



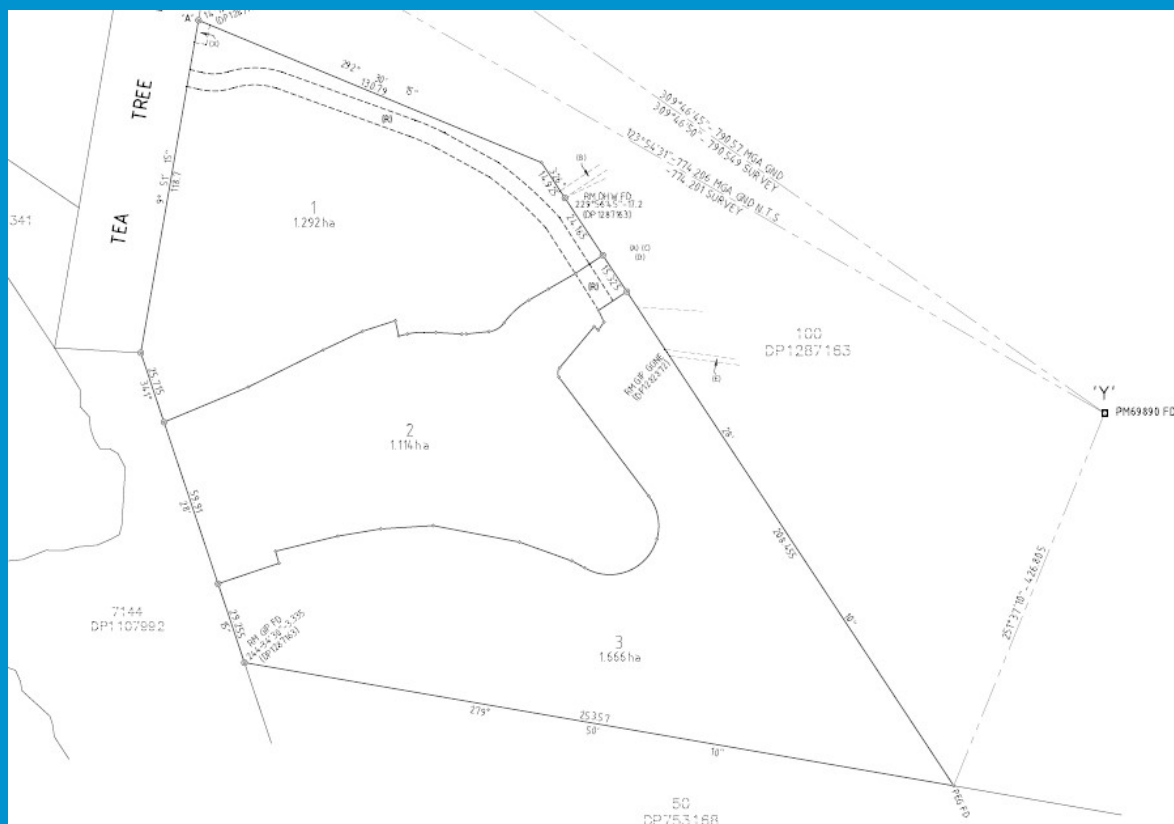
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STATEMENT OF ENVIRONMENTAL EFFECTS

APPLICATION FOR DEVELOPMENT CONSENT FOR TORRENS TITLE SUBDIVISION (3 LOTS) & STRATA SUBDIVISION (52 LOTS)

16 TEA TREE ROAD, FORSTER (LOT 3 DP548504)



Andrew Magoffin for

PALM LAKE WORKS PTY LTD PO Box 10479, Southport QLD 4215

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Document Control

Document	Project	Version	Date	Author
Statement of Environmental Effects	Boomerang Cove subdivision	Lodgement	16/01/2025	AM

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Executive Summary

This Statement of Environmental Effects (**SoEE**) forms part of an application for development consent being made to MidCoast Council (**Council**) pursuant to section 4.12 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**), by Palm Lake Resort Pty Ltd c/- Palm Lake Works Pty Ltd (**Palm Lake**).

This application is being made over land described as 16 Tea Tree Road, Forster (Lot 3 DP548504) (**Site**) and the development consent being sought from Council is for:

- a Torrens Title subdivision of the Site into three new lots; and
- a strata subdivision of proposed Lot 3 into 52 lots and common property.

The Site is within the part of the MidCoast local government area wherein development is regulated by the Great Lakes Local Environmental Plan 2014 (**LEP**). Under the LEP, the Site is mapped in three distinct zones, as follows:

- 'R3 – Medium Density Residential' (in part);
- 'SP3 – Tourist' (in part); and
- 'W2 – Recreational Waterways' (balance).

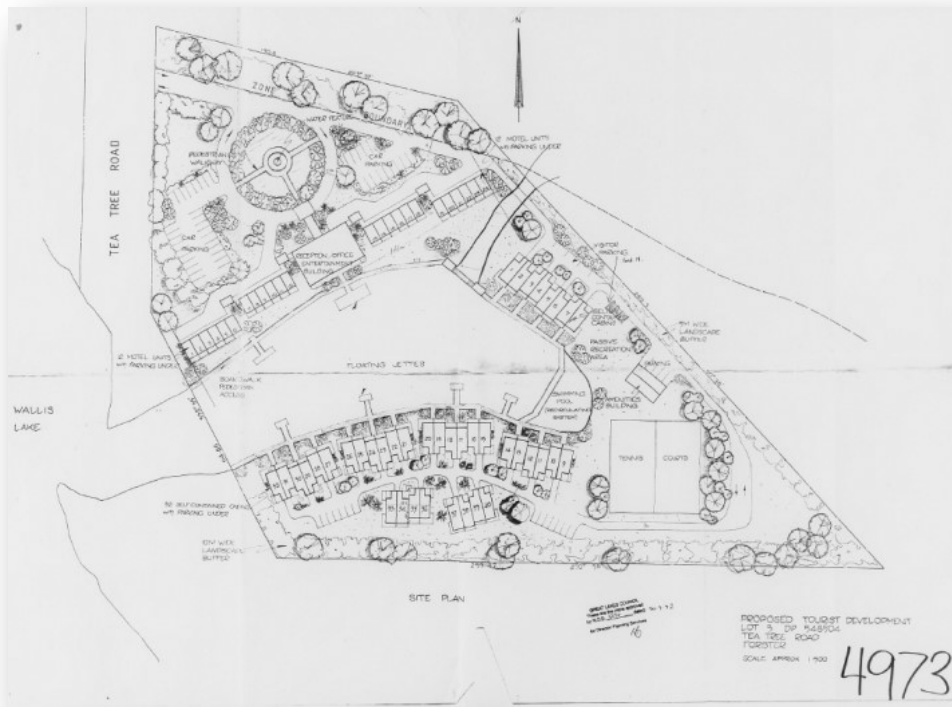
A screenshot of the Site's zoning under the LEP is shown below (Site outlined in bold):



