

DATE OF DETERMINATION	Monday, 13 August 2018
PANEL MEMBERS	Garry West (Chair), Pamela Westing and Stephen Gow
APOLOGIES	
DECLARATIONS OF INTEREST	None

Public meeting held at Byron Shire Council Chambers on 13 August 2018, opened at 10.02am and closed at 1.07pm.

MATTER DETERMINED

2016NTH020 – Byron - DA10.2016.399.1 at 15 McGettigans Lane, Ewingsdale (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

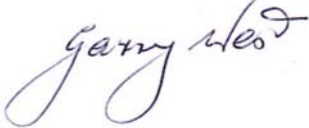


- The Applicant and the Council agreed to stage the development, with stage 2 only being commenced after the upgrade to the intersection of Ewingsdale Road and McGettigans Lane.
- The Plan of Management provided by the Applicant for the necessary restrictions to the operation of the facility prior to the upgrade of the intersection
- The development will provide the necessary specialist and surgical facilities for the region
- Concerns raised by the Panel at the prior meetings concerning the scale of the development and the height of the buildings have been addressed the Applicant.
- SEPP 55 – Remediation of Land: Sufficient information has been submitted by the Applicant that the subject site is suitable for the proposed development.
- Permissibility: The proposed development and the proposed demolition are permissible in the R5 Large Lot Residential Zone with consent.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Condition 1 was amended to require a Voluntary Planning Agreement to be prepared in accordance with the Applicants letter of offer of 10 July 2018;
- A new condition 2 was added to provide that the proposal be developed in two stages;
- A new Condition 3 was included to require the Management Plan to be updated;
- The condition regarding restaurant hours (now c6) was amended to clarify the use of the restaurant and the times of use;
- The condition regarding ancillary use (now c7) was amended to stipulate that no signage is permitted to attract passing traffic for either the café and the pharmacy and the pharmacy is to operate as a prescription pharmacy only;

- New condition 11 requires management of medical and hazardous waste;
- New condition 12 requires that external lighting complies with the Australian Standards;
- Condition regarding Amended Plans (now c14) is amended to require the provision of a total of 88 offstreet parking spaces;
- The condition regarding the Traffic Management Plan (now c26) is amended to limit the hours of access for construction of the development;
- Condition regarding Car parking layout (now c27) is amended to include the compliance requirement with the Australian Standard for offstreet parking for people with disabilities and to require the parking spaces provision to be in accordance with the staging arrangements;
- New condition 35 to require the Plan of Management to be amended to comply with the staging agreed, correcting inconsistencies with the development consent, specifying the activities that are prohibited within designated times and requiring the Applicant to provide data to Council to demonstrate compliance with the conditions during stage 1;
- A new condition 36 has been added to require an erosion and sediment control management plan;
- A new condition 37 has been added to require a water service and meter to be connected;
- A new condition 37 has been added to specify how demolition works will be undertaken; and
- A new condition 39 has been added requiring the disconnection of existing water and sewer prior to demolition.

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016NTH020 – Byron - DA10.2016.399.1
2	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
3	STREET ADDRESS	15 McGettigans Lane, Ewingsdale
4	APPLICANT/OWNER	Brunsmmed Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Byron Local Environmental Plan 2014

