

enquiries refer
Rod Mallam
in reply please quote
CM: 26/74665



28 August 2026

Department of Planning, Housing and Infrastructure

Via email: eric.kim@dphi.nsw.gov.au

Dear Sir,

Re: Section 75W Modification Application for the Epiq Lennox Head Concept Approval Modification 11 (MP07_0026-Mod-11)

I refer to the email dated 7 August 2026 in relation to the Section 75W Modification Application for the Epiq Lennox Head Concept Approval Modification 11 (MP07_0026-Mod-11) received by the Department of Planning, Housing and Infrastructure (Department).

The application is to provide for the modification of the following key elements, which will seek to undertake amendments to the Concept Approval (MP07_0026):

- Include a new land use definition to enable a light industry land use designation (including artisan food and drink and creative industries) on Lot 60.
- Include a condition to enable the allocation of car parking to specific tenancies.
- Amend the lot areas of Approved Lots 60 and 61 to reflect current approvals.
- Amend concept plans C1, C5 & C8 to reflect new light industry land use designation.
- Amend concept plan C10 to enable specific boundary setbacks.

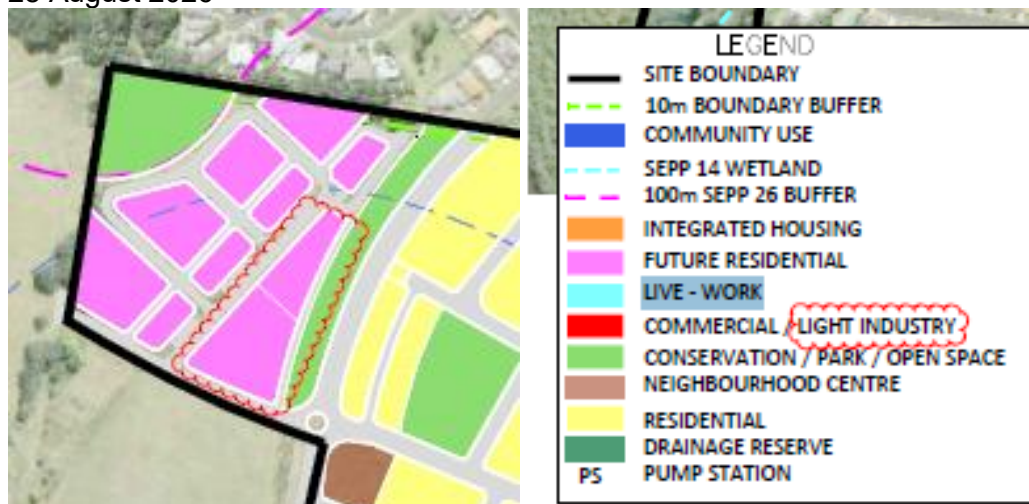
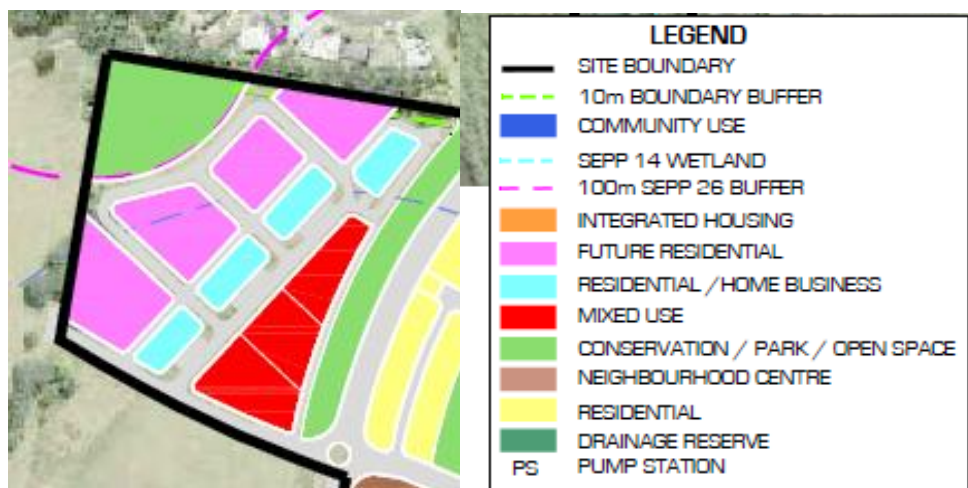
Council has reviewed the proposed modification and provides the following comments.

