards SEPP is to manage development in the coastal zone and protect the environmental assets of the coast, through a planning framework which promotes the objects of the Coastal Management Act 2016.

The 'coastal zone' is defined as being the area of land comprising one or more of the following coastal management areas:

- coastal wetlands and littoral rainforest area;
- coastal vulnerability area;
- coastal environment area; and
- coastal use area.

The development site is partially mapped as being located within the 'coastal environment area'. The mapped area is depicted in **Plate 6** below and an assessment against the relevant provision is provided at **Table 3**.

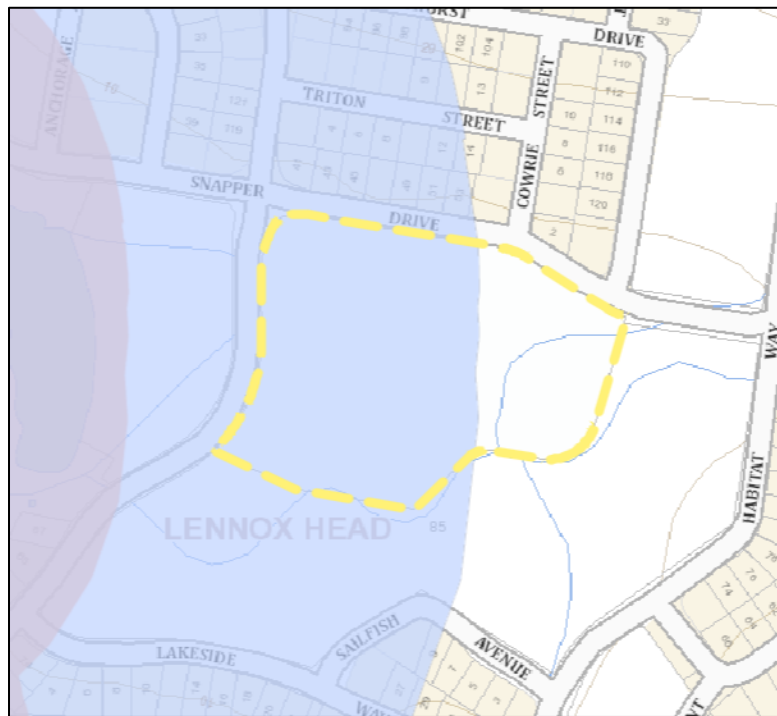


Plate 8: Coastal Zone Mapping

Table 3: SEPP (Resilience and Hazards) 2021

SEPP Provision	Comment
2.10 Development on land within the coastal environment area	
(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—	
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Given the location and design of the subdivision, the proposal is not considered likely to have any adverse impacts on the matters raise in Clause 2.10 (a-g). This position is demonstrated through the ecological and stormwater assessments completed for the project.
(b) coastal environmental values and natural coastal processes,	
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	
	The proposed subdivision accords to the approved stormwater management plan for the Estate as prepared by Gilbert & Sutherland, whilst the interface of the site with the Conservation Management Zone (CMZ) has been

(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	addressed within the ecological and stormwater management measures for the site.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability	
(f) Aboriginal cultural heritage, practices and places,	
(g) the use of the surf zone.	
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—	
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	No adverse impacts have been identified having regard to the Items listed in Subclause 1.
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	
(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.	Noted

Chapter 4 – Remediation

Pursuant to Clause 4.6 of the SEPP Council must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated;*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purposes for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

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 however been completed for Lot 5 as provided within **Attachment 6** of the Major Project Report (August 2018) of this report. The assessment concluded;

Five soil composite samples were collected over the investigation area at the locations shown on Exhibit No 2. Samples were analysed for heavy metals (including arsenic, lead and copper), organochlorines (including DDT, aldrin/Dieldrin and endosulfan) and organophosphorus, which were considered to be the most likely chemicals to cause contamination at the site due to past potential agricultural use of the site and adjacent areas, and also if there had been old buildings in the investigation area (eg lead, zinc, organochlorines and organophosphates).

The sampling results were compared with the HILs determined from NEPM 1999 (2013). HIL's were those set out in Table 1A(1) of NEPM 1999 (2013) under Residential A, using 'adjusted acceptable levels'. All results were below the relevant HILs. The fill was not examined due to the unlikelihood that this would be intersected as part of the development and there was a low potential of contamination based on the aerial photographs.

