

C RC and H L Hosie
2/2 Bayview Drive
East Ballina, 2478
19 February, 2019

**RE: Development Application (DA) 2018/781
Lot: 1 DP: 781525, 70 Shelly Beach Road, East Ballina**

Dear Sir/Madam,

We acknowledge receipt of your letter of 17 January 2019 advising of the submission of the above mentioned DA and inviting submissions to council.

In respect to the proposed development application we continue to raise the same objections mentioned in our previous submissions to DA 2018/216 and DA 2018/603, which relate to the same site.

Our four critical concerns continue to be what constitutes 'existing use'; noise mitigation; traffic management issues and the commencement of unauthorised works.

Please find attached our previous submission to DA 2018/603, which details our four critical concerns further.

We thank you for the opportunity to comment on the proposed DA 2018/781. We trust that the concerns we have continued to raise will be addressed and we look forward to future correspondence regarding this proposal.

Kind regards,

C RC and H L Hosie

C RC and HL Hosie
2/2 Bayview Drive
East Ballina, 2478
9 November, 2018

**RE: Development Application (DA) 2018/603
Lot: 1 DP: 781525, 70 Shelly Beach Road, East Ballina**

Dear Sir/Madam,

We acknowledge receipt of your letter of 24 October, 2018 advising of the submission of the above mentioned DA and inviting submissions to council.

In respect to the proposed development application we wish to raise objections based on four critical concerns; what constitutes 'existing use'; noise mitigation; traffic management issues and the commencement of unauthorised works.

'Existing Use'

The Applicant's website (<https://www.thebeachhouseeastcoast.com/celebrations/>) states that the intended use of the site is for corporate functions and weddings that can cater up to 250 guests.

We do not believe that these types of functions constitute 'existing rights' with consideration to the zoning of the site; 7 (f) Environmental Protection (Coastal Lands) Zone.

On the grounds of 'existing rights' we also object to the intended frequency and size of the events clearly anticipated by the Applicants.

With consideration to the zoning of this site, any future development should aim to protect and enhance the ecological values on and surrounding the site, rather than see the removal of existing vegetation, as has already been carried out on the site.

This application is clearly an intensive commercial venture, which seeks to go far beyond any previous activities or events witnessed on this site.

For these reasons we believe the application does not meet 'existing rights' criteria.

Noise Mitigation

We continue to hold the same concerns that we expressed with regards to DA 2018/216; which related to the same site.

We remain alarmed at the noise that will emanate from the site if the current DA is approved and the site is used in the various ways outlined on the Applicant's website.

We previously noted that a Noise Impact Assessment presented by Tim Fitzroy and Associates classified noise at and above 110db as *extremely noisy to intolerable*. We also pointed out that numerous sources state that the noise of amplified music generally appears to be around 110db or higher.

We also noted in our previous objection that previous functions held at this site where amplified music was playing resulted in noise that we considered intrusive and was significantly louder compared to the other noises in this area. With the site approximately 200m from our residence the noise emanating from these functions interfered with the sleep of our young family.

Should the Council agree to support the DA we suggest Conditions of Consent be included to mitigate the impact of noise from the site:

- Council should require the installation of the sound attenuation wall measuring at least 2.4 m in height from the top of the previously erected retaining wall; as referred to in the Noise Impact Statement of Tim Fitzroy and Associates dated 24 October 2018 (para 3.4.7);
- Council should require the reinstatement of the fixed wall on the northern end of the building, the removal of the doorway installed on the western wall and the reinstatement of the previous fixed wall;
- We suggest the installation of a sound attenuation wall and reinstatement of the recently removed vegetation on the western boundary of the site to limit the noise from patrons and their vehicles when arriving and leaving the site late at night;
- We also suggest the removal of the terrace areas on the western and northern sides of the building and the reinstatement on the retaining wall, grassed and paved areas as depicted on the survey plan of the original building as shown on page 8 of the SEE, and;
- Functions should be limited to Fridays and Saturdays only.

Traffic Management

The SEE for DA 2018/603 provides onsite parking for the number of patrons its website says it can cater for (250 guests, not including staff).

We cannot accept that a site that can accommodate 250 guests will not have a significant impact on the local area and local residents.

The previous DA 2018/216 acknowledged the limited car parking available and proposed all guests be bussed to and from the site. The current SEE also suggests that the Applicant will, “utilise bus and Taxi services for the transport of the majority of guests to the site, to minimise the requirement of driving vehicles on to the property.”

We suggest a detailed Traffic Management Plan should be developed that should identify details of the proposed private bus service pick up and drop off zone, taxi pick up and drop off zone and any parking for guests’ vehicles. This plan should be publicly advertised and feedback sought from local residents of Shelly Beach and Angels Beach.

As previously stated in our objection to the previous DA on this site, even if the majority of guests are transported by bus, there is very limited parking available on Shelly Beach Road and no direct access from The Coast Road. Guests would be forced to park on Shelly Beach Road, The Coast Road, Bellevue Avenue and Bayview Drive, which will greatly impact the amenity of local residents.

We are particularly concerned that many guests will park on Beachfront Parade, Bayview Drive and the Coast Road, use the underpass under the Coast Road and access the site from the eastern side via the Coastal Recreation Path. The traffic and noise problems that would arise from this situation would be extremely undesirable for the residents of Angels Beach.

A large increase in traffic using the Shelly Beach Road/Coast Road intersection also presents significant safety issues with consideration of the crest of the hill to the north of the intersection. The inevitability of guests parking on the shoulders of the surrounding roads also presents a significant safety concern.

Works Completed Without Consent

DA 2018/603 seeks consent for building and earthworks that have already largely been completed without consent.

These unapproved works will adversely impact my property and the surrounding residential neighbourhood, and include:

- The addition of the covered outside terrace on the western and northern side of the building significantly increases the noise from those 2 areas and roughly doubles the seating capacity of the building;
- The provision of onsite parking and the associated removal of landscaping on the western edge of the property will greatly increase the noise from the site;
- The installation of a doorway opening on the western wall of the building will allow noise from inside the building to travel in a westerly direction.

The Council should pursue all penalties against the Applicant in the Land and Environment Court for the works completed without consent. This should include the demolition of all building and earthworks completed without the appropriate consent.

Upholding the importance of everyone being required to comply to the Development Application process cannot be understated.

Conclusion

We thank you for the opportunity to comment on the proposed DA 2018/603. We trust that the concerns we have raised will be addressed and we look forward to future correspondence regarding this proposal.

Kind regards,

C RC and H L Hosie



12B Stonehenge Place
Lennox Head NSW 2478
P 0438 689441
E josh@northcoastentertainment.com
W www.northcoastentertainment.com

5 February 2019

Ballina Shire Council
PO Box 450
Ballina NSW 2478

Submission in support of DA NO: **DA 2018/781**
APPLICANT: The Beach (East Coast Australia) Pty Ltd
PROPERTY: Lot: 1 DP: 781525, 70 Shelly Beach Road East Ballina

To Whom It May Concern,

My name is Josh Boots, musician and owner of North Coast Entertainment. A local agency providing musicians and DJ's to the wedding and events industry on the north coast.

Over the past 10 plus years, myself and the acts I represent have been hired to perform at a number of weddings and events at the above mentioned property. In that time, it has become a well known and loved venue to both locals and interstate visitors.

We fully support this application, as we see it not only breathes new life into a great facility, but also promotes positive growth of the events industry in the area. The current weddings/events/function industry in the Ballina Shire is in dire need of exciting new venues and dedicated, talented and respectful operators to keep it relevant and competitive. We feel the current owners of this property are exactly that. It will both directly and indirectly create many employment opportunities for local hospitality workers as well as the multitude of local wedding and event suppliers, therefore adding considerably to the local economy.

I have met with The Beach (East Coast Australia) Pty Ltd, and was asked to discuss best practice in relation to mitigating any impact live or DJ music may have on the surrounding neighbours. In my opinion, they are fully committed to adhering to their own self-imposed restrictions which are in many ways harsher than the existing licensing requirements and feel this kind of approach should be applauded.

My business is also fully committed to adhering to all conditions set out by 'The Beach House' and if required to, would happily answer any questions in relation to the matter.

Sincerely yours,

Joshua Boots

Robert Hosie,
4 Bellevue Avenue,
East Ballina 2478.

14 February 2019

The General Manager,
Ballina Shire Council,
40 Cherry Street,
Ballina 2478



Dear Sir,

Re: **Development Application 2018/781**
70 Shelly Beach Road, East Ballina.

My wife, Maxene Hosie, has previously made submissions to Council dated 22 May and 8 November 2018 in response to DAs 2018/216 (subsequently withdrawn) and 2018/603 which relate to the abovementioned property.