Modification Plan Errors

The colour scheme and legend notations on proposed modification plan - *Plan C1 (Rev H)* appears to be incorrect and needs to be rectified. In this regard:

- the **Red** is understood to be for Commercial / Storage Premises / Light Industry and is not shown in the correct colour on the plan;
- the noted that the light industry land use relates to Lot 60 only and not Lot 61. In this regard the red revision cloud/bubble on Plans C1 and C8 is to go around Lot 60 only; and
- the approved **Light Blue** Live / Work areas are not shown in the correct colour on the plan.

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**Proposed Modification Plans****Compiled Concept Approval Plans**

In addition, there are anomalies between the modification plans and the amended plans referred to in Condition A3. In this regard, the submitted modified Plan C5 references 'REV G' in the plan title, however is referred to as 'REV H' in proposed condition A3 (see below).

Condition A3 - Project in Accordance with Plans**A3 Project in Accordance with Plans**

The project shall be undertaken in accordance with the following drawings:

Drawing No.	Revision	Name of Plan	Date
14/351	H	Illustration C1 Concept Plan	24.03.26
14/351	E	Illustration C2 Green Network	21.07.20
14/351	H	Illustration C5 Development Staging	24.03.26
14/351	E	Illustration C6 Movement Network	21.07.20
14/351	E	Illustration C7 Stormwater Concept Plan	21.07.20
14/351	H	Illustration C8 Lot Topographies	24.03.26
14/351	E	Illustration C9 Building Heights	21.07.20
14/351	H	Illustration C10 Setback	12.05.26
14/351	E	Illustration C11 Conservation Zone	21.07.20

In view of the abovementioned anomalies, it is recommended the Department carefully review all the submitted plans and documentation to ensure there are no other errors.

Proposed Light Industrial Land Use

Lot 60 and the surrounding area is zoned R3 Medium Density Residential under the Ballina Local Environmental Plan 2012 (BLEP). Notwithstanding this zoning, the site is adjoined by the following land uses authorised by the Epiq Lennox Head Concept Approval:

- North – designated live / work allotments;
- South – an allotment approved for a tavern and sporting fields;
- East – drainage reserve, Hutley Drive and dwellings;
- West – designated live / work allotments.

A 'light industry' is defined in the BLEP as follows:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (a) high technology industry,*
- (b) home industry,*
- (c) artisan food and drink industry,*
- (d) creative industry.*

An 'industrial activity' is defined in the BLEP as follows:

industrial activity means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

Although the Modification Application contends that the proposed light industry use is generally in keeping with the Lot 60's existing land use designation as storage premises and as having minimal environmental impacts, the expanded scope of activities permissible within the light industry definition, including artisan food and drink production and creative industries, introduces a range of potential environmental and amenity impacts that require careful consideration, including:

- **Noise impacts** (use, plant and equipment, mechanical ventilation systems, loading activities, vehicle movements, waste collection, hours of operation).
- **Odour and air quality impacts** (odours, smoke, grease emissions, exhaust discharge, waste storage).
- **Waste management** (waste storage areas, waste collection arrangements).
- **Light nuisance** (external security lighting, illuminated signage, car park and loading area lighting).
- **Stormwater quality** (storage of materials, washdown areas, fuels, oils or chemicals).
- **Traffic and parking impacts** (traffic generation, vehicular access, on-site parking, heavy vehicles, loading / unloading).

Having regard to the residential zoning of the land and the close proximity of existing and approved residential land uses within the surrounding locality, the Department must be satisfied that the allotment is suitable for the proposed light industrial land use and that such

development can be accommodated without adversely affecting the residential amenity of nearby dwellings.

