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SECTION 96(2) MODIFICATION APPLICATION ASSESSMENT REPORT

**TOURIST FACILITY
40 DOGWOOD ROAD, BUNGWAHL**

DA 173-7-2004 MOD 1

Modification of consent under section 96(2) of the
Environmental Planning and Assessment Act 1979

August 2010



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1. SUMMARY

- This report is an assessment of the proposed development the subject of Development Application number 173-7-2004 MOD 1 modifying Development Application DA 462-11-2003 under section 96 (2) of the *Environmental Planning and Assessment Act 1979* (the Act), lodged by Coastplan Consulting on 17 November 2009.

1.1. SITE DESCRIPTION

- The subject site is located at Lot 1 DP 34356 40 Dogwood Road, Bungwahl near Smiths Lake in the Great Lakes LGA. The proposed development will be known as the Myall Coast Eco Lodge.
- The site is sometimes used for agricultural purposes and, with the exception of a number of sheds in the cleared northern part of the site, is vacant. There is an existing farm dam in the southern part of the site adjacent to Dogwood Road. Existing access to the site is via the unsealed Dogwood Road. Electricity and telephone services are available to the land. There is no reticulated sewerage or water supply (refer Figure 1). A dwelling has been constructed immediately to the north-west of the site since the original application was approved.
- The site is within an environmentally sensitive area, is roughly U-shaped and adjoins the Intermittently Closed or Open Lake or Lagoon (ICOLL) Smiths Lake immediately to the north. The Smith's Lake Field Studies Centre operated by the University of New South Wales lies approximately 500m to the east of the site within the Myall Lakes National Park. *State Environmental Planning Policy 14* (SEPP 14) Coastal Wetland No. 649 encroaches upon the eastern edge of the site. The areas of the site to be developed are largely cleared of vegetation.
- The land in the northern part of the site is relatively flat and low-lying. Levels in this part of the land vary between 2m-4m AHD. Land in the central southern part of the site rises to a ridge with levels of approximately 20m-22m AHD. The land falls towards the south-western corner of the site.

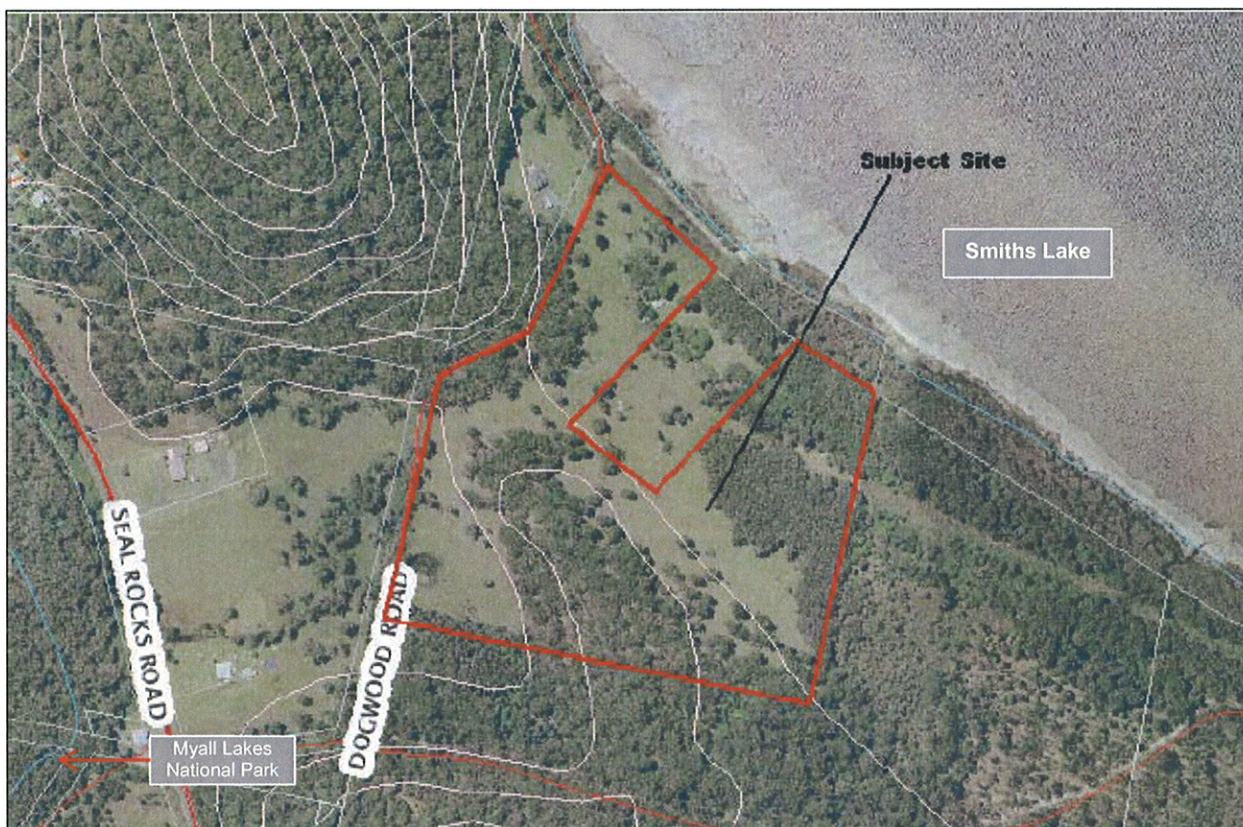


Figure 1 – Site location

1.2. BACKGROUND

- On 19 July 2005, the then Minister for Infrastructure and Planning, granted consent for development application DA 173-7-2004 for a staged tourist facility development as outlined below:

Stage 1

- Construction of 5 buildings including 3 bunk buildings (with 3 rooms each), amenities block, and communal dining pavilion;
- On-site sewage management facility and disposal area;
- Upgrading of Horsepoint Road and Dogwood Road to the main point of access to the property; and
- Construction of bus parking and internal access roads.

