

**ASSESSMENT REPORT**

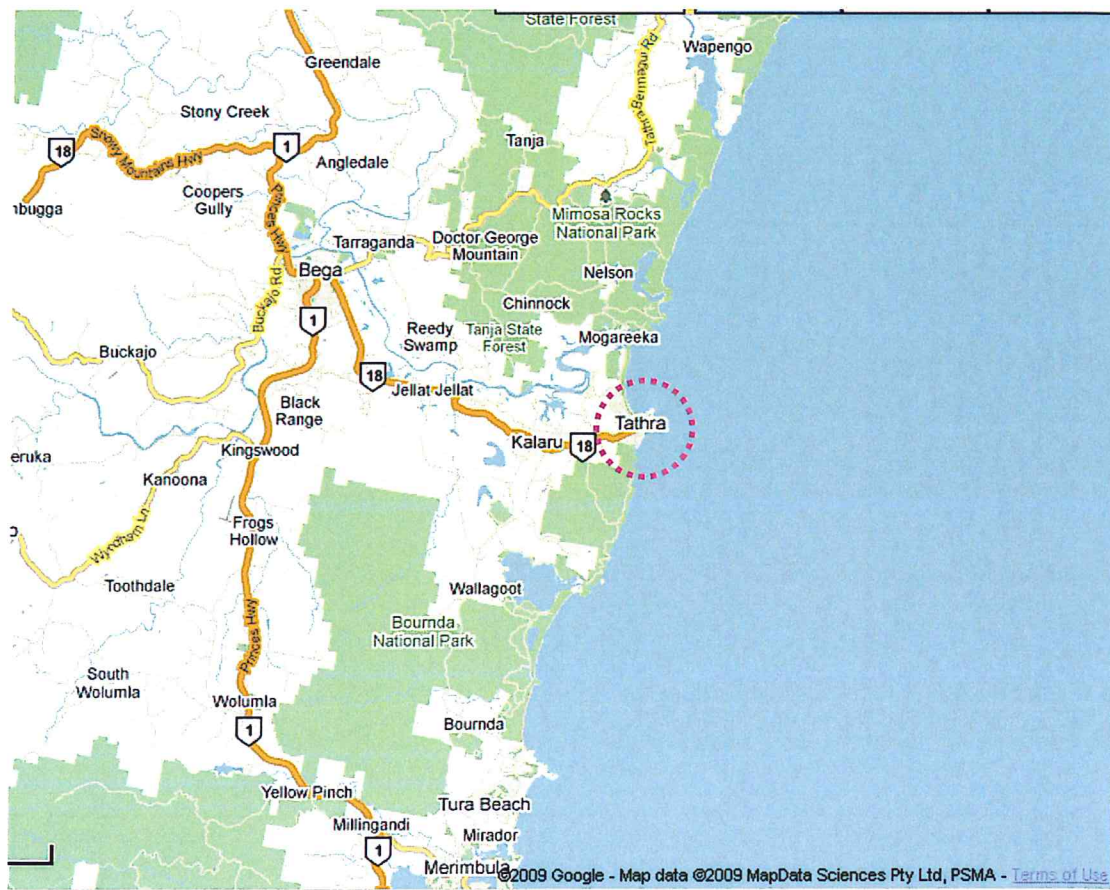
**Section 75W Modification  
Tathra Motel, 8-12 Bega Street, Tathra, Bega Local Government  
Area  
MP05\_0010 MOD 1**

**1. BACKGROUND**

This report is an assessment of a request to modify the Project Approval (MP05\_0010 MOD 1) for additions to the existing Tathra Motel in the Bega local government area. The request has been lodged by Design Collaborative Pty Ltd, on behalf of Tathra Hotel Pty Ltd, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks to extend the lapsing date of the Project Approval from 23 November 2014 to 1 October 2016, which is the default lapsing date for all transitional Part 3A projects specified in Schedule 6A of the EP&A Act.

**2. SUBJECT SITE**

Tathra is located on the NSW south coast approximately 450 kilometres south of Sydney and 20 km west of Bega (Figure 1). It is a small coastal town of approximately 1,600 people.



