
ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

MODIFICATION (MOD 114-7-2005) OF DEVELOPMENT CONSENT (DA 187-8-2004)

114 UNIT TOURIST FACILITY AND ASSOCIATED AMENITIES

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

(FILE NO. 9039709-1)

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*, modify the development consent referred to in the attached Schedule 1 in the manner set out in the attached Schedule 2.

The reasons for the imposition of conditions are:

1. To promote the orderly, economic and ecologically sustainable use and development of land;
2. To ensure existing amenity levels are maintained;
3. To ensure that the development represents good design by optimising safety and security both internal to the development and for the public domain; and
4. To maintain the public interest.

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

Sydney,

2006

SCHEDULE 1

PART A - TABLE

Application Number:	MOD 114-7-2005 modifying DA 187-8-2004
Application made by:	John Lea, Pacific Projects Pty Ltd 17 Burra Street, Chevron Island QLD 4217
On land comprising:	Lot 224 in DP 1048494 Dianella Drive, Casuarina Beach
Local Government Area	Tweed Shire Council
For the carrying out of:	Modifications to conditions of development consent
Section 96 (1A) Application	MOD 114-7-2005 to modify DA 187-8-2004 the following manner: ▪ amend Condition A1 relating to description of approved development; ▪ amend Condition B3 relating to S94 contribution locality; ▪ amend Condition B7 relating to car parking provision; and ▪ amend Condition G5 relating to restaurant hours of operation. ▪ amend Condition G6 relating to noise control for licensed premises
Development consent granted by:	Minister for Planning
On:	28 April 2005
Type of development:	State Significant Development Integrated Development
S.119 public inquiry held:	No
As modified:	Consent not previously modified

PART B - NOTES RELATING TO THE MODIFICATION OF DEVELOPMENT CONSENT NO. MOD 114-7-2005

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 available within **3** 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

The definitions within this modification are consistent with the definitions in Schedule 1 of the consent to development application DA 187-8-2004.

SCHEDULE 2

MODIFICATION (MOD 114-7-2005) OF DEVELOPMENT CONSENT TO DEVELOPMENT APPLICATION NO. DA 187-8-2004

The development consent is modified as follows:

PART A – ADMINISTRATIVE CONDITIONS

Delete Condition A1 and insert Condition A1A:

A1A *Development Description*

Development consent is granted only to carrying out the development described in detail below:

- (1) 114 unit 3 storey tourist accommodation complex, with lobby/reception area, guest dining area, guest lounge, central recreation courtyard with pools and restaurant and conference room.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Delete Condition B3 and insert Condition B3A:

B3A *Monetary Contributions*

- (1) Section 94 Contributions (Tourist Accommodation Units)
 - (a) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.
 - (b) Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate will NOT be issued by a PCA unless all Section 94 Contributions have been paid and the PCA has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.
 - (c) These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.
 - (d) A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.
- (2) Amount of Contribution

Contribution Category	Amount
Tweed Road Contribution Plan: S94 Plan No. 4 (Ver. 4.0)	101,735.00
LCA4 – Kings Beach	24,647.00
Open Space (Casual) S94 Plan No. 5	8,590.00
Emergency Facilities (Surf Lifesaving) (Remshire) S94 Plan No. 16	7,873.00

Extension to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	26,785.81
Kings Beach Cycleways S94 Plan No 19	11,772.00
Kings Beach Open Space S94 Plan No 19	33,172.00
Cycleways S94 Plan No 22	8,397.00
Regional Open Space (Casual) S94 Plan No. 26	11,368.00
Subtotal	\$234,339.81
Heavy Haulage Component	
TOTAL	

(3) Heavy Haulage

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No 4 – Version 4.1 prior to the issue of a construction certificate. The contribution will be based on the following formula:-

$$\text{\$Con}_{\text{Trcp} - \text{Heavy}} = \text{Prod.} \times \text{Dist.} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{Trcp} - \text{Heavy}}$ heavy haulage contribution

and:

Prod. Projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. Average haulage distance of product on Shire roads (trip one way)

$\text{\$Unit}$ the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin Administration component – 5% - see Section 6.5

(4) Timing and Method of Payment

The contribution will be paid in the form of cash or bank cheque, made out to Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council will be submitted to the PCA prior to the issue of the Construction Certificate for below ground works.

(5) Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations.

Delete Condition B7 and insert Condition B7A

B7A Number of Car Spaces

The maximum number of car spaces to be provided for the development will comply with the table below. Details confirming the parking numbers will be submitted to the satisfaction of the PCA prior to the issue of a Construction Certificate for below ground works.

Car parking allocation	Number
Guest Car parking spaces	113
Number of guest car spaces to be disabled spaces	5
Loading Bay	1
Staff car parking spaces	3
Car Wash Bay	1

PART C – PRIOR TO COMMENCEMENT OF WORKS

No amendments

PART D – DURING CONSTRUCTION

No amendments

PART E – PRIOR TO ISSUE OF SUBDIVISION OR SUBDIVISION CERTIFICATE

No amendments

PART F – PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

No amendments

PART G – POST OCCUPATION

Delete Condition G5 and insert Condition G5A:

G5A Hours of Operation – Restaurant & Conference Centre

The hours of operation will be restricted to between:

Day	Commencement time	Cessation time
Monday	7:00am	12 midnight
Tuesday	7:00am	12 midnight
Wednesday	7:00am	12 midnight
Thursday	7:00am	12 midnight
Friday	7:00am	12 midnight
Saturday	7:00am	12 midnight
Sunday	7:00am	12 midnight
Public Holidays	7:00am	12 midnight

Delete Condition G6 and insert Condition G6A:

G6A Noise Control – Licensed Premises

The LA10 noise level emitted from the licensed premises will not exceed the background noise level in any Octave Band Centre Frequency (31.Hz – 8khz inclusive) by more than 5dB between 7.00am and 12 midnight and 12 midnight to 7.00am at the boundary of any affected residence.

Notwithstanding the requirements of this condition, the noise from the licensed premises will not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am.

PART H – GENERAL TERMS

No amendments