Stage 2

- Construction of 6 ensuite cabins and reception/café/shop building in the north western part of the property; and
 - On-site sewage management system.
- The land is under new ownership and the applicant has confirmed that the previously approved works have physically commenced on-site.

2. PROPOSED MODIFICATION

- On 17 November 2009 Coastplan Consulting, on behalf of the applicant Charlotte Bay Pty Ltd lodged a modification application pursuant to section 96(2) of the Environmental Planning & Assessment Act 1979 (the Act) proposing to modify the development consent for DA 173-7-2004.

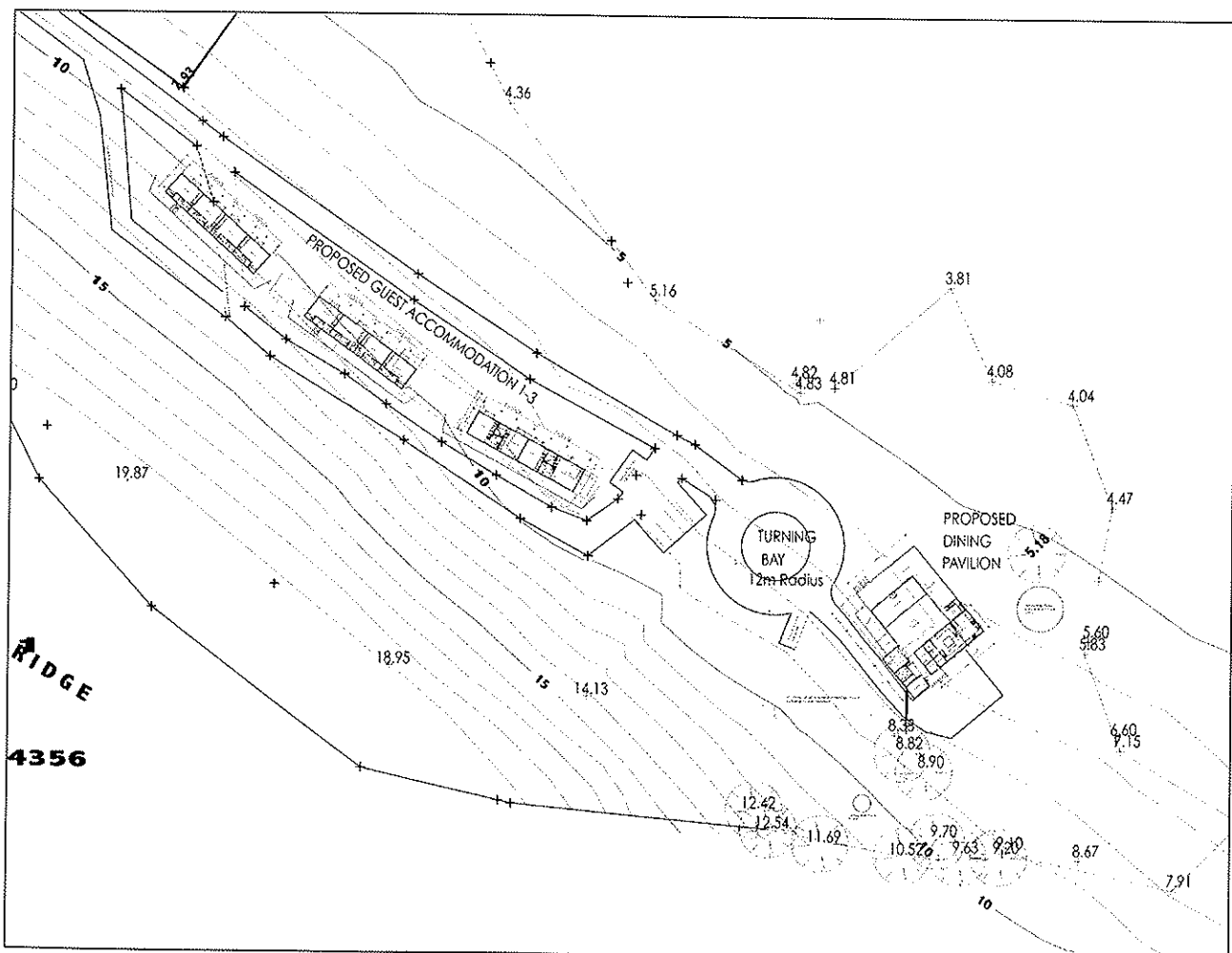


Figure 2 - Stage 1 modifications. Originally approved building envelopes are outlined in red.

- The applicant seeks to modify Stage 1 of the consent. The proposed changes involve the redesign of the accommodation buildings to include an ensuite for each unit which removes the need for a separate amenities block. The three bunk houses (containing 3 bunk rooms each) are to be replaced with 3 long houses, each containing 4 separate, ensuite units. The proposal involves an increase to the approved building footprint of the accommodation buildings (refer Table 1 below) but retains their approximately approved location and alignment on the site (refer Figure 2 above).