I understand that DA 2018/781 has been lodged as the result of undertakings given by the owner in relation to proceedings initiated by Council in the Land & Environment Court of New South Wales because of the significant building and land clearing activities undertaken on the site without Council approval.

The building and vegetation works identified in DA 2018/781 appear to be the balance of the works that have already been completed on the site without Council consent and which should have been included in DA 2018/603.

I have attached further copies of my wife's previous submissions and I raise the same issues she identified, particularly in her letter of 8 November 2018, in respect of the current DA.

Requests to Council

- 1) I request Council refuse DAs 2018/603 and 2018/781.
- 2) I request Council advise the owner that the site is not suitable for Corporate Functions and Weddings and that any future DA will only be considered within the scope of the limited approval in DA 1971/31 and to which genuine "existing use" rights apply and that future DAs requesting any alterations, intensification or change of use can only be considered if they comply with Regulation 41(2) of Part 5 of the Environmental Planning and Assessment Regulation 2000 and are within the limited uses permitted in the Zone 7(f) Environmental Protection (Coastal Lands) Zone.
- 3) To require that prior to the issue of any Development Consent the owner obtain an Aboriginal Heritage Impact Permit as required under Part 6 of the National Parks and Wildlife Act 1974;

4) To require that prior to the issue of any Development Consent that a Plan of Management involving the owners, Jali LALC, native title claimants, the Aboriginal community and OEHL be completed;

5) To require the inclusion of prominently located signage identifying the Aboriginal heritage value of the site.

In support of requests 1 and 2 above, I ask Council consider the following matters;

1. The extent of any "existing use rights" that apply to the land.

In The Statement of Environmental Effects (SEE) lodged with the DA , in clause 3.3 , the owner contends that the site has "existing use rights " for 365 days of the year (presumably 24 hour per day) for a range of uses including "Functions, Corporate events....Weddings". The SEE states that the "Conference Centre" can be used by 265 people and the "Dormitories" by 62 people.

The owner's website (www.thebeachhouseeastcoast.com) identifies that the intended primary uses proposed for the site are Corporate functions and weddings.

In support of their view that these types of functions fall within category of the "existing use" rights that apply to the site, the owners have provided legal advice from McCartney Young Lawyers ("MYL") dated 31 July 2018. This advice related DA 2018/216 which was subsequently withdrawn and arose as a result of a "Request for Additional Information" made by Council to the owner's planner in respect of that DA.

The SEE and MYL assert that none of the DAs' lodged with Council seek consent for a change of use for the site.

Council is required to determine whether the proposed uses identified above are permissible on the site. If these proposed uses are not "existing uses" then Council can issue conditions of consent limiting any use of the site to those uses that can be properly identified as being within the definition of the term.

Application of the law;

MYL correctly identify that (Part 4 Division 4.11) S.4.65 of the Environmental Planning and Assessment Act 1979 regulates "existing use rights".

S.4.65 identifies that "existing use" can arise in 2 ways; i.e the rights may arise as a result of the circumstances referred to in either s.4.65(a) or (b).

MYL assert that in respect of the current DA the "existing use" rights that would allow such uses referred to above arise as a result of the circumstances of s.4.65(b).

Council should also consider whether such rights arise by virtue of s.4.65(a).

(1)S.4.65(b)

The section provides;

"4.65 definition of "existing use"

In this Division existing use means:

(a).....(see below), and

(b) the use of a building, work or land:

(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting that use, and

(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."

MYL assert that the DA1971/31 issued in 1971 for the construction of a building described as a "conference room and kitchen" on the site and the associated Building Permit 24/1971(BP 24/1971) are to be interpreted so widely that, in effect, the use of the whole of the site is a "function centre" as defined in the Ballina Local Environment Plan 1987 (BLEP). If this interpretation is correct then the uses referred to in the SEE and the owner's website referred to above would be permissible.

The reasons for that assertion are set out in paras. 25-34 of the MYL letter.

The law relating to the interpretation of "existing use" rights" is more complex than the MYL letter suggests but I agree that, in order to determine whether s.4.65(b) applies, the fundamental question is how the "existing use" should be characterized.

MYL refer to the principles identified by Robson J in Coastplan Consulting v Central Coast Council (2018)NSWLEC: i.e;

- a. Existing use rights are to be construed broadly.
- b. Characterisation of the purpose is not to be done with meticulous examination of the details of the activities, but with regard to their purpose.
- c. Existing use rights are not to be construed so generally that the characterisation can include activities which differ in kind from those that have taken place to date.
- d. Existing use rights should be construed by reference to the facts and context at the time of the grant of the consent.

In order to identify "the purpose" (principle b.) and the "facts and context"(principle d.) it is necessary to review Council's Development Application and Building permit files to ascertain the nature of the consent sought in DA1971/31 and BP 24/1971.

An inspection of Council's files shows;

- DA1971/31 attaches a hand drawn plan that clearly identifies that Council consent was sought only for the "conference room and kitchen" being the discrete room as clearly outlined on the plan in red.
- BP 24/1971 attaches a building plan titled "Plan of proposed conference room, kitchen and office to be erected at Anglican Youth Centre – Angel(sic) Beach Shire of Tintenbar for Youth Committee" drawn by a building draftsman. This plan also identifies the discrete building as the conference room to which the building permit refers.
- Similarly, BP 344/1998 includes a plan specifically identifying that the "conference centre" is the same discrete building referred to in DA1971/31 and BP 24/1971.

The reference to the address and use of the site on the cover sheets of Councils DA and Building Permit files as "Gunundi camp conference centre" has been completed by Council's staff for the purpose of identifying the location of the site to which DA1971/31 and BP24/1971 refer.

For example, the reference in DA1971/31 to the Applicants full name as "CHURCH Diocese of Grafton-church of eng", is evidence that these file covers were not completed by the land owner.

It is the actual content of the documents included in these files that identifies the then existing use and the particular consent sought in the DA and Building Permit.

The Anglican Church owned many similar sites in NSW and they were all called "conference centres" but the activities carried on at those sites varied.

Based on these facts (as distinct from the assumptions relied on in the MYL letter) Council should conclude that at the time the DA1971/31 issued it was consent for the construction of the proposed building identified in the plan attached to the DA and its use was for a classroom or lecture hall for young people.

Although Courts construe "existing use" rights broadly (principle a), as referred to in principle c. in Coastplan and identified in numerous other authorities, the courts refuse to categorise the purpose of an "existing use" so widely that the land or building "could be used for a prohibited purpose that was not part of its use at the time of the commencement of the prohibiting regulation." (per Biscoe J in Warlam Pty Ltd v Marrickville Council (2009) NSWLEC) and Council is required to identify what was the general purpose of the use proposed in DA1971/31.

Based on the use of the property at the time and the information contained in the documents lodged with Council it is clear that, at the time DA1971/30 was lodged, the general use of the site was as a youth camp and not anything akin to a "function centre" as suggested in the MYL letter.

It is also clear that the consent granted by DA1971/31 was for the particular building designed to be used as a lecture hall or classroom and the term

"conference centre" is required to be interpreted in accordance with the generally accepted meaning of the word "conference" as it applied at the time and as it is defined in the Macquarie Dictionary meaning a meeting room. It should not be interpreted so widely so as to permit the building to be used for Corporate Functions or Weddings.

The (limited) "conference centre" use only applies to the "conference centre" building, the subject of DA1971/31, and not the balance of the site. In this regard the decision in Saffioti v Kiama Municipal Council referred to in the MYL letter does not alter the principles stated by the NSW Court of Appeal in Vaughan-Taylor v David Mitchell-Melcann Pty Ltd and Minister for Minerals and Energy (1991) 73LGRA where the Court accepted that S 109(2) (now s. 4.68) limits the existing use rights to the area of the land or building "actually physically" used.

(2) s 4.65(a)

Council should also consider whether "existing use" rights arise pursuant to S4.65(a) of the Environmental Planning and Assessment Act 1979.

The section provides :-

"existing use" means:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use,"

The onus of proof lies with the owners to prove that as at 27 February 1987 the "existing use" rights persist.

27 February 1987 was the date that the Ballina Local Environment Plan commenced and the land was zoned 7(f) Environmental Protection (Coastal Lands) which prohibits Functions, Corporate Events and Wedding receptions.

The only information provided on behalf of the owners regarding the use of the site at that time is in the MYL letter where they suggest these types of activities are "existing uses" because... "Having regard to their use (by the Anglican Church) of other similar sites around NSW the conference centre wasin practice a function centre - as that term is now understood, such as the BLEP 2012...." (para 29).

The best evidence as to the use of the land and buildings is obviously that provided on behalf of the owner of the land at the relevant time and other local persons with knowledge of the use of the site.