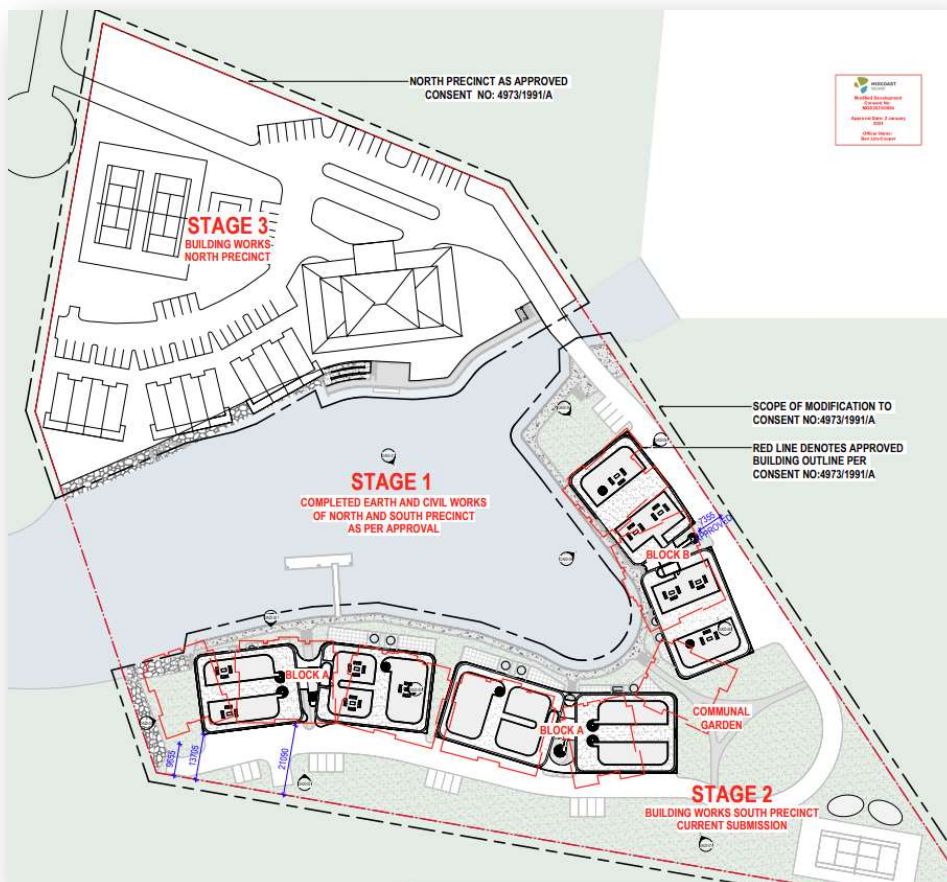
Pursuant to clause 2.6 of the LEP, the Site may be subdivided, but only with development consent – hence this application is being made.

The Site has an extensive approval history dating back to 1992 when the Council for the Shire of Great Lakes (as it was then known) granted a development consent for the establishment of a tourist facility. A Site Plan of the approved development from 1992 is overleaf.

On a number of occasions since 1992, the development consent has been modified in various ways. The latest approved modification was granted by Council in January 2024 (MOD2023/0094) – the approved Site Plan is overleaf.



Above: Original approved Site Plan (1992)
Below: Latest approved Site Plan (2024)



The Site currently gains access from Tea Tree Road, close to its cul-de-sac termination point. Tea Tree Road runs off The Lakes Way, which becomes MacIntosh Street in the centre of Forster, some four kilometres (approx.) from the Site, in a north-westerly direction.

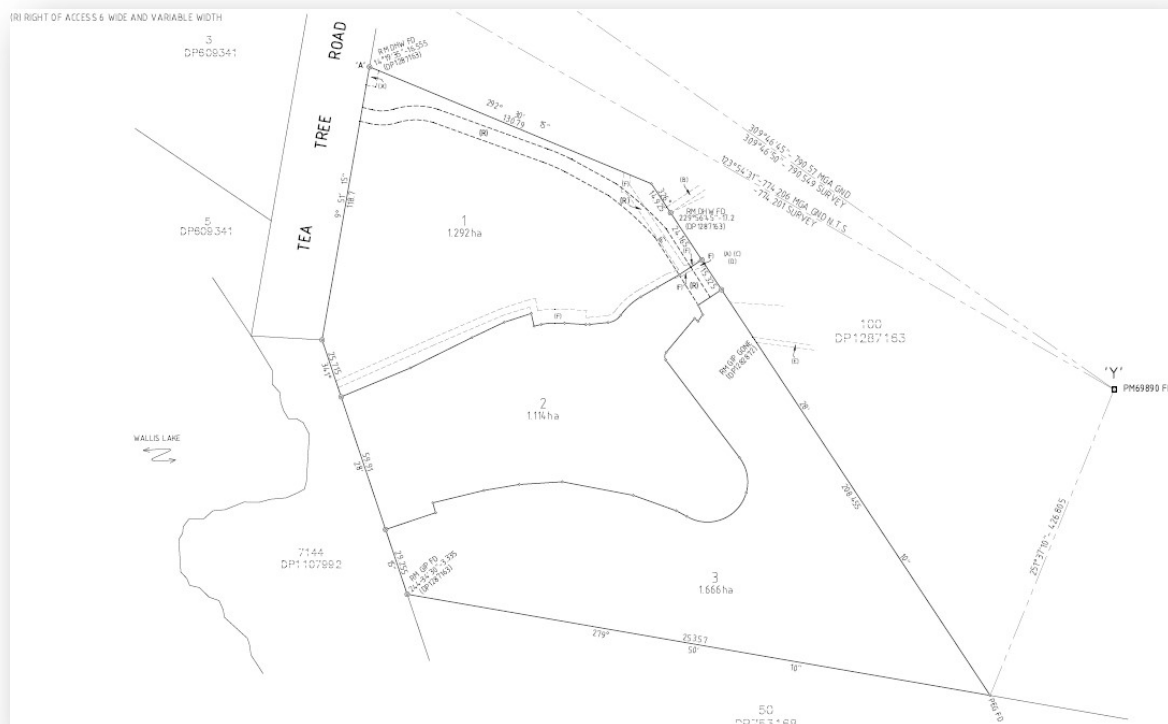
The Site is 4.07 hectares in area, encompasses what is known as “Boomerang Cove” (a part of Dunns Creek) and lies immediately south/south-west of Palm Lake’s over-50s lifestyle community currently under construction at 223 The Lakes Way (Lot 100 DP1287163).

The area of the Site in the ‘W2 – Recreational Waterways Zone’ is part of Dunns Creek, which flows into Wallis Lake and ultimately the ocean. Despite it being a waterway, the land remains in the ownership of Palm Lake and is required to remain so, in accordance with condition 5 of the modified development consent (Council reference: MOD2023/0094).