Table 1 – Building footprint summary for Stage 1 accommodation buildings

APPROVED BUNK HOUSES			% Change from Approved Building Footprint
Verandah	Floorspace	TOTAL (Building Footprint)	
47 m ²	55 m ²	102 m ²	
PROPOSED LONG HOUSE – Type I			
Verandah	Floorspace	TOTAL (Building Footprint)	+ 55%
64 m ²	94 m ²	158 m ²	
PROPOSED LONG HOUSE – Type II			% Change from Approved Building Footprint
Verandah	Floorspace	TOTAL (Building Footprint)	
73 m ²	94 m ²	167 m ²	
			+ 64%

- The approved development contained no specified limit on the number of people that may be accommodated on the site at any one time. The proposed design and layout of the long houses does not provide for an increase in accommodation capacity for Stage 1 of the consent.
- The proposal does not seek to change the nature of the development as a tourist facility but instead seeks to provide a higher quality product to cater for a different market. It is anticipated families and other visitors to Myall Lakes National Park and surrounds will utilise the site.
- The proposal also involves changes to the dining pavilion - originally a roofed, open-air pavilion providing basic kitchen facilities in keeping with the 'camp site' character. In particular, the proposal provides for the incorporation of a lounge, a small reception area, toilets, and verandas to the north-east and north-west. The proposed changes will result in the self-catering kitchen area being more enclosed than originally approved, which is in keeping with the provision of higher quality, more comfortable accommodation and facilities the new owner seeks.
- The proposal involves an increase in the footprint the dining pavilion occupies (refer to Table 2), but also proposes to delete the approved amenities block from the rear of the approved open-air dining pavilion, and provide for amenities within each accommodation unit. The proposed dining pavilion is situated in approximately the same location as where the original open-air dining pavilion was approved (refer Figure 2).

Table 2 – Building footprint summary for communal dining pavilion / amenities

APPROVED DINING PAVILION		
Verandah	Covered area	TOTAL (Building Footprint)
-	133 m ²	133 m ²
APPROVED AMENITIES BLOCK		
Verandah	Floorspace	TOTAL (Building Footprint)
45 m ²	71 m ²	116 m ²
PROPOSED DINING PAVILION		
Verandah	Floorspace	TOTAL (Building Footprint)
102 m ²	192 m ²	294 m ²

3. STATUTORY CONSIDERATION

3.1. CONSENT AUTHORITY

- On 25 January 2010, the Minister's powers and functions as a consent authority to modify development consents under Section 96 of the Act were delegated to the Director - Regional Projects branch where there are fewer than 10 public submissions received in the nature of objections against the modification. Consequently, the Director - Regional Projects may determine the application under delegated authority.
- The original consent was determined on 19 July 2005 with the specified lapsing date being 5 years from that date. On 19 July 2010, the proponent wrote to the Department to confirm that works on the site had physically commenced and that the consent had not lapsed. On that basis the Department is able to proceed with the determination of the modification application.

3.2. MATTERS FOR CONSIDERATION

- The modification application has been lodged with the Department under section 96(2) of the Act. Section 96(2) of the Act requires the following matters to be assessed in respect of all applications which seek modifications to approvals:
 - *Whether the development to which the consent as modified relates is substantially the same development;*
 - *Whether consultation with the Minister, public authority, or approval body, if necessary, has been carried out;*
 - *Whether notification has occurred and any submissions have been considered; and*
 - *Any relevant provisions of section 79C(1).*

Refer to sections 4 and 5 below for a discussion of these matters.

3.3. OTHER LEGISLATION

- The original development application was assessed as Integrated Development under section 91 of the Act requiring approval from:
 - NSW Rural Fire Service under section 100B of the *Rural Fires Act 1997*,
 - Great Lakes Council under section 138 of the *Roads Act 1993*, and
 - Department of Infrastructure, Planning & Natural Resources under Part 3A of the *Rivers and Foreshores Improvement Act 1948 (RFIA 1948)*. The *Water Management Act 2000* has superseded the provisions of the RFIA 1948 and the NSW Office of Water is now the integrated approval body.
- The development was also classified as State Significant Development by virtue of *State Environmental Planning Policy No.71 – Coastal Protection*.

4. CONSULTATION / PUBLIC EXHIBITION

- The application was notified and advertised in accordance with the Environmental Planning & Assessment Regulation 2000 (the Regulation) and placed on public exhibition between 16 March 2010 and 29 March 2010. Submitters on the original development application, public authorities and adjoining landowners were notified in writing of the modification application.
- The Department received a total of 13 submissions on the modification, comprising 7 submissions from public authorities and 6 submissions from the general public.

4.1. Public Submissions

- Issues raised in public submissions included some issues raised and addressed in the original consent, such as the potential for anti-social behaviour, noise impacts, lighting, and car parking. The applicant has also satisfactorily addressed concerns raised over the impact of the development on Australian Pied Oystercatchers, the likelihood of increased risk of disease from mosquitoes, the impacts of increased Lake levels from climate change,

traffic/access issues, and the nature and scale of the modification as compared to the originally approved development.

4.2. Great Lakes Council

- Great Lakes Council raised concerns over bushfire safety, effluent disposal and the adjacent ecologically sensitive wetland area, and section 94 development contributions and provided further assessment of the suitability of the proposed revised road width. These issues are discussed in section 5 below.

4.3. Land and Property Management Authority

- The Land and Property Management Authority advised that Dogwood Road/Horse Point Roads were Crown Public Roads and that Great Lakes Council was unable to issue a Public Engineering Works Permit under the *Roads Act 1993* until the road is transferred to Council control. Council have since made application to have both roads transferred to resolve the potential impasse.

4.4. NSW Office of Water

- The NSW Office of Water submission was concerned over the proposed location of the wastewater treatment disposal areas and waster treatment system. This arose due to the disposal and treatment of wastewater incorrectly being placed within or immediately adjacent to the SEPP 14 wetlands area. To appease these concerns the applicant subsequently corrected the plans and maintained the approved location of both the treatment plant and disposal areas. Details of the design, selection and location of the wastewater treatment system will still require approval from Council prior to the issue of a construction certificate.

