



# SECTION 4.55 (1A) MODIFICATION APPLICATION REPORT TO MOD2022/0253 (169/2010/DA)

**August 2024**



### **More than 45 years of crafting luxury resort lifestyles**

Palm Lake Resort is the culmination of more than 45 years worth of Palm Lake Resort expertise and first-hand knowledge in crafting designer resort-style living. Proudly Australian family-owned, we create communities that are friendly, exciting and inspirational.

Palm Lake Resort reaches a new pinnacle of luxury resort living where no detail has been overlooked. Taking the time to understand how people want to live today has resulted in innovative and revolutionary resorts for a vibrant generation of over-50s who refuse to settle for outdated retirement lifestyles. Our portfolio of 38 communities across Australia has been highly regarded, including winning multiple Master Builders Association awards.







# Contents

<b>Application Snapshot</b>	<b>5</b>
1. Introduction	6
2. Background	6
3. Site and Surrounding Locality	7
3.1 Site Details	7
3.2 Site Context and Surrounding Locality	7
3.3 Topography	8
3.4 Vegetation	8
3.5 Existing Site Conditions	8
4. The Proposed Modification	9
4.1 Adjustments to Yield and Internal Layout	9
4.2 Deletion and Addition of Facilities	9
4.3 Establish Stormwater Treatment and Design	10
4.4 Re-arrange Civils Staging	10
4.5 Establishing Primary Access	10
4.6 Changes to Plans of Consent	10
4.7 Changes to Conditions	11
5. Planning Controls and Legislation	16
5.1 Environmental Planning and Assessment Act 1979 and Regulation 2000	16
5.1.1 Section 4.55 (1A)	16
5.1.2 Section 4.15	17
5.2 Greater Taree Local Environmental Plan 2010	18
5.3 Greater Taree Council Development Control Plan 2010	18
6. Conclusion	19

## List of Appendices

- Appendix A – MOD2022/0253 Approval and Plans
- Appendix B – Proposal Plans (Northrop)
- Appendix C – Proposal Plans (PLW)
- Appendix D – SWMP Proposal
- Appendix E – Landowners Consent

## Application Snapshot

<b>Address:</b>	Lot 1 Lewis Street, 106 & 142 Forest Lane Old Bar
<b>Real Property Description:</b>	Lot 1 DP594864, Lot 2 DP1022067 & Lot B DP377867
<b>Modification:</b>	Amending internal MHE layout and main access point
<b>Application Type:</b>	S4.55(1A) Modification
<b>Current Development Consent:</b>	MOD2022/0253 (Original DA 169/2010/DA)
<b>Greater Taree Council Zone Designation:</b>	RU1 – Primary Production C2 – Environmental Conservation RE2 – Private Recreation G1 – General Residential C3 – Environmental Management
<b>Land Owner:</b>	Palm Lake Resort Pty Ltd
<b>Applicant:</b>	Palm Lake Works Pty Ltd
<b>Applicant's Address:</b>	PO Box 10479 Southport BC QLD 4215
<b>Contact Person:</b>	Matilda Parer
<b>Phone:</b>	(07) 5552 1324
<b>Email:</b>	matildap@palmlake.com.au

## 1. Introduction

This Report has been prepared by Palm Lake Works Pty Ltd (PLW) seeking approval from Mid Coast Council to modify Development Consent MOD2022/0253 (Original Consent 169/2010/DA) under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The subject modification application relates to Lot 1 on DP594864 and seeks to include Lot 2 on DP1022067.

This application seeks to make changes to:

1. Increase yield by 1 dwelling site from 147 to 148 sites
2. Make adjustments to the internal layout due to further engineering design;
3. Delete current clubhouse facility and propose new facilities in odour buffer;
4. Established stormwater treatment and design strategy;
5. Rearrange civils staging and bounds;
6. Establish primary entrance from Forest Lane, and delete access other than for emergency off Lewis & George Streets;
7. Changes to plans and conditions of consent.

The proposed modification involves minimal environmental impact and is sought under Section 4.55 (1A) of the EP&A Act. The purpose of this Statement of Environmental Effects is to describe the proposed development as modified and consider potential environmental impacts of the modified development having regard to the matters of consideration under Section 4.15 of the EP&A Act.