This application for development consent seeks to subdivide the Site into three lots, as follows:

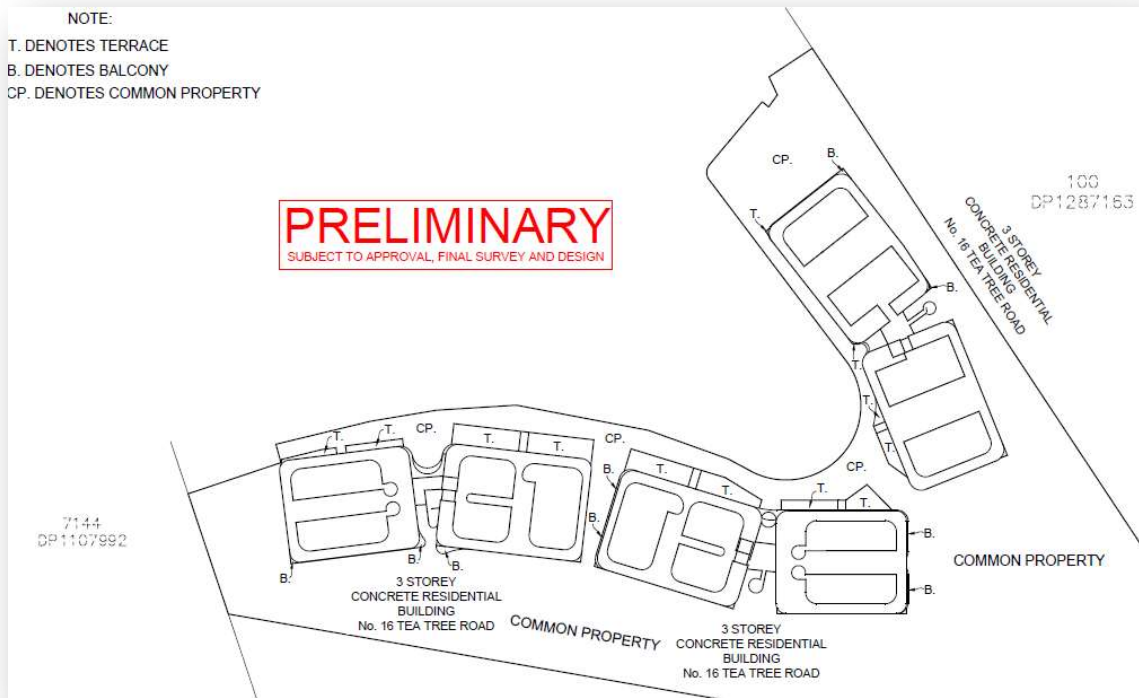
- Proposed Lot 1 is that part of the Site which lies north of the northern revetment wall that has been built along the waterway (Dunns Creek);
- Proposed Lot 2 is the part of Dunns Creek that is within the Site; and
- Proposed Lot 3 is the balance of the Site, which lies largely south of the waterway.

Below is a screenshot of the draft DP:



The boundaries of the proposed lots reflect onsite conditions rather than following the LEP’s delineation of the three zones over the Site. Also, the boundary common to proposed Lots 1 and 2 bisects buildings shown on the approved Site Plan from MOD2023/0094. However, Palm Lake has applied to modify MOD2023/0094 in various ways (MOD2024/0144) and an approval of that modification application would see that issue remedied.

This application also seeks a strata subdivision of proposed Lot 3 for 52 lots and common property, in line with the development consent over the land for 52 apartments (Council reference: MOD2023/0094). A screenshot of the proposed ground level strata plan is overleaf.



By reference to section 4.46 of the Act, the proposed development is “integrated development” because it is development that requires development consent under the LEP, as well as requiring a section 100B authorisation under the *Rural Fires Act 1997* (NSW).

Although the Site contains very small areas of mapped ‘Coastal Wetlands’ for the purposes of State Environmental Planning Policy (Resilience and Hazards) 2021, the subdivision is not designated development pursuant to clause 2.7(2) of that SEPP – see *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council* [2024] NSWLEC 77.

This SoEE assesses the proposed development’s performance against relevant parts of the LEP, relevant provisions of the Great Lakes Development Control Plan (**DCP**) as well as the following State Environmental Planning Policies (**SEPPs**):

- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Housing) 2021; and
- State Environmental Planning Policy (Resilience and Hazards) 2021.

Section 4.15 of the Act sets out the matters to be considered by Council in assessing this application. Palm Lake’s position is that the proposed development is consistent with those things, so far as they are relevant to the Site and the proposed development. The subdivision is unlikely to result in significant adverse environmental impacts nor be detrimental to the public interest.

The proposed development seeks to align future ownership and titling of lots and land with how the Site has been developed to date and the way it could be developed in the future in accordance with existing development consents.

We hereby request a development consent with conditions that meet the requirements of section 4.17 of the Act.

1.0 Site & application particulars

Particulars of the Site are set out in the table below:

Address	16 Tea Tree Road, Forster NSW 2428
Legal description	Lot 3 DP548504
Title encumbrances	Site is burdened by an electrical easement measuring 4.2 metres wide, affecting the part designated (E) in Plan with AS919576
Site area	4.07 hectares
Land owner	Palm Lake Resort Pty Ltd
Existing use	A water recreation structure (jetty), otherwise vacant land
Local Government Area	MidCoast
Environmental Planning Instruments	<ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 Great Lakes LEP 2014
LEP Zoning	<ul style="list-style-type: none"> 'R3 – Medium Density Residential' (in part); 'SP3 - Tourist' (in part); and 'W2 – Recreational Waterways' (balance)
Maximum Building Height	<ul style="list-style-type: none"> 12 metres (in part); 8.5 metres (in part); '0 – 20m (RL)' (balance)
Maximum FSR	<ul style="list-style-type: none"> 1:1 (in part)
NSW Coastal Zone	Yes

An aerial image of the Site is below:



The table below identifies further particulars of the Site:

Topography	The terrestrial portions of the Site are very flat in the most part. Battering and revetment walls taper down to the waterbody (Boomerang Cove, part of Dunns Creek). The Site's ground level is around 1m AHD.
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Vegetation	The Site is devoid of vegetation, other than vegetation recently planted by Palm Lake for aesthetic reasons.
Infrastructure & services	<p>‘Before You Dig’ search results reveal the Site:</p> <ul style="list-style-type: none"> • has a reticulated water main connection at its frontage to Tea Tree Road; • has a service connection stub to a gravity main sewer line, through the Palm Lake Forster over 50s lifestyle community, to the north; • has electricity supply via an existing ground substation at the Site’s frontage to Tea Tree Road; and • has potential for connectivity to the telecommunications network, where infrastructure lies to the north of the Site, within Tea Tree Road.
Existing use and improvements	There are no buildings on the Site at present, just engineered structures such as revetment walls and a pontoon/jetty.

The Site is in the southern part of the Forster locality, in the MidCoast local Government area of New South Wales. The Site is the most southerly point of Forster’s urban development footprint, with the land further south (and east) being undeveloped rural/environmental management lands and Booti Booti National Park.

