

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017NTH018
<b>DA Number</b>	2017/447
<b>LGA</b>	Ballina Shire
<b>Proposed Development</b>	Construction of EPIQ Lennox Neighbourhood Centre incorporating a supermarket, specialty shops and associated car parking, landscaping, services and earthworks.
<b>Street Address</b>	Lot 1 DP 1239938 (previously Lot 54 DP 1222919) Hutley Drive, Lennox Head
<b>Applicant/Owner</b>	Damian Chapelle (Newton Denny Chapelle) on behalf of Clarence Property Pty Ltd.
<b>Date of DA lodgement</b>	17 August 2017
<b>Number of Submissions</b>	Eight
<b>Recommendation</b>	Approval with conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Clause 3 – General development with a Capital Investment Value over \$20 million (Estimated \$22.2 million)
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Ballina Local Environmental Plan 2012</li> <li>• Ballina Local Environmental Plan 1987</li> <li>• Ballina Development Control Plan 2012</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 71 – Coastal Protection</li> <li>• Draft Coastal Management State Environmental Planning Policy 2016</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1 – Proposed Plans</li> <li>• Attachment 2 - Draft Conditions of Consent</li> <li>• Attachment 3 – Public Submissions</li> </ul>
<b>Report prepared by</b>	<b>Peter Drew</b>
<b>Report date</b>	March 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	<b>Yes</b>
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*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	<b>Not Applicable</b>
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*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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### Conditions

Have draft conditions been provided to the applicant for comment?	<b>Yes</b>
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*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## **EXECUTIVE SUMMARY**

Development consent is sought for the development of EPIQ Lennox Neighbourhood Centre incorporating a supermarket, specialty shops and associated car parking, landscaping, services and earthworks. The proposal has a Capital Investment Value over \$20 million and therefore the proposal is required to be reported to the Joint Regional Planning Panel for determination. Council has provided the following report, in relation to the proposed development application for the EPIQ shopping centre.

On 12 November 2008 the then Minister for Planning granted approval to the Pacific Pines Estate (now known as EPIQ Lennox). This concept approval included residential subdivision, a neighbourhood centre comprising of a local scale shopping centre with retail, small businesses, shop-top housing, medical centre, tavern, community centre, and childcare centre. The subject development application is for the construction of the shopping centre identified within this concept approval. The development comprises 3,365m<sup>2</sup> GFA for the supermarket (Woolworths and liquor outlet), 95m<sup>2</sup> mezzanine office area and 1,840m<sup>2</sup> of retail shops, with the opportunity for a café. The application also involves on-site car parking and loading zone, signage relating to the neighbourhood centre, infrastructure service for the provision for water, sewer, and stormwater, and landscaping on the site.

The application was originally lodged on Lot 54 DP 1222919. However, prior to reporting the application to the Panel Stage 1B of the Concept Approval was registered. As a consequence, the proposed Shopping Centre now relates to registered Lot 1 DP 1239938.

The application was placed on public exhibition in accordance with the requirements of Chapter 1 of the *Ballina Development Control Plan 2012*. Council received eight submissions in relation to the application, raising a number of issues regarding the proposed development. The matters raised have been considered within this report, and each issue has been addressed and responded to, and where appropriate, addressed by way of conditions.

All relevant matters under Section 79C of the *Environmental Planning and Assessment Act 1979* have been considered in the assessment of the application. The assessment raises only minor issues in relation to these matters for consideration, with this in mind; Council recommends that the proposal be approved subject to the attached draft conditions (Attachment 2). These conditions are expected to mitigate any minor issues identified as part of the assessment.

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## **Introduction**

Development Application 2017/477 was lodged with Council on 17 August 2017. An assessment of the development application has now been completed and the application is presented to the Joint Regional Planning Panel for determination.

## **Details of Proposal**

The proposal involves the construction of a neighbourhood shopping centre consisting of a supermarket, specialty shops, café, car parking, servicing, landscaping and earthworks.

The proposal involves the following components:

- development of a supermarket and retail specialty shops, inclusive of opportunity for a café;
- onsite car parking and loading zone;
- signage;
- infrastructure service provision for water, sewer, and stormwater; and
- landscaping with associated earthworks.

The supermarket, specialty shops and café will involve the following works:

- Construction of two buildings, housing the proposed supermarket and retail specialty shops.
- Development of 3,365m<sup>2</sup> Gross Floor Area (GFA) supermarket to be operated by Woolworths (inclusive of a liquor outlet), incorporating a common entry area, toilet facilities, loading and storage areas and associated plant room.
- 95m<sup>2</sup> mezzanine office and 1,840m<sup>2</sup> of retail shops located on the western side of the building on either side of the customer forecourt entry to the supermarket, together with a detached retail building in the north western corner of the site.
- The northern and southern shops are separated by a terrace for alfresco dining opportunities, facilitating future restaurant or cafe uses in this part of the development. The development provides for the creation of 141m<sup>2</sup> of outdoor dining area.

The proposal also provides for 278 car parking spaces (including at least eight disabled spaces and six online collection car parking spaces, a single taxi bay and six electric vehicle recharging spaces) as part of the application. Provision is made for shade and/or awning structures over 99 of the car parking spaces, eight of which are nominated as accessible spaces.

The proposed shopping centre fronts four roads and provides access for customers from both Hutley Drive and Snapper Drive.

The proposal makes provision for service vehicles to enter/exit the site from two driveway crossovers from Snapper Drive.

### **Description of Subject Site**

The subject property, being Lot 1 DP 1239938 (previously known as Super Lot 1 in the Department of Planning and Environment Concept Approval for the EPIQ Estate), is located on Hutley Drive, Lennox Head.

The Lot has an area of 2.105 ha and is predominately zoned B1 – Neighbourhood Centre under the Ballina LEP 2012. A small portion of the site is also zoned R3 – Medium Density Residential which has only occurred as a result of a discrepancy in the original rezoning of the EPIQ Estate. Refer to Figure 1 below.



**Figure 1: Zoning of subject site**

The site is surrounded by approved/existing residential subdivisions including the Lennox Meadows (north), Pacific Pines Estate (early stages of EPIQ to the south), Henderson Farm (west), and previously approved stages of EPIQ (east). The site has frontage to Hutley Drive to the west and three roads to the north, east and south (being Snapper Drive, Outrigger Road and Anchorage Avenue).

The earthworks associated with the neighbourhood centre were previously approved under DA 2017/221. These works were required to create a suitably level

area for the proposed development. Works under DA 2017/221 are currently underway.

Figures 2 and 3 below illustrate an aerial view of the sites location and the location of the proposal within the approved EPIQ Concept Plan.



**Figure 2: Aerial view of the subject site.**



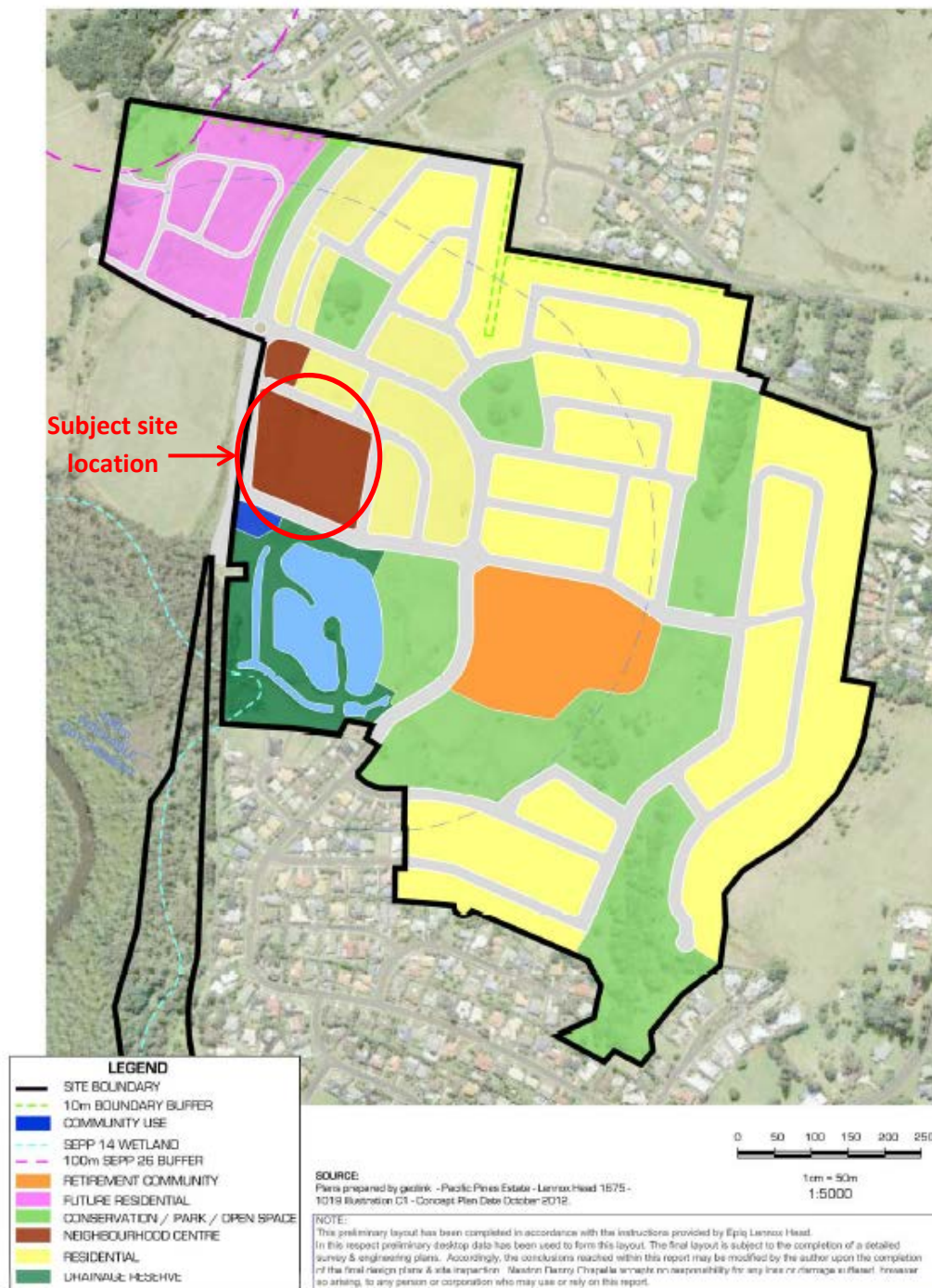


Figure 3: Concept plan of EPIQ estate

## **Background of Proposal**

The land subject to this application is part of an approval issued by the NSW Department of Planning as a Major Project.

On 12 November 2008, the then Minister for Planning granted approval to the Pacific Pines Estate (now EPIQ) Lennox. In particular, the Concept Plan approval was given for:

- A neighbourhood centre comprising a local scale shopping centre with retail, small businesses, shop-top housing, medical centre, tavern, community centre and childcare centre. The centre would ultimately comprise up to 3,000m<sup>2</sup> of retail floor space (amended to 5,500m<sup>2</sup> under Mod 5), 800m<sup>2</sup> of commercial space and approximately 20-25 'shop-top' dwellings. Approximately 280 parking spaces will be provided on site;
- 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;
- Residential subdivision of approximately 505 lots varying from larger lots (>1,200m<sup>2</sup>) on the steeper parts of the site to lots of around 450m<sup>2</sup>;
- Medium density housing of up to around 10 dwellings (density of around 1 dwelling per 250m<sup>2</sup>);
- 25.1 hectares of green space incorporating areas for conservation, revegetation and rehabilitation; and
- A road network connected to various existing roads such as Hutley Drive, Montwood Drive and Stoneyhurst Drive.

