

# SECTION 4.55(1A) MODIFICATION REPORT

PROPOSED AMENDMENT TO DEVELOPMENT  
APPLICATION 10.2021.370.2

PROPERTY: 10-12 Shirley Stret, Byron Bay  
PROPONENT: BKA Architecture and Byron Shire Council  
OUR REF: 210124  
DATE: December 2023



**Newton  
Denny  
Chapelle**

Surveyors  
Planners  
Engineers

## DOCUMENT AND PROJECT DETAILS

Document title:	Section 4.55(1A) Modification Report to amend DA 10.2021.370.2 relating to the Proposed Community Hub at 10-12 Shirley Street, Byron Bay.
Author:	Karina Vikstrom
Project manager:	Karina Vikstrom
Date of issue:	22 December 2023
Job reference:	210124
Project outline	This document presents a Section 4.55(1A) Modification Report to support a request to modify DA 10.2021.370.2 as it relates to the Byron Community Hub.

## REVISION HISTORY

Rev	Date	Description	Author	Approved
-	13/12/2023	Draft Report	KV	KV
A	22/12/2023	Final Report	KV	KV

## USAGE NOTE

The plans to this document were prepared for the exclusive use of BKA Architecture and Byron Shire Council to accompany a Development Application to Council for approval for the development of land described herein and is not to be used for any other purpose or by any other person or corporation. Newton Denny Chapelle (NDC) accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

The maps, development plans and exhibits shown in this report are suitable only for the purposes of this report. No reliance should be placed on this information for any purpose other than for the purposes of this report. All dimensions, number, size and shape of lots/buildings as shown on plans in this document are subject to detailed engineering design plans and final survey and may vary subject to conditions of consent issued by the Consent Authority.

The information contained in this report is based on independent research undertaken by NDC. To the best of our knowledge, it does not contain any false, misleading or incomplete information. No extract of text from this document may be reproduced, stored or transmitted in any form without the prior consent of NDC. NDC declares that it does not have, nor expects to have, a beneficial interest in the subject project. Nor does it have any reportable political donations within the meaning of Section 10.4(3) of the Environmental Planning and Assessment Act 1979 to declare.

The information contained within this document is for the use of the intended recipient only and may contain confidential and/or legally privileged material. Any reproduction, publication, retransmission, disclosure, dissemination or other use of the information contained in this document by persons or entities other than the intended recipient is prohibited. This document may not be used, sold, transferred, copied or reproduced in whole or in part in any way without the prior written consent of Newton Denny Chapelle.

PO Box 1138, Lismore NSW 2480  
Suite 1, 31 Carrington Street, Lismore (Head Office)  
Shop 8/480 Casuarina Way, Casuarina (The Commons)  
Phone: (02) 6622 1011  
Email: [office@ndc.com.au](mailto:office@ndc.com.au)  
Web: [www.ndc.com.au](http://www.ndc.com.au)  
ABN: 18 094 689 845



## TABLE OF CONTENTS

<b>1.</b>	<b>Executive Summary.....</b>	<b>1</b>
1.1	Property Details .....	1
1.2	Purpose .....	1
1.3	Background .....	2
1.4	Further Information .....	2
<b>2.</b>	<b>Proposed Amendments.....</b>	<b>3</b>
2.1	Introduction .....	3
2.2	Proposed Modifications .....	3
2.3	Proposed Changes to Consent Conditions.....	5
<b>3.</b>	<b>Planning Assessment .....</b>	<b>10</b>
3.1	Introduction .....	10
3.2	Section 4.55(1A) EP&A Act 1979.....	10
3.3	Section 4.15 Evaluation.....	13
3.4	Proposed Business Identification Signage.....	15
3.5	Planning Permissibility .....	18
<b>4.</b>	<b>Conclusion .....</b>	<b>20</b>

## TABLES

Table 1: Site Details.....	1
Table 2: Section 4.15 Matters for Consideration.....	13

## ATTACHMENTS

<b>Attachment 1</b>	Updated Architectural Design Plans <i>BKA Architecture</i>
<b>Attachment 2</b>	Updated Noise Impact Assessment <i>TTM</i>
<b>Attachment 3</b>	Proposed Business Identification Signage <i>Provided by Social Futures</i>

## 1. Executive Summary

### 1.1 Property Details

The site details relevant to the proposed development are provided within the below table.