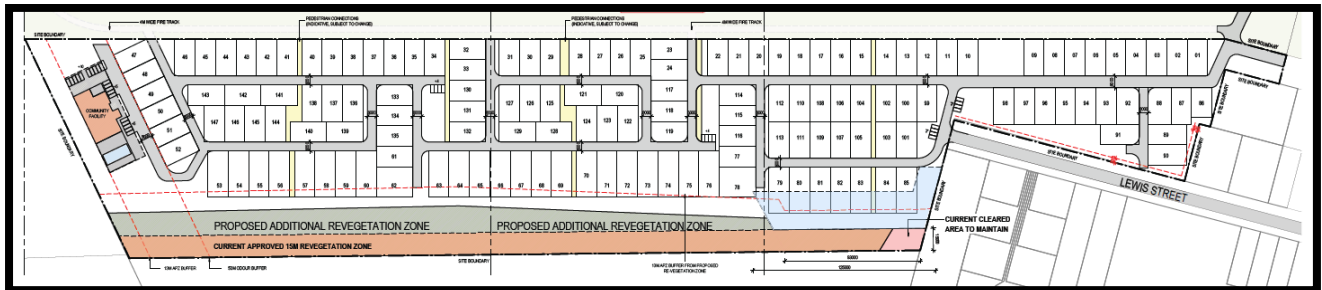
This modification, and specifically the changes to primary access have been discussed and encouraged by Council due to the significant drive from the Rose Street Neighbourhood to ensure the development does not cause traffic concerns on the communities local road network (Lewis/George & Rose Street's).

## 2. Background

The development Consent this application seeks to modify features the following development approval history:

1. 169/2010/DA – approved 5 February 2010
  - > Approved Manufactured Home Estate featuring 201 home sites (consisting of duplexes, central homes and villas), communal clubhouse and maintenance shed, outdoor pool and spa, bowling green and tennis courts
2. 169/2010/DA/A – approved 12 June 2014
  - > Make changes to the breakdown of duplexes, central homes and villas, removing the bowling green and increase the revegetation zone from 1.8 hectares to 2.0 hectares.
3. 169/2010/DA/B – approved 8 June 2018
  - > Changed determined through a conciliation conference process with the Land and Environment Court that resulted in an approval for 181 sites, new facilities designs, revised development staging, future road dedication plan and resulted in changes to conditions including additional conditions, deletion and amendments.
4. 169/2010/DA/C – approved 12 March 2019
  - > Made changes to the internal layout, construction staging, updating bushfire requirements to resolve inconsistencies and amend conditions.
5. MOC2022/0253 – approved 13 December 2023
  - > Made changes to internal layout, reduced yield, facilities location, formalising vegetation zone and restructuring development conditions.

The below plan extract (over page) depicts the current approved Manufactured Home Estate layout (**Figure 1**).



**Figure 1: Subject Site – Approved Manufactured Home Estate over Lot 1**

Source: Via Architects approved plans stamped 13 December 2023

### 3. Site and Surrounding Locality

#### 3.1 Site Details

The existing development approval is established over a property legally described as Lot 1 on DP594864, Lot 2 DP1022067 and Lot B DP377867 and is within the locality of Old Bar.

The details of the subject site are provided in the below Table (1):

**Table 1 – Site Details**

Street Address	Lot Description	Land Area (m <sup>2</sup> )	Zone	Current Use	Approved Development
Lewis Street Old Bar	Lot 1 on DP594864	101,289.9m <sup>2</sup> (10.1ha)	RU1 – Primary Production C2 – Environment Conservation	Vacant Land	147 Manufactured Home Estate, Community Facilities and outdoor pool - Exemption to build on-site (Section 82 of the Local Government Act)
106 Forest Lane Old Bar	Lot 2 on DP1022067	513,859.7m <sup>2</sup> (51.4ha)	R1 – General Residential RE2 – Private Recreation C3 – Environmental Management	Vacant Land	1. Concept Approval for medium density dwellings 2. 12 hole Golf Course (stage 1 – 9 holes)
142 Forest Lane Old Bar	Lot B DP377867	5320m <sup>2</sup>	R1 – General Residential	Vacant land with Shed	1. Concept Approval for medium density dwellings