**Figure 1: Site Location**



The motel site, 8-12 Bega Street, Tathra (Lot 31 in DP 600836) is located on the eastern side of the Tathra Headland (see **Figure 2**).

The site is an irregular shaped parcel of land with an area of 3,756m<sup>2</sup>. A two-story motel building comprising 12 units and associated parking is located on the western portion of the site. The motel is owned and managed by Tathra Hotel Pty Ltd. The Tathra Hotel is located to the north, to the east is a reserve adjoining the coast line, residential properties are located to the south and Bega Street to the west.



**Figure 2:** The subject site (outlined in red)

### 3. SITE HISTORY

On 23 November 2009, the then Director-General approved MP05\_0010 for additions to the existing Tathra Motel site, including:

- the excavation of part of the site and construction of 20 motel units in two separate wings;
- construction of a driveway and parking area for 22 car spaces;
- a boundary adjustment between Lot 30 in DP 606559 and Lot 31 in DP 600836;
- provision of stormwater drainage; and
- associated landscaping works.

### 4. PROPOSED MODIFICATION

On 27 October 2014, the Proponent submitted a section 75W modification application seeking approval to modify the Project Approval to extend the lapsing date from 23 November 2014 (five years from the date of determination), to 1 October 2016. The new lapsing date is proposed on the basis that it is consistent with the default lapsing date for all transitional Part 3A projects specified in clause 11, Schedule 6A of the EP&A Act.



The request to extend the lapsing date would require modification of the Project Approval to delete the lapse date in Schedule 1 and specify a lapse date (1 October 2016) in Schedule 2, Condition A6.

The Proponent has advised the Department that it was unable to commence development on-site as it had entered into a contract of sale in 2010, which was conditional on the purchaser developing the site. This sale fell through on 12 September 2014, and the Proponent is now seeking to act on the consent. Accordingly, the Proponent is seeking approval to extend the lapse date of the Project Approval to 1 October 2016 to facilitate the redevelopment of the site.

## **5. STATUTORY CONSIDERATION**

### **5.1 Section 75W**

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A to the EP&A Act, continues to apply to Section 75W modification applications to Part 3A projects.

The modification request has been lodged with the Secretary pursuant to section 75W of the EP&A Act. The Minister's approval is not required if the project, as modified, remains consistent with the original approval. As the modification request seeks to modify the conditions of the approval, the Minister's approval is required.

The proposed changes constitute a modification, are within the scope of section 75W of the EP&A Act, and do not constitute a new application. Therefore, the Minister (or her delegate) has the ability to determine the modification application.

Consequently, this report has been prepared in accordance with the requirements of Part 3A of the EP&A Act and the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg). The Minister (or her delegate) may approve or refuse of the modification of the project under section 75W of the EP&A Act.

### **5.2 Delegated Authority**

The Minister for Planning delegated responsibility for the determination of section 75W modification applications to the Executive Director, Infrastructure and Industry Assessments where:

- the relevant local council has not made an objection; and
- a political disclosure statement has been made, but only in respect of a previous related application; and
- there are no public submissions in the nature of objections.

The proposal complies with the terms of the delegation, and as such, the Executive Director, Infrastructure and Industry Assessments may determine the application in accordance with the Minister's delegation.

### **5.3 Consultation**

Under section 75X(2)(f) of the EP&A Act, the Secretary is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the EP&A Reg, the modification request was made publicly available on the Department's website on 28 October 2014 and was referred to Bega Valley Shire (Council) for comment. Given the minor nature of the modification request, it was not publicly exhibited or notified to other agencies. It should be noted that no public submissions were received in relation to the modification application.

Council raised no objection to the extension of the Project Approval to 1 October 2016.

## 6. ASSESSMENT

The Project Approval specifies that the approval will lapse five years from the determination date unless specific action has been taken in accordance with S75Y of the EP&A Act (23 November 2014). The Proponent has advised that such actions have not commenced as the sale of the site was recently terminated.