**Table 1: Site Details**

<b>Property Address</b>	10-12 Shirley Street, Byron Bay
<b>Property Description</b>	Lot 1 DP 847910 Parish of Byron County of Rous
<b>Registered Owners</b>	Byron Shire Council
<b>Proponent</b>	Byron Shire Council C/o BKA Architecture
<b>Applicant</b>	Newton Denny Chapelle for and on behalf of the proponent
<b>Local Authority</b>	Byron Shire Council
<b>Site Area</b>	5307m <sup>2</sup>
<b>Easements</b>	Easement for services (6.095m wide); Easement for underground power reticulation (6.095m wide); Right of Carriageway
<b>Existing Land Use</b>	Old Byron Bay Hospital (dis-used)
<b>Approved Land Use</b>	Byron Community Hub
<b>Planning Instrument</b>	Byron Local Environmental Plan 2014
<b>Land Zoning</b>	R2 – Low Density Residential Identified on Additional Permitted Use Map
<b>Building Height</b>	9m
<b>Floor Space Ratio</b>	0.5:1
<b>Integrated Referrals</b>	Nil
<b>Other Referrals</b>	SEPP (Transport and Infrastructure) 2021 <b>Comment:</b> The original application was referred to both the NSW RMS and Essential Energy. The current S4.55 application relates to ‘refinements’ in the project design and does not significantly impact on the assessment responsibilities of these entities.

### 1.2 Purpose

Newton Denny Chapelle has been engaged to lodge a Section 4.55(1A) Application to modify development consent notice DA 10.2021.370.2 which relates to the conversion of the former Byron Hospital in Shirley Street into the Byron Community Hub.

This report provides an outline of the sought amendment to the approved development, and its consistency with applicable statutory and planning policies of all tiers of government which relate to the site and the approved form of development.

### 1.3 Background

**DA 10.2021.370.1** related to the redevelopment of the former Byron Hospital to create a Community Hub. Development approval was granted in November 2022 and provided for the following:

*“Community Hub including Community Facility, Office Premises, Light Industry and Restaurant or Cafe Components and Education Facility”.*

The approved development provided for a range of alterations and additions to facilitate the adaptive reuse of the former hospital for the proposed Community Hub.

**DA 10.2021.370.2** was subsequently approved in July 2023. This approval amended the original consent to incorporate a range of adjustments to the design plans for the project. These adjustments were largely ‘refinements’ to the design rather than significant alterations to the design or intend use of the building.

The current modification to DA 10.2012.370. 2 seeks to achieve the following:

- Remove the approved commercial kitchen and provide additional general tenancy space within this area (Tenancy 9);
- Provide for health services as part of the tenant mix (Tenancies 5A, 5B, 5C & 5D);
- Extend the hours of operation; and
- Provide for two business identification signs.

### 1.4 Further Information

Should Council require any additional information or wish to clarify any technical matter raised by this proposal or submissions made to same, Council is requested to consult with **Ms Karina Vikstrom** on (02) 6622 1011 or [kvikstrom@ndc.com.au](mailto:kvikstrom@ndc.com.au) prior to determination of this application.

## 2. Proposed Amendments

### 2.1 Introduction

This section of the report provides a general description of the proposed changes to the development consent relating to the approved development. This section of the report also provides an explanation concerning the reasons for the sought changes.

### 2.2 Proposed Modifications

#### Changes to Approved Land Uses

This Section 4.55(1A) modification application seeks to change the land uses permitted on the site as follows:

- To remove the commercial kitchen (approved as a light industrial use) and replace this use with general community facility / office uses. This amendment relates to tenancy 9; and
- To change the approved uses for tenancies 5A, 5B, 5C & 5D include health services in addition to the general community facility / office uses.

The changes are the result of a review of operations by the key managing tenant for the facility and trigger the following changes to the consent:

- Description of Development; and
- Condition 1 - Approved plans and supporting documents.

#### Changes to Approved Plans

This application seeks to complete a number of changes to the approved fit out comprising the following:

No.	Description of variation from Development Consent	Reasoning/Justification	Drawing Sheet
1	Change of use from commercial kitchen to Tenancy 9	As per client advice	DA-002 DA-100
2	Removal of terrace around Tenancy 12	As per client advice	DA-100 DA-200 DA-211
3	Change sliding door to window in Tenancy 12	As per client advice. No external terrace on tenancy (hence no requirement for door).	DA-100 DA-200 DA-211
4	Roof Adjusted around Tenancy 12	As per client advice. No external terrace on tenancy leading to consequential adjustments to appearance of building.	DA-101 DA-200 DA-211
5	Existing corrugated cladding to be replaced with Rendered Greenboard	Cladding Replaced due to corrosion to existing cladding	DA-200 DA-210 DA-211
6	Business identification Signage – Wordsworth Street	As per client instruction	DA-100, DA-200, DA-210

7	Business identification Signage – Shirley Street	As per client instruction	DA-100, DA-200, DA-210, DA-211
---	--------------------------------------------------	---------------------------	-----------------------------------------

### **Changes to Hours of Operation**

The current proposal seeks to extend the hours of operation for the café as follows:

