

COUNCIL ASSESSMENT REPORT

Panel Reference	2016NTH020
DA Number	10.2016.399.1
LGA	Byron Shire Council
Proposed Development	Hospital (medical consulting rooms, day theatre, pharmacy, specialist consulting rooms, twelve accommodation units, café/restaurant, basement and ground level parking) Removal of trees, Earthworks and Demolition of existing dwelling house
Street Address	15 McGettigans Lane, Ewingsdale
Applicant/Owner	Brunsmmed Pty Ltd
Date of DA lodgement	27 June 2016
Number of Submissions	Ten (10)
Recommendation	Pursuant to Section 80 of the EP&A Act 1979, Development Application 10.2016.399.1 be refused for the reasons detailed in Section 6 of the report.
Regional Development Criteria (Schedule 4A of the EP&A Act)	EP&A Act Schedule 4A – No.6 Development that has a Capital Investment Value of more than \$5 million for the purposes of health services facilities.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • relevant environmental planning instruments <i>State Environmental Planning Policy No.55 - Remediation of Land</i> <i>State Environmental Planning Policy (Infrastructure) 2007</i> <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i> <i>Byron Local Environmental Plan 2014</i> • proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority <i>State Environmental Planning Policy (Coastal Management) 2016</i> • relevant development control plan <i>Byron Shire Development Control Plan 2014</i> • relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F <i>The applicant has offered to enter into a Voluntary Planning Agreement to pay a small percentage (3.97%) of the cost of the upgrade works for the intersection of McGettigans Lane and Ewingsdale Road.</i> • coastal zone management plan <i>Not applicable (A draft CZMP Byron Bay Embayment has been prepared and sent to the Minister. Council is awaiting the Ministers response and does not currently have an adopted CZMP).</i> • relevant regulations e.g. Regs 92, 93, 94, 94A, 288 <i>Demolition of Building AS 2601</i>

List all documents submitted with this report for the Panel's consideration	<p>Attachment 1 Proposed Architectural Plans (received 9 February 2018).</p> <p>Attachment 2(a) Byron Shire Council Ewingsdale Road Traffic Data. Attachment 2(b) Roadnet Pty Ltd, Traffic Peer Review dated 20 July 2017. Attachment 2(c) Bitzios Consulting, McGettigans Lane Ewingsdale Road Intersection Assessment. Attachment 2(d) Bitzios Consulting, addendum 16 November 2017 (Plan of Management). Attachment 2(e) Cardno, Review of MR545 Traffic Studies, dated November 2017.</p> <p>Attachment 3(a) Letter from Planit Consulting dated 16 February 2017 in relation to the land use categorisation under Byron LEP 2014. Attachment 3(b) Letter from Hones Lawyers, dated 28 October 2016, regarding the characterisation of the proposal.</p> <p>Attachment 4(a) AHFG Part B Health Facility Briefing and Planning 0340 – Inpatient Accommodation Unit. Attachment 4(b) AHFG Part B Health Facility Briefing and Planning 0520 – Operating Unit. Attachment 4(c) AHFG Part C Design for Access, Mobility, OHS and Security.</p> <p>Attachment 5 Environmental Noise Impact Report, CRG Acoustics Pty Ltd, dated 20 November 2017.</p> <p>Attachment 6(a) Letter from Planit Consulting, dated 16 November 2017 responding to JRPP request for further information. Attachment 6(b) Suggested 'Deferred Commencement' conditions provided by the Applicant. Attachment 6(c) Proposed hours of operation provided by applicant.</p> <p>Attachment 7 Revised Statement of Landscape Intent, November 2017.</p> <p>Attachment 8 Draft Conditions (without prejudice).</p>
Report prepared by	Paul Mills Senior Planner Byron Shire Council
Report date	24 April 2018

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	No
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

1. Executive Summary

Byron Shire Council received a Development Application (DA) from Brunsmmed Pty Ltd for demolition of the existing single-storey dwelling house and erection of private hospital facility at 15 McGettigans Lane, Ewingsdale. The proposal incorporates a day surgery, GP and specialist consulting rooms, accommodation units for patients and staff, a café/restaurant with indoor and outdoor dining areas, pharmacy and parking for a total of 85 vehicles (including basement parking for 30 vehicles).

The proposed development constitutes 'regional development' requiring referral to the Northern Joint Regional Planning Panel (JRPP) for determination as it has a Capital Investment Value of more than \$5 million for the purposes of Health Services Facilities (Schedule 4A –No.6 Private infrastructure and community facilities). The JRPP is the consent authority.

The subject site is zoned R5 Large Lot Residential under Byron Local Environmental Plan (BLEP) 2014. The proposed 'hospital' (including accommodation units for patients and staff, a café/restaurant and pharmacy) is permissible with development consent.

Access to the site is proposed from Quarry Lane via McGettigans Lane, McGettigans Lane then intersects with Ewingsdale Road. This intersection is not capable of accommodating the additional traffic loading from the development without significant intersection upgrades. Following a review of funding sources it is anticipated that these upgrades can not be achieved until after the year 2023. The applicant has offered to enter into a Voluntary Planning Agreement (VPA) to pay a small percentage (3.97%) of the upgrade works. The proposed VPA does not resolve the funding shortfall for the imminently failing intersection.

The applicant has submitted a Plan of Management seeking to restrict vehicular access to the hospital facility until such time as the required intersection upgrade works have been completed. The proposed restricted access arrangements detailed in the Plan of Management are considered to be inadequate and may have public safety implications, whilst also placing unrealistic expectations on the operation of the hospital facility.

Council remains unsatisfied that essential intersection upgrade works will be completed when required to service the development. To accord with Clause 6.6 of BLEP 2014 consent must not be granted to development unless the consent authority is satisfied that services essential for the development are available, or adequate arrangements to make them available have been made.

The proposal has been assessed against relevant clauses within applicable Environmental Planning Instruments. The development is not considered to satisfy Clause 101 of State Environmental Planning Policy (Infrastructure) 2007. The consent authority must not grant consent to development on land that has a frontage to a classified road (Ewingsdale Road) unless it is satisfied that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.

A detailed assessment has been completed against the provisions of Byron Shire Development Control Plan (BDCP) 2014 and the revised proposal is considered to be inconsistent with controls relating to traffic generation and car parking.

The DA was notified to adjoining and nearby property owners for the period 14 July 2016 to 27 July 2016. A total of ten (10) submissions were received. The matters raised in the submissions include increased traffic, insufficient on-site car parking, permissibility, overdevelopment, setbacks, height, bulk and scale of the proposal being inappropriate in the R5 Large lot Residential Zone.

Overall the revised development is considered to be unsatisfactory having regard to traffic generation and car parking. It is considered the impacts of traffic generation are unable to be

overcome via conditions of consent. The submitted VPA is not supported. The development has been assessed against the relevant matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979* including public interest and suitability of the site, and is unable to be supported. It is recommended that the proposed development be refused for the reasons detailed in the Section 6 of this report.

1.1 Background and details of modified proposal

This DA was previously considered at the JRPP Public Meeting held at the Byron Shire Council offices on 18 October 2017. At that meeting the Panel agreed to defer the determination of the application pending submission to the Panel of additional information, together with a further assessment of this information by Council.

Since that time, the applicant submitted revised plans and additional information to Council on 16 November 2017. Following a review of those revised plans and discussions with Council, the Applicant submitted a second revised proposal on 9 February 2018 which included a full set of revised architectural plans. It is the revised proposal received on 9 February 2018 which forms the basis of this assessment report. The revised plans include the following amendments:

- Main Hospital building
 - modifications to the basement of the building to accommodate 30 car parking spaces;
 - modification to the internal floor levels and the roof design to reduce the overall height of the building to 8.94 metres;
 - proposed roof has been adjusted to be clear of the existing easement.
- Accommodation units
 - area of individual rooms reduced to approximately 28sqm (previously 45sqm - 50sqm);
 - setback of accommodation units to McGettigans Lane increased to a minimum of 4.0 metres;
 - all two-storey accommodation buildings now grouped near the corner of McGettigans Lane and Ewingsdale Road;
 - internal access corridor added between most of the accommodation units
- Ground level car park
 - ground level car park adjusted to provide an additional 2 on-site parking spaces.

The applicant has submitted a 'Plan of Management' (prepared by Bitzios Consulting dated 16 November 2017) seeking to restrict vehicular access to the hospital facility until such time as the required intersection upgrade works have been completed. The applicant also submitted on 22 February 2018 additional details regarding the proposed hours of operation of the facility.

Note: The submitted Plan of Management has been assessed in Section 3.3 of this report.

1.2 Reasons for deferral and response

The panel agreed to defer the determination of the matter with the following resolution:

- (A) *That further consideration of DA 2016NTH020 be deferred pending submission to the Panel of the following additional information, together with a further assessment of this information by Council:*

- (I) *Traffic reports, including peer reviews, available to the Council addressing in detail the claimed deficiencies in the operation of the Ewingsdale Road / McGettigans Lane intersection in the event of the proposed development proceeding;*

Response: The traffic data and reports prepared by Byron Shire Council, Roadnet, Bitzios and Cardno are included within **Attachments 2(a)-2(e)** of this report. These reports in addition to the 2017 traffic counts provided by the RMS have been considered by Council's Development Engineer and Developer Contribution Officer and discussed in this report.

- (II) *Engineering consideration of the potential impact of a roundabout construction on the subject site;*

Response: The concept designs for the roundabout indicate that this development will not impact upon the construction of a dual lane roundabout on the intersection of McGettigans Lane and Ewingsdale Road as there is adequate width within the existing road reserves to accommodate the roundabout.

See Section 3.3 of this report, specifically Part B: Chapter B4 - Traffic Planning, Vehicle Parking, Circulation and Access for consideration of the roundabout design.

