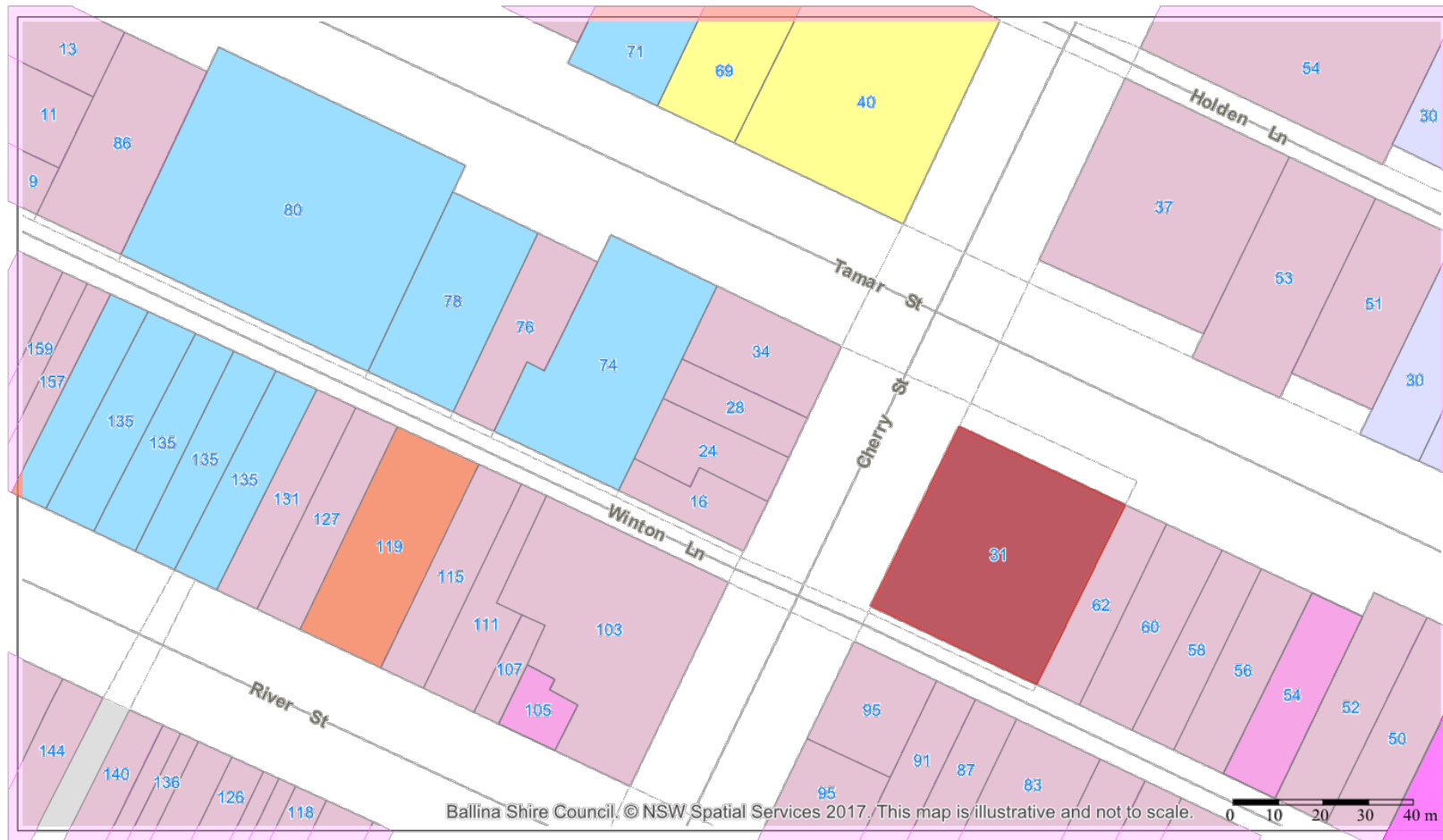


8.1 **DA 2006/148 - Section 96 Application - 31-35 Cherry Street, Ballina.DOC**



Ballina Shire Council  
 40 Cherry Street  
 BALLINA NSW 2478  
  
 PO Box 450  
 BALLINA NSW 2478  
  
 02 6686 4444  
 council@ballina.nsw.gov.au  
 www.ballina.nsw.gov.au



**DA 2006/148 -31-35 Cherry St Ballina Locality Plan**

**ballina shire council**  
 geographical information system

Projection: GDA94 / MGA zone 56  
 Date: 18/07/2017

© Ballina Shire Council © NSW Land & Property Information www.lpi.nsw.gov.au  
 While every care is taken to ensure the accuracy of this product, Ballina Shire Council and the Local / State / Federal Government departments and Non-Government organisations whom supply abstracts, make no representation or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may result from its use of the product being inaccurate or incomplete in any way and for any reason.