Approved	Proposed
<b>Hours of Operation</b> The hours of operation are limited to the following: <ul style="list-style-type: none"> <li>The Community Hub (including the proposed café and commercial kitchen) <ul style="list-style-type: none"> <li>- Monday to Friday: 8am – 6pm</li> <li>- Saturday: 8am – 12 noon</li> <li>- Sunday &amp; Public Holidays: Closed</li> </ul> </li> </ul>	<b>Hours of Operation</b> The hours of operation are limited to the following: <ul style="list-style-type: none"> <li>The Community Hub (including the proposed café) <ul style="list-style-type: none"> <li>- Monday to Friday: 8am – <b>10pm</b></li> <li>- Saturday &amp; Sunday: 8am – <b>9pm</b></li> <li>- Public Holidays: Closed</li> </ul> </li> </ul>
Deliveries and use of the loading dock will be limited to Monday – Friday within the hours of 7am and 6pm.	(refer below)
<ul style="list-style-type: none"> <li>Tenancy 1 (comprising the education facility) <ul style="list-style-type: none"> <li>- Monday to Friday: 8am – 6pm</li> <li>- Saturday: Closed</li> <li>- Sunday &amp; Public Holidays: Closed</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Tenancy 1 (comprising the education facility) <ul style="list-style-type: none"> <li>- Monday to Friday: 8am – <b>9pm</b></li> <li>- Saturday: Closed</li> <li>- Sunday &amp; Public Holidays: Closed</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>Loading Dock <ul style="list-style-type: none"> <li>- Monday to Friday, from 8am to 6pm.</li> <li>- Saturday from 8am to 12 noon</li> </ul> </li> </ul> No operations to take place on Sundays or Public Holidays.	<ul style="list-style-type: none"> <li>Loading Dock <ul style="list-style-type: none"> <li>- Monday – Friday: <b>7am</b> and 6pm.</li> <li>- Saturday &amp; Sunday: 8am – 12 noon</li> <li>- Public Holidays: Closed.</li> </ul> </li> </ul>

This requires changes to the following conditions in the consent:

- Condition 1 - Approved plans and supporting documents.
- Condition 84 – Hours of Operation

Council may also wish to amend all other references within the consent referencing the Acoustic Assessment to ensure that the most recent version is identified (namely Rev C). This will necessitate changes to Conditions 7, 8, 9, 38 & 71.



## 2.3 Proposed Changes to Consent Conditions

The proposed modification seeks consent to amend a number of conditions. These conditions are outlined below together with the rationale for the proposed changes. Changes to the condition wording are identified in red font.

### DESCRIPTION OF DEVELOPMENT

#### Existing Description

Property description	LOT: 1 DP: 847910 <b>10-12 Shirley Street BYRON BAY</b>
Development	Community Hub including Community Facility, Office Premises, Light Industry and Restaurant or Cafe Components and Education Facility
Determination	<b>Consent granted</b> Subject to the attached schedule of conditions
Date determined	25 November 2022
Consent to operate from	29 November 2022
Consent to lapse on	29 November 2027

#### Proposed Description

Property description	LOT: 1 DP: 847910 <b>10-12 Shirley Street BYRON BAY</b>
Development	Community Hub including Community Facility, Office Premises, <del>Light Industry</del> , <b>Health Services Facility (Units 5A – 5D)</b> and Restaurant or Cafe Components and Education Facility
Determination	<b>Consent granted</b> Subject to the attached schedule of conditions
Date determined	25 November 2022
Consent to operate from	29 November 2022
Consent to lapse on	29 November 2027

#### Rationale

The removal of the commercial kitchen from the development results in the light industrial definition no longer being relevant to the proposal.

The proposed inclusion of health services facility into the development mix requires the addition of this land use into the description of the development.

## **CONDITION 1 – APPROVED PLANS AND SUPPORTING DOCUMENTS**

### **Existing Condition 1**

#### **1. Approved plans and supporting documentation**

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn by	Dated
21010-000	B	Cover Page	BKA Architecture	21/3/2023
21010-002	B	Demolition Plan	BKA Architecture	21/3/2023
21010-100	E	Proposed Ground Floor Plan	BKA Architecture	21/3/2023
21010-101	B	Proposed Roof Plan	BKA Architecture	21/3/2023
21010-200	B	Elevations	BKA Architecture	21/3/2023
21010-210	C	Elevations	BKA Architecture	21/3/2023
21010-211	B	Elevations	BKA Architecture	21/3/2023
21010-300	B	Section	BKA Architecture	21/3/2023
21010-500	B	Site Management Plan	BKA Architecture	21/3/2023
A802	01	External Finishes Schedule	BKA Architecture	28/6/2021
-	-	Old Byron Hospital Landscape Works Document Set	Plummer and Smith	21/12/2022
230-000	B	Cover Page	Plummer and Smith	21/12/2022
230-400	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-401	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-402	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-403	A	Hardworks Plan	Plummer and Smith	20/01/2023
230-500	B	Planting Plan	Plummer and Smith	21/12/2022
230-501	B	Planting Plan	Plummer and Smith	21/12/2022
230-502	B	Planting Plan	Plummer and Smith	21/12/2022
230-503	A	Planting Plan	Plummer and Smith	20/01/2023
230-900	B	Details	Plummer and Smith	21/12/2022
230-901	B	Details	Plummer and Smith	21/12/2022
230-902	B	Details	Plummer and Smith	21/12/2022
230-903	B	Details	Plummer and Smith	21/12/2022
230-904	B	Details	Plummer and Smith	21/12/2022
-	-	Plant Schedule	Plummer and Smith	-
J7463 – SK10	A	Concept Design Scenario 1	Planit Consulting	17/10/2022
2935 – CP01	A	Concept Plan	Byron Shire Council	25/02/2022
21GCA0014 R01_2	-	Environmental Noise Assessment Report	TTM	25/06/2021
ENV2163310	-	Asbestos Management Plan	ENV Solutions	16/12/2019
216310	-	Figure 1 – Site Suitability	ENV Solutions	11/01/2022