As no other modifications are proposed, the Department is satisfied that the extension of the Project Approval will have no adverse environmental impacts beyond those considered acceptable under the current approval. Additionally, the Department notes that the need for new tourist accommodation to support the State and local economy is still apparent, as identified in State government strategic objectives, including:

- a target in the *NSW Government State Plan (2020)* to double visitor expenditure in NSW by 2020 to improve the NSW economy; and
- a key objective of the *South Coast Regional Strategy* is to support economic growth on the South Coast by strengthening tourism opportunities.

It is also noted that Council raised no concerns to the extension of the Project Approval.

Considering the above, the Department supports the extension of the Project Approval to 1 October 2016, which is consistent with the default lapsing date for all transitional Part 3A projects. The Department therefore recommends the modification of schedules 1 and 2 of the Project Approval to specify that the Project Approval will lapse on 1 October 2016.

## 7. CONCLUSION

The Department has assessed the proposed extension of the lapsing date of the Project Approval and is satisfied that it is consistent with the intent of the original Project Approval and will not result in any additional environmental impacts. Furthermore, the proposal will provide additional tourist accommodation which supports the strategic objectives of the *NSW Government State Plan (2020)* and the *South Coast Regional Strategy* listed above. It is therefore recommended that the modification request be approved by the Executive Director, Infrastructure and Industry Assessments, under the Minister's delegation.

## 8. RECOMMENDATION

It is recommended that the Executive Director, Infrastructure and Industry Assessments, as the delegate of the Minister for Planning, under section 75W of the EP&A Act, approve the MP05\_0010 MOD 1, as set out in the recommended Instrument of Modification (**Appendix C**).

Endorsed by:

  
Chris Ritchie 17/11/14.  
**Manager**  
**Industry Assessments**

Approved by:

Chris Wilson  
**Executive Director**  
**Infrastructure and Industry Assessments**

## **APPENDIX A: MODIFICATION REQUEST 05\_0010**

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Refer to <http://majorprojects.planning.nsw.gov.au>



## **APPENDIX B: MODIFICATION INSTRUMENT 05\_0010 MOD 1 PROJECT APPLICATION**

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# Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, under delegation dated 10 November 2014, I approve the modification of the concept plan referred to in Schedule 1, subject to the amendments to the terms of approval and future environmental assessment requirements in Schedule 2.

Chris Wilson  
**Executive Director**  
**Infrastructure and Industry Assessments**

Sydney

2014

## SCHEDULE 1

**Project Approval:**

MP05\_0010 granted by the Director-General, on 23 November 2009

**For the following:**

Additions to the existing Tathra Motel Site, including:

- the excavation of part of the site and construction of 20 motel units in two separate wings;
- construction of a driveway and parking area for 22 car spaces;
- a boundary adjustment between Lot 20 in DP 606559 and Lot 31 in DP 600836;
- provision of stormwater drainage; and
- associated landscaping works.

**Modification Number:**

**MP05\_0010 MOD 1**

**Modification:**

To amend the date the approval is liable to lapse from 23 November 2014 to 1 October 2016.

## SCHEDULE 1

1. Amend the definition for the "date approval is liable to lapse" with the following:

### **PART A—TABLE**

<b><i>Date approval is liable to lapse:</i></b>	<i>1 October 2016</i>
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2. Delete the following definitions in Part C – Definitions:

### **PART C—DEFINITIONS**

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

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

3. Inserting new definitions in Part C – Definitions in alphabetical order as follows:

### **PART C—DEFINITIONS**

***Department*** means the Department and Environment.

***MOD 1*** means Modification application 05\_0010 MOD 1 and accompanying Environmental Assessment dated 24 October 2014, prepared by Design Collaborative Pty Limited.

***Secretary*** means the Secretary of the Department (or nominee)

## SCHEDULE 2

4. Insert new Condition A3(10) as follows:

### **A3 Project in Accordance with Documents**

- (10) Modification Application (05\_0010 MOD 1) with supporting documentation titled *Modification to Major Project Application 05\_0010 – Tathra Motel, 8-12 Bega Street, Tathra*, prepared by Design Collaborative Pty limited, dated 24 October 2014.

5. Delete Condition A6 and replace with new Condition A6 as follows:

### **A6 Lapsing of Approval**

This Project Approval shall on 1 October 2016, unless works have physically commenced, on or before that lapse date.

**End of Modification to MP 05\_0010 MOD 1**