Based on the known history of the site, inspection of the site and sampling regime, it is concluded that further soil contamination assessment is not required in the proposed development area.

It is noted that the investigation although in accordance with the NSW OEH and NEPM requirements is limited to surface soils and no search for buried rubbish (a legacy from former rural properties) was undertaken for the site. In the event that rubbish is found, then Council is to be notified to determine if additional assessment is required.

3.2.2 Section 4.15(1)(a)(ii) – Draft Environmental Planning

At the time of preparing this report no instruments of relevance to the proposal were on exhibition.

3.2.3 Section 4.15(1) (a) (iii) – Development Control Plan

Ballina Development Control Plan

Ballina Development Control Plan 2012 applies to the subject land. The elements of the DCP of particular relevance to the current application are as follows:

- **Chapter 2 – General and Environmental Considerations**
 - Section 3.3 Natural Areas and Habitat
 - Section 3.4 Potentially Contaminated Land

- Section 3.6 Mosquito Management
- Section 3.7 Waste Management
- Section 3.9 Stormwater Management
- Section 3.10 Sediment & Erosion Control
- Section 3.11 Provision of Services
- Section 3.18 Protection of Foreshores and Public Open Space Areas
- Section 3.21 Bushfire Management
- **Chapter 2a – Vegetation Management**
- **Chapter 3 – Urban Subdivision**
 - Section 3.1 Minor Subdivision Controls
 - Section 3.2 Major Subdivision Provisions

An assessment against the relevant sections of the DCP is provided below. This assessment has been structured such that the overarching DCP requirements are considered first, with the more detailed DCP provisions following.

Chapter 2, Section 3.3 – Natural Areas & Habitat

Comment: The environmental qualities of the Epiq Lennox Head estate was subject to detailed consideration via the original Concept Plan process. During this process, core habitat areas were allocated within a Conservation area of some 14.07 hectares which has been created into a single lot and subject to a detailed Conservation Zone Management Plan

The Ecological Assessment prepared by GeoLINK Pty Ltd (Major project Report (August 2018) - **Attachment 5**) provides an assessment of the impacts of the development on the ecological values of the area. The conclusions of this assessment, as summarised below identified no prohibitive issues for the proposal.

Potential Impacts

Impacts of the proposal are very low on the basis that SL5 comprises an active construction site with no native vegetation or significant habitat. Biodiversity impacts may include:

Construction phase

- Minor localised disturbance to fauna (this is already occurring).
- Potential for spread and/ or introduction of weeds and pathogens.
- Potential for sedimentation or disturbance within the Conservation Zone.

Occupation phase

- Resident activity within the Conservation Zone.
- Stormwater impacts (increased nutrients, weed propagules, contaminants, sediment) on wetland environments within the Conservation Zone.

Mitigation

To minimise ecological impacts which may result from the proposal, the following mitigation measures are prescribed:

Construction phase

- Measures to minimise the potential for the spread of weeds must be implemented during construction.
- Sediment fencing and erosion controls must be implemented and maintained for the duration of the works.
- Construction work limits must be clearly marked prior to commencement of works and para-webbing or similar must be placed along the boundary of the Conservation Zone with signage stating 'Protected vegetation – keep out' or words of similar intention. The requirement to avoid vegetation disturbance or damage must be clearly explained to all personnel and subcontractors during the induction process prior to construction works.
- Stormwater infrastructure works must be designed and sited so that works are not required within the Conservation Zone and must comply with prescriptions in the approved Stormwater Management Plan.

Occupation phase

To protect high conservation habitat within the Conservation Zone, the following prescriptions apply:

- Permanent boundary markings (e.g. bollards) shall be installed along the boundary of the Conservation Zone to restrict access. Signage stating "Conservation Zone - entry prohibited" (or words of similar intention) shall be placed along the fencing.
- If fencing of the Conservation Zone is completed it must be permeable to permit fauna movement (e.g. post and rail fencing) and barbed wire must not be utilised.