4.5. NSW Rural Fire Service

- The NSW Rural Fire Service provided updated conditions as a deemed bushfire safety authority that have been included in the modified conditions of consent and discussed in section 5 below.

4.6. Other Agency Submissions

- The Roads and Traffic Authority, the Hunter-Central Rivers Catchment Management Authority and the Department of Environment, Climate Change and Water raised no objections to the proposed modifications.

5. ASSESSMENT

- The Department has assessed the potential impacts of the proposed modification, taking into account the development already consented to, the environmental effects expected from the modification over and above those consented to, and any issues raised via submissions. Key issues considered in the assessment process include: redesign of Stage 1 buildings, on-site effluent treatment and disposal, bushfire safety and climate change.

5.1. Redesign of Stage 1 Buildings

- The building footprint of each long house accommodation cabin will occupy a larger area than the originally approved bunk houses. However the inclusion of ensuite facilities in these cabins that removes the need for the amenities block which was approved up the slope at the rear of the site. The location and alignment of these buildings remains approximately the same as approved.
- While the modification application proposes an increase in building footprint of the dining pavilion, it is expected that there will be no additional adverse environmental effects than those consented to. The redesign of the dining pavilion allows for a larger enclosed area, allowing for greater use of indoor space throughout the year, and potentially a further reduction in ambient noise levels. Asset Protection Zones for bushfire safety are discussed in section 5.3 below.
- No additional effects on the surrounding environment are anticipated as a result of this proposal, and the existing conditions on consent remain satisfactory.

5.2. On-site Effluent Treatment and Disposal

- The proposed modification involves minor changes to the way in which effluent is treated on-site including use of a pressure/pump controlled E-One Sewer System to be located up-slope behind the proposed dining pavilion, and the provision of 100,000 litres of tank storage to manage for wet weather and seasonally variable effluent loads. This system provides for wastewater generated on-site to be treated to a tertiary level and disposed of to land at a controlled rate of flow.
- The proposed modification provides for a system designed to manage 9,970 litres/day compared to the originally approved system that was designed for 7,000 litres/day. However this increase is offset by the provision of 100,000 litres of tank storage designed to collect the balance of flows. This allows for 65% of the daily effluent load to be disposed of on the designated effluent disposal sites (8 x 250m²) using an improved pressure dosing technology that alternates disposal areas allowing each area to rest. The 3,000m² required for effluent disposal is only slightly greater than the 2,800m² originally consented to. Provision has also been made for a reserve effluent disposal area should additional disposal area ever be required.
- The location of proposed effluent disposal areas is shown on Figure 3 below. These indicative effluent disposal areas are sufficiently far removed from the environmentally sensitive areas of the SEPP 14 wetland and Smith's Lake foreshore to ensure that potential for any adverse effects is minimised. Thus the proposed location of effluent disposal is consistent with the intention of the originally approved location, and therefore the proposed wastewater treatment system design satisfactorily addresses concerns raised by both the NSW Office of Water and Great Lakes Council about potential impacts of the system on the adjacent SEPP 14 wetland. Furthermore Council retains final approval of the effluent disposal system to further ensure there are no additional environmental effects from the on-site treatment and disposal of wastewater.

5.3. Bushfire Safety and Asset Protection Zones

- Since the original consent was granted the NSW Rural Fire Service has published *Planning for Bushfire Protection 2006*. Consequently the applicant must take into account the performance based standards required by this guideline in designing and constructing the modified development. The NSW Rural Fire Service issued an updated Bushfire Safety authority on 31 May 2010 specifying construction standards for buildings and roads on-site and identifying Asset Protection Zones (APZs) around the development. The Department is satisfied with their recommendations.
- APZs have been corrected to more accurately reflect the vegetation composition and ecological characteristics of the SEPP 14 wetland area to the north of Stage 1 buildings and the scattered trees up the slope to the south. The APZs for Stage 1 have been reduced to 50m to the north-east and north-west and 60m up the slope behind the cabins. A specific 30m APZ will also be required around the dining pavilion while APZs for Stage 2 do not change. The modified APZs have no further environmental impact than those already consented to and will not result in the need for further vegetation removal.
- The proposed reduction in paved road width for Dogwood Road/Horse Point Road has been assessed by the Rural Fire Service to be consistent with the performance criteria of *Planning for Bushfire Protection 2006*. A reduced road width will still allow for two-way traffic, is consistent with the RTA's Road Design Guide for rural roads, and property access, and will ensure safe access for firefighters, firefighting vehicles and evacuees. Final detailed design plans for road works will be certified by Great Lakes Council.

5.4. Development Contributions – Condition B15

- In their submission on the modification application, Great Lakes Council requested an increase in development contributions levied under section 94 of the Act for Stage 1 (\$18,195.22) and for Stage 2 (\$32,560.20) to a total of \$50,755.42. This total was based on current section 94 contributions plans, with Council arguing that the original condition did not allow for staging and that there will now be an additional three (3) accommodation units. The requested increase in section 94 contributions sought by Council (which were originally levied at \$9,343.73 in total) represents an increase of over five (5) times in the contributions levied under Condition B15 of the original consent.

- The table below provides a comparison between the development contributions levied in the original consent, and those sought by Council now:

Table 3 – Comparison of developer contributions between 2005 (approved consent) and 2010 (as modified).