- (III) *Information submitted to the Council by the Applicant in relation to the definition of the proposed use as a Hospital or other permissible use, as defined under Byron LEP 2014;*

Response: See **Attachments 3(a) and 3(b)** of this report containing information from Applicant (Planit Consulting) dated 16 February 2017, in relation to the land use categorisation under Byron LEP 2014 and advice from Hones Lawyers, dated 28 October 2016, regarding the characterisation of the proposal.

- (IV) *Details of Australian Health Guidelines relied upon for any variation in the building height standard applicable to the development;*

Response: See **Attachments 4(a), 4(b) and 4(c)** of this report containing the Australasian Health Facility Guidelines:

Part B Health Facility Briefing and Planning

0340 – Inpatient Accommodation Unit

0520 – Operating Unit

Part C Design for Access, Mobility, OHS and Security

- (V) *Details of expected noise from plant room(s); waste management and access arrangements for waste collection from the site, including medical waste;*

Response: See **Attachment 5** of this report containing the Environmental Noise Impact Report, prepared by CRG Acoustics Pty Ltd, dated 20 November 2017.

- (VI) *Draft conditions for any consent for the proposed development, including consideration of any conditions and any further design variations proposed by the Applicant.*

Response: See **Attachment 8** of this report contains draft conditions which were forwarded to the applicant on 24 April 2018 for comment.

- (B) *That the above information be supplied to the Panel Secretariat within 30 days.*

Response: Additional information (and amended plans) were submitted by the applicant to Council on 16 November 2017. The applicant submitted a further set of revised plans to Council by email dated 9 February 2018.

1.3 Past applications on the subject site

- BA 167/79** Building Application was approved on 18 September 1979 for construction of a dwelling on the site.
- 10.1999.166.1** Development Application for additions to a dwelling approved on 22 June 1999.
- 10.2004.626.1** Development Application originally sought a change of use from a dwelling to general store, restaurant and dwelling, and was subsequently amended to a restaurant and dwelling. The application was withdrawn 31 November 2005.
- 10.2007.52.1** Development Application for change the use of an existing dwelling to a restaurant and a one bedroom dwelling was approved by the Land and Environment Court (11087 of 2008) on the 6 July 2009.
- 10.2007.52.2** Section 96 Application to modify development consent 10.2007.52.1 to seek a reduction in car parking, application refused 12 April 2012.
- 10.2007.52.3** Section 96 Application to modify development consent 10.2007.52.1 to increase trading hours, seating numbers, car parking, and to modify fencing, toilets, kitchen, carport and seat areas refused by Council on 12 April 2013. Following the submission of amended plans approved by the Land and Environment Court (10707 of 2013) on 7 May 2014.

1.4 Description of the site

The subject site comprises a triangular shaped lot bounded by McGettigans Lane, Ewingsdale Road and Quarry Lane. The site is described as Lot 2 in DP 118960, street address 15 McGettigans Lane, Ewingsdale.

The site has a frontage of approximately 123 metres to McGettigans Lane, 75 metres to Ewingsdale Road, and 160 metres to Quarry Lane. The lot has a total area of 5497m² and is elevated above the adjacent roadways of McGettigans Lane and Ewingsdale Road. Ewingsdale Road is a classified road linking the Pacific Highway (M1) and the township of Byron Bay.

The level of the site has a mild fall towards the north and west. As can be seen in **Figure 1** vegetation consists primarily of scattered trees and lawn. Existing on site is a single storey dwelling house including four bedrooms, verandahs on three sides located towards the western boundary of the site. Presently no vehicular access exists from McGettigans Lane or Ewingsdale Road, and all traffic access to the site is via Quarry Lane.

Three Rous Water easements exist over the site including a Rous water main which passes centrally through the site.

The locality is characterised predominantly by grazing land and large lot residential properties. The nearest residence is located approximately 26 metres from the site on the eastern side of Quarry Lane. To the west, opposite the site on McGettigans Lane is a rural property containing a heritage listed dwelling house. Further to the west, is the site of an Ambulance Station and Byron Central Hospital. The rural residential area of Ewingsdale is located to the south with an approved rural-

residential subdivision to the east, on the opposite side of Quarry Lane. To the north of the site on the opposite side of Ewingsdale road development is generally characterised by characterised by rural dwellings located on primary production land.



Figure 1 - Aerial photograph of subject site

1.5 Description of the proposed development (as modified)

The application seeks development consent for the demolition of the existing single storey Dwelling house and erection of private hospital facility including day surgery, GP and specialist consulting rooms, accommodation units for patients and staff, a café/restaurant with indoor and outdoor dining areas, pharmacy and parking for a total of 85 vehicles (including basement parking for 30 vehicles).

Demolition

The subject site is currently contains an existing single storey dwelling house. It is proposed this dwelling is demolished to facilitate the development.

Tree removal

The proposal seeks to clear the site of existing vegetation and has identified the following trees for removal:

- *Cinnamomum camphora* x2
- *Dysozylum mollissimum* subsp. Molle x 2
- *Grevillea robusta* x1

- Ficus benamina x1
- Archontophoenix cunninghamiana x 3
- Lagunaria Patersonia x1
- Ravenala madagascariensis x 10
- Dypsis decaryi x1
- Ficus lyrata x1
- Phoenix canaiensis x2
- Bamboo copse x1
- Jacaranda mimosifolia x1

Earthworks

The proposed development includes the use of a basement parking level. The development also includes some land forming over the site for appropriate drainage and stormwater management. The applicant has advised the development incorporates a total cut amount of 2386m² and a total fill level of 1096m². Overall this is a balance of 1290m² of cut. Low level (up to 1 metre high) earth mounds are proposed adjacent to both the Ewingsdale Road and McGettigans Lane frontages of the site for landscaping purposes.

Main Hospital building

The proposed development seeks to provide health services including day surgery procedures that are considered to be more diagnostic type surgery such as gastroscopy, arthroscopy, endoscopy, and colonoscopy. The applicant considers the proposed development will support the larger facilities (eg. public hospitals) in the area which cater for major surgery.

The applicant has stated all health services are provided in a large building located at the north-eastern corner of the site. This three (3) level building contains the following facilities;

- General practitioner consulting rooms x 14
- Specialists consulting rooms x 6
- Day theatre
- Integrated Pharmacy
- Minor treatment procedure rooms
- Reception and waiting area
- Staff room facilities
- Basement car park

The total Gross Floor Area (GFA) of the main hospital building is 1560m². The proposed operating hours for the development are 24 hours, seven (7) days per week for hospital and outpatient accommodation and cafe / pharmacy to operate from 6am to 6pm.

Accommodation units/rooms

The proposed hospital includes 12 individual accommodation units to provide accommodation for health care workers such as visiting specialists and for patients receiving health care treatment. These 12 accommodation units each have a total GFA of 28m² or 28.8m² each with single bed, lounge room, bathroom and kitchenette and small balcony/verandah. Six rooms are within two-storey buildings, and six of the rooms are within single storey buildings.

Café/restaurant

The proposed Cafe has been incorporated into the hospital development to provide food services for patients and staff. The Café/restaurant is located centrally within the development including both indoor and covered outdoor dining areas located towards the Ewingsdale Road frontage of the site. It is proposed the Cafe will not operate separately from the hospital.

Access and Parking

The site is currently accessed via Quarry Lane off McGettigans Lane. The development proposes to upgrade Quarry Lane in accordance with the Northern Rivers Local Government – Geometric Road Design (Urban and Rural) standards. This laneway will result in a 7m carriageway with a 3.5m verge.

The intersection of Quarry Lane and McGettigans Lane is proposed to be upgraded with vegetation clearing within the road reserve seeking to achieve sufficient sightlines.

Proposed access to the site is provided by two crossovers onto Quarry Lane. The southern access provided is a two way access at 6.7m wide, and the northern access is an exit only access which is 4.4m wide.

The proposed development has provided a total of 85 parking bays. Parking onsite has been provided in two locations, at grade parking and a basement parking level. The basement level is provided for staff only and provides a maximum of 30 parking spaces. The outdoor parking area provides 55 parking spaces, two of which are accessible spaces.

The proposed design is to allow vehicles to enter and exit the site in forward gear. The development also provides a drop-off/pick-up bay for visitors and staff. This is located at the closest point to the health care building. The applicant has advised the proposal has catered for small rigid vehicles to safely manoeuvre onsite for delivery services and waste collection.

Plan of Management

In response to traffic issues (pending the upgrade of the intersection McGettigan's Lane and Ewingsdale Road) the applicant has proposed to restrict the operation of the hospital as follows:

- a. The nominated Peak Periods are as follows:
 - i. 8:15 - 9:15am Monday – Friday (being a period of 1 hour); and
 - ii. 2:30 - 4:00pm Monday – Friday (being a period of 1.5 hours).
- b. During the hours nominated above, the following restrictions are proposed to the operation of the development:
 - i. Admission and discharge of patients for the operating theatre shall occur outside of the AM and PM peak periods;
 - ii. The operating theatre shall continue to function through the peak periods;
 - iii. Closure of the consulting rooms during the AM or PM peak periods;
 - iv. The Pharmacy component shall not operate during the AM or PM peak periods; and
 - v. Staff shift changes shall not occur during between the AM and PM peak periods.

Landscape works

The applicant has submitted a Statement of Landscape Intent identifying earth mounds and tree, shrub and grass plantings adjacent to both the Ewingsdale Road and McGettigans Land frontages. Tree plantings are also proposed within the proposed ground level car park and adjacent to Quarry Lane.

Services

The proposed development involves upgrades to existing infrastructure to adequately service the proposed hospital. This development will extend the sewer line which ends at the Byron Central Hospital. This sewer line will run along Ewingsdale Road providing the connection to the West Byron Treatment Facility.

