



# Byron Shire Council Development Factsheet

## Making amendments/modifications to development application

This Fact Sheet is provided for the purposes of general advice only. More specific and detailed information may be required depending on the nature of the application.

Section 96 of the Environmental Planning & Assessment Act 1979 deals with modifications of Development Consents. Providing the applicant is able to demonstrate the modification is substantially the same as the previously approved development this option is available. There are different types of modifications and hence a varying level of detail that may need to be provided with any application.

If Council does not agree that the proposed modifications would result in substantially the same development as was originally approved, a new development application will need to be submitted for assessment.

There are 3 different types of Section 96 applications:

### Section 96(1) – Modifications involving minor errors, misdescription, or miscalculation

*There would be no change to the form of the development approved, and notification would not be required.*

**Examples:**

- A change to a condition of consent where Council has made an error;
- Incorrect plan numbers
- Incorrect description

### Section 96(1A) – Modifications involving minimal environmental impact

*– Minor amendments. There is no impact on privacy, height, overshadowing, etc., and notification is generally not required. These will require notification if the original application was notified.*

**Examples:**

- Internal design changes
- Amended landscape plans
- Minor changes to the external façade, roofline, window positions, building finishes, etc.

### Section 96(2) – Other modifications

*– These are all other modifications where environmental impact is possible. These may require notification if the original application was notified.*

**Examples:**

- Amendments to land use, which require further assessment.
- Substantial alterations to larger development, which does not change the development.
- Alteration to the number of lots in a subdivision.
- Carparking generation.

**Modifying a Construction Certificate**

If you have already obtained your Construction Certificate and you seek a Modification of Consent, you will also have to modify your Construction Certificate in accordance with the conditions of Development Consent. For more information regarding this, contact the authority, which issued your original Construction Certificate.

If you have already commenced works and you decide to make changes, you must firstly notify your Principal Certifying Authority (PCA).

It is unlawful to undertake works that are different to your Development Consent. Council has an enforcement policy and you run the risk of receiving a fine, a notice and an order.

**Further information**

For further information on lodging an application to modify a development consent please contact Council's Duty Planner during business hours on 02 6626 7025 to discuss or make an appointment.

Byron Shire Council

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