Stages 1 and 2				
Contribution Category	2005 Rate of Contribution	2005 Amount	2010 Rate of Contribution	2010 Amount
Aquatic Centre	\$105.62 per 7.9 persons	\$834.40	\$137.37 per 11.4 persons	\$1,566.02
Surf Life Saving	\$77.82 per 7.9 persons	\$614.78	\$69.61 per 11.4 persons	\$793.55
Library Bookstock	\$40.88 per 7.9 persons	\$322.95	\$66.12 per 11.4 persons	\$753.77
Library Facility	\$249.32 per 7.9 persons	\$1,969.63	\$431.14 per 11.4 persons	\$4,915.00
Fire fighting Coastal	\$493.00 per 7.9 persons	\$3,894.70	\$565.29 per 11.4 persons	\$6,444.31
s94 Admin	\$44.75 per 7.9 persons	\$353.53	\$63.29 per 11.4 persons	\$721.51
s94 Preparation	\$0.36 per 7.9 persons	\$2.84	-	-
Headquarters Building	\$171.00 per 7.9 persons	\$1,350.90	\$198.79 per 11.4 persons	\$2,266.21
Major Roads	-	-	\$240.80 per 57 additional trips	\$13,725.6
Open Space	-	-	\$1,246.01 per 11.4 persons	\$14,204.51
Community Facilities	-	-	\$470.61 per 11.4 persons	\$5,364.96
TOTAL		\$9,343.73		\$50,755.44

- The Department considers Council's request to levy section 94 contributions at current rates unreasonable for the following reasons:
 - Under Section 96(4) of the Act, any approved modification to the existing consent is not taken to be "*the granting of development consent*". Therefore, any such approval to this application does not constitute the grant of "development consent". Effectively this means the date of granting the consent does not change and remains 19 July 2005;
 - The request by Council for contributions to be levied at 2010 rates unfairly allows for additional types of contributions to be levied that were not applicable at the time that the original development consent was granted. Specifically this includes contributions for Major Roads, Community Facilities and Open Space totalling \$33,295.07 and comprises a vast majority of the additional contributions sought;
 - Council's submission categorised the Stage 1 accommodation units as 'dormitory beds in hostel' at a rate of 0.5 persons per unit. While this would have accurately reflected the bunk rooms approved in the original consent, this is not applicable to the accommodation units as proposed now. Under Council's *Standard Schedule for Section 94 Plans 2005-2006* Stage 1 would be better categorised as 12 x one bedroom units at 1.3 persons;
- Notwithstanding the above, the Department still considers it reasonable to re-visit condition B15 to reflect the proposal as now modified. The Department proposes to modify condition B15 as outlined in the following table:

Table 4 – Condition B15 with contributions as modified.

Stage 1			Stage 2	
Contribution Category	Rate of Contribution ¹	Amount	Rate of Contribution ²	Amount
Aquatic Centre	\$105.62 per 12.8 persons	\$1,351.94	\$105.62 per 7.8 persons	\$823.84
Surf Life Saving	\$77.82 per 12.8 persons	\$996.10	\$77.82 per 7.8 persons	\$607.00
Library Bookstock	\$40.88 per 12.8 persons	\$523.26	\$40.88 per 7.8 persons	\$318.86
Library Facility	\$249.32 per 12.8 persons	\$3,191.30	\$249.32 per 7.8 persons	\$1,944.70
Fire fighting Coastal	\$493.00 per 12.8 persons	\$6,310.40	\$493.00 per 7.8 persons	\$3,845.4
s94 Admin	\$44.75 per 12.8 persons	\$572.80	\$44.75 per 7.8 persons	\$349.05
s94 Preparation	\$0.36 per 12.8 persons	\$4.61	\$0.36 per 7.8 persons	\$2.81
Headquarters Building	\$171.00 per 12.8 persons	\$2,188.80	\$171.00 per 7.8 persons	\$1,333.8
Sub-Total		\$15,139.21		\$9,225.46
TOTAL		\$24,364.67		

- The Department considers this to be the best approach for the following reasons:
 - As the date of consent being granted does not change, it is both reasonable and fair to apply the section 94 contributions as they would have been calculated at the time the original consent was granted (i.e. 19 July 2005);
 - Levying the s.94 contributions under the new plan, would result in an increase in contributions which is disproportionate to the modifications being made and would be unreasonable.
 - This approach more accurately accounts for the change in development type in Stage 1 - from 9 x bunk rooms (dormitory beds) to 12 x ensuite cabins;
 - Council's system for levying section 94 contributions relies on 'additional dwelling units' as a proxy indicator for population to determine the quantity of contributions. The 12 x ensuite cabins now proposed can be categorised as 'one bedroom units' under Great Lakes Council's *Standard Schedule for Section 94 Plans 2005-2006*;
 - The nexus for an increase in contributions applied on this modification request is further evidenced by the proposed increase in design capacity of the effluent treatment system (refer to section 5.2 above);
 - Providing a split of contributions payable into Stage 1 and Stage 2 allows the developer more flexibility in splitting the payment of contributions as development proceeds; and

5.5. Climate Change and Smith's Lake

- Stage 1 of the development is situated at the rear of the site and is elevated some 10-15m above spot heights surveyed at the edge of Smith's Lake. Therefore there will be no impact on the development that forms a part of this modification application as a result of rising Lake levels.
- Furthermore appropriate floor levels for the Stage 2 buildings were considered in the original assessment. Since that time the NSW Government has adopted a *Sea Level Rise Policy Statement* which specifies an upper limit for expected sea level rise of 0.9m by 2100. The effect of this rise in sea level on the water levels in Smith's Lake is unknown. While no changes are proposed to Stage 2 as part of this modification application, an advice note warning the consent holder of the implications of potential increase in Lake levels is considered prudent.

¹ Categorised as 1 bedroom units - equating to 1.3 persons per unit x 12 units, minus a credit of 2.8 persons for a rural allotment.

² Categorised as 1 bedroom units - equating to 1.3 persons per unit x 6 units.