19286	-	Hazmat Removal and Pre-Remediation Mould Inspection Report	ENV Solutions	22/10/2021
P221_011-3 (BCA) JR	-	BCA Design Assessment Report	Design Confidence	15/02/2023
2021-1054 FER	A-	Fire Engineering Report	Dolfin Fire Engineering Consultants Pty Ltd	31/5/2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

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.

### Proposed Condition 1

#### 1. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn by	Dated
21010-000	B	Cover Page	BKA Architecture	21/3/2023
21010-002	C	Demolition Plan	BKA Architecture	22/12/2023
21010-100	F	Proposed Ground Floor Plan	BKA Architecture	22/12/2023
21010-101	C	Proposed Roof Plan	BKA Architecture	22/12/2023
21010-200	C	Elevations	BKA Architecture	22/12/2023
21010-210	D	Elevations	BKA Architecture	22/12/2023
21010-211	C	Elevations	BKA Architecture	22/12/2023
21010-300	B	Section	BKA Architecture	21/3/2023
21010-500	B	Site Management Plan	BKA Architecture	21/3/2023
A802	01	External Finishes Schedule	BKA Architecture	28/6/2021
-	-	Old Byron Hospital Landscape Works Document Set	Plummer and Smith	21/12/2022
230-000	B	Cover Page	Plummer and Smith	21/12/2022
230-400	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-401	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-402	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-403	A	Hardworks Plan	Plummer and Smith	20/01/2023
230-500	B	Planting Plan	Plummer and Smith	21/12/2022
230-501	B	Planting Plan	Plummer and Smith	21/12/2022
230-502	B	Planting Plan	Plummer and Smith	21/12/2022

230-503	A	Planting Plan	Plummer and Smith	20/01/2023
230-900	B	Details	Plummer and Smith	21/12/2022
230-901	B	Details	Plummer and Smith	21/12/2022
230-902	B	Details	Plummer and Smith	21/12/2022
230-903	B	Details	Plummer and Smith	21/12/2022
230-904	B	Details	Plummer and Smith	21/12/2022
-	-	Plant Schedule	Plummer and Smith	-
J7463 – SK10	A	Concept Design Scenario 1	Planit Consulting	17/10/2022
2935 – CP01	A	Concept Plan	Byron Shire Council	25/02/2022
21GCA0014 R01_3	-	Environmental Noise Assessment Report	TTM	05/12/2023
ENV216331 0	-	Asbestos Management Plan	ENV Solutions	16/12/2019
216310	-	Figure 1 – Site Suitability	ENV Solutions	11/01/2022
19286	-	Hazmat Removal and Pre- Remediation Mould Inspection Report	ENV Solutions	22/10/2021
P221_011-3 (BCA) JR	-	BCA Design Assessment Report	Design Confidence	15/02/2023
2021-1054 FER	A-	Fire Engineering Report	Dolfin Fire Engineering Consultants Pty Ltd	31/5/2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

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.

### Rationale

To accurately describe the amended proposal.

### **CONDITION 84 – HOURS OF OPERATION**

#### Existing Condition 84

#### **4. Hours of operation**

The hours of operation are limited to the following:

- The Community Hub (including the proposed café and commercial kitchen)
  - Monday to Friday: 8am – 6pm
  - Saturday: 8am – 12 noon

- Sunday & Public Holidays: Closed

Deliveries and use of the loading dock will be limited to Monday – Friday within the hours of 7am and 6pm.

- Tenancy 1 (comprising the education facility)

- Monday to Friday: 8am – 6pm
- Saturday: Closed
- Sunday & Public Holidays: Closed

No operations to take place on Sundays or Public Holidays.

- Loading Dock

- Monday to Friday, from 8am to 6pm.
- Saturday from 8am to 12 noon
- No operations to take place on Sundays or Public Holidays.