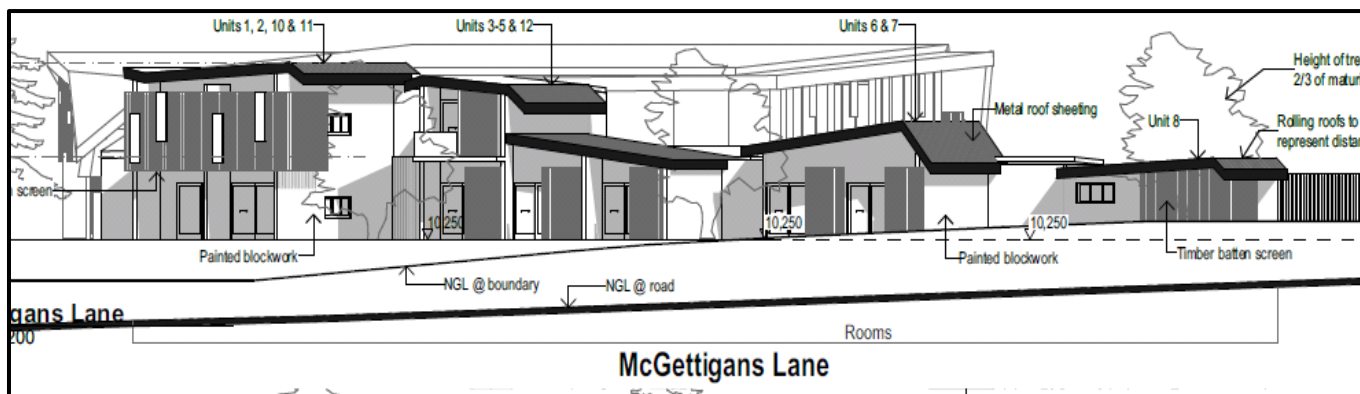


Figure 2 – Proposed McGettigans Lane elevation

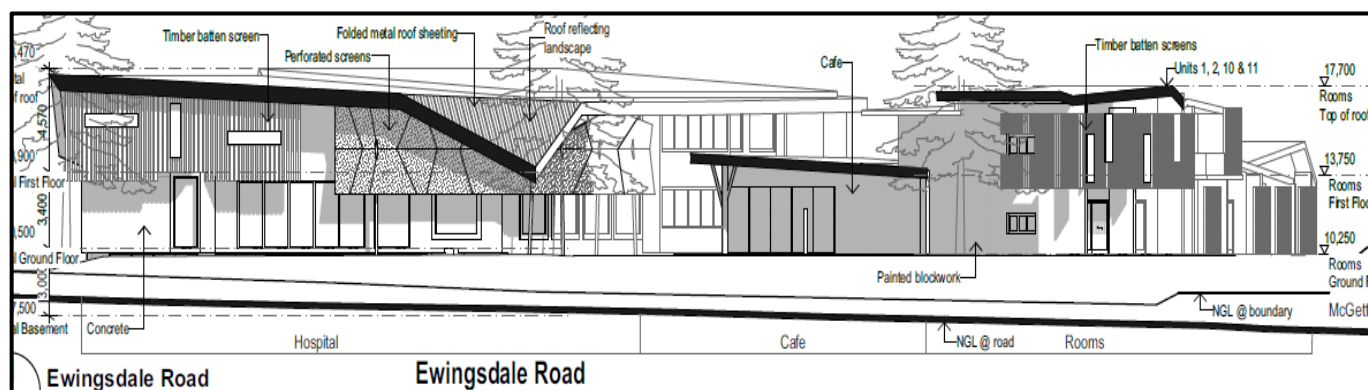


Figure 3 – Proposed Ewingsdale Road elevation



Figure 4 – Perspective drawings (artist impressions)



Figure 5 – Perspective drawings (artist impressions)



Figure 5 – Perspective drawings (artist impressions)

2. SUMMARY OF EXTERNAL REFERRALS

	Summary of Issues
Heritage Advisor	Impact of the proposal on the setting of the Heritage Item Higgins house I107 which holds aesthetic significance. No objection to the proposal in terms of heritage impacts.
Local Traffic Committee	<p>As per Res 16-649, following are the Local Traffic Committee's comments relating to 10.2016.399.1 Byron Central Health & Wellness Hub from meeting held 9 November 2016:</p> <p>Committee Comments: Traffic Impact Assessment to be reviewed, including the following items:</p>

	<ul style="list-style-type: none"> • Traffic volumes for McGettigans Lane and Ewingsdale Road. • Proposed trip generation. • Justification for the intersection design at Quarry Lane/McGettigans Lane.
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2.1 Section 5AA - Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

On the 25 August 2017 the Act was amended to repeal Section 5A and introduced Section 5AA. Section 5AA has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

It is noted that **Biodiversity Conservation (Savings and Transitional) Regulation 2017** Clause 28 states:

28 **Former planning provisions continue to apply to pending or interim planning applications**

- (1) *The former planning provisions continue to apply (and Part 7 of the new Act does not apply) to the determination of a pending or interim planning application.*
- (2) *However, Part 7 of the new Act applies to the determination of a pending or interim planning application referred to in paragraph (b), (c) or (d) of the definition of pending or interim planning application in clause 27 (1) if the applicant or proponent and the planning approval body for the application agree in writing that Part 7 of the new Act is to apply to the determination of the application instead of the former planning provisions.*

In accordance with Clause 28 the former planning provisions continue to apply and form the basis for the assessment for this application.

2.2 Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats

The submitted Basic Terrestrial Flora and Fauna Assessment prepared by Planit Consulting identifies existing vegetation on the site as follows:

This vegetation association occupies the entire site and has been highly modified/cleared as a result of the current residential use of the property and includes a single dwelling, sheds, car parking/driveway areas, septic tank, powerlines and garden beds.

The canopy layer is largely absent and is limited to scattered trees within the 12-15m height range. Canopy trees remaining includes both exotic and native species such as Camphor Laurel (*Cinnamomum camphora*), Silky Oak (*Grevillea robusta*), Weeping Fig (*Ficus benjamina*), Blue Gum (*Eucalyptus tereticornis*), Cocos Palm (*Syagrus romanzoffiana*), Bangalow Palm (*Archontophoenix cunninghamiana*), Tuckerroo (*Cupaniopsis anacardioides*), Red Bean (*Dysoxylum mollissimum* subsp. Molle), Umbrella Tree (*Schefflera actinophylla*), Slash Pine (*Pinus elliotii*), Cow Itch Tree (*Lagunaria patersonia*).

The mid and lower strata layers consist primarily of ornamental plantings and garden bed species which have been previously planted over the duration of the site. Species observed during site inspection include Rubber Fig (*Ficus elastica*), Jacaranda (*Jacaranda mimosifolia*), Triangle Palm (*Dypsis decaryi*), Traveller's Palm (*Ravenala madagascariensis*),

Canary Island Date Palm (*Phoenix canariensis*), Bamboo (*Bambusa spp.*), Coast Wattle (*Acacia longifolia subsp. Sophorae*), Dwarf Canary Island Date Palm (*Phoenix roebelenii*), Frangipani (*Plumeria spp.*), Cabbage Tree Palm (*Livistona australis*), Macaranga (*Macaranga tanarius*), Fiddle Leaf Fig (*Ficus Lyrata*), Easter Heliconia (*Heliconia wagneriana*), Tree Philodendron (*Philodendron bipinnatifidum*), Giant White Bird of Paradise (*Strelitzia nicolai*) and Indian Spurge Tree (*Euphorbia tirucalli*), Scurvy Weed (*Commelina cyanea*), Lily of the Nile (*Agapanthus spp.*), Sago Palm (*Cycas revoluta*) and Soft Bracken (*Calochlaena dubia*).

The proposed development is considered unlikely to have a significant impact on a threatened species, populations or ecological communities, or their habitats.

3. SECTION 79C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the issues.

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Policy and summary of requirement	Proposed	Complies
State Environmental Planning Policy No.55 – Remediation of Land Clause 7(1) A consent authority must not consent to the carrying out of any development on land unless: (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	Sufficient information has been submitted by the applicant to demonstrate that the subject site to be suitable for proposed development having specific regard to Clause 7 of the SEPP.	Yes
State Environmental Planning Policy (Infrastructure) 2007 <u>Clause 101 Development with frontage to a classified road</u> (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that: (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of: (i) the design of the vehicular access to the land, or (ii) the emission of smoke or dust from the development, or (iii) the nature, volume or frequency of vehicles	Ewingsdale Road is a Classified Road. The proposed site access location via Quarry Lane is considered to be consistent with Clause 101 subsection 2(a). It is noted Ewingsdale Road is the main through-fare from the Pacific Hwy into Byron Bay. The road often experiences heavy traffic volumes with traffic queuing out onto the highway. Concerns are raised regarding the adverse affects on safety, efficiency and ongoing operation of Ewingsdale Road as a result of the volume and	No