## Modification to Consent Application

Lodge Applications at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)  
 mail PO Box 450 Ballina 2478 • dx 27789 • f 02 6681 1375 • e council@ballina.nsw.gov.au  
 t 02 6686 4444 • w ballina.nsw.gov.au • abn 53 929 887 369



Payment is required upon lodgement of the application for processing.

Use this form to apply for a modification to a consent under Section 87 or Section 96/Section 96AA of the Environmental Planning and Assessment Act 1979. Explanatory Notes are attached to assist you in completing this form.

Once completed, you can submit this form together with the required information and fee payment by mail or in person.

If this application form is not completed correctly or is not accompanied by all the necessary information, processing delays may result or the application may be returned to you.

### 1. Applicant Details (all correspondence will be forwarded to this name and address)

It is important that you can be contacted should further information be required. Please provide as much detail as possible.

Title	Mr	First Name	Damian	Surname	Chapelle
Company/Organisation	Newton Denny Chapelle			ABN	18 094 689 845
Postal Address	PO Box 1138				
Suburb/Town	Lismore	State	NSW	Postcode	2480
Phone (daytime)	02 6622 1011	Mobile		Fax	
Email	dchapelle@newtondennychapelle.com.au				
Signature	<i>[Handwritten Signature]</i>			Date	06/02/2017

### 2. Site of Approved Development

These details identify the land where the approved development is to be located

Unit/Street No.	31-35	Street	Cherry Street
Suburb/Town/Locality	Ballina	Postcode	2478
Lot/DP or Lot/Section/DP or Lot/Strata Plan No.	Lot 1 DP 1146004		

### 3. Contact With Council Prior to Lodgement

Have you spoken with Council staff prior to lodging your application?  Yes  No

Was it a:  Pre-lodgement meeting  Counter enquiry  Phone enquiry

If so, who did you speak with?

Office Use Only		
Date Received:	DA/CDC No: 2006/148.4	Parcel No: 1002416
Modification Application Fee: \$ 500.00	Lodgement check completed by (signature) <i>[Signature]</i>	Receipt No: 764161
<input type="checkbox"/> Lodgement Checklist (completed and attached)	<input type="checkbox"/> BLOC	Date: 13/2/2017
<input checked="" type="checkbox"/> PLOC	<input type="checkbox"/> LODG Task added	

**4. Development Approval/Certificate Issued Details**

Development Consent No.	2006/148	Date Approved	15/03/2006
Complying Development Certificate No.		Date Approved	

Briefly describe what the original approval allows (as described under development proposal on the original or previously modified approval)

Undertake the demolition of an existing service station building, ancillary structures, removal of underground fuel storage tanks and associated earthworks (remediation works) and the subsequent erection of a three (3) storey commercial / retail development, associated rooftop car parking spaces, advertising signs and vehicular access off Winton Lane.

**5. Proposed Modification**

What modification are you applying for? Refer to the Explanatory Notes for further information

**Complying Development Certificate**

Section 87

**Development Consent**

- Section 96 (1) - modification involving minor error, misdescription or miscalculation
- Section 96(1A) - modification which Council is of the opinion is of minimal environmental impact
- Section 96 (2) - modification which Council is of the opinion is not of minimal environmental impact
- Section 96AA - modification to a development consent granted by the Land and Environment Court

Briefly describe the modification, the specific conditions of consent to be modified/deleted etc. and any other changes sought.

To permit the payment of Section 94 Contributions in lieu of the supply of accessible car parking spaces.

Have the modifications been clearly indicated on the plans? e.g. coloured, highlighted?  Yes  No

Will the modified development be substantially the same development that was originally approved?  Yes  No

If you cannot satisfy Council that the modifications result in substantially the same development as the development for which consent was originally granted, a new development application will be required to be lodged with Council for assessment.

Please provide evidence that the development will remain substantially the same (if you need to attach documentation, please list documents)

Refer to attached Newton Denny Chapelle correspondence dated 6th February 2017.

Is another construction certificate application required for this modification?  Yes  No

Does this modification change the estimated cost of construction?  
 No  Yes > updated cost of construction

For further information in relation to the updated cost of construction, please refer to Council's Fact Sheet on Estimating Cost of Works for Development & Construction.

Do the modifications relate to works that have been commenced or completed?  
 No  Yes > (Note: a Building Certificate may also be required to be lodged with Council)

**6. Integrated Development**

If the original development application was classified as integrated development and required approval from one or more State Government agencies, please list them in the space below and their respective general terms of approval (as conditioned within the development consent). Note: Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

**7. BASIX**

A new BASIX Certificate is required to be submitted to Council if the original BASIX Certificate is not consistent with the proposed modified development.