In this regard I refer council to the following:-

- The "Report to accompany Development Application" of Walker and Newton, Consulting Surveyors and Planners in DA1998/41. In para 4.2, Mr Walker (on behalf of the Anglican Church), identifies the "conference centre" as "two lecture halls with both presentation

facilities and seating for lectures” and states “..as the two largest buildings both contain dedicated and fitted out lecture halls, **which are not used for any other purpose**, and the remaining buildings support these two lecture halls, the site is by definition an “educational establishment”.

The site therefore seeks to rely on its existing use rights to continue as an educational establishment as the site usage existed prior to the introduction of the LEP or the Council 7(f) zone”.

- In DA 2001/452 in the SEE Andrew Weir on behalf of the owner confirmed “the site was developed in the 1960’s by the Anglican Church for the purpose of a youth camp. This use continues today.”
- In the same DA Council wrote to the Department of Urban Affairs and Planning on 25 January 2001 confirming the use of the site as a youth camp.

In summary, the content of Council’s own files identify that the relevant “existing uses” that arise pursuant to S.4.65 (a) and (b) of the Environmental Planning and Assessment Act 1979 are properly defined as;

1. The site has an existing use as an educational establishment for young people;
2. The “conference centre” building has an existing use as a meeting hall and such existing use is limited to that building;
3. The dormitory has an existing use limiting its use to attendees of the “conference centre” or meeting room building.

Council’s position

Council has previously acknowledged that the permissible uses on the site are very limited and that no consent has been granted for the specific uses referred to in the owner’s website and the SEE to which I have previously referred to. Following the sale of the site by the Anglican Church in 2010 the new owners commenced using and promoting the site for a number of non approved uses. In a letter dated 16 August 2011 to the owners, David Loosemore and Natasha McGeary, Council referred to the limitations on use arising because of the consent in DA1971/35 and BP9/1975 and the objectives referred to in Clause 9 of the BLEP of zone 7(f) Environmental Protection (Coastal Lands) zone. In that letter Council specifically pointed out that it had no record that any approval had been granted for a number of uses that were then being advertised on “The Dunes” website including “Group Accommodation.... Weddings and Events”.

In response to a subsequent letter from the planner engaged by the (then) owners, Council, in a letter dated 23 September 2011, reconfirmed that the approved conference centre use is “quite specific” and that the associated dormitory accommodation could only be used in conjunction with the conference centre use.

The letter stated – without giving any reasons and incorrectly in my view – that it would be “reasonable to consider” that a limited range of uses were

permissible including *"sporting groups, professional, school, religious or family reunions .."*

However, even if this interpretation was correct, it would not include Functions, Corporate Events or Wedding receptions as referred to in the "the Beach House" website or the SEE lodged with DA 2018/781.

In my view, reference to sporting groups and professional (groups) does not fall within the approved "conference centre" use.

Further, without any reasons being provided, in a letter to Ardill Payne & Partners dated 16 October 2016, Council added the words *"(including weddings or wakes)"* after the word "religious" to this limited range of uses.

Council has further confused the issues by subsequently suggesting to the writer that the term "weddings" included wedding receptions as distinct to wedding ceremonies without providing any reasons for this expanded definition.

Council must assume some responsibility for the confusion that now arises as to the interpretation of DA1971/31 and any "existing use" rights.

However, even though Council's letter of 23 September 2011 incorrectly stated that it was "reasonable to consider" that some of the uses identified were lawful, the correct identification of the very limited lawful uses would have been apparent if the owners had inspected Council's files.

Part 5 Existing Uses – Environmental Planning and Assessment Regulation 2000

Council must consider DA 2018/603 and 2018/781 in the context of Regulation 41 which applies to DAs seeking consent to intensify, alter or change the use of a property.

Regulation 41(2) states that *"an existing use must not be changed under Regulation 41(1) unless that change:*

- (a) involves only alterations or additions that are minor in nature, and*
- (b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use; and*
- (c) does not involve the rebuilding of the premises associated with the existing use, and*
- (d) does not involve a significant intensification of that use."*

The scope of the works already undertaken without consent on the site for which consent is now sought in the DAs 2018/603 and 2018/781 and the uses identified on the owner's website and in the SEE show clear breaches of each of Regulation 41 (2)(a) to (e).

The details of these breaches are identified in previous submissions including those of my wife and of Rodney Gates. Council should undertake a detailed inspection of the site and detail the breaches of the Regulation and ensure it pursues the owners to properly rectify the site.

Other Existing Use issues outstanding under the Environmental Planning and Assessment Act 1979.

The owners must satisfy Council that the requirements of;

- s. 4.65(b)(ii) relating to uses undertaken on the site in the year following the enactment of the BLEP and;
- s.4.66 (3) relating to the presumption of abandonment if the use ceases for a 12 month period.

Evidence from the Anglican Diocese of Grafton will be required to establish whether the requirements of s 4.65(b)(ii) are met.

S.4.66(3) dictates that, as the site was used as Emmanuel Anglican College for 2 years, then any use, other than as an Educational facility, is prohibited.

Clarification of the extent of the existing consents and “existing use” rights.

Before Council considers DA2018/781 and DA2018/603 I request that an experienced Counsel, independent to the owners and Council, be retained to provide a written Advice in relation to the issues I have referred to above.

In the event that my interpretation of the law is correct then Council risks granting consent to uses which are unlawful under the current zoning and any Council Approvals will be vulnerable to appeal, including third party appeals.

2. Indigenous Issues

In support of requests 3)-5) on page 1 of this letter, I ask Council to consider the following matters:-

- The site is a gazetted Aboriginal Place.
- On its Eastern boundary there is a memorial to the Bundjalung People who died in the Black Head massacre.
- It is adjacent to the new cycleway which includes detailed and prominently located signage which details many aspects of local indigenous history and culture.
- The site has significant cultural importance to local indigenous people;

In these circumstances, prior to any assessment of DA 2018/603 or DA 2018/781, Council is obligated to ensure that;

- 1) The Environmental Impact Assessment (EIA) is undertaken thoroughly and in accordance with the same process adopted by Council in the EIA completed by Davies Heritage Consultants in respect of the adjoining cycleway.

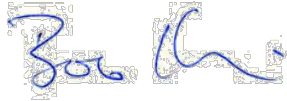
The report of Everick Heritage Consultants dated October 2015 is inadequate for the reasons stated in my wife’s submission of 8 November 2018 in respect of DA 2018/603.

I have spoken on a number of occasions with Troy Anderson who advises the LALC have significant concerns about the DA process and the proposed use of the site.

- 2) An Aboriginal Heritage Impact Permit (AHIP) is issued as required under Part 6 of the National Parks and Wildlife Act 1974.
- 3) A Plan of Management is completed involving the owners, Jali LALC, native title claimants, with Aboriginal community and Office of Environment and Heritage.

In addition, any Development Consent that issues should include a requirement for the erection of prominently located signage identifying the Aboriginal heritage value of the site.

Yours faithfully



Robert Hosie

the beach people

8th February 2019

Ballina Shire Council
PO BOX 450
Ballina NSW 2478
council@ballina.nsw.gov.au

Dear General Manager

I am writing today to express my support of the following project.

DA NO: DA2018/781
APPLICANT: The Beach (East Coast Australia) Pty Ltd
PROPERTY: Lot: 1 DP: 781525, 70 Shelley Beach Road East Ballina.

I am passionate about local developments and think that The Beach (East Coast Australia) will be an incredible addition to the Ballina Landscape. I have known Emma and Tom and done business with them for the past 3 years and in that time have found them to be integrous, honest and hard working Byron Shire Locals. They participate in the community are family oriented and have provided hundreds of jobs to the area. Why do I mention these things? Because I believe that's what makes a great community. I am excited to see these positive flow on effects in Ballina one this new project get's clearance.

Their sustaiblaility efforts at The Farm have not gone un-noticed. I have heard time and again how much others enjoy and have benefited from working with Emma and Tom.

As a local I have watched 70 Shelley Beach Road , East Ballina sit in a decrepit state for years and not at all being used to it's full potential. The Beach (East Coast Australia) will no doubt have a flow cn effect to the Ballina economy and that's good for all of us.

Here's a written statement of my support.

Thanks

Victoria Beattie
Owner
The Beach People



THE BEACH PEOPLE AUSTRALIA PTY LTD
HELLO@THEBEACHPEOPLE.COM.AU
PH: +61 (07) 5523 4841

UNIT 12/23 ENTERPRISE AVENUE,
TWEED HEADS SOUTH, 2486, NSW, AUSTRALIA
ABN: 89 617 864 132

2 Ocean Avenue

EAST Ballina NSW 2478

20 February 2019

The General Manager

Ballina Shire Council

40 Cherry Street

BALLINA NSW 2478

Ref: DA2018/781

Dear Sir/Madam,

I object to the proposed development application DA2018/781 regarding Lot 1 DP:781525, 70 Shelly Beach Road, East Ballina, on the grounds of the intensification and expanded use of the site, excessive noise and inadequate parking. This proposal will adversely impact the health and wellbeing of the residents.