<p>using the classified road to gain access to the land, and</p> <p>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p> <p><u>Clause 102 Impact of road noise or vibration on non-road development</u></p> <p>Note: Clause 102 is not applicable in this instance as the daily traffic volume of Ewingsdale Road is below 40000 vehicles.</p>	<p>frequency of vehicles using Ewingsdale Road, and therefore consent is not recommended to be granted pursuant to Clause 101(2).</p> <p>The applicant was requested to submit a Noise Impact Assessment (NIA) from a suitably qualified consultant to ensure that:</p> <ul style="list-style-type: none"> • future patients and staff at the proposed hospital are not subject to unacceptable road traffic noise; • noise from activities associated with the development do not adversely impact sensitive receptors; and • to include the provision of appropriate noise mitigation measures where necessary. <p>The submitted NIA recommends acoustic treatments to address road traffic impacts and on-site activities. A copy of the NIA forms Attachment 5 of this report.</p>	
<p>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</p> <p>BASIX Certificate required for each proposed unit capable of being used for the purposes of a dwelling.</p>	<p>BASIX Certificate for Multi Dwellings submitted. Should the application have been supported a condition to require compliance with the Certificate would have been recommended.</p>	<p>Yes</p>
<p>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</p> <p>This Policy applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.</p>	<p>Reference is made to Clause 26 General savings and transitional provisions. An assessment has been made against Byron DCP 2014 Chapter B2 (Section 3.3 of this report) which was in force immediately before the commencement of the SEPP.</p>	<p>Yes</p>
<p>NSW Coastal Policy 1997</p> <p>Development within the Coastal Zone must be consistent with the Aims, Objectives and Strategic Actions of the Coastal Policy.</p>	<p>The subject site is located outside of the area of the NSW Coastal Policy.</p>	<p>N/A</p>
<p>Demolition works</p> <p>Demolition of a building to be in accordance with the</p>	<p>Should the application have been supported an appropriate</p>	<p>Yes</p>

provisions of AS 2601.	condition would have been included to require compliance with AS 2601.	
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3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014

Zone: R5 Large Lot Residential Zone

Definition: Hospital & Demolition

LEP - Summary of Requirement	Proposed	Complies
<p>Objectives of the R5 Large Lot Residential Zone</p> <ul style="list-style-type: none"> To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality. To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future. To ensure that development in the area does not unreasonably increase the demand for public services or public facilities. To minimise conflict between land uses within this zone and land uses within adjoining zones. 	<p>The proposal seeks to increase the demand for public facilities associated with road infrastructure. The intersection of Ewingsdale Road and McGettigans Lane will fail in 2019 and it is considered the proposed development can not proceed until this intersection is upgraded. As such the proposal is inconsistent with the 3rd listed objective of the R5 Zone.</p>	No
<p>Permissibility A 'hospital' is a permissible land use within the R5 Large Lot Residential Zone.</p> <p>hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:</p> <ul style="list-style-type: none"> (a) day surgery, day procedures or health consulting rooms, (b) accommodation for nurses or other health care workers, (c) accommodation for persons receiving health care or for their visitors, (d) shops, kiosks, restaurants or cafes or take away food and drink premises, (e) patient transport facilities, including helipads, ambulance facilities and car parking, (f) educational purposes or any other health-related use, (g) research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes), 	<p>The applicant has sought development consent for a Hospital and for demolition of the existing Dwelling house.</p> <p>After the completion of the public exhibition period the applicant provided additional information regarding the proposed land use. This information can be found in Attachment 6.</p> <p>Based on the information provided by the applicant the proposed use is considered to most appropriately fall within the LEP 2014 land use category of Hospital.</p>	Yes

LEP - Summary of Requirement	Proposed	Complies
<p>(h) chapels, (i) hospices, (j) mortuaries.</p> <p>Clause 2.7 Demolition requires development consent The demolition of a building or work may be carried out only with development consent.</p>		
<p>Clause 4.3 - Height of buildings Maximum height limit as shown on the Height of Buildings Map is 9.0 metres.</p>	<p>The maximum height of the proposed building is approximately 8.94 metres (RL 18.17 – RL 9.23)</p> <p>See comments regarding height immediately following this Table. Latest revised plans, dated 25 January 2018, modify and lower the roof of the main hospital building from a maximum height of RL 19.07 to RL 18.17.</p>	Yes
<p>Clause 4.4 Floor space ratio Maximum floor space ratio for a building on the subject site is not to exceed the FSR as shown on the Floor Space Ratio Map.</p>	The subject site does not have a maximum Floor Space Ratio nominated on the Floor Space Ratio Map.	N/A
<p>Clause 5.10 Heritage Conservation (4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) Heritage assessment The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>The subject site is located opposite a heritage listed homestead named Higgins house Ref I107 under Byron LEP 2014. In accordance with Clause 5.10 the proposed development has been considered having regard to the setting of this Heritage Item.</p> <p>It is considered the development will not adversely impact on the significance of the heritage item.</p>	Yes
Clause 6.2 Earthworks	The proposed development	Yes

LEP - Summary of Requirement	Proposed	Complies
<p>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>involves extensive earthworks to a depth of excavation is 3.56m and the maximum depth of fill is 1.82 metres. The proposed earthworks are considered to be acceptable having regard to the matters for consideration in Clause 6.2.</p>	
<p>Clause 6.6 Essential services</p> <p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable vehicular access.</p>	<p>Access to the site is proposed from Quarry Lane via McGettigans Lane. McGettigans Lane intersects with Ewingsdale Road, this intersection is not capable of accommodating the additional traffic loading from the development without significant intersection upgrade works.</p> <p>Council is not satisfied that essential intersection upgrade works will be completed when required for this development.</p>	<p>No</p>

Section 4.3 Height of buildings

The revised plans submitted have reduced the maximum height of the main hospital building to RL18.47 above the operating theatres and RL18.17 for the remainder of the building (Previous design maximum height was RL19.07). This represents approximately a 900mm reduction in the maximum overall height of the proposed building and when using the new spot levels provided by the architect it reduces the maximum 8.94 metres.

The proposed height of the building is now considered to satisfy Clause 4.3 of Byron LEP 2017 without need to consider a request for variation pursuant to Clause 4.6.

3.2.2 Section 79C(1)(a)(iia) Consideration of any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F.

The proposed development and/or subject site is not known to have an existing planning agreement entered into under Section 93F.

The applicant has proposed to enter into a Voluntary Planning Agreement (VPA) which is required to be considered in accordance with Section 79C(1)(a)(iia). The public purpose of the planning agreement proposed by the developer is to pay a contribution toward the provision of a public amenity, being the intersection upgrade of McGettigans Lane / Ewingsdale Road. The developer originally offered to enter into a VPA for 1.83% of the cost of the intersection upgrade this later increased to 3.97% of the cost.

A planning agreement is discretionary in that Council or a delegated officer of Council cannot be compelled to enter into an agreement. A planning agreement is between the developer and the “*planning authority*”.

As per section 23G(2)(a) of the Act the JRPP has the function of a Council as a consent authority. Section 23G(5) confirms that the JRPP is a statutory body representing the Crown. The JRPP is not a planning authority for the purposes of entering into a planning agreement that would bind the Council.

A roundabout for McGettigans Lane is essential for this development to proceed. As Council cannot afford to fund these works in the next 5-8 years these works would have to be funded by the developer if the development is to proceed. The developer may offer up a VPA where they forward fund the roundabout and Council reimburses them from the s94 income after the internal loans are repaid. However the offer of the VPA is not for the construction and reimbursement, it is to pay a minor percentage of the cost of the roundabout to Council.

As Council does not have the funds to pay for the roundabout until after 2023 it has not entered into a planning agreement in the terms offered by the developer.

The peer review by Roadnet of the updated Bitzios traffic study confirms that the intersection fails in 2019. This is also confirmed by the draft Review of MR545 Traffic Studies prepared by Cardno on behalf of Council.

3.2.3 Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority

SEPP (Coastal Management) 2018

Clause 21 Savings and transitional provisions of SEPP (Coastal Management) 2018 state:

(1) The former planning provisions continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this Policy applies.

The subject site is mapped within the ‘coastal use area’. The provisions for consideration of development within this area generally reflect the existing matters for consideration currently outlined in SEPP 71.

The subject site does not fall within a ‘coastal vulnerability area’ as it is not identified within the ‘Coastal Erosion Hazard Area’ on the Byron Bay Coastal Hazards Map (Byron DCP 2014). The proposal is considered to be acceptable having regard to the provisions of the Draft SEPP particularly Divisions No.2, 4 & 5. The proposed development does not contain a wetland, littoral rainforest, or coastal environment area.

3.3 DEVELOPMENT CONTROL PLAN 2014

Part B: Chapter B2 - Preservation of Trees and Other Vegetation

The proposal seeks to clear the site of existing vegetation and has identified the following trees for removal:

- Cinnamomum camphora x2
- Dysozylum mollissimum subsp. Molle x 2
- Grevillea robusta x1
- Ficus benjamina x1
- Archontophoenix cunninghamiana x 3
- Lagunaria Patersonia x1
- Ravenala madagascariensis x 10
- Dypsis decaryi x1
- Ficus lyrata x1
- Phoenix canaiensis x2
- Bamboo copse x1
- Jacaranda mimosifolia x1

Should the proposal have been assessed favourably the proposed removal of trees and vegetation from the site is considered to be satisfactory subject to approval of a detailed landscape plan.

Part B: Chapter B3 - Services

Water

Rous Water provides reticulated bulk water supply to residential properties within the local area and currently provides water supply to the existing dwelling. It is proposed to service the development from the same water main subject to Rous Water approval.

Sewer

No sewer reticulation is currently available within the vicinity of the subject site. It is proposed that a sewer rising main be constructed connecting into the existing sewer pump station at the Hospital on Ewingsdale Road.

Stormwater

The submitted concept stormwater management plan which includes bioretention swales is considered satisfactory.

Electricity & Telecommunications

Electricity is available via the overhead line network on Quarry Lane or Ewingsdale Road. Telstra service is available via the existing network and connection point in Quarry Lane.

Part B: Chapter B4 - Traffic Planning, Vehicle Parking, Circulation and Access

Traffic Impacts

The traffic impacts of the proposal are considered to be contrary to the first Aim of Chapter B4 (specified in Section B4.1.2) which states:

1. *To ensure that all relevant traffic impacts relating to development are identified, assessed and mitigated.*

The applicant's traffic modelling clearly indicates that the intersection of McGettigans Lane and Ewingsdale Road will exceed the operational threshold in the PM peak in 2019 (refer to **Table 4.1** from the applicant's traffic report prepared by Bitzios).