#### Proposed Condition 84

#### 4. Hours of operation

The hours of operation are limited to the following:

- The Community Hub (including the proposed café ~~and commercial kitchen~~)

- Monday to Friday: 8am – 10pm
- Saturday & Sunday: 8am – 9pm
- ~~Sunday &~~ Public Holidays: Closed

~~Deliveries and use of the loading dock will be limited to Monday – Friday within the hours of 7am and 6pm.~~

- Tenancy 1 (comprising the education facility)

- Monday to Friday: 8am – 9pm
- Saturday: Closed
- Sunday & Public Holidays: Closed

~~No operations to take place on Sundays or Public Holidays.~~

- Loading Dock

- Monday to Friday: 7am to 6pm.
- Saturday & Sunday: 8am to 12 noon
- No operations to take place on ~~Sundays or~~ Public Holidays.

## Rationale

To accurately describe the proposed revised operating hours.

### **CONDITIONS 7,8, 9 & 71 – OTHER CONDITIONS REFERENCING ACOUSTIC REPORT**

Council may also wish to amend all other references within the consent referencing the Acoustic Assessment to ensure that the most recent version is identified (namely Rev 3). This will necessitate changes to the report references within Conditions 7, 8, 9, 38 & 71 as follows:

#### **Current reference:**

Environmental Noise Assessment Report 21GCA0014 R01\_2 prepared by TTM Dated 25/06/2021

#### **Proposed Reference**

Environmental Noise Assessment Report 21GCA0014 R01\_3 prepared by TTM Dated 05/12/2023

## **3. Planning Assessment**

### **3.1 Introduction**

Section 3 documents the range of planning controls and Council policies applicable to the application pursuant to Section 4.15 and Section 4.55 of the Act and tabulates the effect of these instruments on the proposed S4.55 application. This assessment will have particular regard to the following documents:

- S4.55(1A) and S4.15 of the Environmental Planning and Assessment Act 1979;
- Byron Local Environmental Plan 2014;
- State Environmental Planning Policy (Transport and Infrastructure 2021); and
- Byron Development Control Plan.

### **3.2 Section 4.55(1A) EP&A Act 1979**

#### ***4.55(1A) Modifications involving minimal environmental impact***

***A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:***

***(a) it is satisfied that the proposed modification is of minimal environmental impact, and***

**Comment:** The two potential impacts that have been identified as potentially requiring assessment during the preparation of this report are:

- Noise impacts associated with the extension in operating hours of the premises; and
- Carparking impacts associated with the change in approved uses on the site.

The following comments are made with respect to these issues.

#### A. Potential noise impacts associated with extended operating hours

TTM have provided an updated Noise Impact Assessment to support the revised proposal. A copy of this assessment is provided at **Attachment 2**. In summary, the assessment confirms that *“provided the recommendations presented in Section 8 (of the Noise Report) are implemented, the development is predicted to comply with the noise requirements outlined in Section 5 (of the Noise Report)”*. These recommendations include:

- The construction of an acoustic barrier (as required in the original consent);
- Implementation of the following management strategies to minimise noise annoyance:
  - Alfresco dining at the café is to occur between the hours of 7am and 10pm only.
  - Deliveries and use of the loading dock is to occur between the hours of 7am and 6pm.
  - Any grates or other protective covers in the entrance driveways must be rigidly fixed in position to eliminate movement and be maintained.
- A mechanical plant noise assessment be completed once the equipment has been selected (as required by the original consent).

In light of this assessment, it is concluded that minimal environmental impacts will arise from the change in operating hours.

#### B. Potential parking impacts associated with revised land uses

**Comment:** The Traffic Impact Assessment provided as part of the original Development Application provided the following assessment with respect to parking demand.

Table 3.3: Parking Supply Requirement

Land Use	Council DCP Requirement	Extent	Requirement
Tenancy 1 (Educational Establishment)	1 space per 5 students plus 1 space per 2 staff members	100 Students 20 staff	20 10
Café (Tenancy 2)	1 per 20m <sup>2</sup> of GFA in Business and Industrial Zones	98m <sup>2</sup> GFA	5
Commercial Kitchen (Tenancy 9)		78m <sup>2</sup> GFA	4
Office Uses (Tenancies 3-8, 10, 10A-10H, 10J, 11)	1 space per 20m <sup>2</sup> GFA	1,009m <sup>2</sup> GFA	51
<b>Total</b>			<b>90</b>

As indicated, the parking requirement for the Café (Tenancy 2), Commercial Kitchen (Tenancy 9) and Office Uses (Tenancies 3-8, 10, 10A-10H, 10J, 11) were all calculated at the rate of 1 space per 20m<sup>2</sup> of GFA. As such, no additional parking demand is expected to arise from converting Tenancy 9 to community facility and / or office uses to match the other premises in the Community Hub.