Does your development require a new **BASIX certificate**?

- No     Yes    ➤ Please attach a new BASIX certificate and any other documents that are required by the BASIX certificate.

**8. Disclosure of Political Donations and Gifts**

A person who submits a development application to Council is required to disclose the following reportable political donations and gifts (if any) made by any person with a financial interest in the application within the period commencing two years before the application is made and ending when the application is determined:

- All reportable political donations made to any local Councillor of the Council; and
- All gifts made to any local Councillor or employee of the Council.

A reference to a reportable political donation made to a "local Councillor" includes reference to a donation made at the time the person was a candidate for election to the Council.

Significant penalties apply for non-disclosure. For more information and to obtain a political donations and gifts disclosure statement, go to the NSW Government Planning and Environment website [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

Is a disclosure statement to accompany your application?

- No    ➤ in signing this application, I undertake to advise the Council in writing if I become aware of any person with a financial interest in this application who has made a political donation or has given a gift in the period from the date of lodgement of this application and the date of determination
- Yes    ➤ complete the political donations and gifts disclosure statement at [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

**9. Privacy and Copyright Notice**

The completed modification to consent application form and any documents submitted with the application contains personal information, that is being collected in order to assess, process and determine the application under the provisions of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The information will be processed by the Development and Environmental Health Group of Ballina Shire Council and will be made available to public enquiries under the Government Information (Public Access) Act 2009 (GIPA). The information will be stored in Council's electronic document management system.

The information supplied is required under the EP&A Act. The supply of the information is voluntary, however if it is not supplied Ballina Shire Council may be unable to process the application.

**Modification to Consent Application and documents will be made publicly available**

This modification to consent application form (including any personal information and other information supplied on the form) and any document submitted with the application will be made publicly available on Council's DAs online, and in other ways that the Council considers appropriate in accordance with sections 6 and 18 of the GIPA, and Schedule 1 of the GIPA Regulation.

**Copyright Notice**

You are advised that Council will make copies (including electronic copies) of the modification to consent application and accompanying plans and documents for the purpose of complying with its obligations under the EP&A Act and the Local Government Act 1993. In addition the Council may make such further copies as are necessary to facilitate a thorough consideration of the application. This includes the application form, plans and supporting documentation and the publishing of same to DAs online. The applicant is responsible for obtaining all copyright licences necessary from the copyright owners for this purpose.





**10. Owner's Consent**

All owner(s) of the land to be developed must sign this form. Without the owner's consent, Council will not accept this application. For detailed information about who must sign this section of the application, refer to the attached Explanatory Notes.

As the owner/s of the land to which this application relates, I consent to this application. I also consent for authorised Council staff to enter the land to carry out inspections relating to this application. I accept that all communications regarding this application will be through the nominated applicant and I understand that information will be made publicly available and published to the DAs online section of Council's website.

Owner's name	<input type="text" value="Refer attached"/>	Owner's name	<input type="text"/>
Postal Address	<input type="text"/>	Postal Address	<input type="text"/>
Email Address	<input type="text"/>	Email Address	<input type="text"/>
Phone	<input type="text"/>	Phone	<input type="text"/>
Signature	<input type="text"/>	Signature	<input type="text"/>
Date	<input type="text"/>	Date	<input type="text"/>

**11. Applicant's Declaration and Signature**

- Have all questions within the application been answered in full?  Yes  No
- Has owner's consent been provided?  Yes  No
- Have all fees been paid?  Yes  No
- Is all the required information for your proposal attached to this application?  Yes  No
- Has the lodgement checklist been completed and attached to this application?  Yes  No

Note: If you have answered **No** to any of the above, your application is not sufficient and may result in rejection.

**Declaration**

- (i) I declare that all the information in this application and attachments are true and correct.
- (ii) I declare that the electronic data provided is a true copy of all plans and associated documents submitted with this modification to consent application form. The data is not corrupted and does not contain any viruses.
- (iii) I understand that if the information is incomplete the application may be delayed or rejected.
- (iv) I acknowledge that the information submitted on this form and any supporting documentation will be made publicly available and published to DAs online.