Project approval was also given to the first stage of the project, involving:

- Six super lots (for a neighbourhood centre, tavern, child care centre, community centre/ hall, retirement community and medium density housing)
- 54 residential lots in the south of the site averaging around 740m<sup>2</sup>
- Two open space lots
- Residential lot of 57.7 hectares
- Construction of Montwood Drive, Main Street (now Snapper Drive), Hutley Drive and the western connection to the adjoining playing fields within the site; and
- Associated earthworks across the site.

The original concept approval has been modified five times. These modifications relate to minor administrative matters to clarify the required timing of surrender of an existing development consent that related to the site, increasing the maximum floor area for retail uses to 5,000m<sup>2</sup> (originally 3,000m<sup>2</sup>), increasing the area of the conservation lot and a suite of amendments to the subdivision design and land uses



designated within the estate. The proposed development is for the neighbourhood shopping centre component of the EPIQ estate located on Super Lot 1.

### **Matters for Consideration**

The proposed development has been assessed under the heads of consideration in Section 79(C) of the *Environmental Planning and Assessment Act 1979*. The assessment has identified the following key issues which are elaborated upon for the Panel's consideration.

### **Section 79C(1)(a)(i) provisions of any environmental planning instrument**

#### **State Environmental Planning Policy No. 44 – Koala Habitat Protection**

Clause 7(1) of SEPP 44 states that before a council may grant consent to an application for consent to carry out development on land to which this Part applies, it must satisfy itself whether or not the land is a potential koala habitat. The site of the development is cleared of vegetation and subject to an approval for extensive earthworks. Council is satisfied that the land is not a potential koala habitat.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

Clause 7 of SEPP 55 outlines the Contamination and remediation to be considered in determining development applications.

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

*(a) it has considered whether the land is contaminated, and*

*(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 purpose 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.*

**Comment:** A Phase 1 Environmental Site Assessment was submitted with the proposal and concluded that:

*“Based on the known history of the site, inspection of the site and sampling regime, it is concluded that further assessment of contamination is not required in the investigation area. NSW EPA (1995) & NEPM 1999 (2013) state that if the contaminant concentration of the site is below a threshold limit and there is no*

*indication that further investigation is required, the site can be considered as uncontaminated and this is considered to be the case on this site."*

The subject site has been considered in relation to contamination. The property is not identified on the Environmental Protection Authority's list of NSW contaminated sites, contaminated land record or environmental protection licence register. The proposed development site is not impacted by a cattle dip site nor is it within a 200m buffer of a dip site.

Although previous contaminated Land Assessments of the land parcel had been carried out, the site history was not complete and therefore a Preliminary Contaminated Land Assessment of the proposed development site was carried out and included with the application. Sampling of the site was carried out and relevant contaminants of concern were identified and samples analysed accordingly. All results were below the Health Investigation Limits (HIL).

As a result, it is considered there is minimal risk to human health or the environment in regard to contamination and the site is suitable for the proposed use. However a condition is recommended which requires the developer to notify Council if as a result of the works information is uncovered that alters the above conclusion.

No remediation works are proposed as part of the application.

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

**Comment:** Not applicable as the proposal does not involve the change of use of land as specified in subclause (4).

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

**Comment:** Not applicable.

*(4) The land concerned is:*

*(a) land that is within an investigation area,*

*(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*

*(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*

*(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

*(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

**Comment:** Not applicable.

## **SEPP 64 – Signage and Advertising**

Proposed two pylon signs fronting Hutley Drive and Snapper Drive, the 'Woolworths' logo above the main entrance to the supermarket and a series of business identification signs for the specialty shops integrated into the building elevation.

The proposed signage is considered to be consistent with the design and character of the proposal and therefore suitable in the locality. The following signs are proposed:

- 2 x pylon signs (total height of 7m and a panel width of 2.14m)
- 1 x tenant wall sign (1500mm x 9500mm on the southern elevation of the building)
- 2 x entry wall signs to Hutley Drive and Snapper Drive (located on retaining walls entering the property)
- External tenant signage (below the awnings)
- 1 x below awning sign for parcel pick-up (440mm x 3600mm on northern elevation)
- Centre building sign fronting Hutley Drive (520mm x 13030mm)
- Woolworths supermarket and BWS internally illuminated signage fronting Hutley Drive (760mm x 13600mm)
- Three fascia signs located on the western façade for tenancies (1025mm x 13526mm)

The proposed signage has been assessed against the assessment criteria in Schedule 1 of SEPP 64.

**1. Character of the Area**

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

**Comment:** The proposal is consistent with the future desired character of the area as it is within the scale and location of the proposed neighbourhood centre in regards to the number of signs proposed and the size of the signs. The signs are integrated within the design of the proposed neighbourhood centre and therefore will have a consistent appearance and complement the overall physical appearance of the site.

**2. Special areas**

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

**Comment:** The proposed signage is not anticipated to have an effect on the surrounding residential properties as it is not proposed to be orientated towards the adjoining the residential lots.

**3. Views and vistas**

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

**Comment:** The proposal will not impede on any important views, particularly from the entrance or exits onto Hutley Drive, nor will it dominate or reduce the quality of any vistas or views. The signage is of a suitable scale and size being consistent with the proposed building form and is unlikely to impact on visibility of other future signage in the surrounding area.

**4. Streetscape, setting or landscape**

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*

- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

**Comment:** The scale and bulk of the signage is consistent with the character of the proposed building. The signage will not create an adverse amenity impacts on the streetscape and is considered to be consistent with the surrounding landscape as the design is within the character of the proposed neighbourhood centre.

The signage proposed is not considered to create clutter as the design is simple and it has been indicated by the applicant that no further signage will be proposed within the neighbourhood centre. The signs are proposed a suitable distance apart to ensure that they will not dominate the site and the visual appearance, particularly from Hutley Drive and neighbouring residential properties.

The pylon signs are not anticipated to protrude above the proposed building structure. The site will be generally flat therefore they will be visible from the street, however, this is the intent of the signs. The proposal involves landscaping vegetation; however, this is not anticipated to create any significant view loss to the proposed signage.

#### **5. Site and building**

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

**Comment:** The proposed signage size and scale are considered appropriate in proportion to the overall scale of the buildings. The positioning of the signage is also considered suitable to allow for identification from the street and clear identification of entry points from the street. The signage will not impede on any important features of the site or building. The signs show a relationship to the building, being within the character and design of the proposed shopping centre. The pylon signs clearly identify the location of the proposal from the street frontage.

#### **6. Associated devices and logos with advertisements and advertising structures**

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

**Comment:** It has been demonstrated within the application that the lighting and any associated safety devices will be concealed within the structure of the signs. Logos proposed have been suitably integrated into the proposed signage.

## **7. Illumination**

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

**Comment:** The proposed identification signs will be illuminated. This will be recommended to be managed by way of conditions on the consent to ensure that they are compliant with the relevant Australian Standard to minimise light spill. The proposed level of illumination will be appropriate and ensure that it will not create any unreasonable off-site impacts, particularly in relation to the surrounding residential properties or impacting on vehicles at night time, as they will not increase light intensity in the area due to the existing street lights in the area. Further to this, there are no anticipated impacts on aircrafts.

The signs will not be moving or flashing. Lighting of the car parking signs will remain on longer than the usual trading hours of the centre, this will allow for safe navigation of the staff through the car park after hours.

There is no indication that the proposed illumination will be adjustable however, the illumination will be required to meet the relevant Australian Standard to minimise light spill.

## **8. Safety**

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

**Comment:** The proposed signage will not encroach into the roadway and will not interfere with pedestrian footpaths or vehicular sightlines. The signs do not resemble any traffic signs and are not anticipated to reduce safety of passing vehicles.

## **State Environmental Planning Policy No. 71 - Coastal Protection**

The subject site falls within the Coastal Zone which is defined on maps issued by the NSW Department of Planning & Environment. The provisions of State Environmental Planning Policy No 71 - Coastal Protection (SEPP 71) require the consent authority to consider the aims of the SEPP No. 71 together with the matters



for consideration listed in Clause 8 of the SEPP (and other relevant clauses) when determining an application within the Coastal Zone.

The Master Plan was adopted by the Minister for Planning in 2006 for Pacific Pines Estate. This approved Concept Plan incorporated an area for the proposed shopping centre that has since been slightly varied through a number of modifications to the Concept Plan.

The type, location and design of the development and its relationship with the surrounding area, is considered to be suitable. The site is removed from the coastal foreshore and therefore will not have any impacts on the coastal environment.

*Clause 8 Matter for Consideration*

*(a) the aims of this Policy,*

*(1) This Policy aims:*

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*

- (k) *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) *to encourage a strategic approach to coastal management.*

**Comment:** The proposal is considered to be consistent with the aims of SEPP 71. The Epiq concept plan identifies that the urban development on the land should provide for the retention and improvement of existing natural vegetation on the site. The site has previously been disturbed and no impacts to natural areas will result from the proposed shopping centre.

*(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*

**Comment:** The site is not along or adjoining the coastal foreshore therefore not applicable.

*(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*

**Comment:** The site is not along or adjoining the coastal foreshore.

*(d) the suitability of development given its type, location and design and its relationship with the surrounding area,*

**Comment:** The proposed development is considered suitable in the locality as the previously approved concept plan, the need for a neighbourhood centre and there are no issues with the proposed design.

*(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*

**Comment:** The subject site is not along the coastal foreshore therefore no anticipated impacts in relation to the amenity of the foreshore including overshadowing or view loss.

*(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

**Comment:** The proposed commercial facility will not create any unreasonable impact on the scenic qualities of the coast. It will not lead to any view loss or impacts along the coastline.

*(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*

**Comment:** The Threatened Species Conservation Act 1995 Act was recently repealed. Notwithstanding this, the proposed development is on previously disturbed land and not considered to result in unreasonable impacts on any animals or plants within meaning of the Biodiversity Conservation Act 2016 or their habitats.

*(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,*

**Comment:** The proposed development will not, subject to compliance with the recommended conditions, impact on fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.

*(i) existing wildlife corridors and the impact of development on these corridors,*

**Comment:** The development site is not identified as containing a Wildlife Corridor on Council's Wildlife Corridor Map (prepared by the NSW Office of Environment and Heritage), as referred to in the Ballina DCP 2012, Chapter 2, Section 3.3.

*(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*

**Comment:** The development is unlikely to impact on coastal processes and coastal hazards and will not be unreasonably affected by such processes and hazards.

*(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,*

**Comment:** The proposed development is unlikely to directly conflict with water-based coastal activities.

*(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*

**Comment:** the development site is not known to be recorded on any register as being a place of Aboriginal Heritage.

*(m) likely impacts of development on the water quality of coastal waterbodies,*

**Comment:** Part of the subject property is mapped as being within SEPP 14 Coastal Wetlands. However, the subject site where the proposed shopping centre will be located (Super Lot 1) is spatially separated from these wetlands and therefore the development is not anticipated to have any impacts on this land.