Chapter 2, Section 3.4 – Potentially Contaminated Land

Comment: Greg Alderson & Associates have undertaken a preliminary site assessment, which is contained at **Attachment 6** of the Major Project Report (August 2018). This assessment concluded that there was a low risk of soil contamination at levels which would impact on human health or the environment. The Alderson & Associates assessment recommended:

Based on the known history of the site, inspection of the site and sampling regime, it is concluded that further soil contamination assessment is not required in the proposed development area, and that it is suitable for the proposed residential use. NSW EPA (1995) and NEPM 1999 (2013) state that if the contaminant concentration of the site is below a threshold limit, the investigation area can be considered as uncontaminated, and this is considered to be the case on this site.

It is noted that although results indicate that the fill may be suitable for use for the site, further investigation would be warranted if this soil was used at the site. At the time of completion of this assessment it was understood that the fill was not part of the subdivision and hence was to be removed and outside of the scope of investigation.

It is noted that the investigation although in accordance with the NSW OEH and NEPM requirements is limited to surface soils and no search for buried rubbish (a legacy from former rural properties) was undertaken for the site. In the event that rubbish is found, then Council is to be notified to determine if additional assessment is required.

Chapter 2, Section 3.6 – Mosquito Management

Comment: The site is located in relatively close proximity to known and suspected mosquito breeding areas. Key areas impacting the site are:

- The coastal wetlands & marshlands located to the south and north of the proposed residential zones; and
- The poorly drained rural (grazing) land to the west.

Reference is also made to the Mosquito Impact Assessment EPIQ – Super Lot 5 prepared by Darryl McGinn which identifies the management of the remaining mosquito risks to the proposed development is through its design to provide open space buffers clear of any significant vegetation (apart from mown grass) using playing fields, roadways and the Water Quality Improvement Pond and other open space between residential allotments and site boundary.

The assessment identifies several features relevant to considering potential mosquito impacts to future residents the

- *A 200m minimum (approx.) separation between the nearest residential allotments (Independent/Assisted Units and Retirement Courtyard Lots) and the Ballina Nature Reserve and DCP designated mosquito breeding sites (see Plate 1 McGinn Report).*
- *Mosquito habitat around trap 2 and existing farm drains identified as potential risk will be eliminated by the development.*
- *The extension of Hutley Drive alignment between the Nature Reserve and Water Quality Improvement Pond increases mosquito buffering.*

- *A large clear space buffer will be created between residential allotments and the Nature Reserve by playing fields and the existing Water Quality Improvement Pond.*
- *Re-engineering of the water course per the existing DA: 2004/1113 has reduced mosquito breeding risk.*

The following risk management measures are also recommended by the assessment.

- *Exposure to Verrallina funerea, Culex annulirostris and Aedes procax will be effectively managed by development of the remaining site eliminating ground pool breeding sites or interposing clear open space between breeding sites and residential allotments.*
- *Exposure to Aedes vigilax and mosquitoes in general will be effectively managed in residential allotments by standard type mosquito screening fitted to residential dwelling windows and external doors to restrict entry of mosquitoes during occasional periods of high mosquito numbers.*
- *Mosquito awareness materials should be made available to residents of EPIQ Lennox Head – as recommended generally within the Ballina coastal region.*
- *Rainwater tanks included (potentially) within the development should be protected by having mosquito proof screens fitted to openings including inspection openings and overflows. Such screens should be*
- *made of durable material such as stainless steel. The mesh size should not provide an aperture of more than 1mm.*

Conventional use of screening on housing within the development will be adopted at the building application stage.

Reference is also made to the concept landscape plan prepared by 02LA which align to the previously endorsed landscape plans, whilst the species selection also adheres to the bushfire and mosquito assessments completed for SL5.

The proposal adheres to the prescriptive standards set within the report with no housing located within 200m of the Ballina Nature Reserve. Furthermore, specific design criteria (screening of windows and openings etc.) will be applied for future dwellings to accord with the provisions of Chapter 2, Section 3.6 of the Ballina Development Control Plan.

Chapter 2, Section 3.7 – Waste Management

Comment: A construction waste management plan will be submitted for approval as part of the construction documentation. Waste collection for future residential development will be via Council's standard residential waste collection service from the internal road network.

Chapter 2, Section 3.9 – Stormwater Management

Comment: Details of the proposed stormwater management for the project is provided as part of the Engineering Services Report provided at **Attachment 4**.

