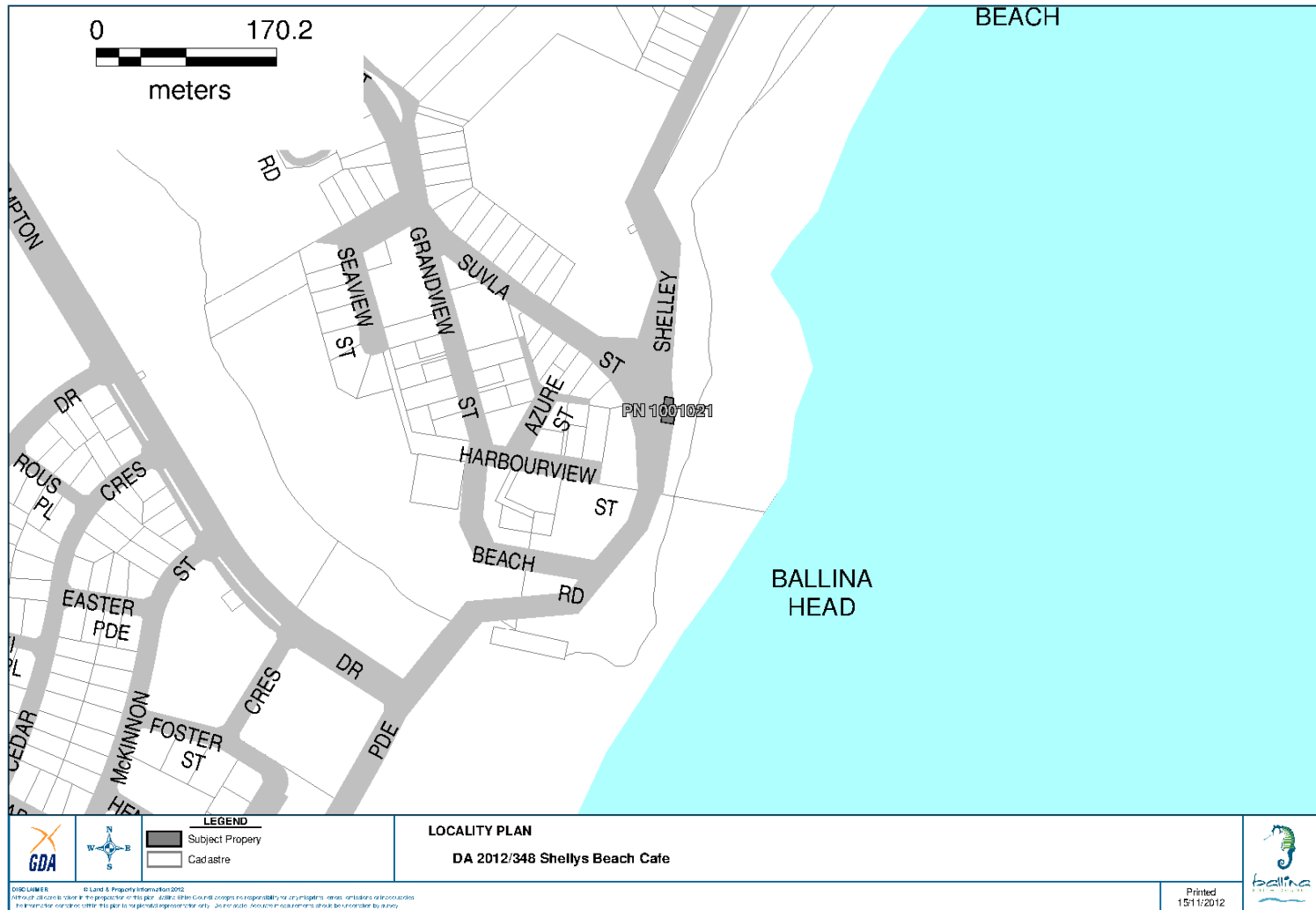


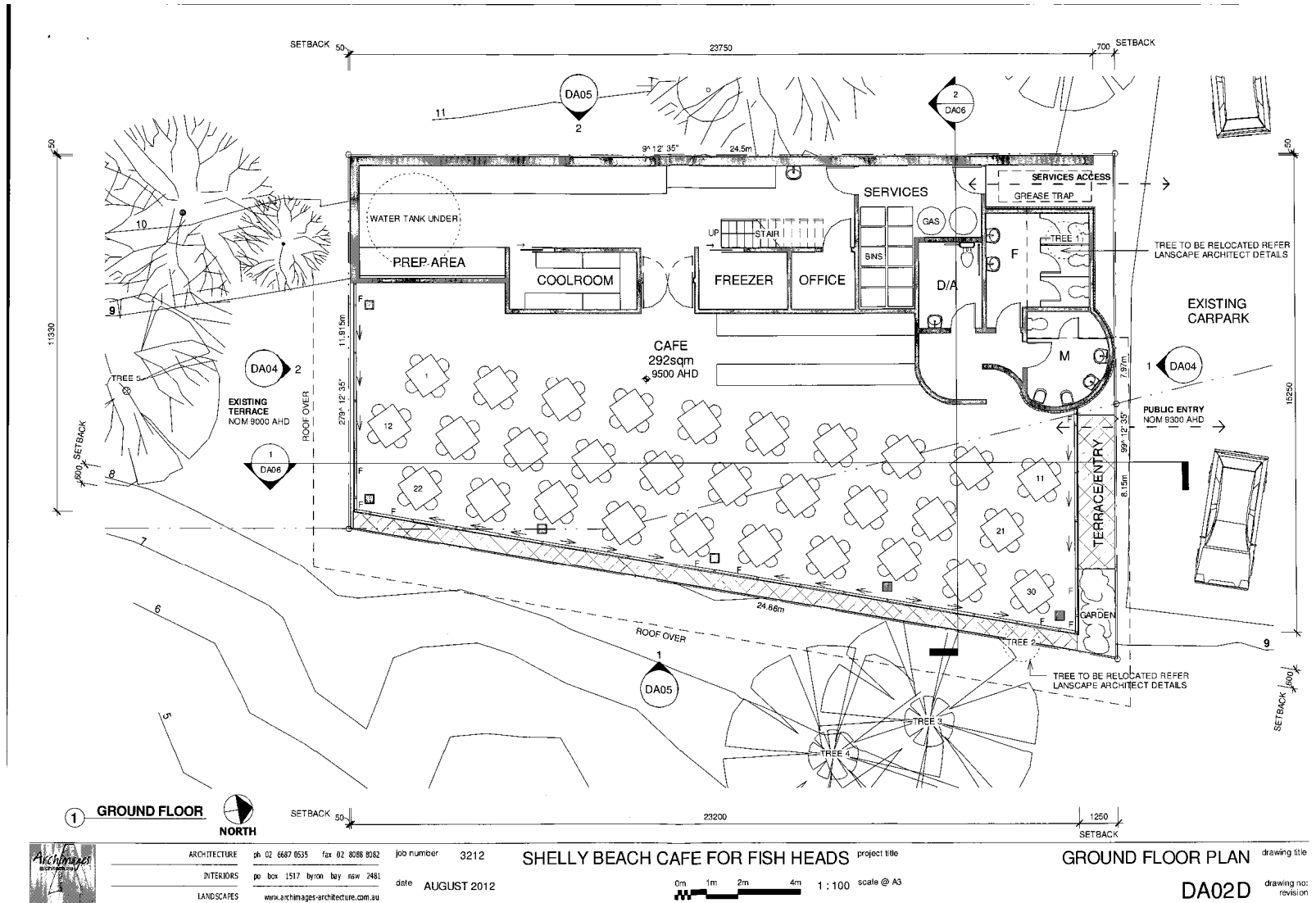
8.2 DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC



8.2 DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC



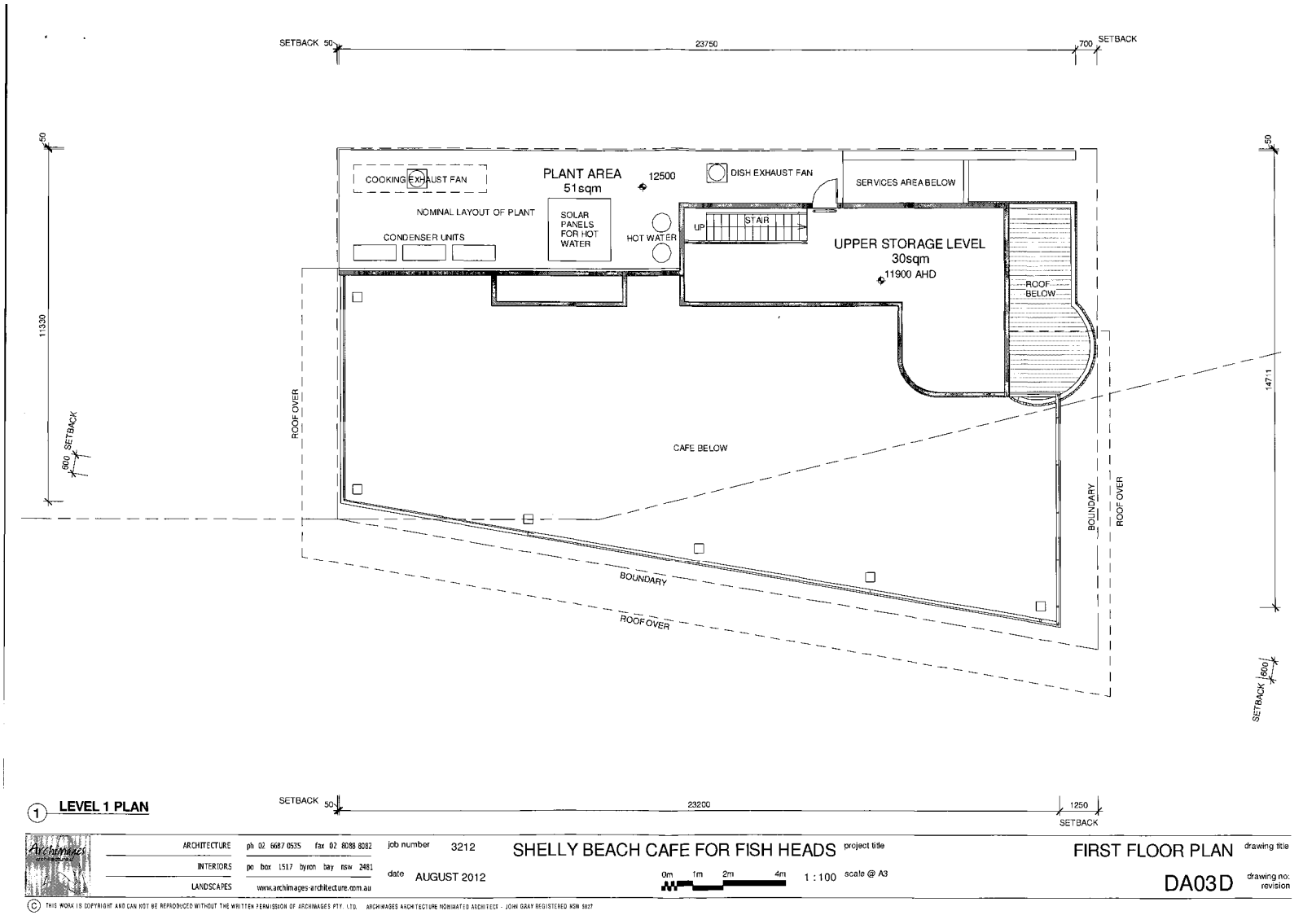
8.2 **DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC**