*(n) the conservation and preservation of items of heritage, archaeological or historic significance,*

**Comment:** The subject site is not identified or known to have any items of historical significance.

*(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*

**Comment:** No draft Local Environmental Plans applicable on the subject site.

*(p) only in cases in which a development application in relation to proposed development is determined:*

*(i) the cumulative impacts of the proposed development on the environment, and*

**Comment:** There are no significant anticipated cumulative impacts on the surrounding environment as a result of the proposed development. Any significant affects have been addressed under the Concept Plan approval for the Pacific Pines estate.

*(ii) measures to ensure that water and energy usage by the proposed development is efficient.*

**Comment:** The applicant has indicated that the proposed development will comply with the Building Code of Australia (BCA) in terms of energy efficiency which will be addressed as part of the Construction Certificate stage. Water efficient features will be incorporated into the proposed commercial development in accordance with Chapter 6 of the Ballina DCP 2012. This is recommended to be addressed by way of conditions on the consent, should the application be approved. Further to this, the proposed involves the implementation of solar panel and allows for electric car charging stations, encouraging visitors to the facility to utilise energy efficient methods.

#### *14. Public access*

*A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.*

**Comment:** The proposed development will not have any effect of the coastal foreshore or any access thereto, therefore no further assessment is required.

### *15. Effluent disposal*

*The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.*

**Comment:** Effluent generated by the development will be directed to Council's reticulated sewerage system. The proposed effluent disposal is not anticipated to have any negative impacts on the water quality.

### *16. Stormwater*

*The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.*

**Comment:** Stormwater treatment is provided on the site by existing connections to Hutley Drive and Snapper Drive underground stormwater networks. The Engineering Services Report submitted with the application provides analysis of stormwater quality and quantity requirements. Refer to the Chapter 2 of the DCP section of this report for further details.

Following the above assessment of the proposal in regards to the provisions within the SEPP Coastal Protection 71. The proposed development is considered to be consistent with the aims and objectives of SEPP 71 and the matters for consideration set out in Clause 8 of this policy.

### **State Environmental Planning Policy – Infrastructure 2007**

The proposed development is triggered under Schedule 3 of the Infrastructure SEPP as it is classified as shops with a floor area greater than 2000m<sup>2</sup>.

With regard to the proposed development Clause 104 is applicable:

*(3) Before determining a development application for development to which this clause applies, the consent authority must:*

*(a) give written notice of the application to RMS within 7 days after the application is made, and*

*(b) take into consideration:*

*(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and*

- (ii) the accessibility of the site concerned, including:*
  - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
  - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) any potential traffic safety, road congestion or parking implications of the development.*

**Comment:** With this in mind the application was referred to Roads and Maritime Service, who provided comment on the proposed development. The matters raised by the RMS were taken into consideration and a response was provided by the applicant to address these matters, which were considered adequate.

- 1. The Consent Authority should be satisfied that the impact of through and turning traffic on the Local road network has been adequately addressed.*
- 2. Service vehicles should enter and leave the site in a forward manner. The design should cater for the turning paths of the largest vehicle requiring access to the site.*

**Comment:** Amended plans were provided in relation to the turning traffic on the Local road network and the turning paths for service vehicles.

- 3. Regulatory signs and devices will require the endorsement of the Local Traffic Committee prior to Council approval.*

**Comment:** Noted by the applicant and no issues have been raised.

- 4. Consideration should be given to connectivity for public transport facilities and active transport modes such as walking and cycling.*

**Comment:** The applicant has provided bus stops along Hutley Drive and Snapper Drive within 120m of the site. The cycling and pedestrian linkages will be provided as approved as part of MOD5 of the Concept Plan, including a 3m wide shared path along Hutley Drive and a 2.5m wide shared path along Snapper Drive. A 1.35m footpath will also be provided adjacent to all local streets. Connections have been provided from the internal layout on the neighbourhood centre to the surrounding external public footpath network.

## **Ballina Local Environmental Plan 2012 (BLEP 2012)**

### **Aims of BLEP 2012 (Clause 1.2)**

The proposed commercial neighbourhood shopping centre development is generally in accordance with the aims and objectives of the BLEP 2012.



*(2) The particular aims of this Plan are as follows:*

*(a) to provide for a sustainable Ballina that recognises and supports community, environmental and economic values through the establishment and maintenance of the following:*

- (i) a built environment that contributes to health and wellbeing,*
- (ii) a diverse and prosperous economy,*
- (iii) a healthy natural environment,*
- (iv) diverse and balanced land uses,*
- (v) healthy, resilient and adaptable communities,*
- (vi) responsible and efficient use of resources,*

*(b) to provide for development that is consistent with Council's established strategic planning framework for Ballina,*

*(c) to achieve the objectives of the land use zones set out in Part 2 of this Plan,*

*(d) to promote the orderly and efficient use of land having regard to the social and environmental characteristics of the land,*

*(e) to provide for the development of public services and infrastructure.*

These aims are met particularly in relation to creating a diverse and prosperous economy and a range of diverse and balanced land uses within the Lennox Head locality. It is the intension of the proposal to create healthy, resilient and adaptable communities. The proposed development is also considered to create responsible and efficient use of resources such as the proposed solar panels and electric car charging stations.

### **Zoning & Permissibility (Clause 2.3)**

The majority of the subject site is zoned as B1 – Neighbourhood Centre under the Ballina Local Environmental Plan 2012. The proposed land use (retail premises) is permitted with consent within the B1 zone.

***Retail premises*** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,*
- (b) cellar door premises,*
- (c) food and drink premises,*
- (d) garden centres,*
- (e) hardware and building supplies,*
- (f) kiosks,*
- (g) landscaping material supplies,*
- (h) markets,*
- (i) plant nurseries,*

- (j) roadside stalls,*
- (k) rural supplies,*
- (l) shops,*
- (m) timber yards,*
- (n) vehicle sales or hire premises,*

*but does not include highway service centres, service stations, industrial retail outlets or restricted premises.*

With regard to the small R3 – Medium Density Residential zoned portions of land, retail premises are not permitted within this zone. Notwithstanding this, Clause 3B of Schedule 6A (Transitional arrangements) of the EP&A Act 1979 states that the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan. Council is satisfied that the development is consistent with the terms of the Concept Approval, therefore the Joint Regional Planning Panel is empowered to approved the application despite the zoning of the land.

### **Zone Objectives (Clause 2.3)**

The objectives of the B1 – Neighbourhood Centre zone are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To maintain a distinct retail hierarchy as identified in Council's strategic planning framework.*
- *To ensure adequate provision of infrastructure to support neighbourhood shopping facilities.*
- *To ensure a safe and accessible built environment.*
- *To encourage development that recognises natural, cultural and built heritage.*
- *To encourage development that is compatible with the character of the neighbourhood.*

The proposed development complies with these objectives of the B1 zone, particularly in relation to supporting neighbourhood shopping facilities and encouraging development that is compatible with the character of the neighbourhood. The development focuses on ensuring a safe and accessible built environment for the residents within the locality.

### **Height of Buildings (Clause 4.3)**

The proposed building height has a maximum of 8.6m and therefore does not exceed the maximum height shown for the subject land within Super Lot 1 of 9m on the Height of Buildings map.

### **Floor Space Ratio (Clause 4.4)**

The subject site has a mapped maximum floor space ratio of 0.6:1. The site area is 2.105 ha and the area of the site which is zoned B1 – Neighbourhood Centre zone is approximately 2.02 ha (as a result of zoning/boundary discrepancies). Therefore having regard for Clause 4.5(4)(a) (Exclusions from site area) of the BLEP 2012, the development has a Floor Space Ratio of approximately 0.27:1 which is compliant with the applicable development standard.

### **Development within the Coastal Zone (Clause 5.5)**

The proposed development is located within the Coastal Zone and therefore provisions within Clause 5.5 are to be taken into consideration.

Clause 5.5 (2) states that:

*Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:*

*(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*

*(i) maintaining existing public access and, where possible, improving that access, and*

*(ii) identifying opportunities for new public access, and*

**Comment:** The proposal will not impact on the public access to and along the coastal foreshore.

*(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*

*(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*

*(ii) the location, and*

*(iii) the bulk, scale, size and overall built form design of any building or work involved, and*

**Comment:** The proposed neighbourhood centre is acceptable in terms of its bulk, scale, size and overall built form. The suitability of the location of the centre is justified as it is within the new estate area. The bulk, scale and size of the building is considered suitable in the location, particularly in relation to the zoning of the land. The proposal complies with the approved concept plan in relation to size and scale.

The bulk of the building is considered to be suited to the landscape and is not anticipated to have any major amenity impacts due to the lay of the land.

*(c) the impact of the proposed development on the amenity of the coastal foreshore including:*

- (i) any significant overshadowing of the coastal foreshore, and*
- (ii) any loss of views from a public place to the coastal foreshore, and*

**Comment:** The proposed development is well removed from the coastal foreshore therefore no impacts anticipated on the foreshore or views to the foreshore.

*(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

**Comments:** The proposed development is not located on the coast or coastal headland therefore will not have any impacts on the visual amenity or scenic qualities of these areas.

*(e) how biodiversity and ecosystems, including:*

- (i) native coastal vegetation and existing wildlife corridors, and*
- (ii) rock platforms, and*
- (iii) water quality of coastal waterbodies, and*
- (iv) native fauna and native flora, and their habitats, can be conserved, and*

**Comment:** The subject site is highly disturbed and no existing native flora, fauna or habitat areas have been identified on the site. Therefore, no conservation required as part of the proposed development further from those conditions outlined in the Concept Plan.

*(f) the cumulative impacts of the proposed development and other development on the coastal catchment.*

**Comment:** The proposed neighbourhood centre will not have any effects on the coastal catchment as it is well removed from any waterways. It is noted that the subject land is within 200 metres of the mapped Coastal Wetlands (SEPP 14). However, the site is well removed spatially and physically from this mapped area and any disturbing earthworks have been addressed under a previous approved application (DA 2016/221).

*(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*

*(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

**Comment:** the proposal is not located near a public access to the coastal foreshore therefore no issues have been raised and Council is satisfied that it will not have any effect on these areas.

*(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

**Comment:** Effluent will be disposed of by Council's sewer system.

*(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

**Comment:** The proposed development will not discharge untreated stormwater. Further to this, the proposal is not located near any coastal water bodies or rock platform.

*(d) the proposed development will not:*

- (i) be significantly affected by coastal hazards, or*
- (ii) have a significant impact on coastal hazards, or*
- (iii) increase the risk of coastal hazards in relation to any other land.*

**Comment:** The development will not have any effect of coastal hazards or create the risk of coastal hazards in relation to any other land.

#### **Acid Sulfate Soils (Clause 7.1)**

The site is identified as being within Class 2 and 5 Acid Sulfate Soils under the Acid Sulfate Soils Planning Maps. All major earthworks proposed have been addressed as part of DA 2017/221 and it was determined that no Acid Sulfate Soils will be disturbed as part of these works. Further to this, no Acid Sulfate Soils will be disturbed as part of the proposed neighbourhood centre.

#### **Earthworks (Clause 7.2)**

Earthworks to accommodate the proposed commercial development have been addressed as part of a previous proposal DA 2017/221. No further significant earthworks are required as part of the current application. Minor earthworks may be required as per the completion of the final construction of the retail development and will be addressed as per the Construction Certificate application stage.

#### **Essential Services (Clause 7.7)**

The site has been fully serviced with necessary water (potable and non-potable), sewer, drainage, electricity and telecommunication infrastructure as a result of EPIQ

Stage 1B subdivision works. The subdivision reticulation layout accounts for the demand of the shopping centre. Recommended conditions of consent will require the proposed shopping centre to be plumbed for dual supply.