#### 3.2 Site Context and Surrounding Locality

Lot 1 is located on Lewis Street within the Old Bar locality. Within the immediate vicinity of the site, the following interfaces are present:

- North: The site has two interfaces to Lewis and George Street and adjoins three separate residential property allotments. Two of the 3 allotments feature dwelling houses and the last is a vacant property.
- East: The site adjoins crown land, Old Bar Beach and the Pacific Ocean.
- South: To the south the subject site adjoins Council owned land that features effluent treatment ponds and is intended to be developed for public recreation and conservation purposes.
- West: To the west the site adjoins Lot 2, and beyond Ocean Blue residential area and Richard Crook oval.

### 3.3 Topography

Lot 1 is predominantly flat featuring small areas of undulation from RL4.46m AHD in the lowest point in the vegetated area of the site to RL7.59m AHD in the northern central portion of the site. The interface to Lot 2 along the western boundary sits at approximately RL5.5m AHD and drops off into the private recreation zoned land to approximately RL4.26m AHD within 30m of the shared property boundary.

### 3.4 Vegetation

As part of the most recent modification application, the extent of vegetation area to be permanently maintained on Lot 1 has now been clarified and approved. No changes to the extent of vegetation required to be retained is proposed.

### 3.5 Existing Site Conditions

The subject site is a greenfield site that features managed grasslands and a vegetation zone. Lot 1 features overhead powerlines for the full length of the property from north to south. The below **Figure's** (2 & 3) depict the existing site conditions.



**Figure 2: Subject Site existing greenfield conditions, looking southeast**

Source: PLW drone image taken 28<sup>th</sup> June 2022



**Figure 3: Subject Site existing greenfield conditions, looking southwest**

Source: PLW drone image taken 28<sup>th</sup> June 2022



## 4. The Proposed Modification

This modification is step 2 of a staged modification process discussed with Council in various pre-lodgement meetings. The most notable proposed change is the primary access to the site which is a benefit to all involved stakeholders, Palm Lake Works, Mid Coast Council and the Rose Street Neighbourhood community.

This application seeks to modify the following aspects of the development:

1. Increase yield by 1 dwelling site from 147 to 148 sites
2. Make adjustments to the internal layout due to further engineering design;
3. Delete current clubhouse facility and propose new facilities in odour buffer;
4. Established stormwater treatment and design strategy;
5. Rearrange civils staging and bounds;
6. Establish primary entrance from Forest Lane, and delete access other than for emergency off Lewis & George Streets;
7. Changes to plans and conditions of consent.

The above changes are described in further detail below.

### 4.1 *Adjustments to Yield and Internal Layout*

Since commencing detailed engineering design based off the internal layout approved in MOD2022/0253, minor layout adjustments have been identified as required to suitably construct the development. In summary these changes include the following:

1. Based on grades and BEW design, the entrance road from Lot 2 into the eastern precinct is currently approved too close to Lot A DP383115 to feasibly construct. Slight adjustments to this road alignment are required;
2. The internal layout has been looked at in closer detail including allowing sufficient truncations on corner sites, identifying service corridors, locating substations, completing swept path analyses and reviewing and adopting the latest RFS condition requirements;
3. Adjusting the northern portion of the site to accommodate sufficient car parking and pedestrian links to the main Beach Clubhouse facility proposed at 42 Lewis Street, Old Bar (refer to subsequent parallel SEE application);
4. Make adjustments to the southern end of the site to optimise use of odour buffer land area and include additional facilities.

The above adjustments are considered to have negligible impacts on the development from an assessment perspective and rather refining the current approved layout as part of commenced detailed civils design.