Table 4.1: McGettigans Lane/Ewingsdale Road Intersection - SIDRA Results Summary

Scenario	Year	Peak Period	DOS on Worst Approach	Control Delay (s)	Comments
Background	2018	AM	0.6	30	Within Operational Thresholds
		MD	0.5	35	Within Operational Thresholds
		PM	0.7	69	Approaching Operational Thresholds
	2019	AM	0.7	39	Within Operational Thresholds
		MD	0.5	37	Within Operational Thresholds
		PM	0.8	94	Exceeding Operational Thresholds
	2022	AM	0.8	53	Exceeding Operational Thresholds
		MD	0.5	46	Within Operational Thresholds
	2027	MD	0.6	76	Exceeding Operational Thresholds

Table 1 – Byron Shire Council - Vehicle Counts (Virtual Week)

	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Averages	
								1 – 5	1 – 7
Hour									
0000–0100	75.0	23.0	27.0	38.0	62.0	113.0	173.0	43.8	68.6
0100–0200	57.0	27.0	20.0	32.5	31.0	96.0	90.0	33.3	48.3
0200–0300	58.0	47.0	40.0	48.0	39.0	65.0	105.0	46.7	56.3
0300–0400	55.0	62.0	50.0	61.0	49.0	64.0	68.0	56.3	58.8
0400–0500	125.0	213.0	221.0	37.5	69.0	84.0	179.0	117.2	120.8
0500–0600	296.0	705.0	750.0	285.0	297.0	188.0	363.0	466.6	412.0
0600–0700	481.0	1145.0	874.0	856.0	889.0	406.0	503.0	853.2	753.5
0700–0800	745.0	1591.0	1470.0	1243.0	1247.0	715.0	733.0	1294.3	1151.8
0800–0900	1281.0	1540.0	1679.5	1718.0	1708.0	1147.0	1276.0	1601.0	1503.6
0900–1000	1450.0	1518.0	1625.0	1673.0	1744.0	1589.0	1498.0	1605.8	1590.3
1000–1100	1619.0	1399.0	1519.0	1701.0	1711.0	1740.0	1646.0	1578.0	1606.8
1100–1200	1492.0	1477.0	1564.0	1728.0	1802.0	1571.0	1664.0	1604.5	1607.8
1200–1300	1378.0	1450.0	1523.5	1727.0	1751.0	1597.0	1550.0	1558.8	1562.5
1300–1400	1280.0	1481.0	1487.0	1578.0	1596.0	1501.0	1491.0	1484.8	1487.6
1400–1500	1252.0	1594.0	1575.5	1570.0	1675.0	1493.0	1526.0	1540.3	1532.6
1500–1600	1074.0	1731.0	1731.5	1681.0	1832.0	1374.0	1441.0	1630.2	1574.5
1600–1700	898.0	1537.0	1659.5	1679.0	1650.0	1089.0	1245.0	1513.8	1427.1
1700–1800	745.0	955.0	1305.0	1493.0	1518.0	1112.0	955.0	1220.2	1173.5
1800–1900	450.0	634.0	797.0	906.0	1074.0	852.0	644.0	776.3	769.3
1900–2000	308.0	412.0	518.5	560.0	634.0	539.0	429.0	491.8	489.9
2000–2100	244.0	299.0	349.5	439.0	455.0	437.0	394.0	356.0	370.9
2100–2200	155.0	165.0	260.0	370.0	426.0	362.0	318.0	272.7	289.5
2200–2300	103.0	98.0	135.5	204.0	271.0	314.0	160.0	157.8	177.6
2300–2400	55.0	56.0	72.5	162.0	150.0	222.0	102.0	94.7	111.5
Totals									
0700–1900	13664.0	16907.0	17936.5	18697.0	19308.0	15780.0	15669.0	17408.2	16987.3
0600–2200	14852.0	18928.0	19938.5	20922.0	21712.0	17524.0	17313.0	19381.8	18891.0
0600–0000	15010.0	19082.0	20146.5	21288.0	22133.0	18060.0	17575.0	19634.3	19180.1
0000–0000	15676.0	20159.0	21254.5	21790.0	22680.0	18670.0	18553.0	20398.3	19944.8
AM Peak	1000	0700	0800	1100	1100	1000	1100		
	1619.0	1591.0	1679.5	1728.0	1802.0	1740.0	1664.0		
PM Peak	1200	1500	1500	1200	1500	1200	1200		
	1378.0	1731.0	1731.5	1727.0	1832.0	1597.0	1550.0		

Council conducted traffic counts on Ewingsdale Road at a location 50 metres east of the Byron Central Hospital Roundabout, for the period 6:20 Wednesday 28 September 2016 until 4:05

Thursday 6 October 2016. A summary of the Weekly Vehicle Counts (Virtual Week) is contained within **Attachment 2(a)** and in **Table 1**.

The Council data within **Table 1** indicates that higher traffic counts occur on Ewingsdale Road for longer periods during each day of the week and that these higher traffic periods vary on each particular day of the week.

As Council does not have the developer contributions to fund the intersection upgrade and the works are not in the 10 year Capital Works Plan.

To mitigate the relevant traffic impacts of the development the applicant has proposed to enter into a Voluntary Planning Agreement to pay a small percentage of the cost of the upgrade works. The applicant has also proposed to operate in accordance with a submitted Plan of Management **Attachment 2(c)**, until the intersection upgrade works have been completed.

In November 2017, Cardno consulting on behalf of Council, undertook a desktop review of the all the traffic studies on MR545 (Ewingsdale Road), a copy of this report is contained within **Attachment 2(d)**. Cardno confirmed the findings of the Bitzios report that the intersection of McGettigans Lane and Ewingsdale Road will exceed operational thresholds in 2019 in the PM peak, 2022 in the AM peak, and 2027 outside peak periods. Road Net on behalf of the applicant also reviewed the Bitzios report and confirmed that the intersection would exceed operational thresholds at these times. A copy of this report is contained in **Attachment 2**.

There are two identified solutions to the issue of intersection capacity for this development:

1. Upgrade the intersection; or
2. Restrict the hours of operation (proposed Plan of Management).

Council engaged Geolink to undertake design options investigations for the upgrading of the intersection. The identified options are:

1. Upgraded t-intersection; or
2. Roundabout; or
3. Traffic Signals.

Upgraded t-intersection

A model was set up to simulate the effect on the operation of the intersection if it was upgraded to include two lanes of traffic in each direction (east and westbound), channelised left and right turn lanes from Ewingsdale Road, and a left turn slip lane for traffic exiting McGettigans Lane onto Ewingsdale Road. The result improved the situation for westbound traffic exiting McGettigans Lane, however eastbound traffic turning right onto Ewingsdale Road see no benefit.

Allowing for a sheltered bay for right-turning traffic improves things somewhat, with an expected LOS of C for the right turning traffic, falling to D within 10 years. This solution requires a short left turn lane out of McGettigans Lane.

Roundabout

A roundabout was modelled for this intersection, as shown below. Also assuming an annual growth factor of 4% over a 10 year design horizon, the model predicted that all movements would have a LOS A, with the exception of traffic exiting McGettigans Lane, which would likely have a LOS B. Note these options could be further revised to include a dedicated left turn lane, which would lift the LOS for traffic making this movement to A within the 10 year design horizon, while having little effect (2 second delay improvement) for eastbound traffic exiting McGettigans Lane.

