

## ADDENDUM TO COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	<b>2016NTH020</b>
<b>DA Number</b>	<b>10.2016.399.1</b>
<b>LGA</b>	<b>Byron Shire Council</b>
<b>Proposed Development</b>	<b>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</b>
<b>Street Address</b>	<b>15 McGettigans Lane, Ewingsdale</b>
<b>Applicant/Owner</b>	Brunsmmed Pty Ltd
<b>Date of DA lodgement</b>	27 June 2016
<b>Number of Submissions</b>	Ten (10)
<b>Recommendation</b>	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 submitted to the panel meeting of 17 May 2018..
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	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.
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• 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> </li> <li>• 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> </li> <li>• relevant development control plan  <i>Byron Shire Development Control Plan 2014</i> </li> <li>• 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> </li> <li>• 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> </li> <li>• relevant regulations e.g. Regs 92, 93, 94, 94A, 288  <i>Demolition of Building AS 2601</i> </li> </ul>

<b>List all documents submitted with this report for the Panel's consideration</b>	<b>Attachment 1</b> Byron Central Health & Wellness Hub Plan of Management <b>Attachment 2</b> Draft Conditions (without prejudice).
<b>Report prepared by</b>	Christopher Soulsby Developer Contributions Officer Byron Shire Council
<b>Report date</b>	30 July 2018

#### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	<b>No change from Previous Report</b>
<b>Legislative clauses requiring consent authority satisfaction</b> 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>	<b>No change from Previous Report</b>
<b>Clause 4.6 Exceptions to development standards</b> 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?	<b>No change from Previous Report</b>
<b>Special Infrastructure Contributions</b> 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>	<b>Not Applicable</b>
<b>Conditions</b> 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>	<b>Yes</b>

**MEMO TO:** Joint Regional Planning Panel

**COPY TO:**

**MEMO FROM:** Developer Contributions Officer & Development Engineer

**SUBJECT:** Addendum to Report on DA10.2016.399.1

**DATE:** 23 July 2018

**RECORD NO:** E2018/64018

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At the meeting of 17 May 2018 the panel resolved to defer the determination of DA10.2016.399.1 for the following reasons:

*“The Panel unanimously resolved to defer the determination of DA 2016NTH020 advising Council and the Applicant to consult on Draft Conditions of Consent for the proposed development including Plan of Management to manage the impacts and intended staging of the development.*

*Council are requested to submit a supplementary report and conditions to the Planning Panels Secretariat by 6 June 2018.*

*When this information is received, the panel will hold another determination meeting on 20 June 2018.”*

In response the applicant submitted a plan of management (POM) for the facility on 18 June 2018. Having reviewed the POM I can advise that the assessing Council staff have not changed their opinion that the application should be recommended for refusal. The assessment report remains unchanged and this memorandum provides supplementary comment on the POM.

The POM fails to demonstrate how trip generation during the AM and PM peaks will be restricted such that there is no additional traffic impacts on the intersection of McGettigans Lane and Ewingsdale Road. Page 6 under the heading Operation Restrictions Prior to Intersection Upgrades indicates that there will be up to 30 patients attending the facility prior to 8:00 to see a general practitioner or an allied health practitioner. The POM fails to address how a patient attending during this time will be prevented from leaving the development during the AM peak. This equally applies to patients leaving the facility during the PM peak. The nature of a medical practice is such that it there is a high probability of appointments running late resulting in patients finishing their appointments in the AM and PM peak periods. The POM makes no provision for managing how appointments that run over time will be treated. Whilst the POM is silent on this matter it is highly unlikely that a medical practitioner will cancel an appointment for a patient that has already arrived at the facility when the practitioner is running late and this would result in the patient leaving the facility during the AM or PM peak times.

The chart on page 7 shows that with the POM in place there will still be both arrivals and departures from the facility during the AM and PM peaks. This is unacceptable and based on all of the previous traffic studies demonstrates that the development will have an adverse impact on the intersection.

The POM proposes a minibus to further supplement the transport restrictions. Whilst this service may enable an overall reduction in vehicle trip generation it does not prevent trip generation by patients leaving the facility post consultation.

The POM references a *BWH Transport Access Guide*, *BWH Staff Procedures Handbook*, *BWH Patient and Visitor Handbook* and a *BWH Workplace Travel Plan* none of which have been provided.

The POM fails to address how residents, visitors and staff of the accommodation units will be restricted from entering or leaving the premises during the Am and PM peaks.