A sewer treatment plant is located approximately 1.2 kilometres east of the Site, at the end of Sweet Pea Road.

Immediately west of the Site is Wallis Lake, the northern reaches of which empty into the South Pacific Ocean.

North of the Site is ‘Palm Lake Forster’ – an over 50s lifestyle community operating under a caravan park approval. The community is partially constructed, with future stages currently under construction.

Particulars of this application for development consent are set out in the table below:

Proposed development	<p>1-lot into 3-lot Torrens Title subdivision where Proposed Lot 3 is to be subdivided in strata format into 52 lots plus common property.</p> <p>Lot 1 is to be 1.292 hectares in area, Lot 2 is to be 1.114 hectares in area and Lot 3 is to be 1.666 hectares in area.</p> <p>Refer to the draft DP and SP by Reagan J. Lidbury of LSW Surveyors.</p>
Estimated development cost	<p>N/A</p> <p>Application fee calculated to be \$4,988.30 (per items 2.5, 2.6 and 3.1 of <i>Environmental Planning and Assessment Regulation 2021</i>, Schedule 4).</p>
Consent authority	MidCoast Council
State significant development	No
Designated development	No
Integrated development	Yes
Local development	Yes
SEPP Transport and Infrastructure Referral	No

Applicant	Palm Lake Resort Pty Ltd c/- Palm Lake Works Pty Ltd
Applicant contact details	Contact person: Andrew Magoffin Email: andrewma@palllake.com.au Phone: 0473 565 067

2.0 Background

The modification application bearing the Council reference MOD2024/0144 was accompanied by a 'Modification Report' by Zone Planning Group dated 6 June 2024. Section 2.0 of that report sets out a detailed history of the applications and consents (original and modified) made and granted over the Site since 1992.

3.0 Proposed development

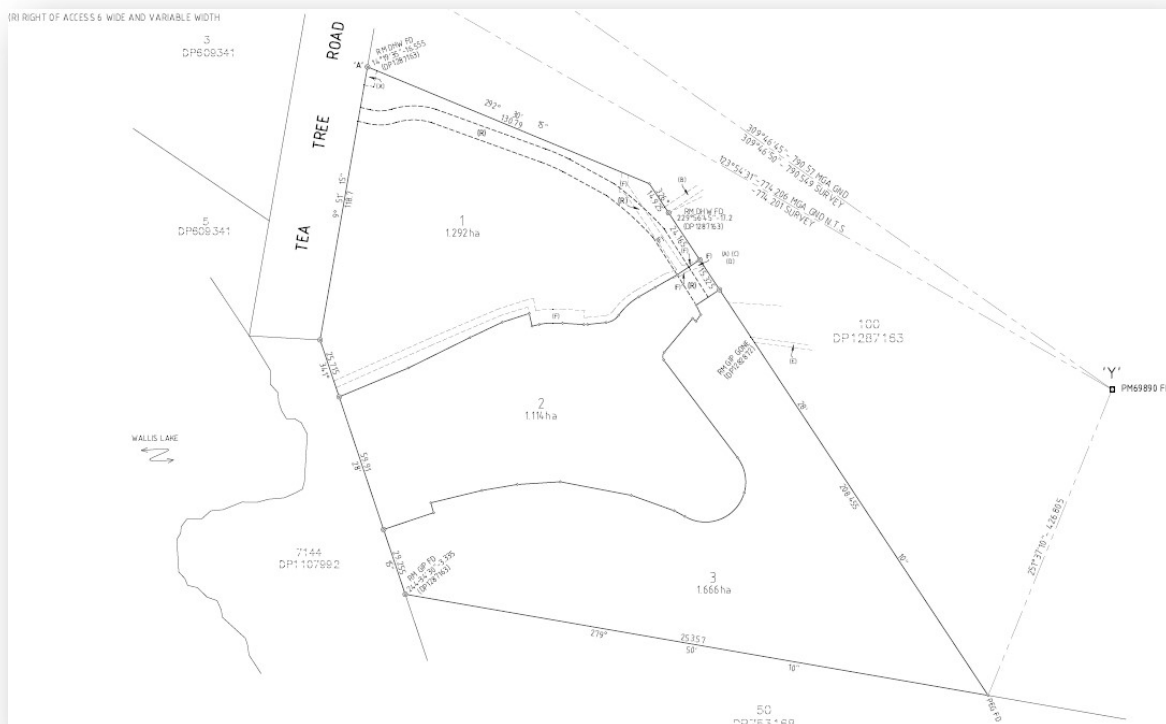
This application seeks development consent for a Torrens Title subdivision of the Site (1 lot into 3 lots) plus a strata subdivision of proposed Lot 3 into 52 lots plus common property. The 52 proposed strata lots and common property are related to the modified development consent bearing Council reference MOD2023/0094, being an approved development of 52 apartments.

Proposed Lots 1 and 3 are intended for (and approved for) future development. Both lots are to gain access via Tea Tree Road; Lot 1 directly and Lot 3 via a proposed 6-metre wide access easement to burden proposed Lots 1 and 2. Access to Lot 3 across Dunns Creek (Lot 2) will be via a reconstruction of the existing bridge, in accordance with condition 25 of MOD2023/0094.

Proposed Lot 1 is 1.292 hectares in area and proposed Lot 3 is 1.666 hectares in area.

Proposed Lot 2 is the part of Dunns Creek that lies within the Site – its short and long term maintenance burden sits with Palm Lake as per condition 5 of the modified development consent (Council reference: MOD2023/0094). Proposed Lot 2 is 1.114 hectares in area.

The proposed development is depicted in plans accompanying this application, with a screenshot of the draft DP included below:



4.0 Technical assessments

This application is supported by inputs from Palm Lake's project consultancy team, as identified and summarised below:

4.1 Bushfire Report

Authorisation under section 100B of the *Rural Fires Act 1997* (NSW) is required before Council can grant development consent for the proposed subdivision. Accordingly, a Bushfire Assessment by Australian Bushfire Assessment Consultants (**ABAC**) accompanies this application.

ABAC supports the proposed subdivision (Torrens and strata), subject to development according with its recommendations in section 6 of the report.

4.2 Water Sensitive Design Strategy

A 'Water Sensitive Design Strategy' report accompanies this application. It identifies applicable water quality targets and demonstrates how water-sensitive design infrastructure will drain to Boomerang Cove.