### 4.2 *Deletion and Addition of Facilities*

Palm Lake Resort pride ourselves in providing high end communal facilities for the exclusive use of our residents. Under the *Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*, a development of this nature is required to provide community amenities and buildings. We propose to do this in two parts:

1. Delete the current approved clubhouse facility and replace it with a new facility at 42 Lewis Street, Old Bar (refer to subsequent parallel SEE application); and
2. Provide additional facilities of high popularity within at the southern end of the site, including two tennis courts, six pickleball courts, a grandstand inclusive of toilet facilities and a dog wash, a fenced off leash dog run, a workshop and maintenance shed and a BBQ space.

### 4.3 Establish Stormwater Treatment and Design

In accordance with Condition 37, proof of on-site stormwater detention facilities and management compliance isn't required to be satisfied until prior to the issue of occupation. However, design must commence as part of the detailed engineering package. The stormwater strategy for the eastern precinct (lot 1) has already been reviewed by Council and is currently under assessment as part of MOD2023/0226, modification to the Golf Course within Lot 2. The proposed stormwater infrastructure is essentially duplicated in this modification so it is covered across both developments and approvals.

### 4.4 Re-arrange Civils Staging

Civils staging is proposed to change based on established trunk water and sewer connection points, power and other detailed engineering aspects.

The revised staging plan follows a streamlined approach working from north to south, allowing completion of civil works in preparation of construction of homes and staged occupation to commence in easily segregated areas during construction. Construction access can be provided via the bushfire trail adjacent to the estate within Lot 2, providing clear delineated areas once the development begins to be occupied.

### 4.5 Establishing Primary Access

Upon Palm Lake Resorts purchase of this land, it was learned that locals residing within the Rose Street Neighbourhood (Rose, George and Lewis Streets) opposed the approved development due to the future and ongoing potential traffic disruption to their quiet local streets.

In response to feedback from the local communities and Mid Coast Council, Palm Lake Works formally propose to make the primary entrance to the estate from Forest Lane with only emergency access proposed to be maintained to Lewis and George Streets.

This modification application seeks to obtain approval in the form of amended plans detailing a formal access point off Forest Lane, proposing only emergency access to Lewis and George Street and requesting the deletion of associated conditions. We note this formal access entry point is consistent with the entry already approved under Concept Approval MOD2022/0277.

### 4.6 Changes to Plans of Consent

The proposed modification seeks to update the approved plans package listed within Condition 1 of the Development Consent for the purposes of providing an updated revision to reflect the proposed Manufactured Home Estate layout.

The modification involves replacing five (4) existing approved plans, deleting seven (8) plans and adding four (5) new plans. The applicant seeks Council's consideration to replace the stamped approved plans in **Table 2** with the proposed replacement plans in **Table 3** as part of this modified Consent:

*Table 2 – Current Approved Plans*

Title/Name	Drawing No.	Issue	Date	Prepared by	
Proposed Layout Plan	CP 1.0	11	07/08/2023	Via Architects	<b>REPLACE</b>
Detailed Plan Part 1	CP 1.1	6	21/10/2022	Via Architects	<b>REPLACE</b>
Detailed Plan Part 2	CP 1.2	6	21/10/2022	Via Architects	<b>REPLACE</b>
Detailed Plan Part 3	CP 1.3	6	21/10/2022	Via Architects	<b>DELETE</b>
Proposed Staging Plan	CP 2.0	4	21/10/2022	Via Architects	<b>REPLACE</b>

Old Bar – Section 4.55 Drawings Gateway 1 Lewis St, Old Bar NSW	18012 – D-200 Plan-Ground	2	20/09/2018	ddc Architecture + Interior Design	<b>DELETE</b>
Old Bar – Section 4.55 Drawings Gateway 1 Lewis St, Old Bar NSW	18012 – D-202 Plan-Roof	2	20/09/2018	ddc Architecture + Interior Design	<b>DELETE</b>
Old Bar – Section 4.55 Drawings Gateway 1 Lewis St, Old Bar NSW	18012 – D-400 Elevations Community Facility	2	20/09/2018	ddc Architecture + Interior Design	<b>DELETE</b>
Old Bar – Section 4.55 Drawings Gateway 1 Lewis St, Old Bar NSW	18012 – D401 Elevations – Community Facility	2	20/09/2018	ddc Architecture + Interior Design	<b>DELETE</b>
Old Bar – Section 4.55 Drawings Gateway 1 Lewis St, Old Bar NSW	18012 – D-402 Materials and Finishes	-	20/09/2018	ddc Architecture + Interior Design	<b>DELETE</b>
Old Bar – Section 4.55 Drawings Gateway 1 Lewis St, Old Bar NSW	18012 – D-500 Section – Community Facility	2	20/09/2018	ddc Architecture + Interior Design	<b>DELETE</b>
Gateway Lifestyle	Future Road Dedication Plan CP 3.0	A	29/05/2018	---	<b>DELETE</b>