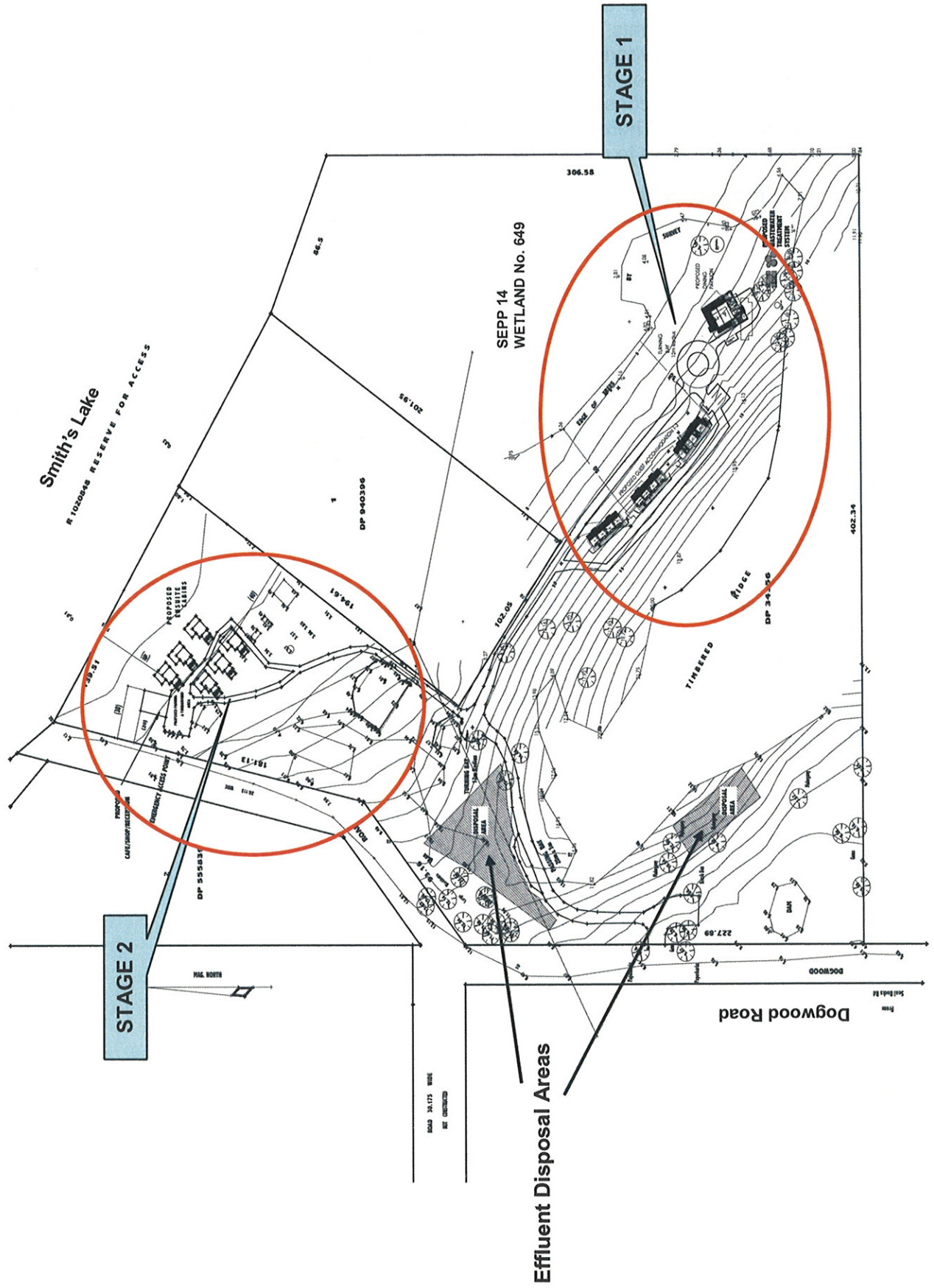


Figure 3 – Site plan

6. CONCLUSION

- The modification application has been assessed in accordance with the matters for consideration under section 96(2) and 79C of the Act, and all relevant environmental planning instruments, and is considered to comply with all relevant items. There are no additional environmental impacts over and above those already consented to, while the nature of the development as a tourist facility will not change. Thus the proposal can be considered to represent substantially the same development as that consented to. Therefore it is recommended that the modification application be **approved** subject to conditions.

7. RECOMMENDATION

It is recommended that the Acting Director, Regional Projects:

- (a) **Consider** all relevant matters prescribed in sections 96(2) and 79(C) under the *Environmental Planning and Assessment Act 1979*, including the findings and recommendations of this report; and
- (b) **Approve** the modification, subject to conditions, under delegated authority from the Minister for Planning and section 96(2) of the *Environmental Planning and Assessment Act 1979* by signing the attached Instrument of Modification (**TAG A**).

Prepared by:



Tom FitzGerald
A/Senior Planner
Regional Projects

Endorsed by:



Mark Schofield
Acting Director
Regional Projects

Modification of Minister's Consent

Section 96(2) of the *Environmental Planning and Assessment Act 1979*

I, Mark Schofield, A/Director – Regional Projects, as delegate of the Minister for Planning under delegation issued on 25 January 2010, pursuant to section 96(2) of the *Environmental Planning and Assessment Act 1979*, determine to approve of the modification to the consent referred to in Schedule 1 in the manner set out in Schedule 2.