5.0 Development Controls

5.1 Integrated Development triggers

This application is for integrated development for the purposes of section 4.46 of the Act because it requires authorisation under section 100B of the *Rural Fires Act 1997* (NSW), as identified in the table below:

Act	Provision	Approval	Applies?
<i>Coal Mine Subsidence Compensation Act 2017</i>	s 22	approval to alter or erect improvements, or to subdivide land, within a mine subsidence district	No – The Site is not in a Mine Subsidence District
<i>Fisheries Management Act 1994</i>	s 144	aquaculture permit	No – Aquaculture is not proposed
	s 201	permit to carry out dredging or reclamation work	No – Dredging or reclamation work not proposed
	s 205	permit to cut, remove, damage or destroy marine vegetation on public water land or an aquaculture lease, or on the foreshore of any such land or lease	No – This application does not seek to remove, damage or destroy marine vegetation
	s 219	permit to: (a) set a net, netting or other material, or (b) construct or alter a dam, floodgate, causeway or weir, or (c) otherwise create an obstruction, across or within a bay, inlet, river or creek, or across or around a flat	No – This application does not propose any form of obstruction across or within a bay, inlet, river or creek, or across a flat
<i>Heritage Act 1977</i>	s 58	approval in respect of the doing or carrying out of an act, matter or thing referred to in s 57 (1)	No – The Site does not contain an item listed on the State Heritage Register
<i>Mining Act 1992</i>	ss 63, 64	grant of mining lease	No – This application does not seek a mining lease
<i>National Parks and Wildlife Act 1974</i>	s 90	grant of Aboriginal heritage impact permit	No – AHIMS search has not revealed any known Aboriginal Heritage items onsite
<i>Petroleum (Onshore) Act 1991</i>	s 16	grant of production lease	No – The proposal does not seek a petroleum production lease
<i>Protection of the Environment Operations Act 1997</i>	ss 43 (a), 47 and 55	Environment protection licence to authorise carrying out of scheduled development work at any premises	No – The proposal does not trigger the requirement for an Environmental Protection Licence
	ss 43 (b), 48 and 55	Environment protection licence to authorise carrying out of scheduled	No – The proposal does not trigger the

		activities at any premises (excluding any activity described as a “waste activity” but including any activity described as a “waste facility”).	requirement for an Environmental Protection Licence
	ss 43 (d), 55 and 122	Environment protection licences to control carrying out of non-scheduled activities for the purposes of regulating water pollution resulting from the activity.	No – The proposal does not trigger the requirement for an Environmental Protection Licence
Roads Act 1993	s 138	consent to: (a) erect a structure or carry out a work in, on or over a public road, or (b) dig up or disturb the surface of a public road, or (c) remove or interfere with a structure, work or tree on a public road, or (d) pump water into a public road from any land adjoining the road, or (e) connect a road (whether public or private) to a classified road	No – No consent under section 138 of the Roads Act is being sought in this application
Rural Fires Act 1997	s 100B	authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	Yes – authorisation under s 100B of the Rural Fires Act 1997 (NSW) is required in this instance
Water Management Act 2000	ss 89, 90, 91	water use approval, water management work approval or activity approval under Part 3 of Chapter 3	No – No consent under the Water Management Act is being sought here

5.2 State Environmental Planning Policies

The following Statement Environmental Planning Policies apply in assessment of this application:

- SEPP (Biodiversity and Conservation) 2021;
- SEPP (Housing) 2021; and
- SEPP (Resilience and Hazards) 2021.

These SEPPs are addressed in Section 6 of this SoEE.

5.3 Local Environmental Planning Instruments

Parts of the LEP apply to the Site and/or proposed development, as set out in the table below:

Part	Clause
Part 1 Preliminary	1.2 Aims of Plan
Part 2 Permitted or prohibited development	2.3 Zone objectives and Land Use Table
	2.6 Subdivision – consent requirements

Land Use Table	-
Part 4 Principal development standards	4.1 Minimum subdivision lot size
Part 5 Miscellaneous provisions	5.21 Flood planning

The relevant parts of the LEP are addressed in Section 6 of this SoEE.

5.4 Development Control Plan

Parts of the DCP apply to the Site and/or proposed development, as set out in the table below:

Section	Application
4 Environmental Considerations	Applicable
11 Water Sensitive Design	Applicable

The relevant parts of the DCP are addressed in Section 6 of this SoEE.

6.0 Matters for Consideration

Section 4.15 of the Act lists the matters for Council to consider when assessing this application – subclause (1) of section 4.15 of the Act reads as follows:

Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) *the provisions of:*

- (i) *any environmental planning instrument, and*
- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) *any development control plan, and*
- (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),*

that apply to the land to which the development application relates,

- (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,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

Additionally, section 1.7 of the Act requires consideration of Part 7 of the *Biodiversity Conservation Act 2016* (NSW) (**Biodiversity Act**). Part 7 of the Biodiversity Act requires Council to consider whether the proposed development is likely to significantly affect threatened species. Section 7.2 of the Biodiversity Act defines what is “likely to significantly affect threatened species” as follows:

- (a) *it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or*
- (b) *the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or*
- (c) *it is carried out in a declared area of outstanding biodiversity value.*

Section 6.1 below is an assessment of the proposed development against the matters listed in section 4.15 of the Act plus an assessment of whether the proposed development is likely to significantly affect threatened species, for the purposes of Part 7 of the Biodiversity Act.

6.1 Biodiversity Act

The table below is the Applicant’s assessment of the proposed development against (a) to (c) of section 7.2 of the Biodiversity Act:

Criteria for assessment	Applicant’s response
(a) Is the development “likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3”?	No. The proposed development is for Torrens Title subdivision and strata subdivision only, with the necessary associated works (post-consent) being very minor in extent and potential impact. Also, the Site is almost completely devoid of vegetation.
(b) Will the development exceed “the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the	No. There are two ‘Biodiversity Offsets Scheme thresholds’ to consider, being the Biodiversity Values Map and an area clearing threshold and:

impacts of the development on biodiversity values”?	<ul style="list-style-type: none"> only an extremely small portion of the Site is mapped as containing ‘Biodiversity Values’ on the Biodiversity Values Map and the proposed new property boundaries will not bisect that area; and the Site is almost completely devoid of vegetation such that the ‘area clearing threshold’ is not triggered.
(c) Is the development to be “carried out in a declared area of outstanding biodiversity value”?	No. There are currently only four such declared areas in New South Wales (by reference to the ‘Areas of Outstanding Biodiversity Value Register’ found here: Areas of Outstanding Biodiversity Value register NSW Environment and Heritage) and the Site is not even proximate to those declared areas.

6.2 Environmental Planning Instrument(s)

6.2.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (**SEPP Biodiversity**) applies to the Site and proposed development to the following extents:

- **‘Chapter 2 Vegetation in non-rural areas’ – applies;**
- ‘Chapter 3 Koala habitat protection 2020’ – not applicable given the Site’s zoning is not listed in section 3.3;
- **‘Chapter 4 Koala habitat protection 2021’ – applies;**
- ‘Chapter 5 River Murray lands’ – not applicable given the Site is not located in the places listed in section 5.3;
- ‘Chapter 6 Water catchments’ – not applicable given the Site is outside of the catchments listed in section 6.1;
- Chapters 7 to 12 (repealed); and
- Chapter 13 Strategic conservation planning – not applicable given the Site is not shown on the ‘Land Application Map’ for section 13.1.