There is no parking rate specified in Council's DCP for 'health services facilities'. However, 'medical centres' are also calculated at the rate of 1 space / 20m<sup>2</sup> of GFA. Accordingly, it is considered reasonable to assume that adequate parking will be available to enable the use of tenancies 5A, 5B, 5C & 5D for health services and that minimal (if any) impacts will arise.

No additional environmental impacts (over and above those considered during the original assessment) have been identified during the preparation of this application and the proposed modification is therefore considered to be of minimal environmental impact.

***(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and***

**Comment:** The proposed amendment is considered to be substantially the same development to which consent was originally issued based on the following grounds;

- The proposal still relates to the proposal to adaptively reuse the former Byron Hospital for the purpose of the Byron Community Hub.
- No changes are proposed to the gross floor area or carparking requirements to service the development;
- The removal of the commercial kitchen and the inclusion of a small number of rooms accommodating health services represent a 'refinement' of the land use mix within the facility. It is reasonable to conclude, however, that the development remains a 'community hub' albeit with a slightly adjusted land use mix.
- The total GFA of the facility is approximately 2109m<sup>2</sup> of which the proposed change in land uses relates to only 142m<sup>2</sup>. This is a minor proportion of the development footprint as a whole.
- The changes to the proposed building layout / form in the vicinity of Units 9 & 12 are minor in nature.
- The increase in operating hours (particularly for the café) have been supported by an updated noise impact assessment.
- The inclusion of two business identification signs represents a reasonable addition to the overall development of the site as a community hub.
- The proposed amendment does not significantly modify the development's quantitative or qualitative consistency with relevant development design controls under the Byron Local Environmental Plan 2014 or Byron Development Control Plan.

***(c) it has notified the application in accordance with:***

***(i) the regulations, if the regulations so require, or***

***(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

**Comment:** Any required community consultation will be conducted by Council as part of the processing and assessment of this application.



***(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.***

**Comment:** Any submissions received concerning the proposal is to be considered by Council as part of its assessment of the application.

### 3.3 Section 4.15 Evaluation

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of this application.

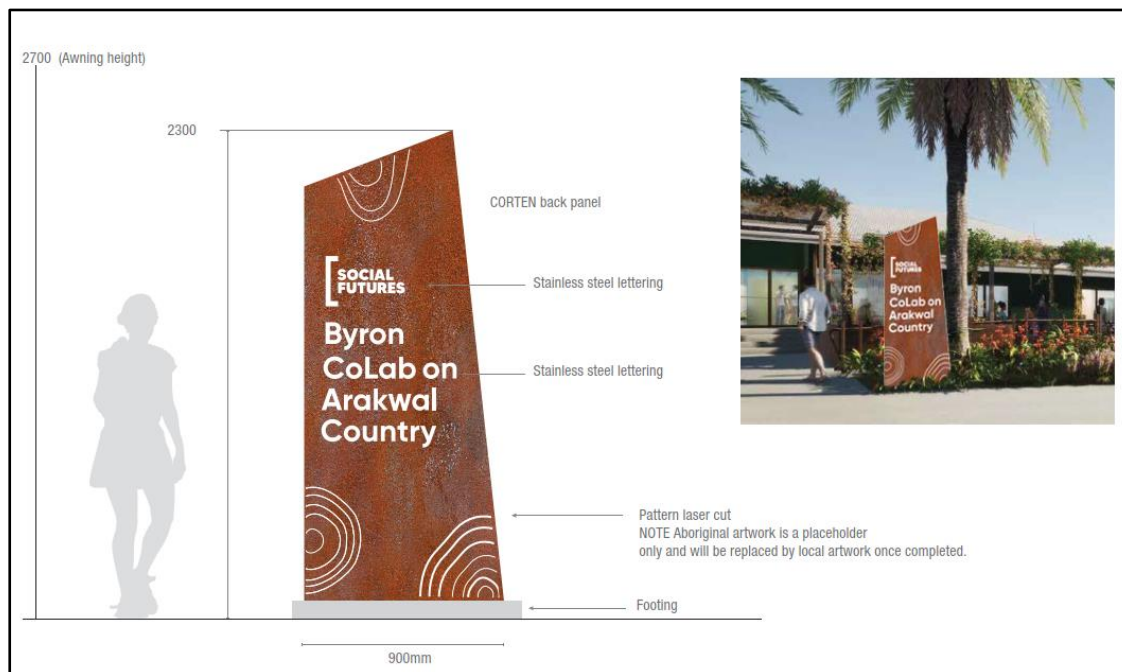
**Table 2: Section 4.15 Matters for Consideration**