The historical use of the site was as an Anglican Church youth centre and more recently as a low-level conference centre. The proposal states that Ballina Council's assessment and characterisation of the existing use in 2016 was: *"Consequently, it is considered that the approved conference centre use is quite specific, however, the use of the centre and associated dormitory accommodation for sporting groups, professional, school, religious or family reunions (including wedding or wakes), would be considered generally consistent with the approved use of the site. The use of the associated facilities including the dormitory accommodation, amenities, outdoor chapel, caretaker's dwelling, storage etc. are only authorised for use directly in conjunction with the use of the conference centre."*

As evidenced by the developer's website ([The Beach House](#)), they are proposing multiple different uses for the property including weddings, gala dinners, board meetings, charity events, conferences, incentive groups, team building retreats, educational workshops, birthdays, reunions, special gatherings, product launches, wakes/memorials, end of year celebrations, fashion shoots/shows, community group events, Christmas parties *and much more*. This list of purposes represents an increase in intensity and expanded use of the site.

The developer's website also provides the following information about alcohol use: *"The Beach House is a licensed venue and it is a requirement that hirers select from one of our carefully designed alcohol packages. Prices for our 4 hour packages are \$70, \$85 or \$100 per person. Additional hourly rates apply for extra hours. Drinks are not permitted to be served before 11.00am and last drinks will be served by 10.00pm."*

Considering the nature of the expanded list of events on the developer's website (e.g., gala dinners, birthdays, end of year celebrations, fashion shoots/shows, product launches, Christmas parties *and much more*); the requirement to purchase alcohol packages for all events; the allowance of amplified music until at 10pm for 365 days of the year; and guests being permitted to remain at the venue until 11pm; it is reasonable to expect a high level of noise from the amplified music and from guests leaving events. This noise will adversely impact the health and wellbeing of residents who will not be able to sleep at these late hours of the night.

The development proposal states that *"The facility will also utilise bus and taxi services for the transport the majority of guests to the site, to minimise the requirement of driving vehicles onto the property, that will help manage traffic, and will be managed by a proposed traffic management plan."* The venue has no control on the number of guests who will opt to drive their own vehicles to the event. Guests who drive to the event will be forced to park in the residential areas near the entrance to the venue and also on Bellevue Avenue and Ocean Avenue. The presence of additional vehicles on these streets will be a continual disruption to the amenity of residents living there. The noise generated when these guests leave the venue late at night will be extremely disruptive.

Kind regards

A.G. Yabsley

1 Bellevue Avenue
EAST BALLINA NSW 2478

20 February, 2-19

Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478

ATTENTION: Matthew Wood

Dear Matthew

Re: DA2018/216 – Applicant: Balanced Systems Planning Consultants

We repeat our previous objections:

We object to the DA on the following grounds: **EXCESSIVE NOISE and EXCESSIVE AND UNCONTROLLED TRAFFIC and LANDSCAPING**

EXCESSIVE NOISE

We have noted that there has been clearing of vegetation along the Coast Road – we can now see through what is left of the vegetation from the road as we drive into town.

How was this allowed and why?

The vegetation formed a natural barrier for noise – its removal will allow more noise to interfere with our peaceful way of life.

And who wants to see cars or buildings when previously there has been gorgeous native vegetation which catered for a plethora of native birds, animals, reptiles and insects.

It seems that the “noise wall” will be insufficient to contain the noise with a “gate” included in it.

EXCESSIVE AND UNCONTROLLED TRAFFIC

Similarly, the noise generated from buses and cars coming and going, in particular, late at night will be excessive in our opinion.

The ignition, revving of motors, acceleration of cars and buses along the Coast Road late at night will disturb sleep and again the peaceful ambience of our chosen way of life.

It seems that the native vegetation along the Coast Road has been cleared to allow for the construction of a large number of car parks – we understood that buses would be used to convey people to and from the venue.

LANDSCAPING

Still insufficient information on what landscaping will occur.

If the current “landscaping”, ie, large scale removal of native vegetation is any indication, then this is totally unacceptable. How and why has Council allowed this to occur?

Ours is the first home to be affected by whatever events are held on the parcel of land currently covered in the present DA. We have lived in our home for almost 20 years and believe that the Council needs to listen to the residents who have and are lodging objections to this particular DA.

This DA is obviously very contentious!

Why doesn't Council have a meeting with those of us who are objecting to listen to us and to answer any questions we might have for you.

As stated in our previous objection, we have, on occasion, had to resort to calling the police because of excessive noise generated late at night by functions held by the previous owners.

It seems to us that there will be more disruption caused by excessive noise from functions, as well as from more and uncontrolled buses and cars leaving the venue late at night.

Yours faithfully

Denis and Ann Hartley

Chris Speed

6 Ocean Avenue,

East Ballina, 2478

christianspeed@hotmail.com

19 February 2019

RE: Development Application (2018/781)

70 Shelly Beach Rd, East Ballina 2478 NSW (Lot 1 DP 781525)

Dear Sir/Madam,

Regarding the above proposed development application, I wish to raise objections based on several points.

1. The issue of "existing use":

Council clearly recognises the existence and scope of the existing use rights attaching to the property; it is considered that existing use of the approved conference centre is quite specific, however, the use of the centre and associated dormitory accommodation for sporting groups, professional, school, religious or family reunions (including wedding or wakes), would be considered generally consistent with the approved use of the site.

However, I believe that a distinction needs to be made between wedding ceremonies and wedding receptions or parties. I strongly feel that wedding after-parties are incompatible with

- a) The site's close proximity to residential areas
- b) The 7(f) Environmental Protection zoning of the site
- c) The site's Indigenous past, including the massacre of Indigenous people on or near the site

Finally, the developer's DA states that they intend to "maintain all existing uses on the site without enlargement, expansion or intensification of continuing lawful uses".

Clearly, the applicant intends to greatly intensify use of the facility.

2. The issue of noise:

Initially, it is worth noting that the Noise Impact Assessment, conducted by Tim Fitzroy and Associates on behalf of the developer Tom Lane, describes the existing noise environment as follows -

“The primary noise observed while on site emanates from the Pacific Ocean. Secondary noise sources impacting on the subject site were bird calls.”

This is an important point to keep in mind when considering the impact of the noise of wedding receptions or parties on the surrounding residential neighbourhoods.

Noise Impact Assessment modelling as done by Tim Fitzroy and Associates predicts a sound level of 90db for inside the function room and 86db on the deck adjacent to the function room.

According to websites such as Memtech Acoustical (<http://memtechacoustical.com/noise-overview/>) and Noisehelp (<http://www.noisehelp.com/noise-level-chart.html>) the noise level of amplified music generally appears to be about 110db.

Indeed, the developer’s own Noise Impact Assessment states that noise on a dance floor is expected to be 110db.

A noise level of 110db is *four times* louder than a noise level of 90db.

As such, I do not accept the Noise Impact Assessment as presented by Tim Fitzroy and Associates and I suggest that Council does not either.

The following is a quote from the applicant’s Noise Impact Assessment:

For the purposes of operating the function centre, it is likely that a Liquor Licence will be sought from the NSW Independent Liquor & Gaming Authority, the responsible agency for enforcing the Gaming and Liquor Administration Act 2007. Irrespective of whether the operator chooses to apply for a liquor licence or not the Liquor & Gaming Authority standard noise conditions are the most appropriate best practice criteria to which amplified background music and patron noise applies from the proposed development should comply.

The Liquor and Gaming Authority imposes specific noise requirements on licensed venues, such as the proposed restaurant. The noise limits require that:

❖ The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency by more than 5dB between 07:00am and 12:00 midnight at the boundary of any affected residence.*

❖ The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency between 12:00 midnight and 07:00am at the boundary of any affected residence.*

**Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am.*

Considering that the applicant's Noise Impact Assessment appears to be grossly understating potential noise levels, I suggest that the above noise requirements as stipulated by the Liquor and Gaming Authority will be greatly exceeded.

In addition, modelling has provided for prevailing weather conditions of up to 5 m/s or about 10 knots.

Wind strength along the coast regularly reaches speeds of 15-20 knots and above, for extended periods of time - the prevailing southerly and south-easterly direction will carry noise directly from the site to Bellevue Avenue, Ocean Avenue and Beachfront Parade.

Similarly, strong summer northerly winds will carry noise directly to Shelly Beach Road and Pacific Terrace.