6.2.1.1 – Chapter 2 Vegetation in non-rural areas

Chapter 2 of SEPP Biodiversity applies to an assessment of this application because the Site’s zoning is listed in section 2.3(1)(b). However, the Site is almost completely devoid of vegetation (see image overleaf) and this application does not propose any clearing. Accordingly, no further assessment of the application against Chapter 2 of SEPP Biodiversity is warranted.

6.2.1.2 – Chapter 4 Koala habitat protection 2021

Chapter 4 of SEPP Biodiversity applies to an assessment of this application because MidCoast local government area is listed in Schedule 2 of the SEPP. However, the Site is almost completely devoid of vegetation (see image overleaf) and this application does not propose any clearing. Accordingly, no further assessment of the application against Chapter 4 of SEPP Biodiversity is warranted.



6.2.2 State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021 (**SEPP Housing**) applies State-wide, however, this application only proposes Torrens Title subdivision and strata subdivision, not any new housing. Accordingly, no further assessment of the application against SEPP Housing is warranted.

6.2.3 State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 (**SEPP Resilience**) covers a number of matters to be considered as part of a development application. Of relevance to this development application and the Site's location are:

- Chapter 2 Coastal management
- Chapter 4 Remediation of land.

6.2.3.1 - Chapter 2 – Coastal management

The aim of Chapter 2 of SEPP Resilience:

“is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

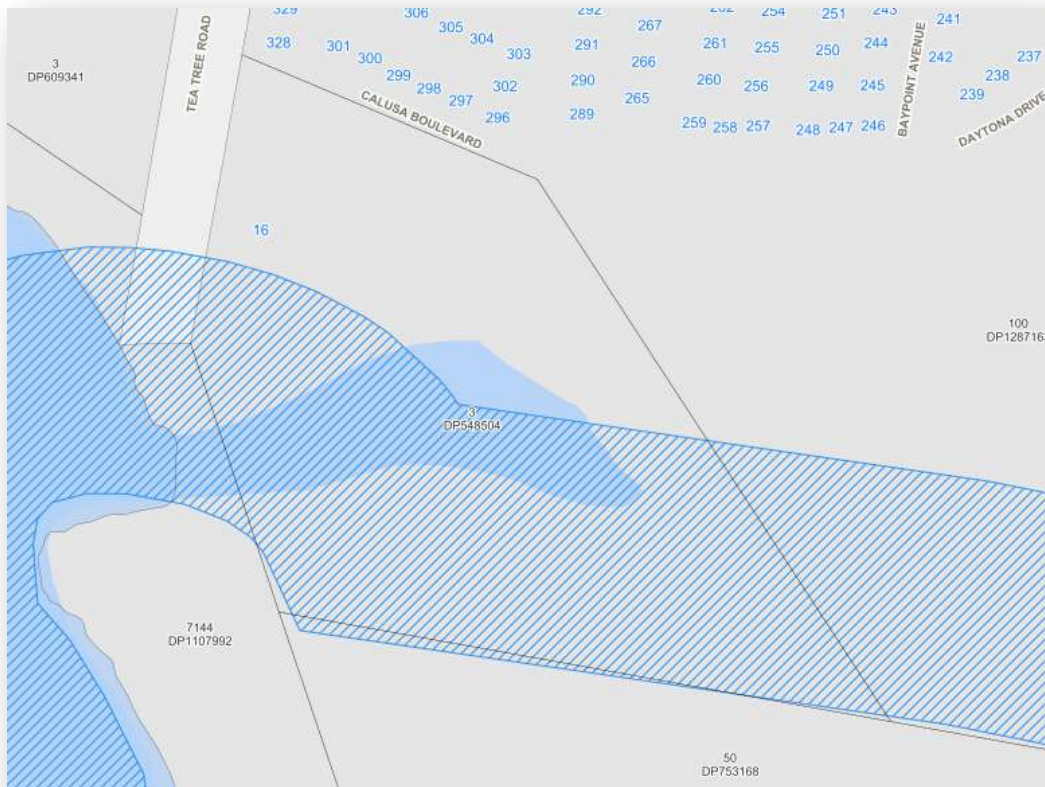
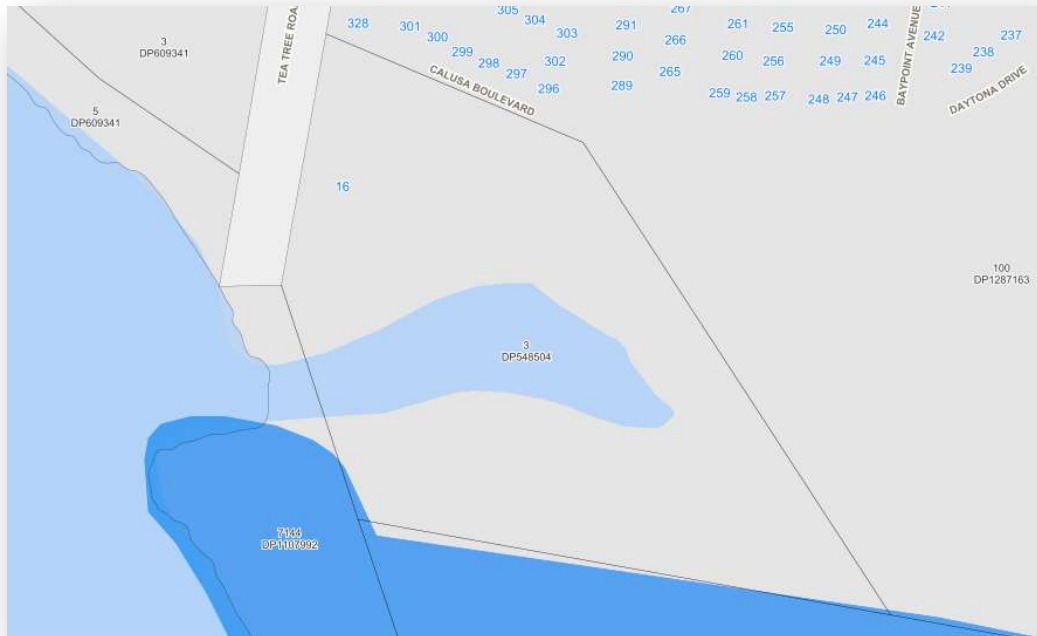
- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.”*

Clause 2.3 of SEPP Resilience states that Chapter 2 applies “to land within the coastal zone” and clause 2.4 (by reference to the *Coastal Management Act 2016* NSW)) identifies that the coastal zone:

- “... means the area of land comprised of the following coastal management areas –*
- (a) the coastal wetlands and littoral rainforests area,*
 - (b) the coastal vulnerability area,*
 - (c) the coastal environment area,*
 - (d) the coastal use area.”*

The Site is within the coastal zone because:

- a very small portion of the Site is mapped in the coastal wetlands area;
- much of the Site is mapped in the coastal wetland proximity area;
- the entire Site is mapped in the coastal environment area; and
- most of the Site is mapped in the coastal use area.