		<ul style="list-style-type: none"> Propose instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority <ul style="list-style-type: none"> State Environmental Planning Policy (Coastal Management) 2016 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Byron Shire Development Control Plan 2014 Planning agreements: Offer of a Planning Agreement in terms of a letter addressed to Council dated 10 July 2018. Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: NIL The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 28 September 2017 Written submissions during public exhibition: 10 Verbal submissions at the public meeting 18 October 2017: <ul style="list-style-type: none"> Object – Colin McJannet and Ken Smith On behalf of the applicant – Simon Halcrow, Steve Brooke, Joel Wertheimer and Andrew Armstrong Council supplementary assessment report: 24 April 2018 (received 2 May 2018) Verbal submissions at the public meeting on 17 May 2018: <ul style="list-style-type: none"> Object – John Flick On behalf of the applicant – Joel Wertheimer, Simon Halcrow, Andrew Armstrong and Andrew Eke Addendum Council Assessment Report: 30 July 2018 Correspondence from applicant: 8 August 2018 Oral Assessment of Correspondence from the Applicant by Council Oral submissions at the public meeting 13 August 2018: <ul style="list-style-type: none"> Support – Nil Object – Lindsay Wooten on behalf of the Ewingsdale Hall & Progress Association. On behalf of the applicant – Joel Wertheimer, Applicant; Andrew Armstrong, Architect and Andrew Eke, Traffic Engineer.
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection and briefing meeting 18 October 2017 Public meeting on 18 October 2017 Briefing meeting to discuss council's recommendation, 17 May 2018. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Garry West (Chair), Stephen Gow, Susan Budd <u>Council assessment staff</u>: Paul Mills, Chris Larkin and Chris Soulsby Final briefing meeting to discuss council's recommendation, 13 August 2018. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Garry West (Chair), Pamela Westing and Stephen Gow <u>Council assessment staff</u>: Chris Larkin, Manager, Sustainable Development and Andrew Pearce, Traffic Engineer.

9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to addendum council assessment report (30 July 2018) as amended at the meeting on 13 August 2018 and attached.

SCHEDULE 2

Parameters of consent

1. Development is to be in accordance with approved plans

The development is to be in accordance with the statement of environmental effects and the plans listed below:

Plan No.	Description	Prepared by	Dated
A02 Issue DA - E	Site Plan	Armstrong & Co	25 January 2018
A03 Issue DA - E	Ground Floor Plan	Armstrong & Co	25 January 2018
A04 Issue DA - E	Basement Plan	Armstrong & Co	25 January 2018
A05 Issue DA - E	First Floor Plan	Armstrong & Co	25 January 2018
A06 Issue DA - E	Roof Plan	Armstrong & Co	25 January 2018
A07 Issue DA - E	Site Elevations	Armstrong & Co	25 January 2018
A08 Issue DA - E	Health Services Facility Elevations 1	Armstrong & Co	25 January 2018
A09 Issue DA - E	Health Services Facility Elevations 2	Armstrong & Co	25 January 2018
A10 Issue DA - E	Section Detail	Armstrong & Co	25 January 2018
Figure 2.1	Statement of Landscape Intent - Ground Level Plan	Planit Consulting	-
Figure 2.2	Statement of Landscape Intent - Ground Level Detail Plan	Planit Consulting	-
Figure 2.3	Statement of Landscape Intent - Concept imagery	Planit Consulting	-
Figure 2.4	Statement of Landscape Intent - Visual Mitigation Techniques	Planit Consulting	-
Figure 3.0	Statement of Landscape Intent - Planting Palette	Planit Consulting	-
Figure 3.1	Statement of Landscape Intent - Planting Palette	Planit Consulting	-
Figure 4.0	Statement of Landscape Intent - Hardscape Finishes	Planit Consulting	-
	Waste Minimisation Management Plan	Planit Consulting	June 2016

Accommodation Unit Number 9 not approved as part of the Development.

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

1A. Voluntary Planning Agreement

- A Planning Agreement is to be prepared to comply with Section 7.4(3) of the EPA Act, and any relevant provision of the Regulation and any Practice Note, signed and delivered to the Council within 90 days of the date of this consent, or prior to the issue of a construction certificate, whichever comes first. The Planning Agreement is to be in the terms which Joel Wertheimer, Director Brunsmed PTY LTD has offered to enter into via letter to Paul Mills, Byron Shire Council dated 10 July 2018.
- In the event that the Planning Agreement is duly delivered to the Council in compliance with part (a) of this condition, and Council does not agree to enter into the Agreement, or a similar Agreement on

terms acceptable to both parties, within twelve months of the date of this consent, this condition shall lapse and have no effect.

- c. In the event that both parties have entered into the Planning Agreement as set out in parts (a) and (b) of this condition, Condition 19 of this consent (Section 94A Levy to be paid) shall be deemed to be satisfied and no levy will be payable pursuant to that condition.