*Table 3 – Proposed Replacement Plans*

Drawing	Drawn No.	Issue	Date	Proposed Change
Site Context Plan	Northrop	2	09.08.2024	<b>NEW</b>
Site Plan	Northrop	4	27.08.2024	<b>REPLACEMENT</b>
Detailed Plan Part 1	Northrop	3	27.08.2024	<b>REPLACEMENT</b>
Detailed Plan Part 2	Northrop	3	27.08.2024	<b>REPLACEMENT</b>
Staging Plan	Northrop	1	09.08.2024	<b>REPLACEMENT</b>
Entry Statement Concept Design	Northrop	4	28.08.2024	<b>NEW</b>
Workshop/Maintenance	PLW	TBA		<b>NEW</b>
Garden Shed	PLW	TBA		<b>NEW</b>
BBQ Shelter	PLW	TBA		<b>NEW</b>

## 4.7 Changes to Conditions

This application seeks to delete seven (7) conditions and amend five (5) in accordance with the proposed changes. This application seeks to delete Conditions 12, 16, 17, 40, 45, 46 & 52 and modify conditions 1, 9, 21, 32 & 44. A summary of requested changes to conditions is provided below:

### **Conditions to be deleted**

*12. The applicant is to repair any damage to existing roads and concrete foot paving caused during the construction works, in accordance with Council requirements, prior to the issue of an Approval to Operate for each stage. Council must be provided with photographic evidence of any existing damage to Council infrastructure on Rose St, Lewis Street and George Street. Otherwise any damage is assumed to be related to the development and must be rectified at no cost to Council.*



**Reason:** Condition 12 relates to repairing damage within Rose, Lewis & George Streets. As the proposed development removes any formal access from these localised streets, this condition is considered to no longer apply to the development.

*16. Operation of the Swimming Pool and Spa shall be undertaken in accordance with Australian Standards, inclusive of pool pump operation and location, pool fencing and safety requirements, maintenance and testing.*

*17. The kitchen and associated food areas e.g. storage rooms, to the community facilities building shall be constructed to comply with the Food Act 2003, the National Food Safety Standard 3.2.3, "Food Premises and Equipment" and the guideline criteria of Australian Standard AS 4674-2004 "Design, Construction and fitout of food premises." Detailed fitout plans shall be submitted to Council for consideration and approval prior to issue of the clubhouse building construction certificate.*

**Reason:** Conditions 16 & 17 relates to the swimming pool and kitchen that formed part of the previous facilities. The current approved community facilities and pool are being deleted and replaced with other facilities. The development will not consist of a pool, or kitchen and therefore these conditions are no longer relevant to the development.

*40. Before the issue of an Occupation Certificate for the Clubhouse Building, the Applicant is required to dedicate that area of the site to enable the future connection of Wyden/George Street in accordance with the approved Future Road Dedication Plan referenced in Condition 1.*

**Reason:** Condition 40 refers to a future road dedication plan, that is no longer required due to alternative access now being provided. This has been discussed at length with Council officers and its deletion is supported in this modification.

*45. Footpath Works: Before the Notice of Completion is issued for the 100th dwelling within the site, the applicant shall construct concrete footpath paving 1.2 metres wide (except where restricted by the existing culvert) and pram ramps where required on Rose St, Pacific Parade, and David Street connecting the development with the existing footpath adjacent Old Bar Primary School. Plans for the footpath are to be in accordance with Council's standard drawings.*

**Reason:** Condition 45 conditions the construction of a footpath prior to the notice of completion for the 100<sup>th</sup> home. Council and the developer is aware of the Rose Street Neighbourhood, and acknowledge their opposing views of any works or access within their quiet neighbourhood streets. As the development no longer proposes access (other than emergency) to Lewis or George Streets, and acknowledging Rose Street neighbourhood residents reservations about the development, PLW request the deletion of the requirement for the footpath.