Mark Schofield
A/Director
Regional Projects
As delegate of the Minister for Planning

Sydney, 1 September 2010

File No. 09/01720
DA 173-7-2004 MOD 1

SCHEDULE 1

- Development Consent:** granted by the Acting Minister Assisting the Minister for Infrastructure and Planning on 19 July 2005.
- For the following:** Staged Tourist Facility comprising 6 cabins, 3 bunk buildings, dining pavilion, amenities block, upgrading and construction of access roads and on-site effluent disposal at Lot 1 DP 34356, 40 Dogwood Road, Bungwahl in the Great Lakes local government area.
- Modification:** Amending Stage 1 to convert each of the three approved bunkhouse buildings into four ensuite accommodation units; deletion of the amenities block; re-design of the dining pavilion to incorporate some amenities and a small reception area; revised Asset Protection Zones for bushfire protection and a revised constructed road width
-

SCHEDULE 2

SCHEDULE 1

- 1) Amend Part C by adding the following definition:

DA No. 173-7-2004 Mod 1 means the modification application and supporting information submitted by the Applicant submitted on 17 November 2009, 19 February 2010 and 25 June 2010.

- 2) Amend the definition for Minister by adding “(or successor)” after the word “Planning”.

SCHEDULE 2

- 3) Replace condition A1(1)(a) with the following:

- (a) Construction of three (3) ensuite accommodation buildings, each with four (4) units.

- 4) Delete condition A(1)(c) as the amenities block is no longer part of the proposal.

- 5) Replace condition A2 with the following:

A2 *Development in Accordance with Plans*

The development shall be in accordance with development application number 173-7-2004, as modified by the modification application DA 173-7-2004 Mod 1, and in accordance with the following:

Statement of Environmental Effects entitled “Statement of Environmental Effects in relation to Proposed Tourist Facility Development – Lot 1 DP34356, 40 Dogwood Road, Bungwahl” prepared by Coastplan, dated July 2004 as modified by DA No. 173-7-2004 Mod 1.
“Bushfire Assessment” (Reference 4093) prepared by Australian Bushfire Assessment Consultants dated November 2009.
Flora and Fauna Report entitled “Flora and Fauna Assessment for Proposed Tourism Resort at Lot 1 DP34356, 40 Dogwood Road, Bungwahl, NSW” prepared by Natural Impact Ecological Solutions, dated April 2004.
Aquatech Treatment Systems, entitled “On-site Effluent Disposal Investigation Report at Lot 1 DP 34356, 40 Dogwood Road, Bungwahl, NSW” and dated February 2010, and further information from Aquatech Treatment Systems dated 5 June 2010

For Stage 1 - Architectural (or Design) Drawings prepared by Pacific Blue Design (project number: pa 67):

Drawing No.	Issue	Name of Plan	Date
3002	Section	Part site plan	30/09/20

	96/a		09
3003	Section 96/a	Longhouse layout 1	30/09/2009
3004	Section 96/a	Longhouse layout 2	30/09/2009
3005	Section 96/a	Dining Pavilion	30/09/2009
For Stage 2 - Architectural (or Design) Drawings prepared by Diana Prowse Architectural Solutions:			
Drawing No.	Revision	Name of Plan	Date
DA 02		Reception / Shop / Café	Not given
DA 03		Café / Shop Elevations & Section	Not given
DA 06		Ensuite Cabins	Not given
DA 07		Ensuite Cabins Elevations & Section	Not given
Site Layout Plan prepared by Pacific Blue Design (project number: pa 67)			
Drawing No.	Issue	Name of Plan	Date
3006	Section 96/b	Site Plan - Revised	12/7/2010

and as amended by following conditions:

6) Replace condition B1 with the following:

B1 Effluent Disposal

The proposed effluent disposal systems are to be designed, selected and located in accordance with the on-site effluent report prepared by Aquatech Treatment Systems, entitled "*On-site Effluent Disposal Investigation Report at Lot 1 DP 34356, 40 Dogwood Road, Bungwahl, NSW*" and dated February 2010, and further information from Aquatech Treatment Systems dated 5 June 2010. Details shall be submitted to and approved by Council prior to the issue of a Construction Certificate.

7) Delete the following words from condition B2 after "and finishes":

including schedules and a sample board of materials and colours

8) Delete condition B4 and replace with the following updated version:

Access and facilities for people with disabilities shall be provided in accordance with the BCA. Design details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

- 9) Delete the words “with concrete or equivalent” after the word “sealed” in condition B6(2).
- 10) Replace the word “Construction” with “Occupation” at the end of condition B6(3).
- 11) Replace condition B7 with the following:

B7 Engineering Works

Detailed design plans for works within the public road being submitted with an application for a Public Engineering Works Permit (PEWP).

Detailed design plans for works within the public road are to be approved by the Director Engineering Services, Great Lakes Council prior to the commencement of any engineering works for works within the public road or approval of the (building) Construction Certificate. The licensed contractor is to have all engineering works inspected as per Council’s holding points. All work is to be at the developer’s expense and must comply with Council’s Engineering guidelines, specifications and standards.

The work is to be completed and approved prior to the issue of an Occupation Certificate. Included in the engineering works is to be the following:

- (1) Submissions with the PEWP, of a road pavement design by a suitably qualified geotechnical consultant.
- (2) A work site traffic control plan in accordance with the RTA Traffic Control at Work Site Manual is to be submitted by a suitably accredited person prior to a PEWP being issued.
- (3) Guide posts required as per AS1742.2-1994 page 69, General Treatment for Rural Road – undivided.
- (4) All necessary traffic control during construction.
- (5) Horse Point Road and Dogwood Road from the intersection with Seal Rocks Road to the vehicular access point to the property on the western boundary of the site is to be upgraded in accordance with Section 4.1.3 of *Planning for Bushfire Protection 2006*. The road width is to be 6 metres.