Applicant's Name

Applicant's Signature  Date



## Modification to Consent Application Form Lodgement Checklist

Lodge Applications at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)  
mail PO Box 450 Ballina 2478 • dx 27789 • f 02 6681 1375 • e council@ballina.nsw.gov.au  
t 02 6686 4444 • w ballina.nsw.gov.au • abn 53 929 887 369



### Lodgement Requirements

A modification to consent application must be supported by sufficient information to enable Council to understand what the development proposal entails and what its environmental effects are likely to be. Applications must include the following:

Item	Description	Applicant (Yes, No, N/A)	Council office use only
1	Payment of the applicable fees in accordance with Council's adopted fees and charges at the time of lodgement of the modification to consent application.	Y	<input checked="" type="checkbox"/>
2	A completed modification to consent application form.	Y	<input checked="" type="checkbox"/>
3	Digital copies of plans and supporting documentation supplied on a single CD-ROM in accordance with Council's digital requirements (refer below) for all development applications and construction certificates. Council will accept the lodgement of an application without a digital copy in certain circumstances. Note: Additional or updated information supplied after the submission of the initial application must also be accompanied by a CD-ROM.	Y	<input type="checkbox"/> N/A
4	At least two hard copies of all drawings and documentation including one set of plans at A3 size. Plans are to be dimensioned and generally at a scale of 1:100. Plans shall be suitably numbered and dated and are to include the following information: <ul style="list-style-type: none"> <li>• Floor plans of all building levels</li> <li>• Elevations</li> <li>• At least one cross section for buildings containing more than one level</li> <li>• Details of the relationship of buildings to height planes and setbacks</li> <li>• A site plan that includes details of the location of buildings/structures on adjoining land</li> <li>• Details of the location and level of public utilities within and adjacent to the site (i.e. sewer lines, stormwater drains etc.)</li> <li>• A clear distinction between alterations and additions - new work must be outlined in colour</li> <li>• A site plan which does not depict floor plan details suitable for publication for stakeholder/community review.</li> <li>• Where the proposed modification involves alteration to previously approved plans, the plans must be coloured, highlighted or overlain to adequately distinguish the modified works.</li> </ul> Note: Additional copies of all documentation and/or a CD-ROM containing the documentation may be required for larger applications depending on the volume of material to be submitted and the need for external referrals. Contact Council's Development and Environmental Health Group for additional information regarding the number of copies of documents and/or CD-ROMs required prior to the submission of the application.	N/A	<input type="checkbox"/>
5	For buildings that exceed 8.5m in height: <ul style="list-style-type: none"> <li>• A shadow diagram for the site at 9.00am, 12 noon and 3.00pm on 21 June and 21 December.</li> <li>• Except for dwelling houses, dual occupancies and industrial buildings, a physical model of the proposed development at a scale of 1:200 or, alternatively, three dimensional computer modelling of the proposed development. Such a model is to illustrate the relationship between the proposed development and all adjoining buildings.</li> </ul>	N/A	<input type="checkbox"/>
6	A schedule of calculations for the following items: <ul style="list-style-type: none"> <li>• Total site area (m<sup>2</sup>)</li> <li>• Site cover (m<sup>2</sup>) (area of land on which buildings are proposed)</li> <li>• Floor space ratio</li> <li>• Gross floor area (m<sup>2</sup>)</li> <li>• Landscaped area (m<sup>2</sup>)</li> <li>• Driveways, car parking and drying areas etc. (m<sup>2</sup>)</li> <li>• Number of car parking spaces</li> </ul>	N/A	<input type="checkbox"/>
7	A checklist documenting compliance, or otherwise, with the relevant State Environmental Planning Policy, Local Environmental Plan and Development Control Plan provisions.	Y	<input checked="" type="checkbox"/>
8	A completed 'Written Request to Vary a Development Standard' or 'Written Request to Vary a Development Control' form (if applicable).	N/A	<input type="checkbox"/>
9	A detailed description of the modification proposed, with sufficient detail to satisfy Council that the modified development is substantially the same development as that approved by Council. An amended Statement of Environmental Effects, Environmental Impact Statement or other specialist report e.g. Noise, Wastewater, Heritage, Flora and Fauna may also be required.	Y	<input checked="" type="checkbox"/>



#### Additional Requirements

The Ballina Shire Development Control Plan 2012 contains provisions that may require additional information beyond that listed above. This information must also be provided with a development application.

Council may also require further information identified during the development application assessment process in order to enable the complete consideration of an application.

Refer to Council's Development Application (DA) Guide for more detailed information in relation to lodgement requirements for various types of development.

#### Digital Requirements

Each plan and supporting document must be supplied in PDF format, no larger than 3MB in size and optimised for publishing to the web.

PDF files larger than 3MB should be broken up into logical parts and supplied as separate files.

