

**ASSESSMENT REPORT
Section 75W Modification**

Tathra Motel, 8-12 Bega Street, Tathra, 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 (km) south of Sydney and 20 km west of Bega (**Figure 1**). It is a small coastal town of approximately 1,600 people.

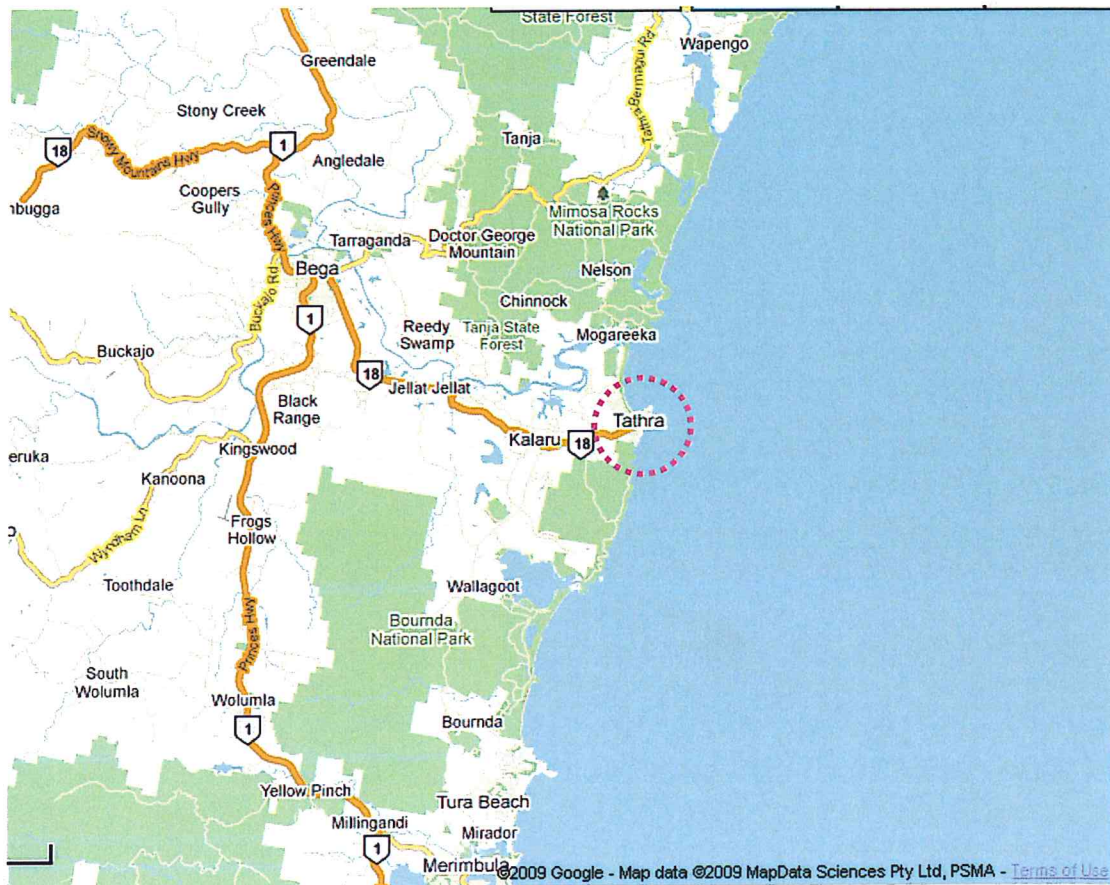


Figure 1: Site Location

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 3,756 m². 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

Under the Instrument of Delegation dated 14 September 2011, the Minister delegated the functions to determine Section 75W applications to the Planning Assessment Commission (PAC) where:

- the Council has made an objection in relation to the proposal; or
- more than 25 public submissions objecting to the proposal were received; or
- a political disclosure statement has been made in relation to the application.

The application is being referred to the PAC for determination as the Proponent has lodged a political disclosure statement in relation to the modification application. It should be noted that the Council raised no objection to the application and no public submissions have been received by the Department.

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

Schedule 1 of 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*. It is therefore recommended that the modification request be approved by the PAC, under the Minister's delegation dated 14 September 2011.

8. RECOMMENDATION

It is recommended that the PAC, 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**).



Chris Ritchie
Manager
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20/11/14



20.11.14

Chris Wilson
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APPENDIX A: MODIFICATION REQUEST 05_0010

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

APPENDIX B: MODIFICATION INSTRUMENT 05_0010 MOD 1 PROJECT APPLICATION