### **Section 79C(1)(a)(ii) the provisions of any proposed instrument**

#### **Draft Coastal Management State Environmental Planning Policy 2016**

The draft SEPP was placed on public exhibition from 11 November 2016 to 20 January 2017. As a consequence, the draft SEPP is a matter for consideration under Section 79C(1)(ii) of the Environmental Planning and Assessment Act 1979.

The draft Coastal Management SEPP seeks to consolidate and improve current coastal-related SEPPs and ensure that future coastal development is appropriate and sensitive to the coastal environment and public access to beaches and foreshore areas are maintained.

The subject site is identified under the Draft SEPP as being on the Coastal Use Area Map. The following provisions are therefore relevant to the assessment of the application.

#### *Clause 15 - Development on land within the coastal use area*

*Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:*

- (a) is satisfied that the proposed development:*
  - (i) if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
  - (ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
  - (iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
  - (iv) will not adversely impact on Aboriginal cultural heritage and places, and*
  - (v) will not adversely impact on use of the surf zone, and*
- (b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

**Comment:** The proposed development is consistent with the provisions contained in Clause 15. The site is not located in close proximity to a foreshore, beach, headland or rock platform and will therefore not have impacts on these areas. The subject site is not known to contain any items of heritage or known to be a place of historic significance. The proposed bulk, scale and size of the development is



considered to be appropriate for the location. The neighbourhood centre will not impede on the surrounding residential properties.

*Clause 16 - Development in coastal zone generally—development not to increase risk of coastal hazards*

- (1) *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

**Comment:** The proposed development is unlikely to cause increased risk of coastal hazards on the subject land or any other land as it is well removed both physically and spatially from any coastal foreshore or area.

The proposal is considered to be consistent with the aims and relevant provisions of the Draft Coastal Management SEPP 2016.

## **Section 79C(1)(a)(iii) provisions of any development control plan**

### **Ballina Development Control Plan 2012 (DCP 2012)**

#### **Chapter 2 – General and Environmental Considerations**

##### **Clause 3.4 - Potentially Contaminated Land**

Refer to Section 5.2 under State Environmental Planning Policy No. 55 – Remediation of Land for comments relating to potentially contaminated land.

##### **Clause 3.5 – Land Slip/ Geotechnical Hazard**

No geotechnical impacts are anticipated as a result of the proposed shopping centre. The earthworks required for the proposed neighbourhood centre have been assessed as part of the Development Application 2017/221. Minor earthworks may be required as per the completion of the final construction of the retail development and will be addressed as per the Construction Certificate application stage.

##### **Clause 3.6 – Mosquito Management**

The proposal does not involve residential, tourist or visitor accommodation, respite or child care centres. Therefore mosquito management is not applicable in relation to the proposed development except for stormwater management devices. The stormwater management proposed on site involve an underground storage tank and Gross Pollution Traps. These devices are not likely to contribute to the mosquito risk in the area.

### **Clause 3.7 – Waste Management**

Construction activities may generate waste and is required to be managed accordingly. This can be addressed by way of conditions on the consent. A Site Waste Minimisation and Management Plan was submitted by the applicant relating to the operational phase of the proposed development. The following waste will be generated:

- General waste
- Co-mingled recycling waste
- Cardboard waste

The waste generated will be stored within two allocated bin areas. Proposed Bin area one is located to the south of proposed Shop 5 and will have an area of 6.1m<sup>2</sup> with a 3 metre wide opening. This area will provide one bin for general waste, one for recyclable waste and the collection will occur once a week.

Proposed Bin area two is located to the south of the main supermarket building being 24.7m<sup>2</sup> with a 3 metre wide opening. This area within the service yard will involve a waste compactor for general waste which will be collected three times per week, a bulk bin for co-mingled recyclables to be collected three times per week, and a cardboard cage to be collected as required. These proposed waste storage areas are required to be designed to allow for cleaning as needed.

The waste management facilities provided by the applicant are considered satisfactory to Council's Environmental Health Officer, and the allocated bins are suitable to cater for the expected waste generated. Further to this, the bins are provided in a suitable location that is easily accessible for service vehicles. Therefore the waste management is considered satisfactory.

### **Clause 3.9 – Stormwater Management**

Stormwater Conveyance for the site is provided by existing direct connections to the Hutley Drive and Snapper Drive underground stormwater networks. The Hutley Drive stormwater discharges into the Hutley Drive stormwater channel on the other (west) side of Hutley Drive. The Snapper Drive stormwater discharges into the existing Water Quality Control Pond on the other side (south) of Snapper Drive.

The submitted Engineering Services Report provides analysis of stormwater quality and quantity/attenuation requirements. The report proposes a Humeguard Gross Pollution Traps on shopping centre catchment B for quality treatment and a 220m<sup>3</sup> underground tank and associated discharge controls for attenuation control. This proposed stormwater management is supported by Council's Development Engineer and therefore is considered to be satisfactory in relation to the proposal.

### **Clause 3.10 – Sediment and Erosion Control**

Appropriate sediment and erosion control measures will be installed and effectively maintained to control stormwater run-off, particularly during the construction phase to ensure that there are no environmental impacts downstream. A condition of

consent has been recommended to require the preparation and implementation of a Construction Management Plan during the construction phase of the development.

### **Clause 3.11 – Provision of Services**

Potable and non-potable water supply, sewer and power has been provided to the site under the EPIQ Stage 1B subdivision. The subdivision reticulation layout accounted for the demand of the shopping centre. Conditions will be recommended to require the shopping centre to be plumbed for dual supply. Sewer is available as part of the EPIQ Stage 1B subdivision works.

### **Clause 3.15 – Crime Prevention through Environmental Design**

The applicant has addressed the Crime Prevention through Environmental Design principles. Through the CPTED assessment provided, it has been determined that the site is unlikely to create any significant impacts on crime to the area. The applicant has provided the following comments in relation to crime prevention.

- The retail building is readily accessible from the proposed car park with clear lines of sight throughout.
- Entrance to the Woolworths supermarket will be via controlled access with vandal resistant night-time lighting. All the entry doors will be clear toughened glass to allow good vision into the retail building.
- The orientation of the retail building and the mix of uses gives opportunity for casual surveillance from both the specialty shops and Snapper Drive/Hutley Drive to the carpark.
- Bins are to be kept in locked enclosures reducing areas of concealment and entrapment.
- Landscaped garden beds have been located to allow vision through the site and plant selections comprising low shrubbery and trees.
- The proposed toilets are located with the primary entry achieved from the main access to the supermarket.
- Access to the rear of the development to access the loading bays and bins will be subject to security lighting and CCTV cameras.
- A lighting design, which satisfies CPTED principles, will be applied to all public areas of the development.

The following comments are made in relation to the CPTED principles for the proposed development.

- **Surveillance**

The site is considered to have suitable surveillance from public areas by pedestrians and motorists. The proposal will be required to provide effective lighting, particularly though the connective arcade and the car parking areas. The proposal involves suitable landscaping, including small shrubs which is considered suitable

and unlikely to interfere with surveillance around the site. It was indicated by the applicant that lighting will be an integral feature to the car park and building design facilitating formal surveillance. The proposal has included provision for CCTV and a monitored alarm system around the site to improve surveillance and security measures.

- **Access Control**

The landscaped areas are considered to channel pedestrians into target areas such as the shops and supermarket areas. The proposal involves physical indicators to show pedestrian access throughout the car parking areas. The applicant has indicated that there will be vegetation used as barriers to deter unauthorised access and large trees will be avoided on the site. This will deter intruder access into the adjoining residential areas. The entries are clearly visible from the street system including both Hutley Drive and Snapper Drive. These entrances and pedestrian access throughout the site will be appropriately lit to provide clear identification of entry points. The application involves lock facilities and restricted access areas, through bollard placement, to result in ability to identify legitimate users from trespassers.

- **Territorial Reinforcement**

All public areas around the site are clear with the service yard spatially removed and screened from the main shopping centre area. These public areas will be evident as part of the design and this will also incorporate their main purpose. The majority of the site provides open areas allowing the public to view all areas. The proposal defines property boundaries through fencing, retaining walls and landscape treatments allowing the public to know when they are moving onto private property.

- **Space Management**

The landscaped areas and the commercial site will be conditioned to ensure that it is well maintained and looked after. It is indicated in the application that vandal reducing materials will be used where possible. The applicant has indicated that they will utilise anti-graffiti treatment to all accessible areas where reasonable. The Property Manager will be responsible to ensure that the site maintains a 'cared for' image.

The proposal was referred to the NSW Police who indicated that there were no significant issues with the proposal.

### **Clause 3.19 – Car Parking and Access**

#### **External Roads and Traffic**

The external traffic impacts of the whole (residential and retail) EPIQ development have been considered in a series of reports including Cardno 2011, Cardno 10 July

2014, and Council resolution endorsing these reports 23 October 2014. These reports acknowledge that the predicted traffic volumes of 4,071 vehicles per day (vpd) on Montwood Drive will exceed the existing nominal environmental capacity of Montwood Drive of 3,500vpd. The latest review was presented to the Department of Planning and Environment in the proponent's application for Mod 5 of MP 07\_0026. The concept approval for Mod 5 dealt with the permissible volume of external traffic generation by the EPIQ development in Concept Approval Term B7A by limiting land release so that external traffic generated by EPIQ does not exceed 7,456 vpd until Hutley Drive is extended north from the site to North Creek Road.

The proponent has acknowledged the Term B7A limitation and advises:

*“As stated in Modification 5 the occupation certificate will not be released for the neighbourhood shopping centre until a revised traffic report is provided demonstrating that the surrounding road network still has sufficient capacity to service the development. As the surrounding road network is unlikely to have sufficient capacity until the northern extension of Hutley Drive is completed it is proposed that Council grant approval of this development but withhold the occupation certificate until Hutley Drive is extended (ie the development can be built but not opened until the new Hutley Drive connection is completed).”*

In regard to the status of the proposed northern extension of Hutley Drive to North Creek Road referred to above, at this time:

- The works items have been included in the Roads Section 94 Contributions Plan.
- Council has completed concept designs for the deviation of North Creek Road below (west of) the reservoir and the extension of Hutley Drive to junction with this new alignment at a new roundabout located 60m south of the existing Coast Road roundabout. This deviation will be located on land now in private ownership that has recently been rezoned for residential purposes.
- Negotiations have been occurring for some time between Council and the owners of the rezoned land to enable the land for the road corridor to be acquired. This has involved subdivision concept design and valuations of the land to be acquired and/or swapped.
- Negotiations have also been occurring, and valuations obtained for acquisition of a small section of road widening from another landowner near the reservoir.

It is likely that at least three years lead time will be required to complete the Hutley Drive connection (inclusive of land acquisition, funding approval, Telstra cable relocation, design, Development Application and works).

As a possible alternative, Council is proceeding with a concept design for the extension of Hutley Drive and connection to Byron Bay Road via Lot 2 DP 620838

(recently purchased by Council). If Council is required to proceed with this option, it will still achieve similar network connectivity to the North Creek connection proposal.