2. **Staging of the Development**

The proposal to be developed in two stages:

Stage 1

Until the Ewingsdale Road/ McGettigans Lane Intersection is upgraded the development to be limited:

- Fit out of 12 consulting rooms only on the ground floor
- Fit out of 4 Accommodation units only
- Car parking – A minimum of 60 Spaces to be designed and constructed at stage 1
- A maximum of 8 Full Time Employees (FTE) including GP's, Allied Health and Specialist to use the consulting rooms based on a 38 hour week per full time employee.

Stage 2

The following works to occur following the construction and upgrade to the Ewingsdale Road/ McGettigans Lane Intersection

- Complete Fit out of Specialist rooms on the first floor (6 Rooms)
- Complete Fit out of GP Consulting rooms on the ground floor (Max of 14)
- Complete Fit out of remaining 7 Accommodation Units
- Car Parking and Construction – The design and construction of the remaining 28 car parking spaces.
- Landscaping and associated works to be completed

The development to operate in accordance with the conditions of consent at all times.

3. **Management Plan**

The Management Plan titled Byron Central Health and Wellness Hub dated June 2018 to be amended to reflect the above staging arrangements as approved by Council as required Condition 35. The development to operate in accordance with the Management Plan including shut down periods at all times until such time as the Ewingsdale Road/ McGettigans Lane Intersection has been upgraded.

4. **Development is to be in accordance with Environmental Noise Impact Report**

The development is to be constructed and operated in accordance with the recommendations of the Environmental Noise Impact Report, Proposed Hospital Development, 15 McGettigans Lane, Ewingsdale (crgref: 16181 report rev.2, CRG Acoustics, 20 November 2017).

5. **Use of accommodation units**

The accommodation rooms subject of this development consent are only to be used by registered in-patients and/or hospital staff and are not approved for holiday letting and/or for use as *tourist and visitor accommodation* (as defined in *Byron Local Environmental Plan 2014*). Records of all persons using the accommodation units are to be kept including the duration of stays and the purpose the stay. These records are to be made available to relevant Council staff when requested.

6. **Restaurant Hours of Operation**

Restaurant hours, including alfresco dining are to be restricted to between 7am and 7:30pm. The preparation and serving of in-house meals delivered to patients and staff permitted to 12 midnight.

7. **Ancillary Use**

The use of the accommodation units, pharmacy and restaurant are ancillary to the dominant use of the site as a hospital. The accommodation units, pharmacy and restaurant are not to be open to the use of the general public.

No Signage to attract passing traffic from either McGettigans Lane or Ewingsdale Road to be erected for either the café or the Pharmacy.

The Pharmacy to operate as a prescription only pharmacy.

8. **Amplified Sound**
No amplified sound to be undertaken inside or outside of the restaurant unless a specific amplified music noise assessment is conducted and approved by Council.
9. **Waste Collection and Deliveries**
Waste Collection and deliveries are to be limited to the daytime period between 7am and 6pm.
10. **Waste disposal facilities**
The operator of the food premises must be able to demonstrate to Councils' Environmental Health officers' satisfaction on request/during inspection that adequate waste disposal facilities are available on the premises, and that such facilities can be maintained to prevent environmental harm or public nuisance. Provision must be made for cleaning and maintaining waste storage appliances.
11. **Management of Medical and Hazardous Waste**
The operator is to engage a suitable qualified and licensed waste contractor to collect and dispose of medical and hazardous waste in accordance with the relevant NSW Environment Protection Authority and Safe Work NSW guidelines.
12. **External Lighting**
The proposed development must be in accordance with AS/NZS 1158: 2007, Lighting for Roads and Public Spaces, and AS4282-1997: Control of the obtrusive effects of outdoor lighting.
13. **Compliance with the NSW Food Act and Food Regulation**
The food premise shall be operated and maintained to ensure that the requirements of the *Food Act* 2003 and *Food Regulation* 2010 (incorporating *Food Standard Code* are satisfied at all times. Access to the *Food Standard Code* is available at <http://www.foodstandards.gov.au>. The operator is required to ensure that the business is registered with the NSW Food Authority. Notification may be carried out or updated when required at <http://www.foodnotify.nsw.gov.au>.
14. **No Interference with Amenity of Neighbourhood**
The proposed use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:
- a) The noise level emanating from the use of the premises must not cause "offensive noise" as defined by the Protection of the Environment Operations Act 1997 or exceed sound levels established by the New South Wales EPA Industrial Noise Policy.
 - b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
 - c) All wastes shall be contained within appropriate containers fitted with tight-fitting vermin-proof lids. Grounds to be maintained free of litter and waste so as not to cause windblown material to pollute natural waters.
15. **Prevention of water pollution**
Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.
16. **Access and facilities for persons with disabilities are to be provided**
Access and facilities for persons with disabilities are to be provided in accordance with Part D3 of Building Code of Australia and AS 1428 - Design for Access and Mobility.
17. **Health Facilities Regulation**
The inpatient accommodation shall conform to the requirements of the Health Facilities Regulation 2010.

