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«Name»

23 February 2021

**Re: Byron Shire Council ats Onvia Pty Ltd - Land and Environment Court Case
Number 2021/0044517**
Ppty: 94 Kingsford Drive, Brunswick Heads

We are the Solicitors for Byron Shire Council (“**the Council**”) in the above proceedings commenced by Oniva Pty Ltd in Class 1 of the Land and Environment Court’s jurisdiction appealing against the Council’s deemed refusal of Development Application No. 10.2020.571.1 seeking consent for the construction of a two storey mixed use development containing ground floor retail and office premises (comprising of a general store, café and co-working space), 8 residential apartments, 39 boarding rooms with ancillary communal facilities and at-grade parking for 51 cars, 9 motorcycles and 15 bicycles and associated landscaping and site works on the land at 94 Kingsford Drive, Brunswick Heads (“**the development application**”).

On 5 November 2020, the development application was lodged with Council.

The development application was notified by the Council to adjoining and nearby owners and occupiers from 19 November 2020 and 9 December 2020.

On 16 February 2021, the Applicant commenced the above proceedings in Class 1 of the Land and Environment Court’s jurisdiction appealing against the Council’s deemed refusal of the development application.

We are instructed to defend the Council’s deemed refusal of the development application.

The proceedings are now listed for a conciliation conference pursuant to section 34 of the *Land and Environment Court Act 1979* on **15 March 2021**. Depending on the status of the pandemic that time, the conciliation conference will either be carried out in person or remotely via Microsoft Teams.

We note that you made a submission to the Council in relation to the development application.

Pursuant to the Court’s “Conciliation Conference Policy” dated 27 March 2017, up to 6 residents who objected to the development application would ordinarily have been given the opportunity to inform the Court orally of their concerns in relation to the proposed development during the site inspection at the commencement of the conciliation conference. Residents would not have been permitted to attend the remainder of the conciliation conference because the conference is strictly between the parties.

However, the Court’s “COVID-19 Pandemic Arrangements Policy” provides that conciliation conferences may be carried out remotely and also temporarily suspends the operation of the “Conciliation Conference Policy” as it applies to the participation of residents in conciliation conferences. In particular, the “COVID-19 Pandemic Arrangements Policy” states as follows in this regard:

Partners
J H Marsden OAM
J B Adam
A J Seton
D R Baird
P J Crittenden
T C Reeve
J Bonura
N M Youssef
J R Thornton
A L Johnson
D Mosca
R Lachman
B Wong
S L Ramsden
B M Balasubramanian
K A Wolthers
W D Thomas
Senior Associates
P D Hudson
T M Danjoux
J D Alim
K A Buttriss
A C Gordon
D G Friend
V R Chandra
A Kumar
E F Barker
J Corradini-Bird
K A Cartisano
Associates
J A McCulllan
A N Deo
C R Walsh
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S A Kumar
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Ppty: **94 Kingsford Drive, Brunswick Heads**

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"46. The Court's [Conciliation Conference] Policy, stating that a maximum of six persons objecting to a development proposal should provide oral evidence on site, is temporarily suspended. Instead of giving oral evidence at the commencement of the [conciliation conference], objectors' evidence can either be reduced to writing and supplemented with any photographic evidence that would assist the Court to understand their concerns or be given orally by telephone, AVL or MS Teams."

Due to the operation of the "COVID-19 Pandemic Arrangements Policy", any resident wishing to inform the Court of their concerns with the development application will be required to either prepare a written submission (comprising either your original submission to Council or a new submission) or register to speak at the conciliation conference via telephone.

Please note that a maximum of 6 residents will be permitted to address the Court via telephone and that preference will be given to those residents directly affected by the proposed development.

Should you wish to make either a written or oral submission at the conciliation conference, please contact Ms Alicia Foley of our Campbelltown office (afoley@marsdens.net.au or (02) 4640 3618) with a copy of your written submission or to register your interest in speaking by no later than **Tuesday 9 March 2021**.

We will thereafter finalise the list of speakers and be in contact with residents who have registered to confirm whether they will be permitted to address the conciliation conference via telephone.

Should you have any queries in relation to the above, please do not hesitate to contact Alicia Foley at our Campbelltown office.

Yours faithfully

MARSDENS LAW GROUP



JISELLA CORRADINI-BIRD
Senior Associate

A.J. SETON

Partner

Accredited Specialist Local Govt. & Planning

Due to the fast evolving situation with Covid-19 and the challenges this has created we have implemented processes to ensure uninterrupted service delivery during these times. In order to ensure our ability to action all matters promptly our office requests that all correspondence and documents be sent to our office electronically if possible.