Documents are to be supplied with a descriptive file name using the following naming conventions:

- Plan Description - Elevation Plan, Site Plan, Floor Plan
- Plan Number (including version) - 12345, 12345 v2
- Report Name (including version) - Statement of Environmental Effects

Example - Traffic Management Report v2; Ground Floor Plan 12345



## Westbridge Properties Dojoo Pty Ltd

A.B.N. 88 887 049 208      A.C.N. 001 891 854  
**31 North Creek Road, Ballina NSW 2478**  
Phone 02 6686 8811    Mobile 0427 299 338    Fax 02 6686 9139  
office@westbridgeproperties.com.au

---

### LANDOWNER AUTHORITY

To Whom It May Concern:

This is to advise that Newton Denny Chapelle has been authorised by the landowner:

Landowner Name: Dojoo Pty Ltd

Postal Address: 31 NORTH CREEK RD, BALLINA NSW 2478

Contact Phone Number: 02 66868811

Property Address: 31-35 Cherry Street, Ballina


to:

1. Inspect Records.
2. Carry out searches and site inspections.
3. Lodge applications, Subdivision Certificates, objections or appeals.
4. Acknowledge that building and subdivision construction work cannot commence until a Construction Certificate and a Principal Certifying Authority has been nominated in relation to such works, and that undertaking such works without a Construction Certificate is an offence under the provisions of the Environmental Planning and Assessment Act 1979.

I/We acknowledge that building and subdivision construction work cannot commence until a Construction Certificate and a PCA has been nominated in relation to such works, and that undertaking such works without a Construction Certificate is an offence under the provisions of the Environmental Planning & Assessment Act 1979.

Consent is also provided for authorised Council officers to enter the land to carry out inspections relating to any application made with Council. It is acknowledged that information will be made publicly available in accordance with Council's DA form and checklists.



  
Signature  
SANTO PENNISI  
Name  
DIRECTOR.  
Position  
7/2/2017  
Date

  
Signature  
FRANK PENNISI  
Name  
DIRECTOR  
Position  
7-2-2017  
Date

**DISCLOSURE OF POLITICAL DONATIONS AND GIFTS.**

Legislation requires the disclosure of reportable political donations, made within the past two years (by you or any person or entity with a financial interest connected to this application) to political parties, elected members of NSW Parliament, Local Government elections and elected Council members. This includes disclosure of gifts made to Councillors or Council employees, and any donation or gift made when a person was a candidate for Council election.

Have you made a political donation or gift:

YES  NO

*(if ticked yes, a separate disclosure form must be completed. Forms are available at Council or downloaded from the Department of Planning's website)*

Significant penalties apply to non-disclosure. For more information and to obtain a political donations and gifts disclosure statement go to the Department of Planning website at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).



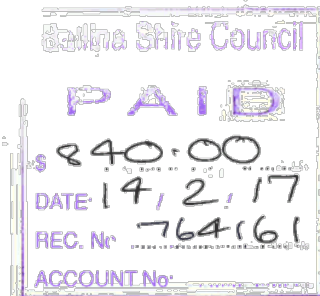
**Quotation**

Ballina Shire Council  
 PO Box 450  
 Ballina NSW 2478  
 p. (02) 6686 4444  
 f. (02) 6686 7035

Quote No. : 8,085  
 Quote Date : 07/02/2017  
 Expiry Date : 30 June 2017  
 Officer : Sue Wade

Description Section 96(2)  
 31-35 Cherry Street  
 Ballina NSW 2478  
 (Payment in Lieu of Parking requirements)  
 DA 2006/148.4

Fee Code	Fee Description	GST	Amt Inc. GST
20	Advertising - Standard		\$340.00
36	Section 96 Planning Fee - POA		\$500.00



Please ensure a copy of this quote is enclosed when lodging your Development Application. All DAs lodged should be accompanied by an estimated cost of work schedule in accordance with Council's Fact Sheet "Estimating Cost of Work for Development and Construction".

Quoted figures subject to change  
 Civil Inspection Fees may apply

<b>Quote Total</b>	<b>\$0.00</b>	<b>\$840.00</b>
--------------------	---------------	-----------------



Date: 6<sup>th</sup> February 2017  
Our Ref: 04/600  
Your Ref: 2006/148

General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478



Dear Sir,

**Re: Section 96(2) Application for Development Application No. 2006/148  
31-35 Cherry Street, Ballina – Lot 1 DP 1146004**

### **Section 1**

#### **Introduction**

Newton Denny Chapelle has been engaged by the proponent, Dojoo Pty Ltd, to submit an application to modify Development Consent No. 2006/148 to permit the payment of Section 94 Contributions in lieu of the supply of accessible car parking spaces.

Development Application 2006/148 granted approved by Ballina shire Council on 15 March 2006 to:

*undertake the demolition of an existing service station building, ancillary structures, removal of underground fuel storage tanks and associated earthworks (remediation works) and the subsequent erection of a three (3) storey commercial/retail development, associated rooftop car parking spaces, advertising signs and vehicular access off Winton Lane.*

This application is lodged pursuant to Section 96(2) of the Environmental Planning and Assessment Act, 1979.