Furthermore, it appears that the developer no longer intends to construct sound attenuation walls immediately adjacent to the western and northern walls of the building and along the western boundary of the property (even though the Applicant's own Noise Impact Assessment states that Liquor & Gaming Authority standard noise conditions will be exceeded without the sound attenuation wall/s).

Of course, this exceedance already exists with the modelled significantly lower noise levels (90db vs 110db) and uncommonly low wind speeds.

Finally, and importantly, the issue of "impact noise" or bass noise as opposed to airborne noise (<http://www.yourhome.gov.au/housing/noise-control>) does not seem to have been taken into consideration.

General "airborne" noise levels are one thing but impact noise from amplified music, as evidenced by previous functions on the site, will be constant and inescapable.

3. The Issue of Parking

I also wish to object to DA 2018/781 due to the lack of realistic options for public transport to the site as well as the lack of appropriate parking for private vehicles.

The applicant claims that “The facility will... utilise bus and taxi services for the transport the majority of guests”.

With regards to buses, this claim would appear to be unrealistic considering the expected spacing of accommodation between Ballina, Byron and beyond, and the time taken to collect passengers.

With regards to taxis, the distances involved would make the fares prohibitively expensive – night-time fares from Byron to Ballina are around \$100 each way, if indeed enough taxis could be found to transport large numbers of guests.

DA 2018 603 shows parking for about 50 private cars, and with over 250 guests expected to attend functions, this points to anywhere between 50 and 100 cars requiring parking spaces. This will result in overflow parking on Shelly Beach Drive, Pacific Terrace, Bellevue Avenue and The Coast Road.

Parking on The Coast Road will present a major safety risk, and parking in adjacent suburban streets will present noise and amenity issues for residents, especially late at night when guests will be leaving a function.

I hope these points are taken into account and I look forward to future correspondence regarding these issues.

Yours faithfully

Chris Speed

the beach people

8th February 2019

Ballina Shire Council
PO BOX 450
Ballina NSW 2478
council@ballina.nsw.gov.au

Dear General Manager

I am writing today to express my support of the following project.

DA NO: DA2018/781
APPLICANT: The Beach (East Coast Australia) Pty Ltd
PROPERTY: Lot: 1 DP: 781525, 70 Shelley Beach Road East Ballina.

I am passionate about local developments and think that The Beach (East Coast Australia) will be an incredible addition to the Ballina Landscape. I have known Emma and Tom and done business with them for the past 3 years and in that time have found them to be integrous, honest and hard working Byron Shire Locals. They participate in the community are family oriented and have provided hundreds of jobs to the area. Why do I mention these things? Because I believe that's what makes a great community. I am excited to see these positive flow on effects in Ballina one this new project get's clearance.

Their sustaiblaility efforts at The Farm have not gone un-noticed. I have heard time and again how much others enjoy and have benefited from working with Emma and Tom.

As a local I have watched 70 Shelley Beach Road , East Ballina sit in a decrepit state for years and not at all being used to it's full potential. The Beach (East Coast Australia) will no doubt have a flow on effect to the Ballina economy and that's good for all of us.

Here's a written statement of my support.

Thanks

Emma Henderson
Owner
The Beach People



THE BEACH PEOPLE AUSTRALIA PTY LTD
HELLO@THEBEACHPEOPLE.COM.AU
PH: +61 (07) 5523 4841

UNIT 12/23 ENTERPRISE AVENUE,
TWEED HEADS SOUTH, 2486, NSW, AUSTRALIA
ABN: 89 617 864 132



W www.frankandjoy.com.au

E maria@frankandjoy.com.au

M 0405 933 674

ABN 41 953 496 909

29th January 2019

Attention: The General Manager

Re: DA NO: **DA 2018/781**

APPLICANT: The Beach (East Coast Australia) Pty Ltd

PROPERTY: Lot: 1 DP: 781525, 70 Shelly Beach Road East Ballina

To Whom it May Concern,

I am writing to express my strong support for the above DA.

My name is Maria Birch, I am the Vice President of the Byron Bay Events Association and the owner and director of Frank and Joy, a local events business that has been trading for the past seven years. We work closely with high end venues such as Elements of Byron, The Byron at Byron, Deux Belettes, The Earth House and The Orchard Estate to name a few. We provide event coordination, styling and hire services to corporate and private clients.

Over the last decade this region has become an increasingly popular on the national and international scene, not only as a destination to visit but also as a destination for events which include weddings, family get-togethers and increasingly - corporate functions.

An industry has grown up around catering especially for these groups, focused on extending accommodation before and after the event, arranging transfers, food, music, flowers, lighting and other requirements for the event itself plus increasingly unique experiences, whether they be Kombi rides or photo booths. Pre and post event gatherings at local restaurants are also very popular along with activities such as kayaking, hot air ballooning and visiting the small villages in the area.

This industry, which has grown up in parallel with the visitor industry (with some crossovers) employs a surprising number of people. Because these events make use of existing visitor accommodation, venues and caterers, and in turn their suppliers, it's hard to be precise, but Byron Bay Council figures from an industry study from 2015 indicate the wedding industry alone was valued at over \$56m and this was not taking into consideration the rapidly growing sector of corporate events.

The ripple effect of the economic benefits of the event industry in the area is underestimated with as it is not often taken in to account that small businesses such as local cafes, clothing stores, beauty salons and galleries all benefit from the attendees of an event.

Along with the development of the Ballina Byron Gateway Airport it's expected to grow, as what makes the region different is becoming more appealing in comparison with other locales with its natural environment and the unique experiences that the area offers.

As a result of this growth we are finding there is a shortage of high end venues to service our discerning clientele. We find - whether this is a corporate event or a wedding - it's not always about price, it's about creating something special for your guests.

This is a unique location and we know our clients will feel that how The Beach House venue and onsite accomodation present, represents the very reasons they come to the area for their destination event - sustainable, personable, relaxed yet sophisticated, local yet world class.

The Beach House have a commitment to working with quality local suppliers and producers and this will benefit employment within the community including the employment of local school leavers.

Their conservation ethos including their environmental trust and partnerships with coastal and marine ambassadors is to be applauded and all of the above combined will be an see them becoming an important ambassador for the area and contribute to the building of the reputation of Ballina as a stand alone world class destination.

Their comprehensive internal management plans, including self imposed restrictions, have been formulated with prolonged consultation with the top suppliers in the industry to ensure any surrounding impacts of The Beach House are minimised and its ongoing operation is sustainable for both the community and local environment.

On its face, this industry is one whose continued success requires the things that are important to locals to be maintained, such as respect for the natural environment, retaining a sense of individuality rather than being another Gold Coast, and a commitment to quality, local produce and employment, and this is what visitors to this region expect.

I feel that The Beach House will raise the bar for Ballina, it will bring an influx of tourism and and will inspire other businesses to invest in the area.

Please feel free to contact me if you would like any further information.

Kind regards, Maria Birch



To Peter Dnew

DA 2018/781

Re. The Beach (East Coast Australia) Pty Ltd.

We refer to the above DA and advise that we object to the fact of parking. This is a quite residential area and already the gate is locked at the Beach premises so cars have to park on the road & on crown land.

We can't see them bringing in numerous a wait staff so the noise & parking will be a problem.

Yours sincerely



Greg & Lyn DAVIS
33 Pacific Tee Ballina 2478

70 Shelley Beach Road Submission to DA 2018/781

Peter Drew
Ballina Council
40 Cherry Street
Ballina NSW 2478
8th February 2019

DA NO; 2018/781
PROPERTY; Lot; 1DP: 781525, 70 Shelley Beach Road., East Ballina.

Could the council please take responsibility for the work in progress rather than pass it onto an Independent Assessor so that the people of Ballina can be assured of fair decisions in the future.

The subject application has been lodged in addition to the works proposed in DA 2018/603. N.B. I have already written a submission for the DA 2018/603. I do hope that is being considered with this submission.

The latest DA proposal, DA 2018/781, does not address the issue of 'existing use' of the conference centre. If these proposed 50 car parks, alterations and additions go ahead does this mean that the proposed use of the development will be allowed to go ahead also?. I understand the proposed usage includes wedding receptions, parties and pumping music, etc that could happen 365 days of the year. The lifestyle of the families and people who live in the area could be destroyed. Parking for 50 cars and extra 'spill-over parking' sounds like a lot of expected 'customers/clients'. I guess we can be pleased they are not actually parked in our streets, but they will have to enter and exit via our streets.

Looking at the drawings of the proposed works it appears that the waste water from the site is being emptied onto surrounding bushland. Is this acceptable?

On the whole after looking at the proposed alterations and additions to the development of the 8,170 square metres of precious foreshore land this application sounds quite reasonable, but there should be no further natural vegetation removal. The trees hold our land together and give us oxygen to breathe.