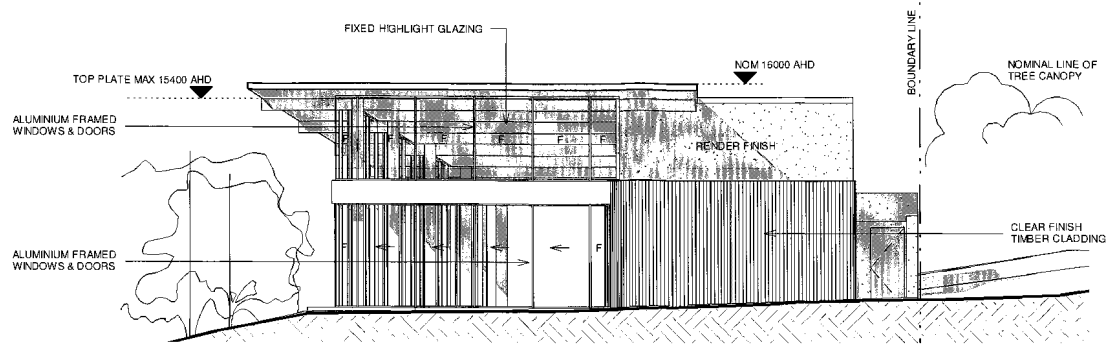
	ARCHITECTURE ph 02 6687 0535 fax 02 8088 8082 job number 3212 INTERIORS po box 1517 byron bay nsw 2481 LANDSCAPES www.archimages-architecture.com.au	SHELLY BEACH CAFE FOR FISH HEADS project title date AUGUST 2012 0m 1m 2m 4m 1:100 scale @ A3	GROUND FLOOR PLAN drawing title DA02D drawing no: revision
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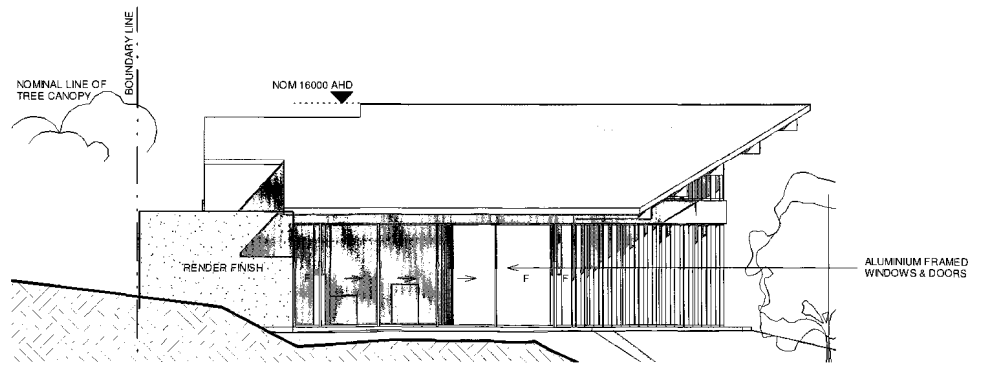
8.2 DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC




8.2 DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC



① NORTH ELEVATION

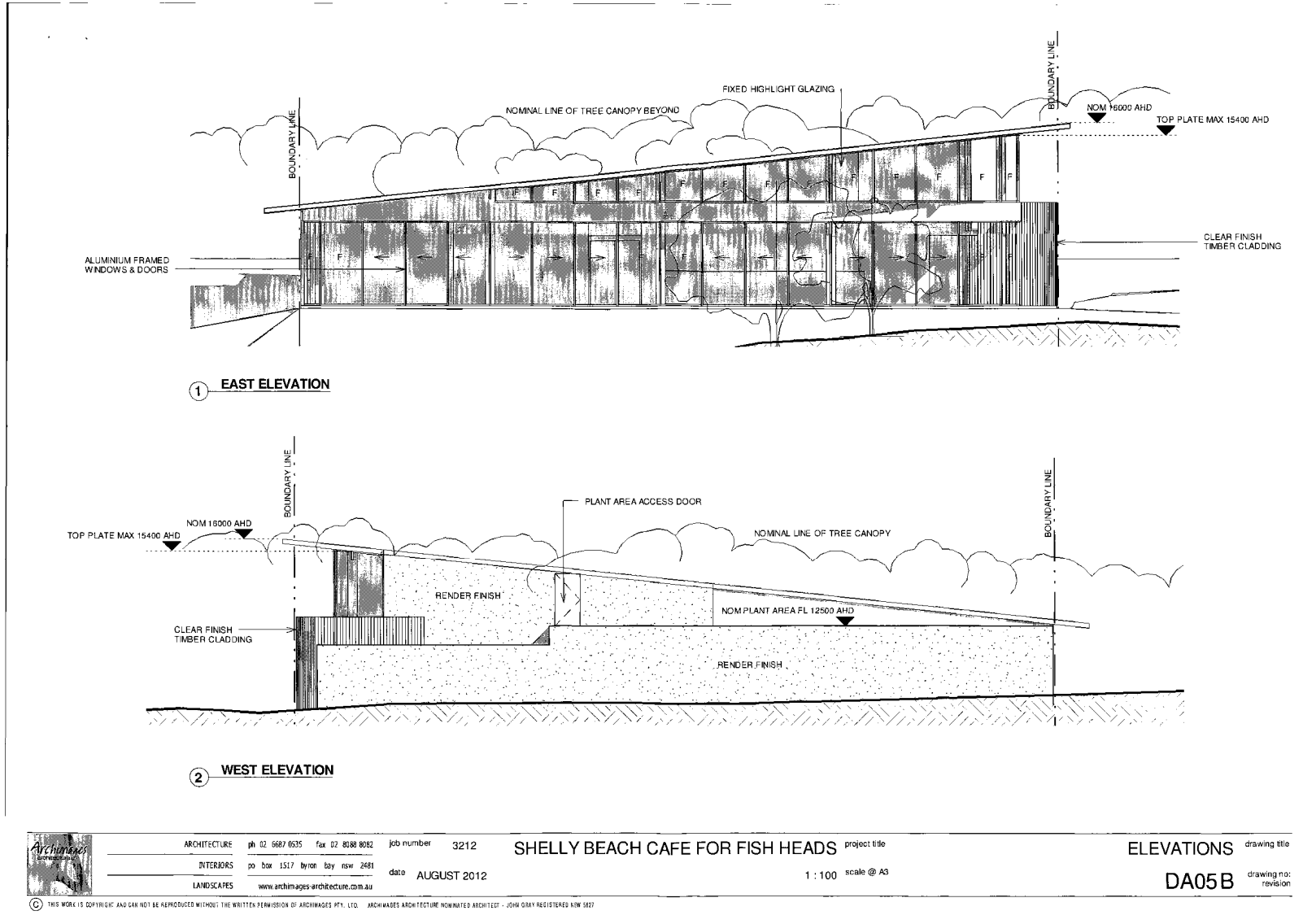


② SOUTH ELEVATION

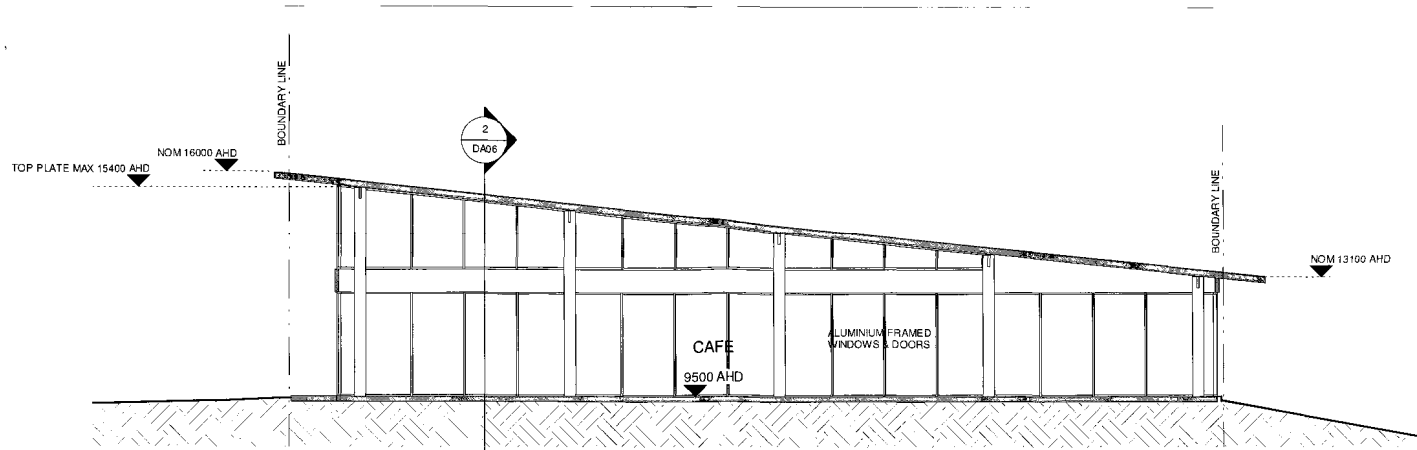
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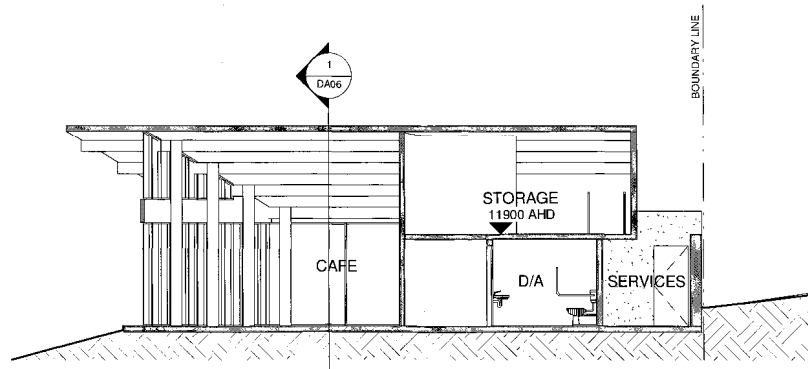
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8.2 **DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC**