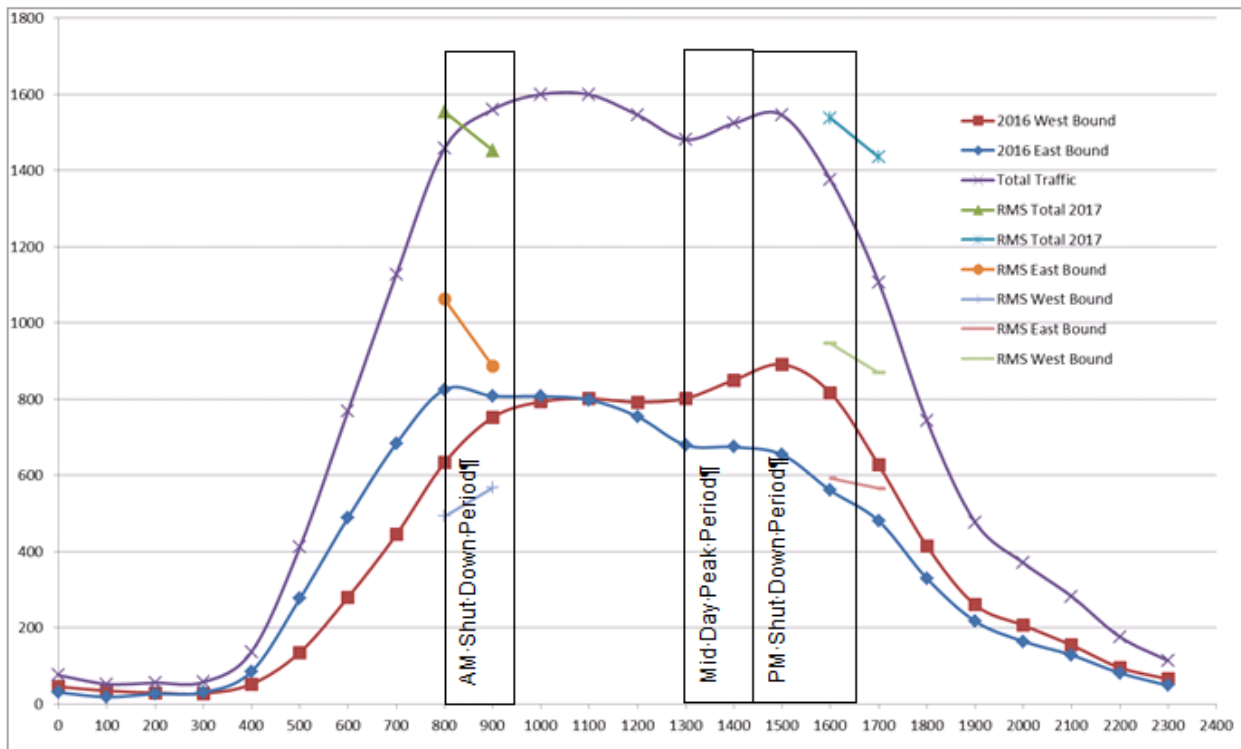
The POM is also inconsistent with the Statement of Environmental Effects and this raises questions about the nature of the consent sought. The following points document the inconsistencies and / or raise questions about the two documents.

1. The Allied health services is a new element to the DA. Neither the DA documentation nor the POM specify where will the Allied Health practitioners will operate out of. The table on Page 6 (Section B) indicates there will be 4 Allied Health Staff. Do they intend to use the procedure rooms or reduce the number of GP's and they use GP rooms?
2. Based on the last paragraph on page 3 and 1st point on page 4 the Allied Health staff won't operate on the first floor as the first floor consult rooms are for specialists. They will operate from the ground floor. Does this alter the trip generation figures?
3. Page 6 (Section B) in the table only 8 GP's are proposed but 14 GP consult rooms are proposed. Does that mean Allied Health will use the remaining 6 GP consulting rooms? Why do they have 14 GP rooms? Do they need to revise their GP Staff numbers given there are 14 consult rooms?
4. Page 6 (Section B) table does not include Floor staff or patients for Specialist consult rooms. Only staff for the Day Surgery Theatre are shown. Details on the staff and patient numbers associated with the Specialist consulting rooms should be incorporated into the POM.
5. At 9.15am when the GP clinic re-opens are the first appointments at 9.15am? If so then patients will begin to arrive during the shut down period.
6. At 4.00pm when the GP clinic re-opens are the first appointments at 4.00? if so we have the same problem as point 5 above.
7. The POM estimates 1 GP patient every 20 minutes. Is that standard GP appointment 15 minutes? If you adopt 15 minute appointments the clinic will generate approximately 32 more trips than the POM indicates in the mid day period.

Even if the issues raised in points 1 to 7 are addressed it would not alter the opinion of Council staff that the POM cannot adequately address the traffic impacts of this development on MR545.

The first chart below shows the Ewingsdale Rd west bound traffic volumes, east bound traffic volumes and combined east/west traffic volumes. It can be seen that the middle of the day traffic volumes are as high as the peak periods. In addition, 2017 RMS data indicates the 2017 traffic volumes are substantially higher than the 2016 data used by the applicant. This suggests that if the intersection fails during peak periods using 2016 data then the intersection will fail throughout the mid day period if the 2017 data is used to model the intersection.

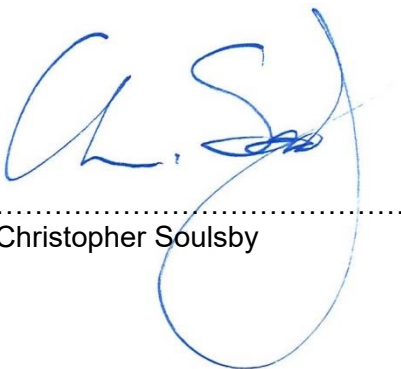
The 2017 RMS data suggests that either side of the shut down periods the current traffic volumes are higher than the 2016 traffic data used to model the peak periods. Therefore, if the intersection fails when using the 2016 peak periods traffic data then the intersection is expected to fail either side of the shut down period if the 2017 RMS data is used.



The POM does not adequately address Council's concerns with this application and the recommendation to the JRPP for refusal of the application from report E2018/2215 remains unchanged. The POM is fundamentally flawed as a mechanism for a medical facility to limit its operations.

Council has not been able to comply with the timeframes set by the JRPP as the applicant did not submit the POM until 18 June 2018. It is the view the

A set of without prejudice conditions have been provided as requested by the panel secretariat.



Christopher Soulsby