I notice that "Appendix A to the drawings contains a letter of legal advice on the existing use provisions which are being utilised for this development application." But I have not seen this. I understand that the 'existing use' term applied to the site being used as a conference centre and camping area. This is not the same thing as converting 70 Beach Road, Shelley Beach into a commercial function and wedding centre that could service 300-400 people, seven days a week, will compromise the fragile coastline, leaving a precedent allowing further coastline DA approvals to go through.

Does this mean that further protected foreshore land can be sold off for commercial purposes? A memorial situated the back steps of 70 Shelley Beach Road reminds us that this is the site where 30 Aboriginal men, women and children were shot. This is not the place for wedding receptions, birthday parties or alcohol fuelled celebrations with pumping loud music in the evenings as most of us try to sleep.

The Ballina council needs to help us, the residents and rate payers, prevent invasive commercialism on our precious foreshores.

Hilary Kerr
East Ballina



Mr Paul Hickey
General Manager
Ballina Shire Council
council@ballina.nsw.gov.au

4 February 2019

NSW Business Chamber Limited
Ballina
Street address
2/54 Tamar Street, Ballina NSW
2478
Postal address
PO Box 950, Ballina NSW 2478
DX 27657
t 13 26 96
f 1300 655 277

The Beach House East Coast (DA 2018/781)
Lot 1 DP 781525, 70 Shelly Beach Road East Ballina
Letter of Support

Dear Mr Hickey

The NSW Business Chamber, Northern Rivers, strongly supports activities that enable the growth and sustainability of the local economy and opportunities for businesses in the region to prosper and create employment.

The proposed new enterprise, **The Beach House East Coast**, presents as a wonderful initiative for the region and Ballina in particular, to grow its visitor and business conferencing market and offer a product with a clear point of difference.

The Chamber is aware of the challenges facing the region in attracting investment and generating employment and is actively involved in working with businesses to grow sustainably and effectively in their communities.

Many of the employment challenges facing the region can be overcome through sound and innovative projects that are strategic and enable us to create industry opportunity.

We would see the improvement to the existing facilities at 70 Shelley Beach Road as outlined in the DA and the future opportunities a conferencing centre, business events and accommodation offering on one site such as proposed to be in line with a number of local and State strategies. In this regard we point to a clear alignment with the Ballina Shire Economic Development Strategy, the NSW Visitor Economy and Industry Action Plan and the NSW Regional Conferencing Strategy and Action Plan.

It is exciting to see the evolving nature of our region's tourism offering and the opportunity for the Ballina Shire to be part of this important stage of industry and jobs growth.

We offer our support to this proposal and ask for Council's positive consideration.

Yours sincerely

Jane Laverty
Regional Manager, NSW Business Chamber Northern Rivers

ABN 63 000 014 504

Invigorating business

NSW Business Chamber is a founding member of ACCI

nswbusinesschamber.com.au

① Att - Peter Drew

Johi Lahiff
30 Pacific Ice
East Ballina

Re - DA 2018/781

LOT 1 DP 781525
70 Shelly Beach Rd
East Ballina.

Dear Councillors

As spokes people for The Residents and Ratepayers of Ballina I urge you to use virtue and integrity when considering the above application.

Shelly Beach is a quiet, residential area full of deep cultural history. Can council promise that the rights of its long term residence take precedence when you decide what is suitable for 70 Shelly Beach Road above the money to be made from an economic enterprise not from the Ballina Shire.

My main concerns are:

- 365 days of functions (and having studied "The Farm" this could be a reality)
- Business Hours. It would be great if these were reasonable considering this is a residential area.
- Off street Parking. In recent years our street was choked up dangerously to one available lane as cars parked outside our residences, often returning noisily at night (patrons that is).
- Environmental Damage (and I am not referring to the multiple trucks and earth movers which entered the Property in late 2018) but to the fragile Crown Land surrounding the property and the bush track leading to the Beach. Events should be contained within the Property's Boundaries.

Noise pollution - greatly increased by the much more open concept of the building and bigger outdoor decks. As this is a residential area I think a strict early noise limit should be imposed

I trust this council to consider all the rights and concerns of the locals when appraising any application to 70 Shelly Beach Road as impacts from this development will be substantial and ongoing

Yours Sincerely
Julie Laiff 18/2/19

31 January 2019

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Email: council@ballina.nsw.gov.au

DA NO: 2018/781

APPLICANT: The Beach (East Coast Australia) Pty Ltd

PROPERTY: Lot: 1 DP: 781525, 70 Shelly Beach Road East Ballina

Dear Mr Hickey

This is a positive submission supporting the above development application for The Beach, East Coast.

As an accommodation provider in Ballina, we believe this venue will raise the tourism profile of Ballina and the Northern Rivers, generate revenue to businesses in the area through increased visitation and need for supplies and services and will create job opportunities for locals. Accommodation suppliers will also have opportunities to gain more room nights through visitors attending functions and events at The Beach.

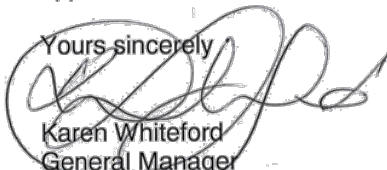
Having visited The Beach for a site inspection and meeting with the Manager, Sal Richardson I was very impressed with the renovations and the careful and comprehensive planning to minimise the venues impact on the environment and the community within which it is housed.

Additionally, Ballina has a limited choice of larger venues and The Beach will attract high end visitors for both corporate and leisure business.

The DA encompasses minor works only and is not asking for a change of use. This venue has been operating as an event business for many years, so not only does it just want to continue operation but has vastly improved the site to the benefit of the community and visitors.

I believe The Beach will be a valuable community member and one who gives back through its ethical and charity programs. We strongly support the development application.

Yours sincerely



Karen Whiteford
General Manager

Director (BBS Pty Ltd T/A Ramada Hotel and Suites Ballina)

2 Martin Street, Ballina, NSW 2478
tel 02 6618 1000 fax 02 6618 1770
www.ramadaballina.com.au



Ballina Booking Service Pty Ltd - ABN: 51 02946118 trading as Ramada Hotel and Suites
This facility is operated under a license agreement with Ramada Worldwide Inc.



To Whom it May Concern,

I'm writing in regards to the following DA submission:

DA NO: **DA 2018/781**

APPLICANT: The Beach (East Coast Australia) Pty Ltd

PROPERTY: Lot: 1 DP: 781525, 70 Shelly Beach Road East Ballina

We fully support the application and believe that this development will provide much needed employment to the local region.

The Beach (East Coast Australia) Pty Ltd have been in discussions with us as to how they can best mitigate any noise issues for the surrounding neighbours and are committed to implementing our recommendations.

The Ballina Shire is in need of a function centre like this as it will be a real asset to the community and provide business and income to the local economy.

Please call me anytime for further clarification.

Warm regards,

Dan Cassidy

Director

North Coast Events

dan@northcoastevents.com.au

northcoastevents.com.au



OZK Pty Ltd ABN: 73 614 214 167
Unit 5, 20 Brendan drive, Nerang QLD 4211
Website: www.ozkcorp.com.au

Friday 1 February 2019

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

RE: APPLICANT The Beach (East Coast Australia) Pty Ltd

DA NO: DA 2018/781
PROPERTY: Lot: 1 DP: 781525, 70 Shelly Beach Road East Ballina

I am writing to express our support for the development of The Beach House, we truly believe that this venue not only will create more jobs in the area but it will also assist in the growth of the local economy by attracting visitors to the area.

We believe in their values and their approach to the environment and local community.

Please do not hesitate to contact me if you require any information about our company

Kind regards

Paco Dector Lira
Customer Service Manager
OZK Pty Ltd
M: 0423 872 444
E: paco.dectorlira@ozkcorp.com.au



PETER DREW.

PETER POWER
30 PICTURE TLE
BALLINA 2478
0486 554
008

D.A. 2018/781

LOT: 10P: 781525

70 SHELLY BEACH RD
EAST BALLINA

- I URGE COUNCIL, WHEN CONSIDERING THIS APPLICATION, TO FULLY REVISIT THAT THIS SITE FOR DEVELOPMENT LIES WITHIN A CULTURALLY HISTORIC, ENVIRONMENTALLY UNIQUE, SIGNIFICANT LOCATION, AMIUST-CROWN LAND, AND NOT COMPARABLE TO A D.A. AMIUST COMMERCIAL SURROUNDS.

- OTHER CONCERNS ARE OF DISRUPTION CAUSED BY VEHICULAR & PEDESTRIAN TRAFFIC,

- OFF-STREET PARKING & POLICING OF SUCH,

- BUSINESS HOURS (?)

- NOISE

- EFFECTS ON NATIVE FAUNA; FLORA.

- IMPACTS ON LOCALS.

