

**A. Delete Conditions 65 Restricted Hours of Operation and
Insert the following conditions into the Notice of Determination in
appropriate order:**

4A Restricted Hours of operation (Reviewable Condition)

The permitted hours of operation are:

7:00am to 12:00am – Monday to Saturday.

8:00am to 10:00pm – Sunday & Public Holidays.

This is a 'Reviewable Condition' pursuant to Section 80A(10B) & 80A(10E)(a) of the *Environmental Planning and Assessment Act 1979*. This Condition will be subject to a review by Byron Shire Council (the Consent Authority) when a noise related complaint or complaints are established to Council's satisfaction.

The condition may be varied following such a review in accordance with the *Environmental Planning and Assessment Regulation 2021*. Byron Shire Council must give the operator of the development subject to this condition not less than fourteen (14) days written notice that a review is to be carried out under this condition and must consider any submission the operator may make.

43A Installation of an Acoustic Barrier

An acoustic barrier is to be installed which is located, designed, and constructed in compliance with the recommendations of the submitted acoustic report ***"Noise Assessment – Change of Operating Hours – Day Spa and Café, 35 – 37 Burringbar Street, Mullumbimby"*** ***"Ref:18364_Change of Operating Hours 5.03.24.docx"***, authored by ***Greg Alderson Associates, dated 05.03.2024"***

43B Noise Limiter

A noise limiter with password control is to be installed on the sound system connected to the external speakers located in the pool area. The noise limiter is to be calibrated so that the sound power level emitted from the outdoor speaker system does not exceed 65 dB(A). Or a sound power level required by Council, which ensures compliance with the approved noise emission criteria.

59A Noise emission criteria

- The noise level emitted from the development shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) by more than 5dB(A) between the hours of 7:00am and 10:00 pm.

Measurement is to be taken from the boundary of the nearest affected residence or commercial property.

- The noise level emitted from the development shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) by more than 3dB(A) between 10.00 pm and 12:00 am. Or 40 dB(A), measured at the exterior of the affected dwelling/s, whichever is the lesser.
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67 **Number of patrons**

A maximum of 24 patrons are permitted within the outdoor spa area after 10:00pm.

68 **Consumption of alcohol**

Alcohol or alcohol containing beverages are not to be consumed within the outdoor pool and spa area.

69 **Toilet facilities**

Access to toilet facilities to be made available to all guests and patrons including cafe patrons of the premises at all times.

B. Modify conditions 26 and 62 to read as follows:

26 **Updated Certificate of Compliance – s307 Water Management Act 2000**

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated for **DA10.2016.625.5** in accordance with Byron Shire Council and Rous County Council Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

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, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:

<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

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

62 Must not interfere with the amenity of the neighbourhood

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- 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 a tight-fitting vermin-proof lid.
- d) All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Goods deliveries shall be restricted to daytime operating hours.

C. Modify note "Water Payments under the Water Management Act 2000" to read as follows:

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 2022)

Outstanding ET under 10.0216.625.4 and additional ET load under 10.2016.625.5

Water	1.52 ET
Sewer	1.58 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>).

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.