S4.15 Matters for consideration	Response
(a) the provisions of: (i) any environmental planning instrument;	Refer to <b>Section 3.5</b> .
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved);	No draft EPI is considered to adversely impact the application.
(iii) any development control plan;	The proposed amendment does not significantly modify the original assessment of the project as completed under the Byron Development Control Plan. As indicated above, the revised proposal provides for adequate carparking to accommodate the land use mix.  Section 3.3 provides an assessment of the proposed business identification signage relative to the DCP (and also application provisions of SEPP (Industry & Employment) 2021). As indicated, the signage represents a reasonable inclusion into the proposal given the context of the project as a whole.
(iiia) and planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4;	The subject land is not known to be subject to a planning agreement.
(iv) the regulations (to the extent that they prescribe matters for the purpose of this paragraph)	-
1 Demolition of Structures	This modification does not result in any changes to the existing approved demolition to be undertaken as part of this consent.
2 Land subject to a Subdivision Order	N/A
3 Dark Sky Planning Guideline	N/A
4 & 5 Application for a manor house or multi dwelling housing (terraces).	N/A
6 Residential building in Penrith City Centre	N/A
7 Wagga Wagga Special Activation Precinct	N/A

S4.15 Matters for consideration		Response
	Master Plan	
7A	Moree Plains Special Activation Precinct Master Plan	N/A
8	Subsections (7) and (7A) do not apply to a development application made on or after 30 September 2022	N/A
(v) (Repealed)		
(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;		<p>The environmental, social and economic impacts of the approved development was assessed in detail as part of Council's consideration of Development Application 10.2021.370.2 (as amended). As indicated above, both noise and parking have been considered in the preparation of the current application.</p> <p>The proposed change in the mix of land uses within the facility is the result of a refinement of the proposal in consultation with the facility manager, Social Futures.</p> <p>The proposal relates to the adaptive reuse of an existing building. The internal layout has been developed in response to the existing building configuration, user requirements moving forward and achieving a compliant building form in a cost effective manner. It is considered that the proposed use represents a suitable addition to the locality and will be consistent with the character of the locality and site context.</p> <p>The changes proposed as part of the current application are such that the proposal's environmental and economic impacts remain consistent with approved development as originally assessed.</p>
(c) The suitability of the site for the development:		No adverse impacts have been identified during the preparation of the current S4.55 application which would indicate that the site is not suitable for the development.
(d) Any submissions made in accordance with this Act or the regulations;		Any submissions received concerning the proposal is to be considered by Council as part of its assessment of the application.
(e) The public interest.		Given the nature of the proposed modification, the modification is not considered to be antipathetic to the public interest.

### 3.4 Proposed Business Identification Signage

**Comment:** As instructed by our client, the current application incorporates two new business identification signs for the Community Hub. The signs will be identical – with one located on each of the two street frontages. The proposed signage is illustrated in the following plate.



**Plate 1: Proposed Business Identification Signage**

The following assessment is provided relative to the Byron DCP and SEPP (Industry & Employment) 2021.

#### A. SEPP (Industry & Employment) 2021

Section 3.6 of the SEPP provides the following assessment criteria for signage within the State of NSW.

##### **3.6 Granting of consent to signage**

*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—*

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

The following assessment is provided against the Heads of Consideration within Section 3.1(1)(a):

##### **3.1 Aims, objectives etc**

*(1) This Chapter aims—*

- (a) to ensure that signage (including advertising)—*
  - (i) is compatible with the desired amenity and visual character of an area, and*
  - (ii) provides effective communication in suitable locations, and*
  - (iii) is of high quality design and finish, and...*

**Comment:** The proposed business identification signage needs to be considered in the context of the broader scale of the development. In this regard, the signage relates to the adaptive reuse of the former Byron Hospital for the purpose of the Byron Community Hub. Given the nature of the use and the scale of the existing buildings on the land, the proposed signage is considered reasonable for the following reasons:

- a. The Shirley Street frontage of the site is approximately 60m long, with the building occupying approximately 37m of that frontage. The Wordsworth Street frontage is approximately 105m, with a building length in the order of 100m. In this context, the provision of a single business identification sign on each frontage is considered to be a reasonable approach for the project.
- b. The signage relates only to the name and location of the facility, with local Aboriginal artwork incorporated as an integral component of the signage. The signage is considered to be not inconsistent with the desired amenity and visual character of the development and of the area as a whole.
- c. The signage is of a high quality and bespoke finish.

The following comments are provided against the provision of Schedule 5.

#### **1 Character of the area**

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

**Comment:** As indicated above, the site represents a relatively large building within the streetscape. The proposed signage is consistent with the scale of the building and will not adversely impact on the future character of the locality.

#### **2 Special areas**

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

**Comment:** The site is located within the Shirley Street Conservation Precinct. However, the proposed signage needs to be considered having regard to the scale of the building and the previous and approved use of the structure. In this context, it is considered that the proposed signage represents a suitable addition to the locality and will not adversely impact on the values of the heritage precinct.