Chapter 2, Section 3.10 – Sediment & Erosion Control

Comment: A Sediment and Erosion Control Plan (prepared in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004) will be submitted to Council as part of the Construction Certificate documentation.

Chapter 2, Section 3.11 – Provision of Services

Comment: The proposed subdivision will be fully serviced with reticulated urban infrastructure. Engineering design plans and a detailed description of the proposed servicing approach is provided within the Engineering Services Report at **Attachment 4** of the Major Project Report (August 2018).

Chapter 2, Section 3.18 – Protection of Foreshores & Public Open Space Areas

Comment: The proposed subdivision involves the establishment of a neighbourhood ‘pocket park’ of 527m². The reserve is intended to be readily accessible and utilised by the community for a passive meeting area and will be embellished with associated public furniture (seating).

The proposal also incorporates the public reserve (Lot 201) which extends between Montwood Drive and Snapper Drive and is adjacent to the adjoining Conservation Management Zone. The public reserve has a total area of 7,085m².

Chapter 2, Section 3.18 – Bushfire Management

Comment: Reference is made to the revised Bushfire Report provided within **Attachment 6** of the RtS letter dated 17 September 2020. The assessment has been prepared having regard to the modified layout which has been amended to accord with Ballina Shire Council’s comments as addressed earlier in this submission and the pre-lodgement brief with the NSW RFS with specific regard to the modified layout not including a permitter road.

The NDC letter dated 26 May 2022, contains the response from the Bushfire Consultant addressing the proposed NSW RFS conditions for the amended design. A further letter from Bushfire Certifiers (6 June 2022) confirms the proposals compliance with the Planning for Bushfire Guidelines and commentary on the proposed NSW RFS conditions.

Chapter 3 – Urban Subdivision

Section 3.2 – Major Subdivision Provisions

Chapter 3 establishes separate planning pathways for major (>10 lots) and minor (<10 lots). The core difference between the two processes relates to the requirement that major subdivisions be developed in the context of a master plan, with formal engagement processes with Council at various stages of the process. Following is an assessment against the provisions of Section 3.2.

Major Subdivision Control Elements

Table 4 provides an assessment against the Major Subdivision Control Elements contained in Section 3.2 of the DCP.

Table 4: Major Subdivision Control Elements

A. Element – Vision, Concept and Master Plan Content		
i	Vision and concept presented to Subdivision Panel is to include certain information. Comment: Details concerning the engagement with Council is provided in Section 1.6.	
ii	Master Plan must include information required for item “i” as well as the issues identified via the pre-lodgement consultations. Comment: This application includes consideration of the matters raised in the pre-lodgement consultations with Council.	
	Regard must be had to the principles of the NSW Coastal Design Guidelines. Comment: The proposed subdivision complies with the 5 principles for coastal settlement structure contained within the Coastal Design Guidelines as outlined below.	
iii	Defining the footprint and boundary of the settlement	Comment: The boundary of the zoned urban area of Lennox Head has been established via the strategic and rezoning processes undertaken by Council. The current application is consistent with these processes.
	Connecting open spaces	Comment: The proposed subdivision provides for: <ul style="list-style-type: none"> • Preservation of key areas of environmental, heritage and visual importance; • Appropriate buffers and setbacks to protect significant natural environments as well as ensuring mosquito management objectives; • Contemporary management of stormwater to minimise impacts on natural environments; • Pedestrian connectivity through the site is provided. With respect the mid-block pedestrian network provided Road 3 to Road 3 (North-South link), the design has had regard to the pathway being intersected by Road 4 to afford greater natural surveillance. Accordingly, a maximum travel distance of 20m is provided between Road B to Road C. Landscaping will provide for no concealment locations.
	Protecting the natural edges	Comment. Provisions relating to foreshore areas and coastal erosion are not applicable to current application.
	Reinforcing the street pattern	Comment: The proposed subdivision provides for: <ul style="list-style-type: none"> • A legible street hierarchy in a modified grid pattern which responds to the landform; • Ready access to key views and vistas; and • Legible pedestrian networks.