*46. After practical completion of all public works and services to Council's standards the following will be required prior to the issue of an Occupation Certificate:*

*☐ A "Works as Executed" set of drawings prepared in accordance with the requirements of Council's AUSSPEC No. 1 Design Manual. These must be original drawings showing as constructed details of all works and services, suitably endorsed as correct on each sheet by the Superintendent.*

*Maintenance Deposit - Deposit with Council (or a Bank Guarantee) for a period of twelve months from completion of engineering work of a sum equal to 5% of the cost of Engineering works prior to the issue of an Occupation Certificate for the community building. This security is to be lodged to guarantee the quality of work and to ensure that the contractor carries out all maintenance and repairs required during this period.*

*☐ Bonding Policy - Any work to be bonded must be in accordance with Council Policy AUSSPEC No. 1 Design Manual. Generally bonds will only be accepted for final seal or Asphaltic Concrete surfacing. Bonding will be via a cash bond or bank guarantee in the sum of 150% of the current cost of carrying out the work at Council rates. The time limit for such bonds is three (3) months. The actual contract values of all assets (roads, stormwater drainage, open space, etc) dedicated to the public are to be submitted with "Works as Executed" drawings on Council's standard form.*

**Reason:** Condition 46 is considered no longer required as the deletion of any external works is requested as part of this modification application.

*53. A concrete vehicular crossing to Council's standard is to be constructed in the kerb fronting the development prior to the issue of an Occupation Certificate.  
(MOD2022/0253 – Modified 13 December 2023)*

**Reason:** Condition 53 is considered a duplication of Condition 52. This condition duplicate was requested to be deleted as part of the previous modification. It is unclear whether its deletion was missed. If Condition 53 was retained intentionally, could Council please provide clarity on how this condition is applied in addition to Condition 52.

### **Conditions to be Modified**

*1. The development is to be carried out in accordance with the following approved development plans, except as modified by any conditions of consent:*

**Reason:** The approved plans table referred to in Condition 1 requires updating to reflect the proposed plan changes. Refer to section 4.6 for the proposed changes to the current approved plans table.

*12. The applicant is to repair any damage to existing roads and concrete foot paving caused during the construction works, in accordance with Council requirements, prior to the issue of an Approval to Operate for each stage. Council must be provided with photographic evidence of any existing damage to Council infrastructure ~~on Forest Lane on Rose St, Lewis Street and George Street.~~ Otherwise Any damage is assumed to be related to the development and must be rectified at no cost to Council.*

**Reason:** Condition 12 is proposed to be amended. Palm Lake Works acknowledge that damage to external road networks is possible as a result of construction vehicles. The portion proposed to be deleted from this condition is potential damage to Rose, Lewis & George Street's as the development no longer proposes access from these streets.

*21. The revegetation zone as depicted on the ~~approved Site Plan~~ ~~Proposed Site Plan prepared by Via Architects and dated 7 August 2023~~ is to be retained and protected for the life of the development. The revegetation zone must be fenced off and managed to allow the re-establishment of native vegetation in a natural state. The revegetation zone is not to be used as part of any asset protection zone or for the installation of infrastructure, services or the like. Fencing to the revegetation zone must be suitable to restrict access, be of a height no greater than 1.2m and of post and rail or similar construction.*

*A vegetation management plan, which addresses the long-term management of the revegetation zone including revegetation, weed control, fencing, access, public education, and the like must be submitted to Council for approval prior to the issue of the first subdivision works certificate and implemented to the satisfaction of Council prior to the release of the first occupation certificate.*

*An appropriate 88B restriction shall be placed on the title of the land registering the vegetation management area and vegetation management plan prior to the release of the first occupation certificate. Evidence of the registering of the 88B restriction shall be provided to Council.*

**Reason:** Condition 21 specifically reference a site plan approved as part of the existing consent. It is requested Council remove reference to the specific plan within this condition as it results in this condition needing to be updated each time the plan is. This application makes no changes to the vegetation area to be retained, however a new site plan is proposed and therefore reference to this superseded plan will be inconsistent with the approval if not updated.