Clause 2.7 of SEPP Resilience identifies that certain development may be carried out on land identified as coastal wetlands, but only with development consent. Subclause (2) identifies such development as designated development for the purposes of the Act and subclause (4) lists certain requirements for such development.

Applicant's assessment

Although the Site is mapped as containing coastal wetlands, the subdivision is not designated development – see *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council* [2024] NSWLEC 77.

Clause 2.8 of SEPP Resilience applies to land identified as “proximity area for coastal wetlands” and subclause (1) requires that Council only grant development consent if it is satisfied that:

- “... the proposed development will not significantly impact on –*
- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland ..., or*
 - (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland ...”.*
-

Applicant's assessment

Firstly, in respect of the strata subdivision component of this application, it relates to development that is already approved for proposed Lot 3 of the Site – of itself, it will have absolutely no impact on the things to which subclause (1) refers.

In the case of the Torrens title subdivision component of this application, a division of the Site into three distinct lots will not have any impact on the things to which subclause (1) refers.

Clause 2.10 of SEPP Resilience states as follows:

“Development consent must not be granted to development on land within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) coastal environmental values and natural coastal processes,*
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.”*
-

Applicant's assessment

Being an application for subdivision only, where no buildings or other works are proposed, the proposed development will have little to no impact on the matters listed in clause 2.10 of SEPP Resilience.

The proposed development has no impact on public open space and access to foreshore areas or impact the surf zone.

The site has no registered Aboriginal heritage significance and the development will not interfere with Aboriginal Cultural practices.

The development meets the eligibility criteria for being granted development consent.

Clause 2.11 of SEPP Resilience

Being an application for subdivision only, where no buildings or other works are proposed, the proposed development will have little to no impact on the matters listed in clause 2.11 of SEPP Resilience.

The Site is wholly privately owned and does not cater for public access to Boomerang Cove, Dunns Creek or Wallis Lake.

The site has no registered Aboriginal heritage significance and the development will not interfere with Aboriginal Cultural practices.

The development meets the eligibility criteria for being granted development consent.

6.2.3.2 – Chapter 4 – Remediation of land

The object of Chapter 4 is to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment. Section 4.6 of the SEPP relates to contamination and remediation that should be considered in determining a development application. A consent authority must firstly consider whether a site is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state, or it will be suitable after remediation, for the proposed development.

Research of the subject property has determined that it has not been used for any potentially contaminating activities listed under Table 1 of the NSW Contaminated Lands Planning Guidelines or as set out in ANZECC/NHMRC “Guidelines for the Assessment and Management of Contaminated Sites”.

The proposed development of the site will not raise any issues about contamination. Further assessment in accordance with SEPP (Resilience and Hazards) 2021 is not required.

6.2.4 Great Lakes Local Environmental Plan 2014

The following is an assessment of the proposed development against the relevant clauses of the LEP.

6.2.4.1 – Clause 1.2 Aims of the Plan

The aims of the LEP are stated in clause 1.2 as follows:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to facilitate the orderly and sustainable economic development of land,*
- (b) *to promote the health and well being of the population,*
- (c) *to protect and enhance environmental, scenic and landscape assets,*
- (d) *to facilitate cultural activities that will benefit the community,*
- (e) *to promote the equitable provision of services and facilities for the community,*
- (f) *to ensure that development does not create unreasonable or uneconomic demands for the provision or extension of public amenities or services,*
- (g) *to promote public transport patronage and encourage walking and cycling,*
- (h) *to ensure that development has regard to the capability of the land so that the risk of degradation is minimised,*
- (i) *to minimise land use conflict,*
- (j) *to ensure that development meets any local water quality objectives adopted by Council in relation to groundwater, rivers, estuaries, wetlands and other waterbodies,*
- (k) *to protect, enhance and provide for the long-term management of native biodiversity, including habitat linkages, threatened species populations and endangered ecological communities, and to identify and protect biodiversity links or corridors throughout the landscape.*

So far as it might be applied to the strata subdivision component of this application, clause 1.2 of the LEP is largely (or entirely) not applicable. The development the subject of the strata subdivision application has already

been assessed against clause 1.2 of the LEP and consent has been granted. The strata subdivision component of this application is merely to allow for separate titling of the approved apartments.

Clause 1.2 of the LEP is more relevant to the Torrens title subdivision component of this application. The proposed subdivision would facilitate a more orderly and sustainable economic development of the Site because it reduces the land to more manageable portions and seeks to formalise titling of distinct developments on the land (waterbody, precinct north of the waterbody and precinct south of the waterbody). In respect of the other aims of the LEP, conditions of existing development consents (as modified) ensure development of the Site will meet those aims.

6.2.4.2 – Clause 2.3 Zone objectives and Land use table

Under the LEP, the Site is mapped in three distinct zones, as follows:

- ‘R3 – Medium Density Residential’ (in part);
- ‘SP3 – Tourist’ (in part); and
- ‘W2 – Recreational Waterways’ (balance).

The Torrens title subdivision proposed in this application seeks to divide the Site into three lots, roughly consistent with the distinction of the three zones applying to the Site, where proposed Lot 1 is mostly in the SP3 Tourist zone, proposed Lot 2 is mostly in the W2 Recreational Waterways zone and proposed Lot 3 is mostly in the R3 Medium Density Residential zone.

The extents of proposed Lot 1 account for development the subject of MOD2024/0144. That development complies with the objectives of the SP3 Tourist zone.

Proposed Lot 2 wholly contains the waterbody that forms part of the Site. No development is proposed on a future Lot 2, in keeping with the objectives of the W2 Recreational Waterways zone.

The extents of proposed Lot 3 account for the development the subject of modified consent MOD2023/0094. That development complies with the objectives of the R3 Medium Density Residential zone.

6.2.4.3 – Clause 2.6 Subdivision – consent requirements

Pursuant to clause 2.6 of the LEP, the Site may be subdivided, but only with development consent – hence this application is being made.

6.2.4.4 – Clause 4.1 Minimum subdivision lot size

Clause 4.1 of the LEP requires that subdivision of land creates lots that comply with the minimum size shown on the Lot Size Map.

The Site has two treatments on the LEP’s Lot Size Map, the southern portion is mapped for a minimum lot size of 1,000m² and the balance of the Site has no mapped designation.

At 1.114 hectares (proposed Lot 2), 1.292 hectares (proposed Lot 1) and 1.666 hectares (proposed Lot 3), the proposed Torrens title subdivision complies with clause 4.1 of the LEP.

6.2.4.5 – Clause 5.21 Flood planning

The Site is mapped as being in a flood planning area, however:

- The strata subdivision component of this application is merely for the individual titling of apartments that already have development consent (via an application assessed against clause 5.21 of the LEP); and
- The Torrens title subdivision component of this application has no material effect on the matters listed in subclause 5.21(2) of the LEP.

6.3 Proposed Instruments

Council is currently preparing a new, consolidated Local Environmental Plan for the whole of the MidCoast local government area – community consultation on the Draft MidCoast Local Environmental Plan took place during April and July of this year.