The existing traffic on the external local road network (Henderson Lane and Montwood Drive) was measured prior to development of Stage 1A and was:

Montwood Drive	1,712 vpd
Henderson Lane	<u>1,634 vpd</u>
Total Existing Traffic	3,346 vpd
Allowable, prior Hutley Dr Extension to North Ck Rd	7,456 vpd
Net available for EPIQ prior to above extension	4,110 vpd

The proponent estimates the proposed shopping centre will generate a peak of 3,770 vpd.

The proponent estimates the existing approved stages of EPIQ will generate the following external traffic volumes:

Stage 1A	247
Stage 1B	0
Stage 2	397
Stage 3	581
Stage 4	169
Total	<u>1,393</u>
And adding the volume predicted for the shopping centre	3,770
Total	<u>5,163</u>
Which exceeds the available	<u>4,110</u>
By	1,053 vpd

Under Term B7A of Mod 5 of MP 07\_0026, there is a cap of 7,456 vpd external traffic permitted prior to the extension of Hutley Drive to North Creek Road. As can be seen from the above figures the approved subdivisions and the proposed shopping centre would combine to exceed this threshold. To ensure the threshold is not exceeded the issue of the shopping centre Occupation Certificate and Stage 2, 3 and 4 Subdivision Certificates will need to be limited to keep the aggregate external traffic under 7,456 vpd (prior to the extension of Hutley Drive). Development Applications for all the EPIQ stages and the proposed shopping



centre will have the commercial flexibility to choose the combination of stages and/or shopping centre elements they will seek construction/subdivision/occupation certificates ensuring the vehicle movements remain under the 7,456 vpd land release limit. A consent condition has been recommended to ensure this threshold will be met.

Ensuring that all consents related to the EPIQ estate (including the proposed shopping centre and residential subdivisions) are conditioned to manage traffic volumes under the threshold of 7,456 vpd (utilising Montwood Dr and Henderson Lane) until Hutley Dr is extended north to join with North Creek Road. Once this construction of Hutley Drive has occurred, it is considered that the external road network will be constructed to a suitable standard to service the proposed development.

#### *Pedestrian and Cyclist Requirements*

Pedestrian access to the site is from three of the four frontage roads to the site. Pedestrian access from these public footpath access points throughout the site is obtained via defined pathways and zebra crossing are used where pedestrian/vehicle conflicts exist. The access from Snapper Drive is direct to the shops and has no vehicle/pedestrian conflict points.

Cyclists can utilise the vehicle access network or be wheeled along the pedestrian pathways. The plans indicate eight bicycle parking structures which should accommodate 16 bicycles (which can be locked for security).

#### *Internal Roads and Traffic*

The vehicle and parking access network is simple and legible. Adequate capacity is available in relation to the proposed access for internal queueing on the site.

#### *Site Access, Internal Driveways and Parking Design*

The proposed sight distances at the available access points are satisfactory and compliant with the relevant Australian Standard to allow vehicles to enter and exit the site safely.

The proposed driveway widths are 8.7m, which is considered acceptable for the development. The proposed walls at the entrance will compromise sight distance for exiting vehicles observing pedestrians on the Hutley Dr and Snapper Drive footpaths. Conditions have been recommended to limit the height of these walls in the vicinity of the exits and providing 2.5m x 2.5m sight triangles.

The traffic report prepared by Bitzios dated 8 November 2017 analysed turn Warrants in accordance with "Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings" for the proposed vehicle accesses from Hutley Drive and Snapper Drive.

The analysis indicates the following warrants:

Hutley Drive:

Right Turn – Short channelised right turn treatment CHR(s)

Left Turn – Basic left turn treatment BAL

Snapper Drive (Previously Main St)

Right Turn - Short channelised right turn treatment CHR(s)

Left Turn – Short channelised left turn treatment CHL(s)

The report argues that the above turn treatments are not needed for this development because “the road environment on Hutley Drive and Snapper Drive (and surrounding road network) is such that treatments higher than a Basic Right / Left turn (BAR / BAL) are not typically require or currently provided; and no heavy vehicles (HRV or larger) are expected to use these accesses as the loading dock for the shopping centre is to be accessed via dedicated accesses on Snapper Drive.”

These arguments are not considered valid as these exceptions are not supported in the Austroads document.

It is considered however that the Short channelised left turn treatment CHL(s) in Snapper Drive could be deleted as the analysis shows that the traffic numbers for 2036 are only high enough to marginally support this treatment.

It is therefore recommended that the following turn treatments be provided:

Hutley Drive:

Right Turn – Short channelised right turn treatment CHR(s)

Left Turn – Basic left turn treatment BAL

Snapper Drive (Previously Main St)

Right Turn - Short channelised right turn treatment CHR(s)

Left Turn – Basic left turn treatment BAL

The proponents consultant Newton Denny Chappelle has provided plans (14351-SHO-INT-01 Shopping Centre Access Plan, Sheet 1 Rev A and Sheet 2 Rev A), that show the above turn treatments. Conditions are recommended to require the above proposed turn treatments in accordance with these drawings.

The previously approved excavation of the site results in a level difference of around 5m in the north east corner between the ground level of the shopping centre and the

level of the adjacent public verge. The proponent proposes to make the retaining wall 1.2m higher than the road/verge level which will provide a barrier to prevent pedestrian and possible errant vehicle falls onto the lower level.

#### *Provisions for Service and Delivery Vehicles*

There is provision for delivery trucks to enter and leave in a forward direction from a separate access at the eastern end of the site off Snapper Drive to a dedicated service yard. There is provision within this service yard for loading/unloading of articulated vehicles as well as parking of two Medium Rigid Vehicles. The arrangements comply with the provisions of the DCP and considered satisfactory for the proposal.

#### *Parking numbers*

The shopping centre has a GFA of 5,500 m<sup>2</sup>. The DCP requires 6.1 spaces per 100m<sup>2</sup>. This requirement is based on a table in the 2002 RTA Guide to Traffic Generating Development. The RTA guide also has a formula based alternative and surveys commissioned by RMS indicate that 2002 guide has over estimated parking requirements.

The applicant has proposed that car parking will be provided in accordance with the *RTA Guide to Traffic Generating Developments*. Using the formula generated by the RTA guide and the retail categories, the proposed neighbourhood shopping centre needs to provide a minimum of 234 spaces or 4.25 spaces per 100m<sup>2</sup> of GLFA. The development proposes a total of 278 spaces or five spaces per 100m<sup>2</sup>. The proposed number of parking spaces provided by the development exceeds the minimum number specified by the RTA for this type of development.

It is considered that the provision of five spaces per 100m<sup>2</sup> GLFA is reasonable and although the provision requests to vary the controls within the DCP it is supported as it meets the RTA guidelines. This equates to 275 required parking spaces. The total proposed spaces were 278 car parking spaces.

Eight accessible spaces are proposed, which exceeds the BCA requirements. These accessible spaces are covered, which is recommended to be managed by way of conditions on the consent to comply with the DCP. An additional disabled car parking spaces has been required (by way of condition) to be provided in the north-western corner of the lot to allow for an accessible space within close proximity to Proposed Shop 5. This additional space is not been required to be covered, despite the requirement to do so under Clause 3.19.3 A(iii), Chapter 2 of the Ballina DCP 2012. This is considered acceptable, in this instance as the space is in addition to what is required and considered good practice to allow suitable accessibility to the Proposed Shop 5. Therefore the total number of car parking spaces (with the included additional accessible space) will be 277.

### *Bicycle and Scooter Parking*

The proposal involves eight bicycle racks allowing space for 16 bicycles.

Mobility scooter parking is provided for on the north side of the main building. These spaces will be required to be in accordance with AS 1428 and will be recommended to be managed by conditions on the consent.

### *Bus Servicing*

The proposed plans 14351-SHO-INT-01 Shopping Centre Access Plan, Sheet 1 Rev A and Sheet 2 Rev A, demonstrates the provision of southbound and northbound bus stops on Hutley Drive. These relocated bus stops will require modification of existing sections of kerb and gutter and associated roadworks and also extension of footpath to the new northbound bus stop.

## **Chapter 6 – Commercial Development**

### **Section 3.1.3**

#### **A. Element – Building Height**

The height of the shopping centre does not exceed the maximum building height provisions of 9m for the subject site as indicated on the building height map within the BLEP 2012.

#### **B. Element – Floor Space Ratio**

The proposal has a floor space ratio of approximately 0.27:1, which is below the maximum permitted floor space ratio of 0.6:1.

#### **C. Element – Roof Form**

The proposed roof form has been designed to be functional and provide articulation. The required roof plant and equipment is illustrated on the architectural plans and will be provided with visual screening. It is noted that a large portion of the roof form will have integrated solar panels installed.

The majority of the roof will have a roof pitch between five degrees and seven degrees, therefore compliant with the minimum five degree pitch. The central and eastern areas contain a three degree pitch to ensure that the building complies with the maximum building height allowance and also preserve the western view for those residents located west of the development site.

#### **D. Element – Building Setback**

There are no current building line setbacks nominated for the subject lot. It is noted that the concept plan approval provides a zero setback. The proposed setbacks in the application are considered to be suitable in the location. The retaining wall to the rear of the site will provide an adequate acoustic buffer between the site and the

neighbouring residential properties. The side setbacks are considered adequate as the buildings are well removed from the adjoining footpaths.

#### **E. Element – Arcades**

The proposed roofed arcade will create a thoroughfare for pedestrians and remain open at all times preventing any issues with increase in crime to the site. The site is isolated and therefore the arcade will not create a thoroughfare for neighbouring residents to use as a bypass passage between adjoining properties.

#### **F. Element – Awnings**

The awnings over pedestrian pathways and disabled car spaces will allow for weather protection for pedestrian access to and from the building. The awning will be required to be set back 1 metre from the kerb.

The awnings are considered to be consistent to the height and depth of the design of the proposed shopping centre. All under awnings will be conditioned to ensure they comply with the AS 1158 in relation to lighting for roads and public spaces.

#### **G. Element – Landscaping**

Proposed landscaping has been identified within the provided landscaping plan. The plan identifies the proposed general planting around the site and a species list of the vegetation to be planted, which includes native species.

Only minor earthworks will be required for the proposed landscaping. All major earthworks as part of the proposed development have been addressed as part of DA 2017/221. There is no existing vegetation or trees identified on the subject site. As outlined in the DCP the plans have included the proposed signage including a pylon sign fronting Hutley Drive. These signs have been assessed under SEPP 64 section of this report and the proposed landscaping is not anticipated to have a significant impact on the visibility of this signage.

#### **H. Element - Gateways and Landmark Sites**

The built form design is consistent with the key design principles in so far as having increased wall heights, shopfronts wrapping the primary street frontages with a mixed material design.

#### **I. Element - Vehicular Access and Parking**

The car parking onsite is proposed to be freely accessible at all times and will not be gated or secured for exclusive use. The proposal has indicated that all sight distances are adequate to ensure that all vehicles are able to enter and exit the site safely. The design of the landscape plan and proposed signage ensures that no obstruction is made to sight distances. Landscaping is provided around the site and in suitable areas to break up the visual impact of the car park. Secondary access from Snapper Drive will be provided to the car park. The site provides suitable

pedestrian access between the car parking spaces and the proposed shops within the centre.

The proposed supermarket will have a loading bay with separate access to Snapper Drive and allow for a Heavy rigid vehicle to enter for deliveries and are compliant with AS 2890.2. The proposed loading bay is well removed and has separate access from the main car parking and shopping area, thus creating suitable amenity for the proposed shopping centre.

Refer to Chapter 2 section of this assessment for further details relating to vehicular access and parking provided.