#### **Modification Summary**

Following a receipt of Council's review of the prescribed on-site car parking requirements, and the associated opening of the security door by the proponent to adhere to current conditions of consent, Dojoo Pty, is seeking to provide a monetary contribution (\$25,803/car space) to Ballina Shire Council for the supply of the accessible car parking spaces. The proposal would then allow the closure of the security door to enable the car parking spaces to be accessed in a safe environment under the management of the landowner by staff of the businesses occupying the building.

Importantly, this amendment does not seek in any way to prohibit the opportunity for each tenant to access on-site parking. Conversely, each tenant of the building is able to secure parking through an agreement with the landowner. To this end, each tenant, as a minimum, will be supplied with car parking spaces to accord with the minimum prescribed level under the Ballina DCP for their designated land use. Additional parking spaces for staff may then also be secured should the tenant seek additional parking.

**Section 2**

**Location & Site Description**

The subject land is located at 64 Tamar Street, Ballina and in cadastral terms the property is known as Lot 1 DP 804667.

The subject site contains a total land area of 1,768m<sup>2</sup> and is currently approved for use for a commercial development which is currently constructed and operating.

Plate 1 provides an aerial photo of the land and the surrounding area.



Plate 1: Aerial Photograph of Subject Land  
Viewer)

(Source: LPMA Six

The surrounding land uses comprise a mixture of commercial offices, public buildings and retail uses. Commercial development comprises of two/three storey commercial buildings, which dominate the built form to the south and west of the development site. Development to the north and east in Tamar Street comprises of dwelling houses adapted into commercial offices in addition to single storey retail uses.

Land Zoning

Under the current Ballina Local Environmental Plan 2012 the subject land is zoned B3 - Commercial Core Zone, whilst under the previous Ballina Local Environmental Plan 1988 the site was zoned 3 Business Zone and was the applicable zone at the date of approval of DA 2006/148.

**Section 3**

Proposed Modified Conditions & Justification

**1. Monetary Contribution for Car Parking**

This application seeks to provide a monetary contribution under Ballina Shire Parking Contributions Plan 2014 for 17.18 car spaces, being the accessible spaces under Councils Development Control Plan.

The Contribution per car space equates to \$25,803, hence for the total parking contribution totals \$443,295.54. We propose the amendment to Condition 2.10 to incorporate the monetary payment in lieu of the provision of public accessible parking for the aforementioned amount.

Through the payment of the contribution for accessible car parking, the proponent will be able to supply car parking for the tenants of the building who will access the car park via a security access device. The car spaces will be allocated to all tenancies and the total quantum of parking will adhere to the DCP for each tenancy. Surplus parking will be made available to the tenants of the building as part of their lease arrangements.

Accordingly, it is proposed to have the security door closed at all times to permit the desired secured carpark to be retained. This will alleviate many concerns of exiting tenants who signed leases for the building due to the security provided for the car park area as a matter of consideration. All staff of business parking on-site will be provided access controls to provide unobstructed access to the car park.

This application differs significantly to the 2014 Section 96 proposal which sought to amend the car parking arrangements for the development through the proposed payment of Section 94 contributions towards the supply of car parking under Ballina Shire Car Parking Contributions Plan 2014.

**2. Amendment to the Car Park Plan of Management**

Condition 2.21 of the consent notice required a plan of management be submitted to and approved by Council prior to the issue of a Construction Certificate for the parking area to ensure its satisfactory use and safety. The plan had signage requirements, safety aspects, whilst also ensuring access and spaces are allocated and available to visitors.

Part of the Parking Management Plan that was prepared by Peter Lucena & Associates included a component that stated:



**3. Gates are installed for night time security. They are to be kept open between 7.00am – 7.00pm, Monday to Friday and between 8.00am and 12.00pm Saturday.**

The proposal provides for the amendment to Condition 2.21 and the associated deletion the provision within the Plan of Management requiring to opening of the security doors. The existing and proposed modified conditions are outlined below.

**General**

**Existing**

2.21. A plan of management is to be provided for the parking area to ensure satisfactory use and safety of the parking area. This plan is to include signage to advise of the parking area, mirrors to assist with safety exiting the parking area onto the public road, and ensuring access and spaces are allocated and available to visitors. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.

**Modified**

2.21. A plan of management is to be provided for the parking area to ensure satisfactory use and safety of the parking area. This plan is to include signage to advise of the parking area, mirrors to assist with safety exiting the parking area onto the public road, and ensuring access and spaces are allocated and available **to tenancies of the building**. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.