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

18. **Amended Plans**
The approved Construction Certificate plans are to include the following amendments:

- a) Delete the accommodation building containing Room No.9 as the building is inappropriate for use as in-patient accommodation, has poor accessibility and has not been demonstrated to be consistent with CPTED principles.
- b) Relocate the external waste enclosure so as to have a minimum 4.0 metre setback to McGettigans lane road reserve.
- c) Provision for a total of 88 off street parking spaces as required by the staging arrangements under Condition No. 2.

19. **Section 94A Levy to be paid**

Prior to the issue of a construction certificate the section 94A levy required by the Byron Developer Contributions Plan 2012 shall be paid to Council.

The levy will be calculated as follows:

Levy payable = %C x \$C

Where:

%C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 94E.

\$C is the proposed cost of carrying out the development.

The rate of %C is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

The cost of development shall be calculated in accordance with clause 25J of the regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 94A contributions plan shall be submitted to Council with the payment. The cost summary report shall be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from <http://www.byron.nsw.gov.au/>

20. **Landscaping plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014 and be consistent with the approved Landscape Concept Plan. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) mature height of trees to be planted
- d) location of grassed and paved areas, and
- e) location of trees identified for retention in the development application plans.
- f) The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate.

21. **Plans of retaining walls and drainage**

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

Such plans and specifications must be approved as part of the Construction Certificate.

22. **Geotechnical Report required – Soil Classification**

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of AS2870.

23. **Sediment and Erosion Control Management Plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

24. **On-site stormwater detention required**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity to Ewingsdale Rd or McGettigans Lane drainage systems.

Such plans and specifications must be approved as part of the Construction Certificate.

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and unless exempt from obtaining an approval under section 68 of the Local Government Act 1993 by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate.

25. **Consent required for works within the road reserve**

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway (residential areas)

Three (3) driveways in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". Two driveways providing access to the proposed development and one driveway providing vehicular access to Lot 8 DP 1170237.

McGettigans Lane - Road shoulder construction

Road pavement to western edge of existing McGettigans Lane pavement and associated drainage construction including any necessary relocation of services in accordance with Drawing No. 0006 by WGM Consulting on 10-08-2016 (Rev. A), Drawing Title: Roadworks Typical Sections.

Quarry Lane - Full Width Road Construction and intersection

Full width road and drainage construction for Quarry Lane for approximately 116m extending from McGettigans Lane intersection. Refer to Drawing No. 0005 by WGM Consulting on 10-08-2016 (Rev. A), Drawing Title: Civil Layout Plan. The southern corner of the proposed site is to be

Dedicated Corner Splays

Dedication of 9m corner splay at the southern corner of Lot 2 DP118960.

26. **Traffic Management Plan**

Consent from Council must be obtained for a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic control plan is

to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

"The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site".

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

No Vehicles associated with the construction of the development shall access the site between the hours of 8:00 a.m. to 9:15 a.m. and between the hours of 2:30 p.m. and 4:00 p.m. on Mondays to Fridays. This shall include deliveries of fill, construction materials or supplies, removal of rubbish, fill, debris, demolition and/or building waste, and the arrival and departure of construction workers.