#### **J. Element – Waste Storage Facilities**

There are two proposed waste storage facilities provided on the subject site. The main area is located at the rear of the building within the proposed Service Yard area. This facility is accessible via the separate service access and is considered to be of a size suitable for the proposed development. The second area will be located within close proximity to Proposed Shop 5. These areas have suitable access with regard to safety and ease of manoeuvring.

No habitable rooms or outdoor recreational areas are adjoining the proposed waste storage areas.

The areas are well removed from the main centre area and landscape screening is proposed between the service area and the Snapper Drive.

#### **K. Element - Pedestrian Entries and Access**

The proposal involves a pedestrian pathway through the site to link the public footpath along Hutley Drive, Snapper Drive and Outrigger Road to the front entrance of the premises. This is consistent with AS1428 – Design for Access and Mobility. Bicycle parking is able to be provided on site.

#### **L. Element – Energy Efficiency**

The proposed building will comply with the applicable energy efficiency requirements of the BCA. A supermarket is such that artificial lighting and heating/cooling mechanisms are required, including substantial refrigeration units.

#### **M. Element – Water Efficiency**

The subject site will be plumbed with dual reticulation in accordance with Council standard practices within the EPIQ estate in Lennox.

## **Chapter 8 – Other Uses**

### **3.4.3 Development Controls**

#### **A. Location-based requirements**

##### *Commercial Zones*

- *Business identification signs and building identification signs must relate to the premises or site on which the sign is erected or the activities lawfully carried on or within the premises or site;*

The proposed signage relates to the proposed shopping centre, advertising the tenants within.

- *Where located on or otherwise attached to a building, must be aligned, and relate to, the architectural features of the building façade, or in the absence of architectural detail or decoration, relate to the design of adjacent buildings;*

The proposed signs are integrated into the design and character of the development, providing clear features to represent the building.

- *Window signage must permit a view into the ground floor of commercial premises from the primary street frontage where; and*

No window signs proposed as part of the development.

- *Design and colours used in signage should not dominate the streetscape;*

The design of the signs is not anticipated to dominate the streetscape. They will be within the character of the proposed shopping centre and will suitably address the streetscape to identify the businesses within.

#### **B. Context, Siting and Number of Advertising Signs**

- Signage must be of a scale compatible with the streetscape, setting or landscape, in which it is located and must not dominate the streetscape, setting or landscape in terms of style, proportion or form;*

The scale of the proposed signs are suitable for the streetscape and are considered to be within the character of the proposed building and not anticipated to dominate the streetscape.

- Signage must be compatible with the “desired future character” of the locality in which it is located (as defined in the Ballina Shire Growth Management Strategy);*

The subject land is zoned B1 Neighbourhood centre, and the signs are considered to be within the character of the commercially zoned land.

- Signage must not obscure or compromise important views, dominate the skyline, or reduce the quality of public views or vistas;*

The signage will not impede on any public views or compromise any views or sightlines for vehicles or pedestrians.

- iv) *Signage must not protrude above buildings, structures or tree lines in the area or locality in which it is located;*

The proposed signage will not protrude above the height of the proposed shopping centre or extend beyond the site boundary of Super Lot 1.

- v) *Signage must be compatible with the building on which it is located and the character of the locality in which it is located with regard for size, height, shape or colour;*

The signage is compatible with the proposed building being within the character of the shopping centre.

- vi) *A premises must not provide signage in excess of the following except as identified under (vii);*

- *1 x under awning sign; and*
- *1 x awning fascia sign; and*
- *1 x window sign; and*
- *2 of the following (where each listed sign type may only be used once):*
  - *a top hamper sign;*
  - *a wall sign;*
  - *a projecting wall sign;*
  - *an above awning sign.*

- vii) *Commercial premises occupying more than 25m of commercial street frontage must not provide signage in excess of two times the standards identified under (vi).*

As the subject site has more than 25m of commercial street frontage, signage permitted is two times the normal standards. The proposed signage is not considered to be excessive in relation to the proposed development on the site. The signage proposed does not exceed the allowable number of signs and will not impact on the streetscape or design of the building. The proposed signs are considered to be generally consistent with the objectives of the DCP 2012 and are not likely to detract from the character of the locality.

### **C. Illumination**

- i) *Lighting intensity and hours of illumination of illuminated signage must not adversely impact on the amenity of any residential property, adjoining or within the locality;*



- ii) *Illuminated signage must minimise light spill effects or escape of light beyond the subject property and must not operate so as to distract or affect in any way pedestrians, vehicles or aircraft;*
- iii) *The light intensity of an illuminated signage must be capable of modification or control after installation; and*
- iv) *Electrical wiring to, or supporting, illuminated signage is to be safely concealed.*

The lighting of the signage will be in accordance with the relevant Australian Standards, ensuring that there is minimum light spill. The signs will not be orientated to face the surrounding residential properties and will face the street frontages, to maximise distance between the signs and these residential allotments. Given the street lighting in the area, the illumination of the proposed signage is not anticipated to create any impacts on vehicles, pedestrians or passing aircraft. Any electrical wiring will be required to be safely concealed within the signage structure.

#### **D. Wording and Content**

The content of the sign is considered to be in accordance with the wording and content controls. The signs will display the business identification for the proposed shopping centre including the supermarket and other retail premises. No undesirable discriminatory messages will be displayed on the signs and all signs will predominately be displaying the names or logos of the retail and supermarket businesses.

#### **E. Safety Considerations**

The proposed signs are located in areas so they will not obstruct any sightlines for vehicle movements. The signs will not impact on the safety of pedestrians, cyclists or vehicles. The proposed signage will be required to be fastened to the proposed building or structures to ensure that it is attached and will not create any danger to the area. The location and content of the signage are not anticipated to create confusion in relation to traffic signals or other devices on the public roads.

#### **F. Sensitivity in Special Areas**

As the signage is consistent with the character and design of the proposed shopping centre, it is not anticipated to create any significant impacts on the amenity or visual quality of the surrounding area. No impacts on any surrounding heritage or culturally significant land are expected.

#### **G. Large Developments & Multiple Tenancies**

The signage for the shopping centre and designed and the multiple tenancies are co-ordinated to ensure that this signage is aesthetically appealing. Two multiple tenancies pylon signs are proposed, one sign on Hutley Drive, and one fronting Snapper Drive. This is considered suitable in relation to the proposed development and will minimise the potential proliferation of signage in the future.

## **H. New Developments**

The proposed advertising signage is in conjunction with the development application for the proposed shopping centre. The proposed signage is considered to be integrated into the building design.

## **I. Sign Specific Controls**

- *2 x pylon signs (total height of 7m and a panel width of 2.14m)*
- *1 x tenant wall sign (1500mm x 9500mm on the southern elevation of the building)*
- *2 x entry wall signs to Hutley Drive and Snapper Drive (located on retaining walls entering the property)*
- *External tenant signage (below the awnings)*
- *1 x below awning sign for parcel pick-up (440mm x 3600mm on northern elevation)*
- *Centre building sign fronting Hutley Drive (520mm x 13030mm)*
- *Woolworths supermarket and BWS internally illuminated signage fronting Hutley Drive (760mm x 13600mm)*
- *Three fascia signs located on the western façade for tenancies (1025mm x 13526mm)*

### **Below awning sign**

- The below awning signs are not animated or flashing, will not be closer than 0.3m from the edge of the awning, has an area of 0.9m<sup>2</sup> and provides an unobstructed clearance of 2.9m from the footpath.

### **Pylon sign**

- Two pylon signs are proposed wholly within the subject land with a total advertising area of 8m<sup>2</sup> and a maximum height of 7.5m. There is existing signage in the locality therefore it is considered that the integration of the signage to the design of the building ensures that it is consistent with the character of the locality and improves visual appearance from the public domain.
- A structural engineering report will be required to be provided to the PCA prior to the issue of a Construction Certificate.

### **Wall sign**

- One wall sign is proposed on the southern building elevation, not protruding more than 300mm from the façade
- The signs on the retaining walls are not technically wall signs however only one indicated on each elevation of the retaining walls.
- The centre building sign fronting Hutley Drive complies with the allowable one sign per elevation and will not protrude more than 300mm from the building façade.

- The proposed fascia sign for tenant building sign include just one per elevation and will not extend beyond 0.2m above or below the fascia.

As aforementioned, the proposed signage is not in excess of the DCP requirements and they are considered to be consistent with the character, scale and bulk of the proposed shopping centre development.

**Section 79C(1)(a)(iia) provisions of any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F**

There is no planning agreement or draft planning agreement applying to this development or the subject site.

**Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

**NSW Coastal Policy 1997**

The subject site is affected by the NSW Coastal Policy 1997 requiring it to be taken into consideration for the assessment of approval. It is deemed that the proposal will not have any effect on the goals of this policy as it is well removed from the coastline and will not have any impacts on the coastal foreshore.

**Section 79C(1)(a)(v) provisions of any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)**

No specific coastal zone management plan applies to the site therefore no further assessment is required.

**Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The following assessment addresses the impacts that the development will have on the surrounding natural and built environment and the social and economic impacts that the proposal may have on the locality.

<b>Urban and Building Design</b>	
i) Context and Settings	<p>The proposed neighbourhood centre is identified within the approved EPIQ Concept Plan and will service the growing number of residents within the locality.</p> <p>The subject land is zoned B1 – Neighbourhood Centre and therefore the proposed development is permissible and well suited to the zoning of the site.</p>
ii) Site Design and Internal Design	<p>The design of the proposed development is suitable in the location. The shopping centre addresses both Hutley Drive and Snapper Drive and meets the relevant design requirements including access, car parking, shop locations and layout addressing proximity to the adjoining residential lots.</p> <p>The design of the building is suitable to allow pedestrian access throughout the site and within the proposed building. The thoroughfare areas are covered for weather protection.</p> <p>All waste storage area and service areas are suitably screened from the main shopping centre areas to reduce any conflict between these areas and can be serviced by a proposed access off Snapper Drive.</p> <p>Trolley management has been considered as part of the assessment as there is potential for trolley abandonment to be an issue within a neighbourhood. Trolley loss can be unsightly and costly for the business to clean them up and replace them. A condition has been recommended to implement a trolley management system from the start of operation, allowing the community to accept the system and keep trolley loss to a minimum.</p>
iii) Ecologically Sustainable Building Design	<p>The proposal will be required to have suitable energy efficiency and water efficiency measures to ensure that the centre will not have any major</p>

	<p>adverse impacts on the environment. These conditions will be recommended.</p> <p>The design of the building has ensured that solar access into the building, ventilation and solar panels to provide energy, thus increasing sustainable design for the proposed shopping centre.</p>
iv) Access, Transport and Traffic	<p>The site is considered to have suitable access points for vehicles, service vehicles and pedestrians, from the surrounding road networks and footpaths onto the shopping centre site.</p> <p>In accordance with the RTAs guidelines suitable car parking spaces have been proposed on the site. Further to this, the proposal includes covered accessible spaces, electric car charge points, scooter spaces and bicycle racks.</p> <p>A condition is recommended which requires an accessible car space to be provided within close proximity to Shop 5, thus allowing for suitable access and reducing the need for people with mobility limitations to park a far distance away from Shop 5. This space will not be required to be covered as outlined in the Ballina DCP, however, the additional space is considered satisfactory to provide accessibility for all people to the proposed Shop 5 and provide in excess of the required numbers.</p> <p>The adjoining road network is considered suitable to service the proposed neighbourhood facility provided that the extension of Hutley Drive to connect with North Creek Road is constructed. It is recommended that this will be managed by way of conditions on the consent. Further discussion relating to this within the DCP section of this report.</p> <p>The applicant has proposed bus stops along Hutley Drive to allow for public transport access to the site and improve connectivity to the</p>