**Section 4**

**Statutory Assessment**

The following provides an assessment of the proposed modified development in accordance with the matters under Section 79C of the Environmental Planning & Assessment Act, 1979.

**Section 79(C)(1)(a) the provisions of:**

- (i) any environmental planning instrument**

**Ballina Local Environmental Plan 2012**

Under the current Ballina Local Environmental Plan 2012 the subject land is zoned B3 Commercial Core Zone.

The development remains permissible in the current B3 – Commercial Core Zone and does not raise any inconsistencies with the associated zoning objectives.

- (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority;**

No draft EPI is considered to adversely impact the proposed modification to DA 2006/148.

**(iii) any development control plan;****Ballina Development Control Plan 2012**

The modified proposal does not adversely impact the application's previous assessment that was undertaken against the Ballina Development Control Plan No. 1 – Urban Land in regards to Policy Statement No. 7 – Building Height Limitations, Policy Statement No. 10 – Building Setbacks, and Policy Statement No. 11 – Flood Levels.

An assessment is provided against Chapter 2: General and Environmental Considerations under the Ballina Shire Development Control Plan 2012 (BDCP 2012)

**Chapter 2 – General and Environmental Considerations**

The proposed modification does not seek to physically modify the total number of car spaces provided on-site. The key amendment relates to the supply of the accessible parking. To this end, reference is made to the fact accessible parking is available to the staff who work within tenancies of the building.

In respect to the total parking provided on-site, reference is made to the parking calculation provided to NDC within letter dated 3 January 2017.

Total approved retail/refreshment room floor space = 5442m<sup>2</sup>  
 Total car parking required at rate of 1/25m<sup>2</sup> floor area = 37.68 spaces  
 Total accessible parking spaces at 7.5% (shop and refreshment room) = 25.25 spaces

Total approved office floor space = 1054m<sup>2</sup>  
 Total car parking required at rate of 1/40m<sup>2</sup> floor area = 26.6 spaces Total accessible parking spaces at 2.5% (office) = 6.65 spaces

Total parking required to be provided = 64.28 spaces Total parking provided on site = 50 spaces  
 Parking credits granted due to road widening = 14.65 spaces Parking credits granted due to driveway closure = 5.08 spaces

Total accessible parking spaces = 17.13 spaces (34.91 - 17.78)

Reference is also made to Chapter 2 – Section 3.19.2 (H) in respect to the merit assessment criteria for monetary contributions for car parking. The matters for consideration are provided below together with a response.

1. *Council may accept a cash contribution in lieu of the provision of on-site car parking spaces for up to 20% of the required parking spaces.*

**Comment:** The payment of monetary contribution for 17.73 parking spaces will exceed the 20% limit of the total parking for the site. The development generates a total of 64.28 spaces with the 17.73 spaces equating to 27% of the total parking supply. The 20% supply equates to 12.85 car spaces.

Importantly in this instance, the proposed modification does not seek to reduce the total number of car spaces physically provided on-site. That is, the 50 car spaces provided within the building will be available to the tenants of the building through allocated parking as part of their lease agreement. Each tenancy will be provided the prescribed number of spaces required under the development control plan, with the balance being made available to each tenancy should they require additional parking for their staff.

This approach will result in the same utilisation of the parking as the accessible parking is now being occupied fully by staff of the existing businesses tenancing the building. The roof-top parking design does not attract the public to use the parking spaces due to its ease of access. Accordingly, the spaces are fully occupied by staff. This position would not change through the implementation of this amendment. The primary change would be to permit the closure of the security door to provide a safer environment for the tenants accessing their vehicles.

*2. The size of the development;*

**Comment:** As outlined above, the proposed payment of the monetary contribution is not resulting in a reduced number of vehicles able to park on-site. It will purely provide parking for tenants only. The staff if not parking in the building would otherwise be occupying on-street car parking, thereby resulting in this amendment having no physical impact on total parking supply.

*3. the site's proximity to, and the accessibility of, existing or proposed public car parking areas;*

**Comment:** The subject land is located within 60 metres of the Tamar Street public car park which has been recently expanded by Ballina Shire Council. The location of the public parking is accessible to those clients seeking to visit the tenants of the building.

*4. the demand for car parking generally in the locality;*

**Comment:** Given the land uses found in the immediate area (i.e. commercial, retail, education and Council offices etc.), there is a higher demand for parking in the immediate locality. It is however recognised with the development of the additional public car parking by Ballina Shire Council that this demand is more easily catered for and will not be impacted by the proposed payment of the accessible parking spaces.