Appropriate buildings in a coastal context	Comment: Future dwellings will be subject to the applicable Design Guidelines provided within the NDC letter dated 8 February 2022.
Regard must be had to subdivision design standards produced by the Queensland Government Urban Land Development Authority as summarised in Table 3.2.	
Access	
Design Standard	Comment
Maximum 400m walk to recreation park	Comment: All proposed lots are within 400m of the planned pocket public park. Alternatively, access to the parks provided within Stage 1B and Stage 2 of Epiq Lenox Head are also achievable from the development by the pedestrian network.
Clear & Direct Access to a neighbourhood centre	Comment: The proposed Epiq Lennox Commercial Centre will be readily accessible by future residents.
90% of dwellings within 400m of a bus stop	Comment: Bus stops are located within 400m of the site along Snapper Drive.
Dwelling Density	
Average net density of 15 dwellings/ha unless constrained by topography or other constraints	Comment: The area of the proposed subdivision (including lots, roads and public reserve) is approximately 4.17ha, within which 102 residential lots are proposed. The resulting density, albeit below the current approval equates to some 24 dwellings /hectare.
Higher densities to be located near activity nodes and connector streets	Comment: The subdivision is located adjacent to the primary neighbourhood commercial area and is connected by the pedestrian network for all residents. The density has been developed consistent to the Concept Plan (MP07_0026) which had previously approved 124 retirement lots.
Land Use	
Neighbourhood centres should serve several neighbourhoods	Comment: The proposed Epiq Lennox Centre will service the day to day commercial needs of residents.
District and major parks should be located at the periphery of neighbourhoods.	Comment: Not applicable to current application. Neighbourhood parks to service local community are located within subdivision, whilst the district park developed under Stage 1A of MP07_0026 for Epiq Lennox.

Street Network	
Subdivision should utilise a grid pattern or modified grid responsive to site characteristics.	Comment: Subdivision design provides a modified grid pattern which responds to the site characteristics and approved road layout under the Concept Plan MP 07_0026.
Where slope allows, orientation within 15 degrees of north-south or east-west.	Comment: Majority of streets provided in an east-west and north-south orientation.
Block Sizes	
<p>Blocks are designed to incorporate:</p> <ul style="list-style-type: none"> • Length 100-200 metres. • Mid-block providing a pedestrian link when blocks are over 130 metres. • Depth 40-80 metres. 	Comment: Given the nature of the development and configuration of Lot 5, the lots bordered by Road B & Road D are below 100m in length. As the proposal is for integrated housing, lot lengths below 100m are considered to be desirable to address the bulk and mass of the development. Pedestrian connectivity is achieved to key attractions and circulation routes.
Urban Lot Layout	
Lots intended for mixed use or multiple residential uses take up entire street block or are located on highly accessible block ends, corner lots and lots with dual road frontage,	<p>Comment: Design guidelines have been established for the development of future residential housing upon the proposed torrens title lots as provided within Attachment 3— of the NDC letter dated 8 February 2022.</p> <p>The guidelines have been prepared to create a high quality, contemporary and environmentally sustainable built environment, which will under pin the value of Epiq Lennox as a desirable place to live.</p> <p>The design specifications provide the development of a ‘beach’ style architecture that is environmentally friendly emphasising a mixture of lightweight materials such as timber, fibre cement and colorbond with a coastal colour palate, and the use of native plantings to attract bird life and reduce the need for watering.</p> <p>The specification explains the design ‘intent’ and subsequent “solution” applied to this integrated housing project.</p>
One lot type is not to dominate a street block.	Comment: Being an integrated residential housing project, the lot typology is consistent with regard to lot frontage/depth in order to entertain differing unit types which are planned for the project and illustrated in plans

		contained within Attachment 2 of the Major Project Report (August 2018).
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3.2.4 Section 4.15(1)(a)(IV) any planning agreement

No planning agreement is applicable in this instance.

3.2.5 (1)(b) the likely impacts of that development

Section 4.15(i) of the EP&A Act 1979 requires consideration of the likely impacts of the development on the environment and the locality. Environmental impacts potentially generated by the proposed development are summarised in **Table 5** below. Mitigation measures to address the various environmental impacts are included where applicable.