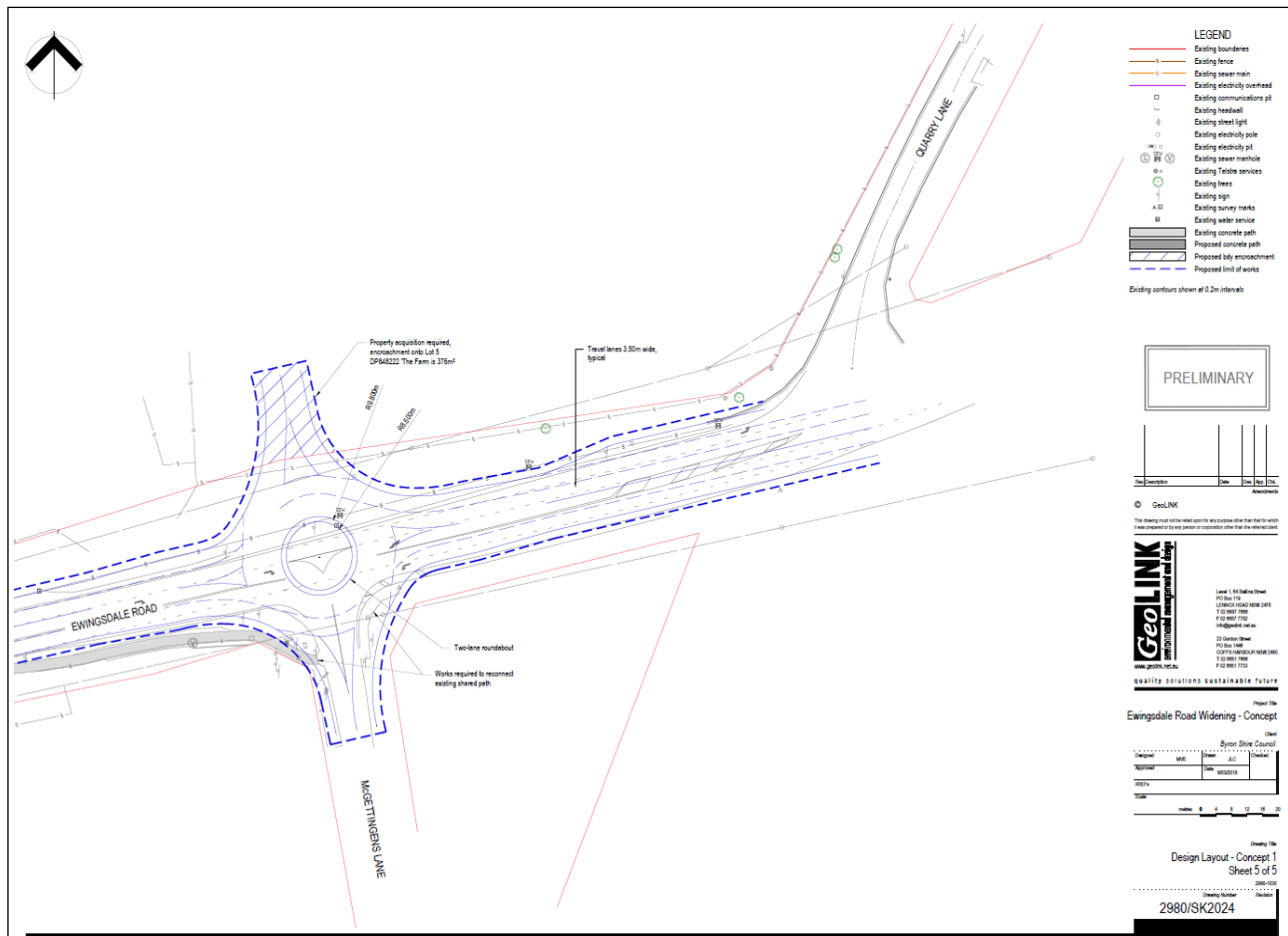


Figure 6 – Design of roundabout

Geolink and Cardno on behalf of Council, and Bitzios with Road Net on behalf of the applicant all conclude that a dual lane roundabout will function adequately. As shown in **Figure 6** the design of the roundabout does not require the acquisition of land on the subject site. There is no evidence to suggest this development proposal will impact upon the construction of a roundabout at this intersection.

Traffic lights

Traffic lights were also modelled, however the results were no better than the upgraded tee and roundabout scenarios. Furthermore, traffic lights are not considered appropriate for the location within the surrounding network.


Proposed Plan of Management

In response to traffic issues (pending the upgrade of the intersection McGettigan's Lane and Ewingsdale Road) the applicant has proposed to restrict the operation of the hospital as follows:

- a. The nominated Peak Periods are as follows:
 - i. 8:15 - 9:15am Monday – Friday (being a period of 1 hour); and
 - ii. 2:30 - 4:00pm Monday – Friday (being a period of 1.5 hours).
- b. During the hours nominated in above, the following restrictions apply to the operation of the development:
 - i. Admission and discharge of patients for the operating theatre shall occur outside of the AM and PM peak periods;
 - ii. The operating theatre shall continue to function through the peak periods;
 - iii. Closure of the consulting rooms during the AM or PM peak periods;

- iv. The Pharmacy component shall not operate during the AM or PM peak periods; and
- v. Staff shift changes shall not occur during between the AM and PM peak periods.

Additional traffic counts undertaken by NSW Roads and Maritime Services in 2017 (provided to Council in February 2018) show that the AM Peak commences at least at 8:00am and extends to 9:45am. The PM peak extends until at least 5:45pm. The table below is an extract from the RMS traffic counts.

 McGettigans Ln Thursday 17/8/2017													
TIME	EB	heavy	WB	heavy	Left into	heavy	Right into	heavy	Right to Byron	heavy	Left to Hospital	heavy	
8-00am		222	6	146	12	18	0	22	0	21	0	13	0
8-15am		281	11	115	9	17	0	30	3	27	1	23	0
8-30am		272	12	113	8	26	1	45	2	31	3	22	1
8-45am		287	8	118	9	33	3	40	1	33	0	26	1
9-00am		257	12	148	10	15	1	25	1	27	3	27	1
9-15am		233	10	133	7	15	1	10	0	24	0	14	0
9-30am		231	18	145	8	14	0	9	0	18	0	7	3
9-45am		165	8	141	11	16	1	9	2	20	0	15	0
TOTAL		1948	85	1059	74	154	7	190	9	201	7	147	6
TIME	EB	heavy	WB	heavy	Left into	heavy	Right into	heavy	Right to Byron	heavy	Left to Hospital	heavy	
4-00pm		150	8	283	13	20	1	15	2	8	1	18	0
4-15pm		159	5	231	8	19	2	15	2	19	0	20	2
4-30pm		134	7	233	13	18	1	15	1	15	1	18	3
4-45pm		149	9	199	9	13	0	6	0	20	0	20	0
5-00pm		131	10	249	10	21	0	7	0	17	0	19	0
5-15pm		136	7	278	11	31	0	12	0	14	0	17	0
5-30pm		135	5	179	8	17	0	9	0	13	0	9	0
5-45pm		164	2	163	5	22	0	12	0	14	0	9	0
TOTAL		1158	53	1815	77	161	4	91	5	120	2	130	5

These counts indicate that there is an extension of both peak periods that would significantly impact upon the applicant's proposal to limit the hours of operation. Whilst this data has not been specifically modelled by the applicant or Council, it is reasonable to assume that there is an increased likelihood of the intersection exceeding the operational thresholds outside of the times specified in the applicant's proposal to limit the hours of operation.

In this regard Council's own traffic counts show the peak loads on Ewingsdale Road extend throughout the day from 7 :00am until 4:00pm, this also impacts on the functioning of the intersection.

The use of the site as a private hospital calls into question the practicality of extensive restrictions on vehicular access and the hours of operation as there is a high probability of a medical practitioner ignoring the operational restrictions in the interests of patient safety. In additions GP clinics are known to not run on time, as such shutting down the clinic at precisely 7:30am and 1:45pm and abruptly ending consults that are in process is unrealistic. In this regard a condition to restrict the hours of operation is not recommended as it would be virtually impossible to enforce, unfeasible and may have public safety implications.

The McGettigans Lane / Ewingsdale Road intersection is not capable of accommodating the additional traffic loading without significant intersection upgrades. These upgrades can not be achieved, until after the year 2023. The proposed VPA is inadequate to enable the Intersection to be upgraded prior to the development commencing operation. Traffic impacts can not be adequately managed.

Parking Spaces Required

Medical Centres require: 2 spaces per consult room + 1 space per staff + 1 per dwelling.

Rooms: GP rooms – assume 12 out 14 rooms in used	= 24 spaces
Specialists rooms – assume 4 out 6 rooms in use	= 8 spaces

Staff: Doctors (assume 1 per room)	= 16	= 16 spaces
Nurses for Procedure Rooms	= assume 2	= 2 spaces
Day Theatre Staff	= 6	= 6 spaces
(Assume 4 nurses, 1 surgeon & 1 anaesthetist)		
Nurses for Minor Treatment Room	= assume 2	= 2 spaces
Reception / Admin	= 5 on GP floor	= 5 spaces
	= 1 on specialist floor	= 1 space
Pharmacy	= assume 4	= 4 spaces
Café	= assume 3	= 3 spaces
Accommodation (care taker)	= assume 1	= 1 space

Dwellings: 12 x 1 bed units at 85% occupancy rate	= 10 spaces
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Pharmacy: Considered ancillary to Medical Centre.	
Staff accounted for above. Assume 3 for patrons	= 3 spaces

Café: Considered ancillary to Medical Centre	
Staff accounted for above. Assume 3 for patrons	= 3 spaces

<u>Total required spaces</u>	= 88 spaces
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<u>Spaces Proposed</u>	= 85 spaces
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The proposed development provides insufficient on-site parking to accord with the provisions of DCP 2014 Section B4.2.5 and is not supported. The proposed development is also considered to be contrary to the following Aim of Chapter B4:

1. *To ensure that traffic generating developments make adequate provision for off-street car parking, such that the needs of occupants, users, visitors, employees, service and delivery vehicles are met;*

When liberally attributed car parking dispensations the proposal is considered to have insufficient on-site parking for the size and nature of the development. There is insufficient space at ground level for additional on-site spaces are not able to be provided. Should the application have been able to be supported a condition would have been included to require the basement design be amended to include three (3) additional parking spaces.

Part B: Chapter B8 - Waste Minimisation and Management

A preliminary Waste Minimisation and Management Plan aimed at addressing the provisions of DCP 2014 Chapter B8 was submitted with the application material. It was proposed by the applicant that Council include a condition that prior to release of a construction certificate. The proposed plans make provision for a screened waste enclosure setback approximately 1.5m from the McGettigans Lane property boundary. Larger waste items are proposed to be stored temporarily in the services room within the hospital building.

Should the application have been supported conditions would have been included regard the management of medical waste, food waste and demolition waste.

Part B: Chapter B9 - Landscaping

A Statement of Landscape Intent was submitted with the application material. The Statement provides conceptual details of screen plantings and earth mounds within the setbacks to McGettigans Lane and Ewingsdale Road, along with tree plantings within the open carpark and adjacent to Quarry Lane. The proposal does not seek to provide tall screen plantings adjacent to the eastern elevation of the main hospital building. The applicant has advised that more than 10% of the site comprises landscaping.

Overall the landscape concept is considered to be acceptable. However should the application have been supported a condition would have been included to require the submission/approval of a detailed Landscape Plan to satisfy Chapter B9 of DCP 2014

Part B: Chapter B11 - Planning for Crime Prevention

The proposed hospital development is further defined as a Health Service Facility which under Section B11.1.1 requires the preparation and submission of a Crime Risk Assessment with a development application of this nature. A Crime Risk Assessment has not been submitted for the development and it is considered that proposal has not demonstrated detailed consideration of the principles of Crime Prevention through Environmental Design (CPTED).