Reference is also made to the Ballina Shire Car Parking Contribution Plan 2014. The Contribution Plan identified that 75 at-grade car parking spaces had previously been provided within the Wigmore Arcade car park located at 84 Tamar Street, Ballina (Figure 3-4). Car parking contributions under the pre-existing Ballina Contributions Plan were being collected towards the future expansion of this car park to provide for a multi-storey car park and/or the purchase and development of additional land in Tamar Street, Ballina for car parking. In this regard, Council has successfully acquired additional land and developed further at grade public car parking.

Under the 2014 Plan, contributions will continue to be collected towards the construction of the multi- storey car park to supplement the development of car parking and ancillary facilities on land already purchased at 74 and 78 Tamar Street.

The preliminary plans for the multi-storey car park facility provide for 255 car parking spaces at 84 Tamar Street spaces. This includes 248 spaces, within Level two, three and four and seven disabled spaces directly accessed off Winton Lane. A total of 255 spaces are planned.

Regard is made to the fact there will be no physical change to the number of car parking spaces provided as part of the development. The modification retains the 50 on-site car parking spaces, however seeks to provide these spaces to staff of the building in a safe environment.

*5. the general traffic flow in the area.*

**Comment:** The short-fall of parking proposed in this instance and the additional demand placed on the public parking network will not impact the current traffic flow around the Cherry Street and Tamar Street area.

**(iv) any matters prescribed by the regulations**

No prescribed matters are deemed impacted by the proposed modifications.

**(b) the likely impacts of that development, including environmental impacts on both the natural and built environment, and social and economic impacts in the locality**

This Section 96(2) Application seeks to implement the monetary payment for the accessible parking spaces in lieu of providing the currently existing 50 car spaces to the tenants of the building. The amendment, which results in the 50 spaces being occupied by staff only, will not modify the demand for public parking as either staff or the public would otherwise be parking in the required 17 accessible parking spaces.

Associated with the monetary contribution for the parking spaces, is the ability to close the garage door to the car park which will improve the safety of the buildings tenants when accessing their vehicles.

The proposal is considered to result in an improved social and economic outcome by rectifying the security concerns for tenants and visitors raised by the property's Managing Agent, whilst removing the costs associated with rectification of damage within the car park and negating large monetary penalties incurred through triggering false fire alarms.

The proponent of the development identifies that the saving of costs offsets any other potential economic impacts that otherwise may arise through the closure of the car park garage door.

**(c) the suitability of the site for the development**

The site is zoned B3 - Commercial Core under the Ballina LEP 2012 and the proposed development remains a permitted land use within the zone. The proposed modification to the development does not impact on the suitability of the site for its approved use.

**(d) any submissions made in accordance with the Act or the regulations**

No submissions were required to be addressed as part of the modified development proposal.

**(e) the public interest**

The proposed development is unlikely to compromise the public interest.

Conclusion

The proposed modification will result in substantially the same development to that approved under Development Consent Notice 2006/148. As demonstrated, there will be no reduction in on-site car parking resulting from this development. The monetary contribution will be directed into future public parking, whilst importantly each tenant will be provided with parking and scope to increase their allocation for additional staff requirements under their lease agreement.

We trust this information is sufficient for your purposes at this stage to permit the approval of the Section 96(2) Application. However, should you require clarification of any aspect of the content of this letter or need any further information, please do not hesitate contacting Mr Damian Chapelle of this office.

Yours sincerely,  
NEWTON DENNY CHAPELLE



**DAMIAN CHAPELLE**  
Town Planner BTP. CPP



PO BOX 495,  
RUNAWAY BAY. QLD. 4216.

23<sup>rd</sup> MARCH, 2017.

CHIEF EXECUTIVE OFFICER,  
BALLINA SHIRE COUNCIL,  
PO BOX 450,  
BALLINA. NSW. 2478.

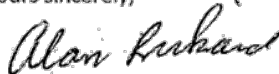
Dear Sir/ Madam,                      Re : DA 2006/148,

I refer to you correspondence date 6/3/17 regarding 31-35 Cherry St, Ballina advising of an application to modify the car parking conditions to allow a cash contribution of between \$400,000 and \$500,000 in lieu of providing approximately 18 car spaces.

We do not oppose the application conditional to there being a strategy in place to have the cash contribution paid into a separate car parking fund to be used to increase the number of car spaces in the Ballina CBD are, and the cash being paid into that account.

We do this as we believe Ballina CBD is at present adequately provided for on street and off street car parking and this helps business. The cash in lieu should not be used to upgrade existing car parks but to acquire sites for car park expansion through a strategic plan based on the present CBD area within close proximity to River St.

Yours sincerely,



Alan Rickard for Tamarin Superannuation.

Ph. 0401 925 999.