27. Car parking layout, vehicle circulation and access plans required.

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities, AS2890.6-2009 - Off-street Parking for People with Disabilities. Plans are to include, but not be limited to, the following items:

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal section from the road centreline to the car space(s);
- e) typical cross sections;
- f) drainage details;
- g) turning paths; and
- h) line marking and signage;
- i) A minimum of 88 car parking spaces, as per the staging arrangements;
- j) A minimum of 1 bicycle space per consulting room accessible to general public;
- k) Stacked parking to be marked and signed for staff only;
- l) Basement ramp to be a minimum 6.1m wide, measured from wall to wall.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

28. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building and roof colours are consistent with Chapter D1 of Byron Development Control Plan 2014. Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours is not permissible. Such plans and specifications must be approved as part of the Construction Certificate.

29. Compliance with BASIX Certificate requirements

The development is to comply with BASIX Certificate No.753739M, dated 23/08/2016.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the energy efficiency measures may be undertaken without the issue of any amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section D2.2.3 of Council's Development Control Plan 2014. White colours are not permissible. Such plans and specifications must be approved as part of the Construction Certificate.

30. Long Service Levy to be paid

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at www.longservice.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. When paying to Council, cheques are to be made payable to 'Byron Shire Council'. For further information regarding the Long Service Payment please refer to the website above.

31. Water and Sewerage - Section 68 approval required

An Approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

32. Trade Waste - Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 to discharge trade waste into Council's sewer must be obtained in accordance with NSW Office of Water Liquid Trade Waste Regulations Guidelines 2009, Council's Liquid Trade Waste Policy and Liquid Trade Waste Guidelines.

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at:

http://www.byron.nsw.gov.au/files/publications/liquid_trade_waste_application_form_0.pdf

33. Compliance required with Building over Pipelines Policy

In all new subdivisions and/or developments an easement shall be provided for all pipelines including gravity sewer mains per Clause 3.4 of the Policy 4.20. Pursuant to Section 88B of the Conveyancing Act, 1919 an Instrument shall be prepared for each lot with creation of easement.

Swimming pools are classed as buildings and are required to comply with this policy.

The use of displacement and screw pile construction methods will require approval by Council.

Any brick / masonry fence crossing a sewer main must be supported over the sewer main will require approval by Council.

34. Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

Byron Shire Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.

Note: Copies of the application forms for Certificates of Compliance are available on Council's website http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Water on 02 6626 7081. Applicable charges can be

found on Council's website: <http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Payment by Personal or Company Cheque will not be Accepted

35. Management Plan

Submission to and approval by Council of amended Plan of Management that:

1. Incorporates the staging as set out in this consent;
2. Specifies the permitted staff numbers as indicated in Stage 1;
3. Corrects any inconsistencies with this development consent;
4. Prohibits the following activities on weekdays between 8am to 9.15 am and 2.30 to 4.00 pm:
 - a) GP and Allied Health Consultations;
 - b) Patient admissions or discharges;
 - c) Staff Change overs;
 - d) Bus Services or
 - e) Deliveries;
5. Requires a Six Monthly Report to Council derived from the Electronic Scheduling software for the facility to demonstrate compliance with the permitted hours of operation. (Stage 1 Only)

The following conditions are to be complied with prior to any building or construction works commencing

36. Erosion and Sediment Control Management Plan required

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

Note: Council may impose on-the-spot fines for non-compliance with this condition.

37. Water service and meter to be connected

A water service and water meter must be connected to the property using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Any new water service and meter will be at the applicants cost.

38. Demolition

Any required demolition works must be undertaken in accordance with the relevant requirements of Australian Standard AS 2601–2001 : The Demolition of Structures published by Standards Australia, and the WorkCover Authority of NSW.

39. Disconnection of existing water and sewer prior to demolition

Existing water and sewer services must located on site and be properly capped at the main by a licenced plumber. All water and sewer disconnections must be inspected by the Byron Shire Council inspectors prior to backfilling.

- If a property is demolished and no longer needs water supply and/or a sewerage service, a licensed plumber must disconnect the service at the main (also known as 'capping the service').. The plumber must also return the water meter to Council's inspector at the time of inspection.

- If your development involves consolidating lots and you don't need all the existing services, you must correctly disconnect them. This ensures that you aren't billed for unused services and helps avoid future hidden leaks.

Your Plumber must obtain a **Plumbing Permit** at least **two (2) working days prior to commencing work**. Please forward an Application for a Plumbing Permit to your plumber to complete and to return to Council prior to commencement of disconnection works. Refer to http://www.byron.nsw.gov.au/files/Forms/Plumbing_Drainage_Permits.pdf.