Table 2 — Environmental Assessment

Potential Environmental Impacts	Environmental Assessment
Flora	
- Loss of vegetation – native or exotic	<p>No significant vegetation is located on the site. The site is a modified urban lot within Lennox Head suitable for residential housing.</p> <p>The subdivision design has been amended to include the prescribed 20m buffer to the adjoining Conservation Management Zone to ensure the function of the management zone is not impacted by the future housing. In this regard, key aspects relating to stormwater management, accessibility and landscape treatment have been considered to ensure the continued function of the Conservation Zone is not materially impacted by the proposal.</p>
Fauna	
- Effect on native species of fauna	The proposed development will not adversely impact any native fauna with no recognised corridors or vegetation located onsite.
- Habitat loss	The proposal will not result in the loss of significant habitat given that it relates to the development of disturbed site, being modified through the completion of the approved earthworks.
Soils	
- Sediment & erosion control	The proposal will require erosion and sediment control measures during the construction phase.

- Acid sulfate soils	The approved acid sulfate soil management plan for the estate will be implements for the site works.
Visual Considerations	
- Visually prominent land	The site is deemed to be visually prominent given its location within the gateway entrance to Lismore. The modified building bulk and scale is reflective of the capacity afforded by the site area and compatible with the adjoining industrial built form.
Context & Setting	
- Land use context	The proposed subdivision fits within the strategic planning framework for Lennox Head and has been the subject of detailed planning consideration via the Concept Plan process over the site. The subdivision is deemed to be compatible with the form and density of existing residential development in the locality.
Heritage	
- Aboriginal heritage	No known Aboriginal or European heritage issues affect the site.
Traffic	
- Impact on local traffic	<p>Previous studies of the traffic generated by the greater Epiq development site have been undertaken by Carndo Eppell Olsen and updated by Newton Denny Chapelle as part of the Modification 5 to Concept Approval 07_0026.</p> <p>These studies have identified that the extension of Hutley Drive is needed to service the fully developed site. Without the extension of Hutley Drive the existing surrounding Road network has an approved capacity of 7,456vpd. This daily traffic volume has been approved in the Ballina Shire Council Ordinary Council meeting on the 23rd October 2014. The approved traffic capacity relates to the available capacity of the surrounding road network being Montwood Drive and Henderson Lane.</p> <p>The extension of Hutley Drive has now been completed by Ballina Shire Council, meaning the traffic generated by the development (658 DVT) is able to be adequately catered for by the local road network.</p>
Utility Services	
- Water, electricity, sewer	Reticulated water, sewer and electricity services exist in the locality and are connected to the site.

(b) the suitability of the site for the development

Primary Matters	Proposal
Does the proposal fit in the locality	The suitability of the land for residential development was the subject of detailed consideration via the SEPP 71 Master Plan and the Concept Plan and Project Plan Approval (MP 07_0026). The assessments undertaken to support the current modification confirm that the portions of the site zoned for residential purposes are suitable for residential housing.
Site Attributes conducive to the development	The site is conducive towards the proposed residential subdivision layout. No impacts upon critical habitats, threatened species or populations are likely given the already cleared nature of the site.

(c) any submission made in accordance with this Act of the regulations,

Primary Matters	Proposal
Public Submissions Submissions from Public Authorities	The consent authority will need to consider any submissions received in response to the public exhibition of the proposed development.

(d) the public interest

Primary Matters	Proposal
Federal, State, Local Government Interest & Community Interest	The proposed residential subdivision will deliver 102 residential allotments in a manner which protects and enhances the environmental, cultural and visual qualities of the site, whilst being in keeping with the envisaged density for the subject site. The subdivision also complies with the various local and state planning policies documented within this report as well as the commitments reached via the Concept Plan approval.

4. Conclusion

This report, when read in conjunction with the accompanying amended design plans, successfully addresses the issues relevant to Council's assessment of this Section 4.55(2) Application to modify the approved development.

This application seeks approval for a modification that will have minor impacts and be substantially the same as that in Major Project 07_0026.

A comprehensive assessment of the proposed modifications has been undertaken against all the applicable environmental planning provisions. The modification will be largely compliant in terms of meeting applicable standards, underlying objectives, and merits. The assessment demonstrates that the modification will be:

- substantially the same development as that which was originally approved;
- a suitable use of the site;
- consistent with the aims, objectives and provisions of the applicable planning instruments and guidelines; and
- a residential development which improves the accessibility to housing within land strategically designated for residential purposes.

Based on the above points, the amended proposal is considered to be in the public interest.



DAMIAN CHAPELLE

Town Planner. BTP CPP

Date: 5th July 2022