*32. A landscaping plan prepared by a suitably qualified landscape architect shall be submitted to Council for approval prior to the issue of any construction certificate. The plan shall specify details of proposed plantings, including common and botanical names and height and spread at maturity as well as details of planting procedure and maintenance. Preference shall be given to local native species.*

*A plan shall include provision for a landscape buffer of minimum 2m in width along the ~~western~~ northern boundary and to the Lewis Street frontage so as to screen the visual impact of the development from the streetscape and adjoining residential properties.*

*All landscaping is to be carried out in accordance with the plan and maintained in accordance with the plan at all times.*

**Reason:** It appears an error has been made to the location of the landscape buffer incorrectly referencing the western boundary when meaning the northern adjoining Lewis Street, we request this change revert back to reflect buffer adjoining the northern boundary.

*44. Where any work is required within a public road reserve a Section 138 application must be prepared and submitted to Council for approval. Civil construction plans and a traffic management plan are required to form part of a Public Engineering Works Permit (PEWP) application submitted to Council.*

*~~Prior to the issue of the Clubhouse Building occupation certificate, a Council Approved contractor is to carry out the following civil work and services in accordance with the approved plans:-~~*

- ~~• Construction of a sealed cul-de-sac with a minimum radius of 8.5 metres and white reflectorised guideposts at the end of George Street and Lewis Street.~~*
- ~~• Construction of Lewis Street, Old Bar, from the intersection with Rose Street to Lot 1, DP 594864 to the following Auspec standards:-~~*

<i><del>Road No</del></i>	<i><del>Hierarchy</del></i>	<i><del>Carriageway Width</del></i>
<i><del>_____</del></i>	<i><del>Local Street</del></i>	<i><del>8</del></i>

*~~This includes new pavement, seal and drainage construction to Aus-spec standards for this road. The new kerb and gutter construction is to extend from the tangent points on Rose Street to the entry of the Manufactured Housing Estate. It will tie into the existing sections of kerb and gutter already constructed on Lewis Street.~~*

- ~~• Construction of concrete footpath paving 1.2 metres wide on Lewis Street western side from the Manufactured Homes Estate frontage to a new pram ramp on the Rose Street corner. Plans for the footpath are to be in accordance with Council's Aus-spec standard drawings.~~*

*~~The verge area adjoining the full road frontage is to be regraded and an approved grass cover~~*



~~established in an adequate depth of topsoil prior to the issue of a building Occupation Certificate.~~

**Reason:** Condition 44 references Section 138 applications specific to Lewis & George Streets which are now considered not required as access (other than for emergency services) is no longer proposed. A condition requirement for obtaining Section 138 applications where external works are proposed is still required, which is why a portion of this condition is to be retained.

## 5. Planning Controls and Legislation

### 5.1 *Environmental Planning and Assessment Act 1979 and Regulation 2000*

The provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) relate to the assessment of development and activities in New South Wales (NSW).

The objects of the EP&A Act are:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

This statement considers the proposed development on economic, social and environmental grounds and takes into consideration the objectives of the EP&A Act. In this respect, the proposed modification provides improved flexibility to explore alternative forms of residential accommodation and an improved efficiency of available land within the locality.

#### 5.1.1 *Section 4.55 (1A)*

Section 4.55 of the *EP&A Act* outlines the type of modification that can be made in relation to consents. Section 4.55 (1A) is a modification involving minimal environmental impact identified as:

**(1A) Modifications involving minimal environmental impact** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- c) it has notified the application in accordance with—*
  - i. the regulations, if the regulations so require, or*
  - ii. a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The proposed modification is considered to result in minimal environmental impact and is therefore considered to be appropriately assessed under Section 4.55 (1A) of the *EP&A Act*.