Concerns were raised with the applicant regarding the distant and isolated location of proposed accommodation Units No's 11 & 12. Additional information submitted by letter dated 22 August 2016, gave consideration to CPTED principles only in relation to the proposed location of these units.

Should the application have been supported conditions would have been included to require the submission of a Security Management Plan. In view of the nature and operation of the hospital use this Plan would likely need to make arrangements for 24 hour on-site security.

Part B: Chapter B13 - Access and Mobility

Should the application have been supported a condition would have been included to require that design and access be provided in accordance with AS1428.1 – Design for Access and Mobility – General Requirements for Access – New Buildings, to and within all the areas or facilities of the development where there is a reasonable expectation of access by any owner, occupier, employee or visitor.

Part B: Chapter B14 - Excavation and Fill

Unless otherwise stated in the Chapter, excavation and filling must be limited to a depth of 1 metre, and generally a maximum depth of excavation for a basement car parking is 2.0m. The applicant has advised the maximum depth of excavation is 3.56m and the maximum depth of fill is 1.82 metres. Whilst it is acknowledged the proposed earthworks exceed the prescriptive measures of Chapter B14 the proposed earthworks are considered to satisfy the following objective:

- 1. To control the extent, character, bulk and scale of earthworks so that both individual and cumulative earthworks over time do not detract from the existing and desired future character of their immediate locality, and the surrounding area.*

The proposed earthworks are considered to be satisfactory.

Part C: Chapter C1 - Non-Indigenous Heritage

The subject site is located opposite the site heritage listed homestead Higgins house 1107 which holds aesthetic significance. In accordance with Clause 5.10 the proposed development has been considered having regard to the setting of this Heritage Item.

A Heritage assessment prepared by Council's Consultant concludes that the proposal would not impact adversely upon the significance of the heritage item.

Part D: Chapter D4 - Commercial and Retail Development

Street Setbacks

The proposed modified development is considered to be consistent with the Performance Criteria of Section D4.2.5 Street Setbacks which state, in part:

Commercial/ retail type premises in the RU5 and R2, R3 and R5 Zones to have regards to the setbacks of adjoining and surrounding development.

The revised plans submitted have increased the setback of the proposed buildings adjacent to McGettigans Lane, these setbacks have been increase to a minimum of 4.0 metres (apart from a screened waste enclosure located adjacent to parking space No.21, no elevation plans for this structure). The location of the proposed two-storey accommodation buildings have also been modified, with three two-storey accommodation buildings now grouped towards the intersection of McGettigans Lane and Ewingsdale Road. The proposed accommodation building located in the southern corner of the site is now proposed to be single storey and contain only a single room.

The proposed side setbacks are considered to be acceptable in view of the following:

- The revised plans have increased the setback of the proposed buildings adjacent to McGettigans Lane, these setbacks have been increase from 3.0 metres to 4.0 metres (apart from a screened waste enclosure located adjacent to parking space No.21);
- The subject site is a corner allotment and reduced setbacks for corner allotments is considered to be acceptable and consistent with setbacks prescribed for residential development within DCP 2014.
- The proposed two-storey accommodation buildings are setback a minimum of 7.0 metres from the McGettigans Lane road reserve.
- Extensive landscaping is proposed aimed a softening the appearance of the proposed development when viewed from the McGettigans Land frontage:

The proposed amended plans provide a minimum 4.0 metre setback to McGettigans Lane road reserve, it is considered the proposed increased building setbacks are compatible for the corner allotment, in view of the reduced height, bulk and scale of the modified proposal.

The modified development is also now considered to be consistent with the following Objective and Performance Criteria of Section D4.2.2 Design Detail and Appearance.

Objectives

To ensure that development is compatible with the design and amenity of development in the locality.

Performance Criteria

1. *The design of new buildings must reflect and enhance the existing character of the precinct. The design, scale, bulk, design and operation of business, commercial and retail development must be compatible with the streetscape and with the aesthetics, function and amenity of development in the locality.*
2. *Building design, roof profile, detailing, colours, materials and the like that are visible from the street and from adjoining properties must be compatible with any dominant design themes in the surrounding locality.*

3.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Built environment

The proposed design, setbacks, massing of buildings, bulk, scale, height and operation of the proposed development does not reflect and enhance the existing character of the large lot rural residential precinct of Ewingsdale.

Intersection of McGettigans Lane and Ewingsdale Road

The McGettigans Lane / Ewingsdale Road intersection is not capable of accommodating the additional traffic loading without significant intersection upgrades. It has been estimated that these upgrades can not be achieved, in a best case scenario, until after the year 2023.

Existing Rous Water Main

An existing Rous Water 200mm main passes through the centre of the subject lot in a north-south direction. The 'Existing Conditions Layout Plan' indicates there is an existing easement for the main however notes that the location of the main needs to be confirmed on site. The applicant has acknowledged the existence of the pipeline on the site and stated that the proposed development will be outside the easement.

An additional easement in favour of Rous Water is also located on the site, it understood that the water mains located in this easement have been decommissioned.

Natural environment

The proposed development is considered unlikely to have any unacceptable impacts on the natural environment.

Social and economic impacts in the locality

It is considered the proposal is unlikely to have any significant social or economic impacts in the locality.

3.5 The suitability of the site for the development

The subject site is not considered to be suitable for the proposed development as the intersection of McGettigans Land and Ewingsdale Road is not capable of accommodating additional traffic loading without significant intersection upgrades. These upgrades are unable to be achieved within the foreseeable future.

3.6 Submissions made in accordance with this Act or the regulations

The application was notified in accordance with the Level 1 procedure specified within DCP 2014. Council's records identify a total of ten (10) submissions were received. The following table contains a summary of the issues raised in the submissions and an assessment comment.

Issue	Comment
<p>Increased Traffic – Concerns regarding the increase in traffic entering and leaving McGettigans Lane. Concerns regarding the safety, problems have already resulted in accidents and traffic concerns should be addressed before approving this DA.</p> <p>A roundabout would be required at the intersection of McGettigans Lane and Ewingsdale Road. Two such roundabouts in such close proximity to each other (including the existing roundabout at the hospital entrance) would increase the bottleneck effect further delaying traffic into and out of Byron Bay.</p> <p>The development towards the highway end of Ewingsdale Road will cause a slowing affect on traffic and create ongoing traffic jams. This puts additional pressure on local residents, visitors and businesses owners. There is no other convenient alternative route for traffic and will make Byron Bay a less desirable destination for visitors and residents.</p>	<p>Concerns regarding the impact of traffic generated by the proposal are acknowledged and form a recommended ground for refusal.</p>
<p>Overdevelopment of the site and parking on-site is severely inadequate.</p> <p>The proposal fails to comply with the parking standards specified within Byron DCP 2014.</p> <p>The plans suggest 14 GP Consulting rooms, 6 specialist consulting suits as well as treatment room and nursing station and offices. If Council's requirement for parking is 2 spaces per consulting room and 1 additional space per staff member the majority of parking is already taken with the consulting room burden alone. This leaves nothing left for café patrons, residential occupants (12 units), nursing staff, day surgery theatre staff, day surgery patients and anyone else who would have reason to attend the facility (administration, cleaning, laundry and catering staff, professionals associated with radiology and pathology departments.</p> <p>Only 5 parking spaces have been provided for the first floor level of the building, noted on the plans to be used as a day theatre and specialist rooms. This is also considered to be insufficient.</p>	<p>See assessment of DCP 2014 car parking requirements detailed in Section 3.3 of this report. It is acknowledged that insufficient on-site car parking is proposed and should the application have been supported a condition to require three (3) additional parking spaces would have been included.</p>
<p>Ability to construct the future McGettigans Lane/ Ewingsdale Road Dual Lane Roundabout. The proposed plans indicate the proposed facility will be setback 7 metres from the Ewingsdale Road frontage with excavation projecting inside the 7 metre setback. The Council will need to resume</p>	<p>Preliminary Engineering drawings for the design a roundabout at the intersection of McGettigans Lane and Ewingsdale Road have been</p>

Issue	Comment
land at the Ewingsdale frontage of both Lot 101 and 15 McGettigans Lane to accommodate the road geometry of the McGettigans Lane dual lane roundabout.	prepared. These drawings have confirmed the proposed upgrade works to this intersection do not require the acquisition of land for the subject lot.
<p>The proposed development is not a 'hospital', as the proposed documentation for the DA shows clearly that the Proposed Development is a 'day surgery' for out-patients, with accommodation facilities.</p> <p>Given the proposal is not a hospital, the proposed accommodation is not permissible.</p>	<p>Following the exhibition of the application the applicant submitted further information to support the categorisation of the development as a 'hospital', this information is can viewed in Attachment 3 of this report.</p> <p>The proposed development is considered to be permissible with the consent.</p>
<p>Height, bulk and scale of the proposed development are excessive. The subject site is located within the R5 Large Lot Residential Zone in which the zone objectives are focused on rural residential development. The scale of the proposal does not respect the character of the Ewingsdale area including the proposed 3.0m setback to McGettigans Lane. The proposal is not sympathetic to the objectives of the R5 Large Lot Residential Zone.</p>	<p>The applicant has submitted revised plans which include a significant reduction in the overall height of the main hospital building. The revised plans also increase the setbacks accommodation units adjacent to McGettigans Lane to a minimum of 4.0 metres (these accommodation units closest to McGettigans Lane are only single storey structures).</p> <p>Overall the proposal is considered to be acceptable having regard to height, bulk and scale and comparability with the character of the area.</p>
<p>Café – Objection to the proposed Café on the following grounds:</p> <ul style="list-style-type: none"> • It will be impossible to stop the general public from utilising the Café; • The Café would otherwise be prohibited in the R5 Zone; • The Café is not designed in a manner which clearly defines the cafes relationship to the hospital when regard is made to the size of the café, its orientation to Ewingsdale Road and its freestanding design. • The retail café use is not deemed to be consistent with the zone objectives. 	<p>The proposed café use is an ancillary use permissible as part of a hospital development.</p>
<p>Pharmacy – The Bitzios Report highlights that the Pharmacy is not clearly for the Hospital use however attributed to the</p>	<p>The proposed pharmacy is considered to be an ancillary</p>