• THIS IS AN ECONOMIC VENTURE WHICH I FEAR WILL FAIL TO REMAIN 'LOW-KEY', 'NATURE LOVING' & 'EDUCATIONAL' AS TOUTED.

• I TRUST THIS COUNCIL TO CONSIDER THE RIGHTS & CONCERNS OF LOCALS WHEN APPRAISING ANY APPLICATION, & ESPECIALLY IN THIS UNIQUE & PRIVILEGED SITE, AS IMPACTS WILL BE FROM THE DEVELOPMENT WILL BE SUBSTANTIAL, & ONGOING.

THANK YOU FOR READING
MY LETTER,

PETER POWER



16/2/19

31 January 2019

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Email: council@ballina.nsw.gov.au

DA NO: 2018/781

APPLICANT: The Beach (East Coast Australia) Pty Ltd

PROPERTY: Lot: 1 DP: 781525, 70 Shelly Beach Road East Ballina

Dear Mr Hickey

This is a positive submission supporting the above development application for The Beach, East Coast.

As an accommodation provider in Ballina, we believe this venue will raise the tourism profile of Ballina and the Northern Rivers, generate revenue to businesses in the area through increased visitation and need for supplies and services and will create job opportunities for locals. Accommodation suppliers will also have opportunities to gain more room nights through visitors attending functions and events at The Beach.

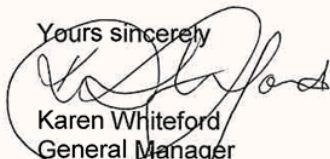
Having visited The Beach for a site inspection and meeting with the Manager, Sal Richardson I was very impressed with the renovations and the careful and comprehensive planning to minimise the venues impact on the environment and the community within which it is housed.

Additionally, Ballina has a limited choice of larger venues and The Beach will attract high end visitors for both corporate and leisure business.

The DA encompasses minor works only and is not asking for a change of use. This venue has been operating as an event business for many years, so not only does it just want to continue operation but has vastly improved the site to the benefit of the community and visitors.

I believe The Beach will be a valuable community member and one who gives back through its ethical and charity programs. We strongly support the development application.

Yours sincerely



Karen Whiteford
General Manager
Director (BBS Pty Ltd T/A Ramada Hotel and Suites Ballina)

2 Martin Street, Ballina, NSW 2478
tel 02 6618 1000 fax 02 6618 1770
www.ramadaballina.com.au



Ballina Booking Service Pty Ltd ABN: 61102946118 trading as Ramada Hotel and Suites.
This facility is operated under a license agreement with Ramada Worldwide Inc.

Robert House
5 Bellevue Ave
East Ballina 2478

20/2/2019

Mr Peter Drew
Development and Environmental Health Group
Ballina Shire Council
40 Cherry St
Ballina 2478

Dear Mr Drew

Re: DA 2018/781

Please refer to my objections in my previous submission in regards to DA 2018/603. My opinion has not changed.

Additional to my previous objections, I find that the asking for forgiveness instead of permission by the applicant could undermine and corrupt the Development Applications processes of the Shire Council and could encourage future developers to break the existing processes and regulations.

Also, by approving these alterations and additions, to my mind, implies that the issue of "existing use" has been settled in favour of the applicant. I believe that the issue of "existing use" is far from being settled.

The applicant knowingly purchased a property in an unique and sensitive 7F environmental zone and residential area. This is the only property constructed on the east side of The Coast Road from Shelley Beach Rd to Skennars Head. This sensitive and unique area needs protection from any further development.

In conclusion, I think that council should be restricting development on the site and not approving intensification of its use. Where any illegal/ unauthorised construction has take place, it should be demolished.

Thank you for taking my submissions into consideration.

Kind Regards

Robert House.

Sue Wade

From: Dianne Hellyar <dianne.hellyar@gmail.com>
Sent: Monday, 18 February 2019 11:12 AM
To: Ballina Shire Council
Subject: Planning Department

Attention: The General Manager 18 February, 2019

RE: DA NO: 2018/781

The Beach (East Coast Australia) Ptd Ltd

In regards to the additions and changes to Development Application for the above property, we would like to lodge another objection as we have with previous plans.

We would like to inform Council that we object to any changes to the above that may detrimentally affect or have the potential to in the future, of the quiet, residential nature of the street and area.

The area of Shelly Beach Road, Pacific Terrace and surrounds that would be affected by additions and alterations to the plans, currently has very limited area for parking and traffic passing already has to give way to each other to navigate the street at times. Any an increase to this would be extremely detrimental to living in a quiet residential suburb, especially in holiday times. The extra congestion with traffic, people noise, possible loud music, late nights and other activities that big crowds attract would be difficult to police and this would in turn affect the property values in due course. There has already been parking on crown land outside the venue a number of times since changes have been made.

We would also like to say that we support any reasonable objections that are received from our neighbours and residents in Pacific Terrace and area closeby.

Thank You.

Graeme & Dianne Hellyar

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

<BR

Sue Wade

From: Megan Hoult <handmadehire@gmail.com>
Sent: Wednesday, 6 February 2019 1:17 PM
To: Ballina Shire Council
Subject: DA 2018/603 and DA 2018/781

To The General Manager,

DA 2018/603 and 2018/781

I am writing to you in reference to the Development Applications that have been with your Council from last year.

The Site

Having been in the region for almost 20 years, I have certainly witnessed considerable change and growth. Some of this has seemed questionable, and other developments have contributed so much value culturally, environmentally, commercially and socially.

The Beach House development is one which I firmly believe contributes to this Shire on all four areas:

Culturally, The Beach House is another fine addition to the incredibly successful Wedding and Event Industry on the Northern Rivers. Not only does this provide fabulous employment and training opportunities for locals, it helps to showcase our region to visitors. Given that so many of our local High Schools offer Hospitality as an HSC subject, it is clear that this industry is here to stay in our Shire, and is one that should be supported.

The Beach House is a development where celebrating events can contribute so much to the Ballina Shire. Where Byron Bay and the Hinterland has always been "The Place" to get married, now Ballina has a fabulous opportunity to assert itself equally.

Environmentally, this site has not expanded the existing buildings - simply updated them to be a truly beautiful stylish and understated site. Where dead trees have been removed, there has been considerable planting of new vegetation. Faulty and worn out retaining walls and the entrance fencing has also been improved and replaced without encroaching on the existing vegetation. Furthermore, the Environmental Trust stands to gain from donations from bookings at The Beach House. In my experience in the industry in the region, this is a unique offering.

Commercially, the old site, whilst having served it's purpose in the past, had become a stagnant business. The Beach House Team has done an incredible job of turning the existing buildings and the well-established purpose of the site into a relevant and marketable product. Our region is in need of more professionally operated Event and Conference sites that reflect the areas respect and care for the environment. The Beach House has the potential to be hugely successful attraction for the Ballina Shire as well as supporting local environmental projects.

Socially, The Beach House will be a destination Wedding and Event Venue for the Ballina Shire. It will potentially take a lot of business from the Byron Shire in doing so, will expose more and more people to the beauty of Ballina and its beaches. With the airport so close, the Ramada Hotel nearby, and the developments along River Street, including the Public Pool, there will be an injection of tourist dollars, which will create a buzz and energy that Ballina is so ready for.

The Team

1

I have know Tom and Emma Lane since they relocated to the area and undertook the impressive development of The Farm. This has become a wonderful showcase of what our region stands for - a perfect balance of commercial, environmental, social and cultural elements. When my business partner and I first heard about the development of the site at Angel's Beach we, as were many other people in the industry, were ecstatic. Who better to create a beautiful yet respectful Venue than the Lanes.

Furthermore, after meeting the Onsite Manager, Sally Richardson, we knew they had struck gold. With her Hotel Management background and her professionalism, we could not wait to do business with the Team.

The work that has been carried out is just so impressive - the site has shifted from a tired outdated building suitable for scout groups, to a beautiful set of buildings that are incredibly luxurious whilst being so understated and sit within the natural environment so seamlessly.

Our Response to the Delay of Approval for both DAs

Both personally and professionally, Zani and I have been so disappointed and frustrated at the delays The Beach House has endured. It is our understanding that all changes, modifications, and compliance requirements have been met each time. Concerns about vehicles accessing the site, noise and disturbance for the local residents have all been carefully thought out and well and truly accommodated with their self-imposed requirements for their guests.

We hope that the Ballina Shire Council will reconsider the current situation and understand that there is a lot of community and commercial support for this development

DA 2018/78

Megan Hout
Communications
@handmadehire
+61 403 00 8103
1035a Hinterland Way
Bangalow NSW 2479

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

C RC and H L Hosie
2/2 Bayview Drive
East Ballina, 2478
19 February, 2019

**RE: Development Application (DA) 2018/781
Lot: 1 DP: 781525, 70 Shelly Beach Road, East Ballina**

Dear Sir/Madam,

We acknowledge receipt of your letter of 17 January 2019 advising of the submission of the above mentioned DA and inviting submissions to council.