	<p>surrounding locality, particularly the EPIQ estate.</p> <p>The proposal has included vehicle access from both Hutley Drive and Snapper Drive to allow for the entry and exit from both the main road (being Hutley Drive) and the secondary road, thus reducing the potential for congestion for customers entering and exiting the site.</p> <p>A separate access for service vehicles has also been included in the proposal for direct access into the service yard. This will prevent any conflict between the main car park areas and the service yard space. The ingress/egress manoeuvring of these service vehicles has been considered and amendments made as part of the assessment.</p>
v) Public Domain	<p>The proposed development is surrounding on the eastern and northern sides by future residential accommodation and a proposed Child Care facility. The western side of the development (across from Hutley Drive) involves a public sports ground and the southern side is the identified drainage reserve. The development is not intended to have any adverse impacts on the adjoining public area. Due to the bulk, scale and character of the proposed shopping centre it is not anticipated to have any adverse impacts on the amenity of the area, for people viewing the site from the surrounding public spaces.</p>
vi) Utilities	<p>Potable and non-potable water supply, sewer and electricity have been provided to the site under EPIQ Stage 1B. The subdivision reticulation layout accounts for the demand of the shopping centre. Conditions will be recommended to require the shopping centre to be plumbed for dual supply. Sewer is available as part of the EPIQ Stage 1B subdivision works.</p>
vii) Heritage	<p>No known historic items or places of heritage on the subject site or in the surrounding area. No</p>

	known culturally significant areas therefore no issues raised in relation to heritage.
viii) Construction	Currently there are no immediate sensitive receivers however there may be by the time construction occurs. Therefore, the construction of the proposed shopping centre will be recommended to be managed by way of conditions on the consent.
<b>Environmental Impacts</b>	
ix) Other Land Resources	No issues raised.
x) Water	No issues raised in relation to water. Potable and non-potable water supply will be available on the site. It will be recommended to implement conditions of consent to require the shopping centre to be plumbed for dual supply.
xi) Soils	<p>The subject site requires extensive earthworks for the proposed shopping centre. However, this has been assessed under a previous approval (DA 2017/221). No major earthworks are required as part of the subject application. Minor earthworks in relation to the landscaping will be required however this is considered to be acceptable.</p> <p>The site has been identified as having Class 2 and 5 Acid Sulfate Soils under the Acid Sulfate Soils Planning Maps. Although the submitted Statement of Environmental Effects outlined an Acid Sulfate Soil Management Plan would be submitted prior to Construction Certificate as it has been indicated by the applicant that the area of excavation is outside of the area classified as Class 2 Acid Sulfate Soils.</p>
xii) Air and Microclimate	Large car park areas such as proposed can generate a significant amount of localised heat in an area. The proposed landscaping plan has provided for vegetation that is anticipated to generate minor shading and cooling throughout the bitumen car park areas to minimise this

	<p>anticipated heat.</p> <p>Any dust generation anticipated during the major earthworks for the subject site have been addressed under DA 2017/221.</p>
xiii) Flora and Fauna	<p>No vegetation removal is proposed as part of the application and therefore no issues have been raised.</p> <p>The subject land is within 200 metres of the mapped Coastal Wetlands (SEPP 14). This area mapped as Coastal Wetlands is both spatially and physically removed from the subject land and therefore the proposal is not anticipated to have any significant environmental impacts on the subject site.</p>
xiv) Waste	<p>It is recommended that all construction waste generation be managed by way of conditions on the consent to ensure that it is disposed of suitably.</p> <p>Operational waste will be managed by way of a Site Waste Minimisation Plan. This plan has allocated two main waste facility areas, one being within the main supermarket area and another for the Proposed Shop 5. These areas are considered suitable for the proposed shopping centre and will allow for acceptable management of waste.</p>
xv) Energy	<p>The proponent is to provide suitable electricity supply to the proposed site. The proposal also involves the provision of solar panels integrated into the shopping centre design. Further energy efficiency measures as outlined within the Ballina DCP have been recommended to be implemented as a condition on the consent. No further issues have been raised in relation to energy on the proposed site.</p>
<b>Hazards</b>	
xvi) Noise and Vibration	<p>An Environmental Noise Impact Report prepared by CRG Acoustics was submitted with</p>



	<p>the proposal. The report aims to assess the impact of the use of the commercial premises on the future residential areas and makes a number of recommendations regarding acoustic treatments and mitigation required to ensure any impact is likely to be compliant with the requirements of the NSW Industrial Noise Policy.</p> <p>The recommendations outlined in the report include:</p> <ul style="list-style-type: none"> <li>• A solid acoustic wing wall should be constructed along the east perimeter of the service yard. The height of this wall should be a minimum of 5m.</li> <li>• The hours of operation for the supermarket and retail tenancies limited between 6am and 10pm</li> <li>• Truck deliveries to Shop 5 limited between 7am and 6pm</li> <li>• Large rigid and articulated truck delivery at the service yard be limited between 6am and 10pm</li> <li>• Trolley collection limited to 7am to 10pm.</li> <li>• Waste collection limited to 7am and 6pm</li> <li>• Car park and driveway hardstand areas finished with a surface coating which prevents tyre squeal</li> <li>• Drainage grating over trafficable areas be well secured to prevent rattling</li> <li>• Carpark and driveway hardstand areas are to be finished with surface coatings which prevent tyre squeal</li> <li>• Mechanical plant to be designed and installed to comply with noise criterion provided with the application. As final plant selection has not been completed, additional acoustic assessment is required once the plant sections in the landscape plan has been finalised.</li> </ul> <p>The report concludes that based on the adopted noise limit criterion, the proposed development will generally be within acceptable levels of</p>
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	Council's requirements, subject to application and adoption of the recommended acoustic treatments and management controls. The recommendations made by CRG Acoustics will be implemented by way of conditions on the consent.
xvii) Natural Hazards	Although a small portion of the subject allotment is mapped as being within bushfire hazard area, the proposed development is a sufficient distance from the hazard.
xviii) Technological Hazards	No technological hazard issues raised.
xix) Safety, Security and Crime Prevention (CPTED)	<p>The proposal has been assessed in relation to the surveillance, access around the site, territorial reinforcement and space management.</p> <p>The site has suitable surveillance for pedestrians and motorists. The proposed landscaping and structures on the site will not obstruct any significant views. The proposal involves the provision of CCTV cameras and a monitored alarm system.</p> <p>The proposal involves physical indicators to show pedestrian access throughout the site. The applicant has indicated that there will be vegetation used as barriers to deter unauthorised access and large trees will be avoided on the site. This will deter intruder access into the adjoining residential areas. The entries are clearly visible from the street system including both Hutley Drive and Snapper Drive. The site has mobility access and allows for suitable connection between the centre and the car parking area.</p> <p>The design of the proposal encourages public spaces to be utilised. The design outlines clear transitions between the public centre and the private residential areas. It is clear due to the site layout that the areas are public. The service yard on the site is clearly removed from the public areas. The proposal defines property</p>

	<p>boundaries through fencing, retaining walls and landscape treatments allowing the public to know when they are moving onto private property.</p> <p>The landscaped areas and the commercial site will be conditioned to ensure that it is well maintained and looked after. It is indicated in the application that vandal reducing materials will be used where possible. The applicant has indicated that they will utilise anti-graffiti treatment to all accessible areas where reasonable. The Property Manager will be responsible to ensure that the site maintains a 'cared for' image. The space management of the site is considered suitable.</p> <p>The application was referred to the NSW Police who concluded that there were no significant issues with the proposal.</p>
<b>Social and Economic Impacts</b>	
xx) Social Impacts in the Locality	<p>The proposal is anticipated to have positive social impacts for the locality due to the retail centre providing for the service needs of the community. The proposed facility will bring a suitable retail centre for the residents within the EPIQ estate, preventing the need for the growing number of residents to travel to the other major centres within Ballina and in the town centre of Lennox Head.</p> <p>The shopping centre will also allow for employment opportunities for residents, ongoing through the operation of the facility.</p> <p>It is noted that there has been some public interest and objection to the proposed shopping centre. These submissions have been considered and the issues raised within these objections have been addressed within the report.</p> <p>The proposal is likely to have some impacts on the neighbouring residential properties being</p>

	<p>within close proximity the future dwellings and the noise created by the proposed centre. The noise impacts anticipated to be generated as a result of the proposal have been addressed. The neighbourhood centre was proposed as part of the approved Concept Plan. The proximity of the proposal to neighbouring properties has been addressed and is considered adequate.</p>
xxi) Economic Impact in the Locality	<p>An economic study has been provided with the application to indicate the anticipated impact the development will have on existing commercial hubs within the surrounding area, particularly in Ballina and the Lennox Head Village Centre.</p> <p>The following conclusions were made as a result of the economic study.</p> <p>The competitive impacts are projected at 10% or less and it is mentioned within the report that this impact will be a “one off” situation and the centres will benefit in the future from population growth within the main trade area.</p> <p>The proposal is considered to create employment to the local area, during construction but particularly ongoing once the development is complete. The proposal is not likely to create and threats to the viability or continued operation of any facilities.</p> <p>The economic impact statement identifies that a full-line supermarket is generally provided for every 8000-9000 persons. The trade area population is well above this level with future residential development adding to demand.</p> <p>It was estimated in the economic study that the centre would achieve 23.1% market share of the main trade, meaning 76.9% of main trade area spending would continue to be directed to other facilities.</p> <p>The proposed shopping destination in a</p>

	<p>centralised location will create a reduction in travel time for residents and an overall cost effective result. A trend of smaller shopping is usually undertaken 2-3 times a week, meaning the subject development will result in substantial savings in time and petrol.</p> <p>The proposal will also create additional employment for the local residents, both during the construction period, and for an ongoing basis once the development is complete and operational. It has been estimated in the provided Economic Impact Statement that approximately 273 jobs are likely to be provided both directly and indirectly as a result of the proposed EPIQ Lennox.</p> <p>It has been indicated in the economic impact assessment that the key primary sector likely to be served by the centre generally contains a younger, more affluent family market of Australian born residents. Therefore high convenience based supermarket centre. The centre is also likely to bring more tourists to the area. Lennox Head will attract a proportion of this business.</p> <p>Further to this, the proposal will generate a positive economic outcome for the retail shops occupying the proposed retail shops within the shopping centre. The proposed centre is within the size approved by the Concept Plan and smaller than the Lennox Head Village Centre and therefore would maintain the retail centre hierarchy. Therefore, it is considered that the proposed development will have positive impacts on the surrounding Lennox Head area, due to the increased tourism and demand for the neighbourhood centre to the region.</p> <p>The impacts to the existing centres are not anticipated to be major or create any significant negative effect.</p>
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<b>Cumulative Impacts</b>	
xxii) Cumulative Impacts	The proposal is consistent with the approved concept plan for the EPIQ estate and is not anticipated to have any cumulative impacts on the surrounding region.