Issue	Comment
<p>medical centre. The report states the pharmacy will act more like a dispensary to the medical centre with a high turnover trip generator. Accordingly the pharmacy is not providing its core function to the hospital rather it is servicing the medical centre. In this regard the definition of medical centre does not include and as such the provision of a pharmacy is prohibited within the R5 Zone.</p>	<p>health related use which is permissible when part of a hospital development.</p>
<p>Accommodation – The proposed visitor accommodation is not considered to be ancillary to the primary function of a hospital. Byron has significant stocks of accommodation for specialists and in the regard the use of accommodation on the subject land should purely be for the purposes of rehabilitation. That is accommodation be provided with a direct nexus to the use of the site as a hospital and therefore for admitted patients.</p> <p>The floor plans of the accommodation units should reflect the need rehabilitation needs of in-patients. The proposed development does not provide in-patient services.</p>	<p>The accommodation component is considered to be permissible as part of a hospital when used for the accommodation of nurses or other health care workers, or as accommodation for persons receiving health care or for their visitors.</p> <p>The applicant has specified, in part: <i>“For Inpatient Accommodation, we confirm that these facilities will be in accordance with the Private Health Facilities Regulation 2010 requirements”.</i></p> <p>Should the application have been supported a condition to require the accommodation facilities comply with the Health Facilities Regulation 2010 would have been included.</p>
<p>Noise – Concerns regarding 24 hour traffic noise from the operation of the facility and use of accommodation units, noise also from air conditioning units and other plant equipment. The impacts of this noise on existing dwellings in close proximity of the site. The existing dwelling opposite the site on Quarry Lane is located approximately 26 metres from property boundary of subject site. This adjacent property has also been granted Development Consent (Council reference 10.2001.424.1) for a Rural Residential Subdivision comprising 23 lots. This subdivision will also facilitate other dwellings being located in very close proximity of the proposed development.</p> <p>Concerns regarding noise travelling at night detracting from the amenity of neighbouring dwellings including the dwellings at No.17 McGettigans Lane & No.10 Quarry Lane.</p> <p>The waste report proposes the collection of waste will be undertaken more than daily. This sounds like garbage trucks will enter the site more than once a day.</p>	<p>Following the exhibition of the application the applicant submitted an Environmental Noise Impact Report, prepared by CRG Acoustics, dated 20 November 2017. Section 6.0 of this Report recommends various measures to maintain the amenity of the nearest residential dwellings.</p> <p>Should the application have been recommended for approval appropriate conditions would have been included to ensure the development complies with the mitigation measures recommended in the Report.</p>
<p>The application does not provide a detailed crime prevention</p>	<p>It is acknowledged that a Crime</p>

Issue	Comment
<p>assessment addressing Chapter B11 of the Development Control Plan.</p> <p>To state the overall design will deter any anti-social behaviour without documenting an assessment in no way demonstrates consistency with the core principles for crime prevention through environmental design. Proposed design has concealment locations and the disconnect of the staff units adds issues for staff accessing the units late at night. No lighting details are provided to satisfy AS4282.</p>	<p>Risk Assessment has not been submitted for the development and it is considered that the proposal has not demonstrated detailed consideration of the principles of Crime Prevention through Environmental Design (CPTED).</p> <p>Should the application have been supported conditions would have been included to require the submission of a Security Management Plan. In view of the nature and operation of the hospital use this Plan would likely need to make arrangements for 24 hour on-site security.</p> <p>Also should the application have been supported a condition would have been included to require the deletion of the isolated accommodation building containing Room No.9. No elevation plans have been provided for this building. The building is inappropriate for use as in-patient accommodation, has poor accessibility and has not been demonstrated to be consistent with CPTED principles.</p>
<p>The WGM Engineering Report that accompanies the DA states that the proposal will utilise the Byron Shire Hospital sewer pumping station. The WGM Report does not provide any documentary evidence to confirm that the pumping station has the capacity to accommodate the proposed development.</p>	<p>The development can be adequately serviced with water and sewerage infrastructure.</p>
<p>Failure to present a Hospital Operating Plan. The proposal has not addressed design and logistical considerations that are fundamental to the operation of a hospital, these include:</p> <ul style="list-style-type: none"> • Incorporation of an ambulance bay zone, loading doc facility, details about the storage and handling of medical waste and glass. • No detail of various internal rooms including the operating theatre. 	<p>Following the public exhibition of the application the applicant submitted plan details for the proposed operating theatre and consult rooms.</p> <p>The proposed plans do not include an ambulance bay however do include a designated vehicle drop off area near the entry to the facility.</p>

Issue	Comment
	The latest plans include designated internal and external waste storage facilities. Should the application been assessed favourably condition regarding waste management would have been included.
Inadequate justification provided for the non-compliance with the 9 metre height standard . There is no detail provided on the proposed plans or specialist reports to identify how the Health Services Facility will operate.	The latest revised plans have reduced the maximum height of the building to below 9.0 metres.
Quarry Lane Road Widening – It appears that this widening will require the acquisition of the property at No.17 McGettigans Lane or bring the road closer to the dwelling on that property.	The proposed plans do not indicate that the proposed road widening on Quarry Lane will require the acquisition of any land from the adjacent property at No.17 McGettigans Lane.
There is already land set aside for a similar facility on the current Byron Central Hospital site.	This is not considered to be a matter relevant to the assessment of this proposal.
Byron Bay is over serviced with GPs and a clinic with 14 GP Consulting rooms is not viable . A clinic of this size would struggle to gain enough patients and would have a negative impact on other GP practices in the area that are staffed by local doctors.	No evidence has been submitted to demonstrate that Byron Bay is over serviced with GPs. Competition and need are not specified as matters for consideration in Section 79C of the EP&A Act 1979.
Concerns regarding noise and dust being created during demolition, earthworks and construction.	Should the application have been supported, noise and dust issues during construction are regulated under the NSW Protection of the Environment Operations Act 1997.
Support for the concept of a medical facility on the site with a number of concerns. It is believed this medical facility has the potential to enhance the services already available at Byron Central Hospital by providing surgical services. Trust that this facility will be offering services to non-private patients as well as private patients.	Noted.

3.7 Public interest

In view of the capacity of the intersection of McGettigans Lane and Ewingsdale Road, the increase in traffic associated with the proposal, and its impact on the local road network is considered to be contrary to the public interest.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

Calculation of Additional Water & Sewer ET Load

	Water	Bulk Water	Sewer
Existing ET Entitlements (Table 1)	N/A	1.20	0
Proposed Development ET loading (Table 2)	N/A	26.18	38.35
Additional ET loading	N/A	24.98	38.35

This development generates an additional load onto Councils Bulk Water and Sewer System

Should the application have been assessed favourably Council would require Payment of Developer Servicing Charges (prior to issue of a construction certificate) of:

- **24.98 ET** Bulk Water; and
- **38.35 ET** for Sewer.

4.2 Section 94

In the event that the proposed development was to be approved a S94A levy would be applicable in accordance with Byron Developer Contributions Plan 2012 as proposed cost of works are over \$100,000.

5. CONCLUSION

The revised plans submitted by the applicant on 9 February 2018 are considered to have addressed the issues relating to bulk, scale, setbacks and built form of the development which were previously raised by Council.

Overall the revised proposal is considered to be unsatisfactory with regard to the key issues of traffic generation and car parking. It is considered the issue of traffic generation is unable to be overcome via conditions of consent. The development has been assessed against the relevant matters for considerations pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979* including public interest and suitability of the site, and is unable to be supported.

It is recommended that the proposed development be refused for the reasons detailed in the Section 6 of this report.

6. RECOMMENDATION

It is recommended that pursuant to Section 80 of the *Environmental Planning & Assessment Act 1979*, development application no. 10.2016.399.1 for a Hospital (including medical consulting rooms, day theatre, pharmacy, specialist consulting rooms, twelve accommodation units, café/restaurant and basement and ground level parking), Removal of trees, Earthworks and Demolition of existing dwelling house, be refused consent for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal has not satisfied the matters within State Environmental Planning Policy (Infrastructure) 2007, Clause 101 Development with Frontage to a Classified Road. The proposal fails to demonstrate that the safety, efficiency and ongoing operation of a classified road (Ewingsdale Road) will not be adversely affected by the development.
2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal has not demonstrated that suitable vehicular access is available or that adequate arrangements have been made to make it available, contrary to Clause 6.6 Essential Services of Byron Local Environmental Plan 2014.
3. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy the matters for consideration within Byron Shire Development Control Plan 2014 Section B4.2.5 Car Parking Requirements in relation to the provision of on-site car parking.
4. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is likely to have a adverse impact on the built environment as a result of increased traffic congestion at the road intersection of McGettigans Lane and Ewingsdale Road.
5. Pursuant to Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered to be suitable for the proposed development in view of the traffic generation impacts (imminent failure of the intersection of McGettigans Lane and Ewingsdale Road).
6. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed traffic generation impacts (with the imminent failure of the intersection of McGettigans Lane and Ewingsdale Road), and inadequate on-site car parking are considered to be contrary to the public interest.

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No

Provide Disclosure Statement register details here: Nil.