In respect to the proposed development application we continue to raise the same objections mentioned in our previous submissions to DA 2018/216 and DA 2018/603, which relate to the same site.

Our four critical concerns continue to be what constitutes 'existing use'; noise mitigation; traffic management issues and the commencement of unauthorised works.

Please find attached our previous submission to DA 2018/603, which details our four critical concerns further.

We thank you for the opportunity to comment on the proposed DA 2018/781. We trust that the concerns we have continued to raise will be addressed and we look forward to future correspondence regarding this proposal.

Kind regards,

C RC and H L Hosie

C RC and HL Hosie
2/2 Bayview Drive
East Ballina, 2478
9 November, 2018

**RE: Development Application (DA) 2018/603
Lot: 1 DP: 781525, 70 Shelly Beach Road, East Ballina**

Dear Sir/Madam,

We acknowledge receipt of your letter of 24 October, 2018 advising of the submission of the above mentioned DA and inviting submissions to council.

In respect to the proposed development application we wish to raise objections based on four critical concerns; what constitutes 'existing use'; noise mitigation; traffic management issues and the commencement of unauthorised works.

'Existing Use'

The Applicant's website (<https://www.thebeachhouseeastcoast.com/celebrations/>) states that the intended use of the site is for corporate functions and weddings that can cater up to 250 guests.

We do not believe that these types of functions constitute 'existing rights' with consideration to the zoning of the site; 7 (f) Environmental Protection (Coastal Lands) Zone.

On the grounds of 'existing rights' we also object to the intended frequency and size of the events clearly anticipated by the Applicants.

With consideration to the zoning of this site, any future development should aim to protect and enhance the ecological values on and surrounding the site, rather than see the removal of existing vegetation, as has already been carried out on the site.

This application is clearly an intensive commercial venture, which seeks to go far beyond any previous activities or events witnessed on this site.

For these reasons we believe the application does not meet 'existing rights' criteria.

Noise Mitigation

We continue to hold the same concerns that we expressed with regards to DA 2018/216; which related to the same site.

We remain alarmed at the noise that will emanate from the site if the current DA is approved and the site is used in the various ways outlined on the Applicant's website.

We previously noted that a Noise Impact Assessment presented by Tim Fitzroy and Associates classified noise at and above 110db as *extremely noisy to intolerable*. We also pointed out that numerous sources state that the noise of amplified music generally appears to be around 110db or higher.

We also noted in our previous objection that previous functions held at this site where amplified music was playing resulted in noise that we considered intrusive and was significantly louder compared to the other noises in this area. With the site approximately 200m from our residence the noise emanating from these functions interfered with the sleep of our young family.

Should the Council agree to support the DA we suggest Conditions of Consent be included to mitigate the impact of noise from the site:

- Council should require the installation of the sound attenuation wall measuring at least 2.4 m in height from the top of the previously erected retaining wall; as referred to in the Noise Impact Statement of Tim Fitzroy and Associates dated 24 October 2018 (para 3.4.7);
- Council should require the reinstatement of the fixed wall on the northern end of the building, the removal of the doorway installed on the western wall and the reinstatement of the previous fixed wall;
- We suggest the installation of a sound attenuation wall and reinstatement of the recently removed vegetation on the western boundary of the site to limit the noise from patrons and their vehicles when arriving and leaving the site late at night;
- We also suggest the removal of the terrace areas on the western and northern sides of the building and the reinstatement on the retaining wall, grassed and paved areas as depicted on the survey plan of the original building as shown on page 8 of the SEE, and;
- Functions should be limited to Fridays and Saturdays only.

Traffic Management

The SEE for DA 2018/603 provides onsite parking for the number of patrons its website says it can cater for (250 guests, not including staff).

We cannot accept that a site that can accommodate 250 guests will not have a significant impact on the local area and local residents.

The previous DA 2018/216 acknowledged the limited car parking available and proposed all guests be bussed to and from the site. The current SEE also suggests that the Applicant will, “utilise bus and Taxi services for the transport of the majority of guests to the site, to minimise the requirement of driving vehicles on to the property.”

We suggest a detailed Traffic Management Plan should be developed that should identify details of the proposed private bus service pick up and drop off zone, taxi pick up and drop off zone and any parking for guests’ vehicles. This plan should be publicly advertised and feedback sought from local residents of Shelly Beach and Angels Beach.

As previously stated in our objection to the previous DA on this site, even if the majority of guests are transported by bus, there is very limited parking available on Shelly Beach Road and no direct access from The Coast Road. Guests would be forced to park on Shelly Beach Road, The Coast Road, Bellevue Avenue and Bayview Drive, which will greatly impact the amenity of local residents.

We are particularly concerned that many guests will park on Beachfront Parade, Bayview Drive and the Coast Road, use the underpass under the Coast Road and access the site from the eastern side via the Coastal Recreation Path. The traffic and noise problems that would arise from this situation would be extremely undesirable for the residents of Angels Beach.

A large increase in traffic using the Shelly Beach Road/Coast Road intersection also presents significant safety issues with consideration of the crest of the hill to the north of the intersection. The inevitability of guests parking on the shoulders of the surrounding roads also presents a significant safety concern.

Works Completed Without Consent

DA 2018/603 seeks consent for building and earthworks that have already largely been completed without consent.

These unapproved works will adversely impact my property and the surrounding residential neighbourhood, and include:

- The addition of the covered outside terrace on the western and northern side of the building significantly increases the noise from those 2 areas and roughly doubles the seating capacity of the building;
- The provision of onsite parking and the associated removal of landscaping on the western edge of the property will greatly increase the noise from the site;
- The installation of a doorway opening on the western wall of the building will allow noise from inside the building to travel in a westerly direction.

The Council should pursue all penalties against the Applicant in the Land and Environment Court for the works completed without consent. This should include the demolition of all building and earthworks completed without the appropriate consent.

Upholding the importance of everyone being required to comply to the Development Application process cannot be understated.

Conclusion

We thank you for the opportunity to comment on the proposed DA 2018/603. We trust that the concerns we have raised will be addressed and we look forward to future correspondence regarding this proposal.

Kind regards,

C RC and H L Hosie

Sue Wade

From: Simon Haslam <simon@echo.net.au>
Sent: Monday, 4 February 2019 12:39 PM
To: Ballina Shire Council
Subject: DA 2018/781 - submission in support

To: Ballina Shire Council
PO Box 450
BALLINA NSW 2478

4 February 2019

RE: DA number 2018/781
By: The Beach (East Coast Australia) Pty Ltd
Property: Lot 1 DP: 781525, 70 Shelly Beach Rd East Ballina

I support this proposal because, having inspected the site last week

1. As a publisher of Byron Venue, a booklet and online guide to the venues of the North Coast including Tweed, Byron and Ballina, I have heard first hand many times of the need for upmarket venue facilities such as these. The feedback I receive from industry is that the more such 'unique', stylish and modern venues are available, the greater the growth of this industry that is far more environmentally sustainable than most others. A corollary of this is that venues of the larger capacity such as this are needed to entice more upmarket corporate clients (a current target market for the industry) as well as weddings. With a large range of such facilities the smaller venues also benefit, due in part to the fact that support 'event services' have volume in the market and therefore are of sufficient range to support a variety of big and small events.
2. I support the environmental initiatives of the business promoting local environmental groups. I saw the plantings along the boundaries, and understand the pro-environmental ethos of Tom and Emma Lane, owners of the Beach House, through involvement with The Farm Byron Bay.
3. I understand the strategies for off-site parking, the voluntary curfew of 10pm for sound and 10.30pm to clear guests from the site, and the provision of noise monitors to be part of an effective suite of strategies to minimise the impact of the continuing existing use of the premises. Those neighbours who are not shielded by planting and at the end of the long drive (to the south) are those across a busy coastal road (east). On my visit I found the traffic on this road constant.
4. I was very impressed with the way the existing building had been repurposed in a modern way, which in my opinion as the editor of the restaurant section of the Byron Shire Echo, and publisher of Byron Venue, seemed likely to attract upmarket guests to the venue. I found the specific DA modifications requested in this particular DA were relatively minor, and I believe the owners will implement them tastefully.
5. I believe that the former venue Dunes was not managed with the degree of attention to detail and awareness of neighbours that is characteristic of the current owners, and that the venue will be responsibly managed in accordance with legal restrictions.

Yours Sincerely,

Simon Haslam
General Manager
Byron Shire Echo, Echonetdaily
Ph 02 6684 1777

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

<BR