The following table identifies how the Site is treated and proposed to be treated under the current Great Lakes LEP and Draft MidCoast LEP, respectively:

	Great Lakes LEP	Draft MidCoast LEP
Land Zoning Map	<ul style="list-style-type: none"> • ‘R3 – Medium Density Residential’ (in part); • ‘SP3 – Tourist’ (in part); and • ‘W2 – Recreational Waterways’ (balance). 	No change.
Lot Size Map	<ul style="list-style-type: none"> • ‘U – 1000m²’ (in part); and • Not mapped (balance). 	<ul style="list-style-type: none"> • ‘G – Min Lot Size 450m²’ (in part); and • Not mapped (balance).
Height of Buildings Map	<ul style="list-style-type: none"> • ‘M – 12.0m’ (in part); • ‘I – 8.5m’ (in part); and • Not mapped (balance). 	No change.
Floor Space Ratio Map	<ul style="list-style-type: none"> • ‘N – FSR = 1:1 (in part); and • Not mapped (balance). 	Not mapped.

Of relevance to this application is the proposed change to the Site’s treatment on the Lot Size Map, where the part of the Site that is currently mapped for a minimum lot size of 1,000m² is proposed to become mapped for a minimum lot size of 450m². However, the lot sizes proposed in this application for the Torrens title subdivision are all above one hectare and therefore compliant with both clause 4.1 of the current LEP and clause 4.1 of the draft LEP.

With the exception of clause 4.1 C, clauses 4.1 AA to 4.2 B of the draft LEP are not applicable to the proposed strata title subdivision component of this application. In the case of clause 4.1 C, the proposed development complies, as the lot that is in Zone R1 General Residential (Lot 3) is proposed to be connected to reticulated water and sewer (as is proposed Lot 1, zoned ‘SP3 Tourist’).

In considering the proposed development against the draft LEP, it follows that favourable consideration is warranted.

6.4 Development Control Plan

6.4.1 Great Lakes Development Control Plan

Sections 4.2 and 4.3 of the DCP both contain subdivision controls that apply in an assessment of this application. The following is an identification of those controls and Palm Lake’s assessment of the development against those controls.

6.4.1.1 Section 4.2 Flooding

Control	Palm Lake’s assessment
(1) New allotments are to be designed to ensure that all proposed building envelopes are located outside the 2100 flood planning area	Proposed Lots 1 and 3 are already approved for development and proposed Lot 2 is not intended for any future development.

(2) In circumstances where the location of a building envelope beyond the 2100 flood planning area is not possible a variation may be sought. If supported by Council, building envelopes are to be located at or above the 2100 1% AEP flood level.	Proposed Lots 1 and 3 are already approved for development and proposed Lot 2 is not intended for any future development.
(3) All lots are to have a continuous and rising vehicle evacuation route.	<p>Proposed Lot 1 gains direct access to Tea Tree Road.</p> <p>Proposed Lot 2 is part of a waterbody, where an evacuation route is not necessary.</p> <p>Proposed Lot 3 will gain access to Tea Tree Road via a new bridge to span Dunns Creek/Boomerang Cove (see condition 25 of DA4973/1991/A) and through proposed Lot 1. In the main, that evacuation route is continually rising.</p>
(4) The filling of land is to limit the impact on adjoining properties and the visual amenity of the location.	No filling proposed or required.
(5) Landscaping and vegetated buffers located in flood prone areas must be designed and located to reduce the impacts of flood waters on soil stability and adjoining buildings and structures.	Landscaping and vegetated buffers are the subject of modified development consents that apply to proposed Lots 1 and 3.
(6) Subdivisions in nonurban zones e.g. large lot residential, rural and environmental zones that create an additional dwelling entitlement, are to provide ...	The Site is not in a non-urban zone.

6.4.1.2 Section 4.3 Coastal Planning Areas

Control	Palm Lake's assessment
1. All proposed allotments are to include a nominated building envelope that is located outside of the coastal planning area.	The two proposed lots intended for further/future development (proposed Lots 1 and 3) each benefit from development consents already. Those consents (or future modified versions thereof) are the effective building envelope on each lot. No building envelopes are nominated in this application for subdivision.
2. Public services and infrastructure including sewer, water, drainage, electricity and roads are to be located outside of the coastal planning area and landward of any building envelope.	As above.

6.4.1.3 Section 11.4.2.2

This application proposes the creation of three new Torrens title lots and is considered a “minor subdivision” for the purposes of section 11.4.2 of the DCP.

A ‘Water Sensitive Design Strategy’ report accompanies this application and it satisfies the requirements of section 11.4.2.2 of the DCP, despite being originally prepared for a separate application to modify an existing development consent on proposed Lot 1.

6.5 Planning Agreement(s)

There are no voluntary planning agreements applying to the site.

6.6 Environmental Planning & Assessment Regulation 2021

None of the development types or subject matter of sections 61 to 68 of the *Environmental Planning and Assessment Regulation 2021* (NSW) are relevant to/apply to the development the subject of this application.

6.7 Likely Impacts

This application proposed a subdivision of the Site into three Torrens title lots, and a strata subdivision of proposed Lot 3 into 52 strata lot and common property.

In respect of the strata subdivision component of this application, it relates to development that is already approved for proposed Lot 3 of the Site – of itself, it will have absolutely no environmental impacts.

In the case of the Torrens title subdivision component of this application, it also will have no environmental impacts. No fencing is likely to be built along the new property boundaries, as the existing waterbody is the dividing boundary between each of the lots. Even if fencing were proposed, compliance with conditions of existing development consents will mitigate any potential adverse environmental impacts.

6.8 Suitability of the site

Each proposed lot is suitably sized for their intended future purposes.

6.9 Submissions

Council will need to consider any submission received during assessment of the application consistent with MidCoast Council's Community Engagement Policy requirements. We understand the notification period will be 14 days in duration.

6.10 The Public Interest

With reference to Section 4.15 'Matters for Consideration' of the Act the proposal is consistent with the relevant controls and permissible with consent; is suitable for the site and unlikely to result in significant impact or be detrimental to the public interest.

7.0 Conclusion

This SoEE forms part of an application for development consent being made by Palm Lake to Council pursuant to section 4.12 of the Act. This application is being made over land described as 16 Tea Tree Road, Forster (Lot 3 DP548504) and the development consent being sought from Council is for:

- Torrens Title subdivision of 1 lot into 3 lots; plus
- Strata subdivision of proposed Lot 3 into 52 lots and common property.

The SoEE describes the Site and the proposed development, identifies the statutory framework that applies to the application and provides an assessment of the proposed development against the development controls under the LEP and relevant provisions of applicable SEPPs and the DCP.

Palm Lake's position is that the proposed development is consistent with the things listed in section 4.15 of the Act, so far as they are relevant to the Site and the proposed development. The proposed development is appropriate for the Site and is unlikely to result in significant adverse environmental impacts or be detrimental to the public interest.

We hereby request a development consent with conditions that meet the requirements of section 4.17 of the Act.