#### **3 Views and vistas**

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

**Comment:** The signage will not impact on significant views or vistas.

#### **4 Streetscape, setting or landscape**

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

**Comment:** As indicated above, the site represents a relatively large building within the streetscape. The proposed signage is consistent with the scale of the building and will not adversely impact on the future character of the locality. The signage structure has a maximum height of 2.3m which is well below the awning height of 2.7m and overall roof height of 6.43m. The signage is also significantly lower than the established tree canopy in the locality. As such, the provision of one business identification on each of the street frontages is considered an appropriate addition to the location which will not result in visual intrusion, clutter or unsightliness.

## 5 Site and building

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

**Comment:** Refer above.

## 6 Associated devices and logos with advertisements and advertising structures

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

**Comment:** N/a. Proposal does not comprise an advertisement or advertising structure.

## 7 Illumination

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

**Comment:** N/a. No illumination is proposed.

## 8 Safety

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?
- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

**Comment:** No safety concerns have been identified in the preparation of this application.

## B. Byron Development Control Plan – Chapter B10

**Comment:** The subject site is located within the Shirley Street Heritage Conservation Area and is also subject to a residential zone under the framework of the *Byron Local Environmental Plan 2014*. As such, the DCP provides a range of specific design controls restricting signage within areas subject to such controls. The planning objectives for these controls are reproduced below;

### **B10.3.1 Signage on or in the Vicinity of Heritage Items or Heritage Conservation Areas**

#### **Objectives**

1. To ensure that the design, form, location and size of signage does not detract from the character or heritage significance of heritage items and heritage conservation areas.
2. To ensure that new signage is visually sympathetic and where possible contributes to the heritage character of the streetscape.

### **B10.3.2 Signage in Residential, Village and Rural Zones**

#### **Objectives**

1. To enable legitimate, approved developments and land uses in residential, village and rural zones to be identified appropriately.
2. To ensure that the amenity, landscape, streetscape and character of residential, village and rural zones are not adversely affected by signage.
3. To minimise potential for visual roadside clutter.

The prescriptive contained within the DCP under both of these provisions do not neatly envisage signage relating to a building or development of this scale. As such, the proposal does not comply with the prescriptive measures documented in the DCP for signage in this locality.

However, as outlined in the comments against SEPP (Industry and Employment) 2021, the signage is considered to appropriate to the site given the scale and length of the long-established building form on the site. The proposal provides for a consolidation of business identification signage for the community hub in a manner which is attractive, consistent with the approved building & landscape design and compatible with the branding of the community hub moving forward. Aboriginal artwork to be incorporated into the corten structure will provide a unique and culturally appropriate sense of place for the development. As such, the signage is considered appropriate notwithstanding the inconsistencies with the DCP.

## **3.5 Planning Permissibility**

**Comment:** As established via the assessment of the original application, the use of the land as originally proposed was permissible with development consent on the land via the provision of the Byron Local Environmental Plan 2012. In addition:

- The building remains a single storey structure which is compliant with the 9m building height control specified in Clause 4.3 – Height of Buildings;
- The minor changes to the external design are such that they are not expected to adversely impact on the heritage values of the Shirley Street Conservation Area; and
- The proposal does not result in changes to the approved Gross Floor Area (GFA), with the project achieving a Floor Space Ratio (FSR) of 0.48:1 which is compliant with the 0.5:1 FSR permissible on the site.

With the addition of 4 sub tenancies providing health services, an assessment has been made with respect to the permissibility of this aspect of the proposal. These uses fit within the planning definition of a ‘medical centre’ which is a form of ‘health services facility’. Copies of these definitions are provided below:

**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

**health services facility** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

Health Services Facilities are permissible with development consent on the land by virtue of the provisions of Chapter 2, Part 2.3 Division 10 of State Environmental Planning Policy (Transport and Infrastructure) 2021. In this regard clause 2.60(1) advises that development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone. The R2 Low Density Residential Zone is identified as a 'prescribed zone' via clause 2.59 of the SEPP.

The current application is considered to be not inconsistent with the following State Environmental Planning Policies which apply to the project: SEPP (Industry and Employment) 2021; SEPP (Planning Systems) 2021; SEPP (Resilience and Hazards) 2021; and SEPP (Transport and Infrastructure) 2021.

## 4. Conclusion

This Section 4.55(1A) report successfully addresses the issues relevant to Council's assessment of the proposed amendments to Development Consent Notice 10.2021.370.2.

The details provided herein address the issues relevant to Council's assessment of this Section 4.55(1A) Application to amend the hours of operations and land use mix within the development pursuant to Clause 98 of the Environmental Planning & Assessment Regulations (2021).

Council can readily conclude the development, as proposed to be modified, is substantially the same as that for which consent was originally granted.



---

**KARINA VIKSTROM**  
Town Planner. BTP.



---

**DAMIAN CHAPELLE**  
Town Planner. BTP, CPP