Should the Modification Application be approved, Council will require any future Development Application to clearly demonstrate that the proposed light industrial activity meets the definition of a 'light industry' under the BLEP and will not adversely impact the environment or interfere with the amenity of the surrounding area, with particular regard to the residential amenity of nearby dwellings.

While the concept approval already contains a requirement for future commercial development to provide a noise assessment, it may be appropriate to similarly require that any future DA for light industrial development demonstrate compliance with applicable NSW noise criteria.

Boundary Setbacks (Plan C10)

Front Setback to Street

The proposed minimum front setback of 1.5m to Salt Air Circuit is insufficient and is not supported by Council. It is recommended that this setback be increased to a minimum of 3m (or greater) to allow for appropriate landscaping between the building(s) and front property boundary and to minimise impact on the streetscape. As Lot 60 is a corner allotment, it is also recommended that this 3m (or greater) setback be extended around to the northeastern boundary of the site fronting Starboard Crescent.

When considering the above, please note that the front setback requirement for industrial development in Ballina Shire is 6m, however the surrounding live / work areas appear to have a 1.5m front setback requirement. Increasing the front setback to at least 3m would strike a reasonable balance between typical light industrial development within the shire and the surrounding live / work areas.

Rear Setback to Drainage Reserve / Public Footpath

The eastern side of the site adjoins an existing draining reserve / public footpath and is visible from Hutley Drive and the existing residential dwellings further to the east. Given the visibility of this part of the site from the public domain and surrounding residences, it is recommended that a minimum 1m setback be applied to the eastern boundary to allow for landscaping between the building(s) and the boundary / public domain.

In view of the above, Plan C10 should be updated to reflect these increased setbacks.

Design of the Light Industrial Buildings

The site is in a prominent location and is highly visible from surrounding residential areas and public spaces to the north, east and west, as well as from the approved tavern to the south. Given this high level of visibility, careful consideration needs to be given to the design of all building façades to ensure the development contributes positively to, and does not detract from, the emerging and desired character of the area.

To achieve this outcome, Council recommends that the Department consider whether it is appropriate to include a condition on any modified concept approval requiring the light industrial development on Lot 60 to incorporate high-quality architectural design elements, including strong building articulation, a mix of materials and finishes, an appropriate colour palette, glazing, awnings, window hoods and other features that provide visual interest and reduce the perceived bulk and scale of the buildings, particularly when viewed from the public domain.

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Where it is not appropriate to impose such a condition at the concept approval stage, Council will carefully assess the design quality of the development as part of its consideration of any future Development Application for Lot 60.

Car Parking Allocation (Proposed Condition B4A)

The proposed modification to the concept approval seeks to include a condition to enable the allocation of car parking to specific tenancies.

Council objects to the inclusion of such a condition enabling the allocation of car parking to specific tenancies. In this regard, Council requires that all required car parking spaces are to be available to all occupants and patrons of the development and should therefore remain common property if the development is to be Strata Titled. Notwithstanding this, the issue of car parking is not a matter for the concept approval and should be addressed as part of any future Development Application.

In view of the above, Council recommends the deletion of proposed condition B4A.

Amend the lot areas of Approved Lots 60 and 61 to reflect current approvals

No objection is raised to the modification to the size and configuration of approved Lots 60 and 61 to reflect current approvals (DA2023/374).

Public Exhibition

Given the nature and potential impacts of the proposed modification, it is important to ensure the local community and potentially affected properties are adequately informed of the proposal and afforded ample opportunity to make a submission. In this regard, Council strongly recommends that the Department undertake an extensive public exhibition of the Modification Application, including the direct notification of adjoining and surrounding property owners in the locality of the site.

Determination

It is requested that the Department inform Council of its decision in relation to the Modification Application as soon as practicable after the determination is made.

Should you require any further information or any enquiries regarding this letter please contact me on 02 6686 1254.

Yours faithfully



Rod Mallam

Town Planner

Planning and Environmental Health Division