- 12) Delete condition B9.
- 13) Delete the following words after “system for stormwater” in condition B13:

with an overflow by piped system and/or overland surcharge path to Council’s drainage network

- 14) Replace the table in condition B15(1) with the following table:

Stage 1			Stage 2	
Contribution Category	Rate of Contribution ¹	Amount	Rate of Contribution ²	Amount

¹ Categorised as 1 bedroom units - equating to 1.3 persons per unit x 12 units, minus a credit of 2.8 persons for a rural allotment.

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Library Facility	\$249.32 per 12.8 persons	\$3,191.30	\$249.32 per 7.8 persons	\$1,944.70
Fire fighting Coastal	\$493.00 per 12.8 persons	\$6,310.40	\$493.00 per 7.8 persons	\$3,845.4
s94 Admin	\$44.75 per 12.8 persons	\$572.80	\$44.75 per 7.8 persons	\$349.05
s94 Preparation	\$0.36 per 12.8 persons	\$4.61	\$0.36 per 7.8 persons	\$2.81
Headquarters Building	\$171.00 per 12.8 persons	\$2,188.80	\$171.00 per 7.8 persons	\$1,333.8
Sub-Total		\$15,139.21		\$9,225.46
TOTAL	\$24,364.67			

- 15) Delete the words “and Council” from condition C1.
- 16) Replace “B11” with “B5” in condition D1.
- 17) Delete condition D2.
- 18) Amend condition D3 by deleting all words after “PCA certifying that” and replacing with:
buildings are positioned in accordance with the approved development application.
- 19) Amend condition D7 by replacing “consent authority” with “PCA”
- 20) Replace condition D8 with the following:

D8 Protection of Roadside Trees

Any trees not required to be removed or lopped to allow the roadwork required by Condition G21 shall be protected at all times during construction of the road.
- 21) Amend condition E5 by adding the words “(or successor)” after “(DEC)”:
- 22) Replace condition E6 with the following:

E6 Access to Closed Forest and Myall Lakes National Park

² Categorized as 1 bedroom units - equating to 1.3 persons per unit x 6 units.

The Applicant shall provide a combination of fencing, signage and appropriate edge planting in order to prevent any access from the subject site to the area of closed forest to the north east of the site, and to the Myall Lakes National Park. The Applicant shall liaise with the Department of Environment and Conservation (DEC) (or successor) to determine the positioning of the fencing, signage and appropriate edge planting and shall submit details of this to DEC for approval. All costs for fencing and signage are to be borne by the Applicant.

Note: Any planting contiguous to the closed forest should consist of native vegetation grading down in height to a dense, impenetrable, low-growing hedge at the outer edge of the buffer.

Note 2: The Closed Forest is also identified as State Environmental Planning Policy No. 14 – Coastal Wetland 649.

23) Replace condition F2 with the following:

F2 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, (excluding lawn mowers, slashers, brush cutters and other such equipment required for the periodic upkeep of the land) shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

24) Replace condition F3 with the following:

F3 Compliance Report

The Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent within 12 months of the commencement of use of each stage of the tourist facility.

25) Amend condition G8(1) by adding the following words after “Bungwahl”:

as modified by DA173-7-2004 Mod 1.

26) Amend conditions G14, G15 and G16 by adding the words “(or successor)” after “(DIPNR)”.

27) Replace conditions G19-G25 with the following:

G19 Development in Accordance with Bushfire Threat Assessment

Recommendations contained within Section 11 of the “*Bushfire Assessment*” prepared by Australian Bushfire Assessment Consultants, dated November 2009 shall be complied with, except where amended by the following conditions.

G20 Construction

Construction is to comply with the standards specified in the Bushfire Safety Authority issued by the NSW Rural Fire Service, dated 31 May 2010.

G21 *Road Works*

Internal roads shall comply with section 4.2.7 of *Planning for Bushfire Protection 2006*.

G22 *Staging of Development*

Staging of the development shall occur so that asset protection zones in accordance with *Planning for Bush Fire Protection 2006* are provided at all times until the next stage is developed; and temporary turning circles are provided until the access road is extended for the next stage of the development.

G23 *Water Tank*

A water supply for fire fighting purposes of at least 60,000 litres is to be provided at each Stage of the development (total 120,000 for the entire development). This water supply may be provided within a water supply tank(s) that is used for other purposes and which allows for the circulation of fresh water. A 65mm Storz fitting and ball valve shall be installed in the tank(s). A "SWS" sign is to be provided at the main entry point to the site from Dogwood Road.

G24 *Asset Protection Zones – Stage 1*

Asset Protection Zones for the guest accommodation buildings in Stage 1 shall be provided with 50m to the north-western and north-eastern elevations, and 60m to the south-eastern and south-western elevations.

G25 *Asset Protection Zones – Stage 2*

Asset Protection Zones for the buildings in Stage 2 shall be provided with 20m to the north, east, and southern elevations, and 60m to the western elevation.

28) Insert new condition G26:

G26 *Asset Protection Zones – Dining Pavilion*

Asset Protection Zones for the Dining Pavilion in Stage 1 shall be 30m to all elevations.

29) Insert new Advice Note AN13:

AN13 *Sea Level Rise*

The consent holder is advised that since the approval of the original consent in 2005, the science with regard to projected sea level rise (due to enhanced global warming) has become more clear. In recognising this, the NSW Government has adopted sea level rise benchmarks of 0.4m sea level rise by 2050 and 0.9m by 2100. The consent holder is advised to take account of the risk posed by elevated water levels from Smith's Lake particularly for the construction of buildings and infrastructure comprising Stage 2 of this consent.

Further information regarding sea level rise and coastal planning can be found on the website of the Department of Environment, Climate Change and Water - www.environment.nsw.gov.au.