### **Section 79C(1)(c) – The suitability of the site for the development**

The subject site was indicated within the Concept Plan for a neighbourhood centre for the EPIQ estate. Therefore the location of the centre is considered suitable within the estate. Being on the major connection road (Hutley Drive), the development will be easily accessible to the public. The subject site is considered appropriate for the proposed shopping centre. The centre will be utilised by the growing number of residents within the EPIQ estate, and providing the services and retail needs for this estate. The proposal is not anticipated to have any significant negative impacts on the surrounding receiving environments, subject to compliance with the recommended conditions of consent.

The proposed centre is considered to be of a suitable scale, form and character, (as anticipated within the approved Concept Plan) and generally complies with the Ballina Local Environmental Plan and Development Control Plan.

### **Section 79C (1)(d) Any submission made in accordance with this Act or the Regulations?**

The subject application was placed on public exhibition from 6 September 2017 to 10 October 2017. During this time eight submissions were received and the relevant issues raised have been summarised and addressed below.

<b>Submission issues raised</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>Surrounding road network does not have the capacity to cope with the traffic generation that the development will produce. Suggestions that the Development Application should not be approved until the Hutley Drive connection is made.</li> <li>Concerns relating to the safety</li> </ul>	The NSW Department of Planning and Environment considered external traffic generation issues and impacts on capacity of the surrounding road network by EPIQ (including the proposed supermarket); in their assessment and approval of Major Project MP 07-0026 and its most recent version Modification 5 Concept Plan and Project approval dated 20 April 2017. The Modification 5 Concept approval addresses this issue by limiting cumulative external traffic generation of the whole site to 7,456

<p>from increase traffic along Montwood Drive, including for people backing out of driveways.</p>	<p>vehicles per day until Hutley Drive is extended north from the site to North Creek Road. A proposed condition for the shopping centre consent will mirror the Mod 5 condition by restricting the issue of shopping centre occupation certificates until verification, satisfactory to Council, has been received that the issue of Occupation Certificate will not result in the cumulative generation of more than 7,456 vpd from the whole EPIQ site, unless Hutley Drive has already been extended north from the site to North Creek Road (or, if required, Byron Bay Road). Similar conditions of consent are being placed on the residential subdivision consents for the EPIQ estate. A revised traffic report will therefore be required prior to the release of an Occupation Certificate, demonstrating that the surrounding road network still has sufficient capacity to service the development.</p>
<ul style="list-style-type: none"> <li>Concerns that people coming from the south to the shopping centre will choose to drive along Montwood Drive rather than driving up to the northern end of Hutley Drive</li> <li>Environmental report on traffic is out of date and a new report would predict worsen traffic safety outcomes for Montwood Drive</li> </ul>	
<ul style="list-style-type: none"> <li>Noise and traffic volumes from meadows, EPIQ and this shopping centre will have a negative impact on the quality of life for residents along Montwood Drive</li> </ul>	<p>A noise quality report was submitted with the proposal addressing impacts on the future residents in the area. Conditions are recommended regarding the operational hours of the shopping centre and service areas to manage the impacts that the proposed use will have on the future residents surrounding the site. Further to this, the noise report recommended an acoustic wall for the south – eastern corner of the lot, between the service yard and the residential area to the east of the site. A condition has been recommended to ensure that the wall is constructed, to a satisfactory standard.</p>
<ul style="list-style-type: none"> <li>Ballina retail strategy 2003 – the proposal is not keeping in with the intent for a small-scale retail Neighbourhood Centre, being higher in the order of retail facilities than the existing Village Centre. Therefore does not meet the district retail hierarchy</li> <li>Does not meet the objectives of the zone specifically being small scale and it does not meet the retail hierarchy. Not providing for development that is compatible with the character of the neighbourhood</li> <li>Ballina Shire growth management strategy 2012 – the existing Village Centre is the commercial heart of the district and smaller neighbourhood centre and community infrastructure within the Epiq was anticipated under this strategy. Therefore indicated that any neighbourhood centre should be smaller and of lower order than existing village. Seeks to serve a much larger trade area</li> </ul>	<p>The Department of Planning and Environment concluded, as part of the assessment of Mod 5 to the Concept Plan, that the maximum retail floor space increase from 3,000m<sup>2</sup> to 5,500m<sup>2</sup> was acceptable in the locality and the size of the EPIQ Estate neighbourhood centre would maintain the retail centre hierarchy within the area. The Epiq neighbourhood centre will operate at a different level within the retail hierarchy, focussing on providing convenience retail services for the local community.</p> <p>The proposed land use is permissible within the B1 zone and consistent with the approved concept plan. The submitted Environmental Impact Assessment concluded that the demand for retail capacity in the area could support a future 5,500m<sup>2</sup> for a neighbourhood centre. Therefore the proposed shopping centre is considered to be suitably located within EPIQ Lennox. Further to this, it is considered that the proposal is consistent with the aims and objectives of the B1 – Neighbourhood Centre zone.</p> <p>The proposed neighbourhood centre is smaller in size than the Lennox Head Village Centre (6,850m<sup>2</sup>) and would therefore maintain the retail centre hierarchy. The Lennox Head Village Centre provides a destination point for the broader local and tourist market benefiting from its coastal location and food and service offerings. The EPIQ neighbourhood centre would operate at a different level</p>

<p>than immediate surrounding neighbourhood. The proposal will detract from and draw trade away from Lennox Village centre</p> <ul style="list-style-type: none"> <li>• Approved Concept plan – the proposal is not considered to commensurate with the local scale shopping centre. Absence of shop-top housing. Additional retail floor space from the original approval has sought to further erode the original function of the approved neighbourhood centre.</li> <li>• Small businesses in main street may be affected by decreased foot traffic from neighbouring main street trading, potential sales and impromptu visits by consumers passing by</li> <li>• Concern of the anticipation to detract and draw away the proposed 10% of trade from the village centre</li> <li>• Size of the development has increased from initial proposal of the second commercial area to complement the main street but be lower in retail hierarchy identified in Council's strategic planning framework</li> <li>• Economic impact assessment does not adequately identify the number of similar retailers and breadth of negative trading impacts and affected business viability to existing small businesses</li> <li>• Inconsistencies between the economic study and the DA</li> </ul>	<p>within the retail hierarchy, focussing on providing convenience retail services for the local community.</p> <p>It is considered that the proposed development is consistent with the commercial hierarchy identified in the Ballina Retail Strategy and Lennox Head Strategic and Structure Plans. From the information available, it is anticipated that the Lennox Head Village Centre will retain a higher order role in terms of the commercial and social uses and activities. Ballina retains the provision of higher order retail and commercial facilities to service the needs of residents within the shire more broadly.</p> <p>The approved concept plan was modified (Modification 5) to remove the shop-top housing component and provide further amendments.</p> <p>The Economic Impact Statement provided with the application was completed in relation to the Section 75W Modification to Major Project 07_0026. This statement determined there was a demand for additional retail floor space, and in particular a potential supermarket in the locality.</p> <p>It has been indicated that as part of the assessment they are unable to comment on the impact of the proposed development on individual retailers within a precinct. The impacts identified within the Economic Impact Statement are at an overall centre or precinct level and impacts on smaller businesses in specific areas are not taken into consideration.</p> <p>The Ballina Retail Strategy and Lennox Head Strategic and Structure Plans provide retail hierarchy within the surrounding area that identifies the Lennox Head Village Centre as the principal commercial centre in Lennox Head. The proposed EPIQ centre will be capable of providing retail and commercial activities at the more local and neighbourhood scale.</p> <p>The number of shops has been provided and will be included as part of the stamped plans. The effects on existing small businesses in the area have been addressed as part of the application. It is considered that the proposal is consistent with the concept plan for the EPIQ estate. The Lennox Head Village Centre provides a destination point for the broader local and tourist market benefiting from its coastal location and food and service offerings. Further to this, the economic assessment provided with the application confirmed that the additional floor space would not have an adverse impact on the viability or vitality of nearby retail centres.</p> <p>It is noted that the inconsistencies between the Economic Impact Assessment and the Statement of Environmental</p>
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	Effects are due to the preparation of the EIA for the purpose of the s75W application and the design for the supermarket was refined for the DA purposes. The proposal encompasses the same floor area as the s75W application and therefore the EIA is relevant for the proposal.
<ul style="list-style-type: none"> <li>Recommendation for Council to seek a detailed quantity surveyors costing of the development, provided by the applicant as they estimated the cost below \$20 million</li> </ul>	The applicant provided an Indicative Cost Estimate prepared by a suitably qualified quantity surveyor, with a breakdown of the proposed cost of the shopping centre and works involved. A revised Indicative Cost Estimate was provided upon further assessment of the proposal, which demonstrated that the proposal is over \$20 million (estimated Cumulative Investment Value to be \$22.2 million). Therefore confirming that the proposed estimated cost is over \$20 million.
<ul style="list-style-type: none"> <li>The proposed café is not described in detail therefore there is potential that it could be fast food. Additional information regarding type of café should be required.</li> </ul>	The café is not required to be specified at the development application stage. The fitout of the café will be required to have a separate approval. A restaurant or café is permissible within the B1 zone as long as it meets the required provisions.

## **Section 79C(1)(e) The public interest.**

### **Public Interest**

The proposal is considered to be within the public interest, providing a neighbourhood centre that will cater for the increase in population within the EPIQ Lennox estate. The centre will provide employment opportunities and savings to the local residents within the Lennox area, reducing the need to enter the neighbouring retail centres for their everyday retail needs.

Further to this, the proposal will reduce pressures on the adjoining road network as it will reduce the need for residents to drive into Lennox Head or Ballina for their grocery and retail needs.

### **Social Impact**

The inclusion of the supermarket at the site will provide a convenient retail centre for the growing population within the EPIQ estate. Refer to previous commentary in this report under Section 79C(1)(b) on social impact.

### **Economic Impact**

The proposal is considered to have an economic impact on the nearby existing retail centres, such as the Lennox Head Village Centre and the Ballina Central/Ballina Fair centres within Ballina. These impacts include creating employment, revenue for

those retail tenants of the centre. The economic study concluded that the majority of the tenants along the Lennox Head strip will not be affected by the proposal. The proposal will service the immediate population within the EPIQ and growing Lennox Head estates, as well as the tourist market. This impact will not affect the long term viability of the existing retail centres in the area. Refer to previous commentary in this report under Section 79C(1)(b) on economic impact.

## Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C (1) of the *Environmental Planning and Assessment Act 1979*.

The proposal is consistent with the objectives of the Act and is considered to be within the public interest as it will create positive social impacts in the long term. In relation to the issues raised regarding the road network connection and the development, the proposal has addressed these issues and, with the recommended conditions, the road network is anticipated to withstand the increase in traffic generation in the area. Therefore, the traffic generated will not exceed the road network capacity and will be in alignment with the approved Concept Plan.

The proposed development has been assessed for possible negative impacts to the natural and built environments. The negative impacts anticipated will be mitigated by way of conditions and it is considered that the proposal will be in accordance with the approved Concept Plan. It is considered that the reports and assessments provided with the application have satisfied the relevant matters within s79(c) of the Environmental Planning and Assessment Act 1979.

It is determined that through adherence to the attached conditions, the proposed development can perform its purpose while providing an acceptable environmental outcome.

## Recommendation

That Development Application 2017/447 for 'Construction of EPIQ Lennox Neighbourhood Centre incorporating a supermarket, specialty shops and associated car parking, landscaping, services and earthworks.' at Lot 1 DP 1239938, Hutley Drive Lennox Head be **APPROVED** subject to the conditions **attached**.