The following conditions are to be complied with during any building, construction or demolition works

40. Stormwater drainage work

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.

41. Construction times

Construction/demolition works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction/demolition work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

42. Construction Noise

Construction/Demolition noise is to be limited as follows:

- a. For construction/demolition periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction/demolition periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction/demolition site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

43. Signs to be erected on building sites

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

44. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

45. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

46. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

47. Carpark and Driveway

The carpark and driveway hardstand areas are to be finished with surface coatings which prevent tyre squeal (an uncoated concrete or asphalt is acceptable).

Drainage grating over trafficable areas is to be well secured to prevent rattling.

48. Acoustic Treatment Restaurant

The ceiling above the indoor and outdoor dining areas of the restaurant is to be treated with absorptive lining such as perforated plasterboard and insulation batts.

49. Site Waste Minimisation and Management

All works must comply with the approved Waste Minimisation Management Plan referred to in Condition No.1 and the objectives of waste minimisation and waste management of Part B8.1.2 of Byron DCP 2014.

50. Food safety – design and construction

- a) The food premises must be designed and constructed to comply with Food Safety Standard 3.2.3 Food Premises and Equipment of the Food Standards Code.

Note: Requirements of Australian Standard AS4674 – 2004 “Design, construction and fit-out of food premises” and NSW Food Authority “Food premises – Design, construction and fit-out guide” to be considered to achieve the necessary construction standards for the food premises.

- b) The applicant must arrange for an inspection of the food premises to assess compliance with Food Safety Standard 3.2.2 Food Safety Practices and General Requirements and Food Safety Standard 3.2.3 Food Premises and Equipment of the Food Standards Code prior to operating the food business.

- c) Payment for the inspection at b) above will be levied in accordance with Council’s fees and charges and must be paid to Council.

Note: Inspections are available on business days and must be arranged at least three working days prior to the inspection occurring by telephoning (02) 6626 7054.

The following conditions are to be complied with prior to occupation of the building

51. Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

52. Road Widening

The location of the final road formation for all roads works and fences in relation to the property boundaries are to be shown on a survey plan to be submitted to Council. Any encroachments onto the property are to be dedicated as “Road Widening” at no cost to Council.

53. On-site Stormwater Detention – Certification of works

All stormwater drainage works, including on-site stormwater detention works, for the development shall be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's Comprehensive Guidelines for Stormwater Management.

54. **Acoustic Assessment**

An acoustic assessment/s is to be prepared by a suitably consultant of the final mechanical ventilation /air conditioning systems and submitted to council for approval.

55. **Acoustic Certification**

Certification by a suitably qualified acoustic consultant is to be provided to Council to affirm installation of all building shell and mechanical ventilation/air conditioning acoustic treatments to achieve the project specific noise criteria.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the Environmental Planning and Assessment Regulation 2000. This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 NOTES

Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT
(ET Policy No:13/005)

Water	N/A
Bulk Water	24.98 ET
Sewer	38.35 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>). These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
 - b. given Council at least two days notice of the intention to commence the erection of the building.
- Notice must be given by using the prescribed 'Form 7'.

- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

S94A Contributions - SCHEDULE 2 Cost Summary Report

[Development Cost greater than \$500,000]

DA /CC/CDC No.

DATE:

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT DETAILS:

DEVELOPMENT ADDRESS:

ANALYSIS OF DEVELOPMENT COSTS:

Gross Floor Area – Commercial	m ²	Gross Floor Area – Other	m ²
Gross Floor Area – Retail	m ²	Total Gross Floor Area	m ²
Gross Floor Area – Car Parking	m ²	Total Site Area	m ²
Total Development Cost	\$	Total Car Parking - Spaces	
Total Construction Cost	\$		
Total GST	\$		

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- calculated the development costs in accordance with the definition of development costs in clause 25J of the *Environmental Planning and Assessment Regulation 2000* at current prices.
- included GST in the calculation of development cost.

Signed:

Date:

Name:

Phone:

Position and Qualifications:

Address:

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.