A consent authority must be satisfied under Section 4.55 (1A) (b) that the proposed modification results in ‘*substantially the same*’ development as the original development consent and any subsequent modification application. The proposed development is considered to remain ‘*substantially the same*’ as the original and subsequent modifications due to the following:

1. Maintains the residential nature, approved manufactured home estate land use and proposes consistent built form;
2. Maintains provision for facilities within the estate under the regulation;
3. Continues to allow the site to be developed in several stages;
4. Maintains internal ‘pocket parks’ and creates pedestrian linkages increasing permeability;
5. Facilitates the delivery of a similar product mix as the original approval, including beach sites, golf course sites and central sites;
6. Maintains 3m building setback to adjoining residential properties to the north;
7. Maintains 13m asset protection zones to the east and south;
8. Maintains 50m odour buffer and exclusion of residential dwellings from within the buffer;
9. Maintains extent of vegetation zone along the eastern boundary;
10. Continues to provide smaller micro communities (precincts) through internal road layout design, consistent with original development consent;

Based on the above justification it is considered the proposed modification results in substantially the same development being one that continues to deliver a manufactured home estate inclusive of private internal facilities and roads.

Further to the above justification, under Section 4.55(3) Council may also have regard to the matters referred to in Section 4.15(1) of the *EP&A Act*. The elements for consideration under Section 4.15(1) have been discussed in more detail below.

### 5.1.2 Section 4.15

Section 4.15 (1) of the *EP&A Act* provides the consent authority with matters that should be taken into consideration during assessment where relevant to the development of the subject site and development application.

In addition to the environmental planning instrument, other elements considered to be relevant to the proposed development include identifying likely impacts, site suitability and the public interest.

#### *Likely impacts on the natural environment*

The proposed development is considered to have no additional impacts on the environment as part of this modification. The developable area of the site remains the same as the original concept development consent along with the nature of use.

#### *Likely impacts on the built environment*

The proposed modification is considered to have negligible impact on the future built form. In terms of facilities this modification has replaced the clubhouse with a number of smaller scale recreational oriented facilities. The nature of the use remains the same consisting of manufactured dwellings for long term residential accommodation.

#### *Likely impacts on the social and economic environment*

The proposed modification is considered to improve the social environment by reducing yield, improving accessibility and pedestrian permeability and proposing alternative construction access to protect the



surrounding local community (residents on Lewis and George Street). From an economic perspective this development continues to provide alternative residential accommodation options for current and future residents of the Old Bar region.

## 5.2 Greater Taree Local Environmental Plan 2010

The subject site is located within the Mid Coast Council (MCC) Area, within the Manning Region and subject to the provisions of the *Greater Taree Local Environmental Plan 2010* (LEP).

The primary site, being Lot 1 on DP594864 is comprised of RU1 – Primary Production and C2 – Environmental Conservation and Lot 2 on DP1022067 is comprised of R1 – General Residential, RE2 - Private Recreation and C3 – Environmental Management. This application refers specifically to the RE2 Private Recreational area of Lot 2 for a fire trail and RE2 and R1 land for construction access from Forest Lane.

The site's zoning designations are depicted in the below **Figure (6)**.



**Figure 6: Subject Sites, stages 2, 3 and 10 land zoning designation**

Source: Mid Coast Council Online Mapping System

The proposed modification makes no changes to the approved development footprint, other than the addition of a fire trail within the adjoining property, Lot 2 along the western boundary of the site. We note further assessment of this proposed change is not required as a fire trail within Lot 2 was approved on the original Development Consent plans stamped on 5<sup>th</sup> February 2010.

## 5.3 Greater Taree Council Development Control Plan 2010

The proposed modification makes no changes to the development that results in any inconsistencies with the Greater Taree Development Control Plan (DCP) 2010.

## 6. Conclusion

This report and supporting material provide a detailed assessment of the planning issues related to the proposed modification, demonstrating how the application meets the relevant assessment benchmarks and remains substantially the same development. In summary, the proposal facilitates the delivery of an improved Manufactured Home Estate development layout, formalises of the main entrance, includes additional facilities and amends necessary conditions.

This report demonstrates that the proposed changes to the approved development result in minimal environmental impact and substantially the same development, in accordance with the *Environmental Planning and Assessment Act 1979* and warrants Mid Coast Council's support for approval.