

**PURSUANT TO SECTION 80 OF THE ENVIRONMENTAL PLANNING AND  
ASSESSMENT ACT 1979**

**MODIFICATION (MOD 115-7-2005) OF DEVELOPMENT CONSENT (DA 187-8-  
2004)**

**114 UNIT TOURIST FACILITY AND ASSOCIATED AMENITIES**

**(FILE NO. 9039710-1)**

I, the Acting Deputy Director General, Office of Sustainable Development Assessments and Approvals as delegate for the Minister for Planning as described in the instrument of delegation dated 12 September 2005, pursuant to Section 96(1A) of the *Environmental Planning & Assessment Act, 1979*, pursuant to Section 80 (1)(b) of the *Environmental Planning & Assessment Act, 1979* (as amended), and clause 10 of State Environmental Planning Policy No. 71 determine the Modification Application referred to in the attached Schedule 1, by refusing consent subject to reasons outlined below.

1. The proposed to be modified development is not substantially the same development as originally approved;
2. The modifications proposed introduce an unacceptable level of uncertainty as to the future use; and
3. The proposed to be modified development is not in the public interest.

Chris Wilson  
**Acting Deputy Director General**  
**Office of Sustainable Development Assessments and Approvals**

Sydney,

2006

## SCHEDULE 1

### PART A - TABLE

<b>Application made by:</b>	John Lea of Pacific Projects Group Pty Ltd 17 Burra Street, Chevron Island QLD 4217
<b>Application made to:</b>	Minister for Planning
<b>Development Application:</b>	DA No. 187-8-2004
<b>Application for Modification:</b>	Mod 115-7-2005
<b>On land comprising:</b>	Lot 224 in DP 1048494 Dianella Drive, Casuarina Beach
<b>Local Government Area</b>	Tweed Shire Council
<b>For the carrying out of:</b>	Modification of conditions of development consent relating to the approved 114 unit tourist facility.
<b>Estimated Cost of Works</b>	\$17.5 Million
<b>Type of development:</b>	State Significant Development
<b>S.119 Public inquiry held:</b>	No
<b>Approval Body / Bodies:</b>	Department of Planning
<b>Determination:</b>	Modification to the development consent is not made for the reasons outlined in the determination.

### PART B - NOTES RELATING TO THE DETERMINATION OF MOD 115-7-2005 TO DA 187-8-2004

#### ***Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

#### ***Appeals***

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within 12 months after the date on which the applicant received this notice.

#### ***Appeals—Third Party***

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

#### ***Legal notices***

Any advice or notice to the consent authority shall be served on the Director-General.

### PART C—DEFINITIONS

In this consent,

**Act** means the *Environmental Planning and Assessment Act, 1979* (as amended).

**Applicant** means John Lea of Pacific Projects Group Pty Ltd or any party acting upon this determination.

**Approval Body** has the same meaning as within Division 5 of Part 4 of the Act,

**BCA** means the Building Code of Australia.

**Certifying Authority** has the same meaning as Part 4A of the Act.

**Council** means Tweed Shire Council.

**DA No. 187-8-2004** means the development application and supporting documentation approved 28 April 2005.

**Department** means the Department of Planning or its successors.

**Director** means the Director of the Urban Assessments (or its successors) within the Department.

**Team Leader** means the Team Leader of the Urban Assessments (or its successors) within the Department.

**Director-General** means the Director-General of the Department.

**Minister** means the Minister for Infrastructure and Planning.

**PCA** means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

**Regulations** means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

**Subject Site** has the same meaning as the land identified in Part A of this schedule.