1 SECTION A



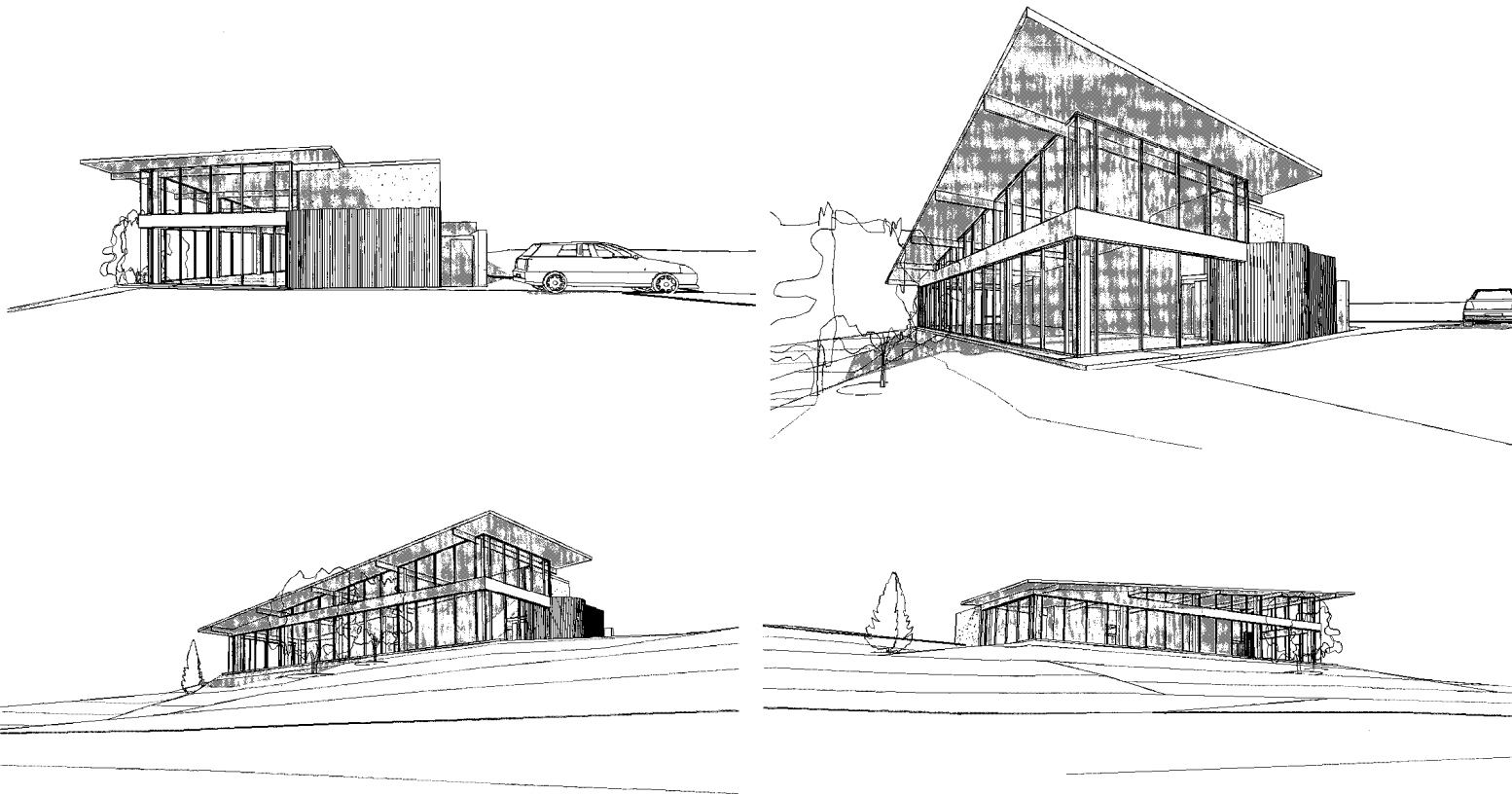
2 SECTION B

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	INTERIORS	po box 1517 byron bay nsw 2481		date AUGUST 2012			DA06D	drawing no.
	LANDSCAPES	www.archimages-architecture.com.au						revision

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8.2 DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC



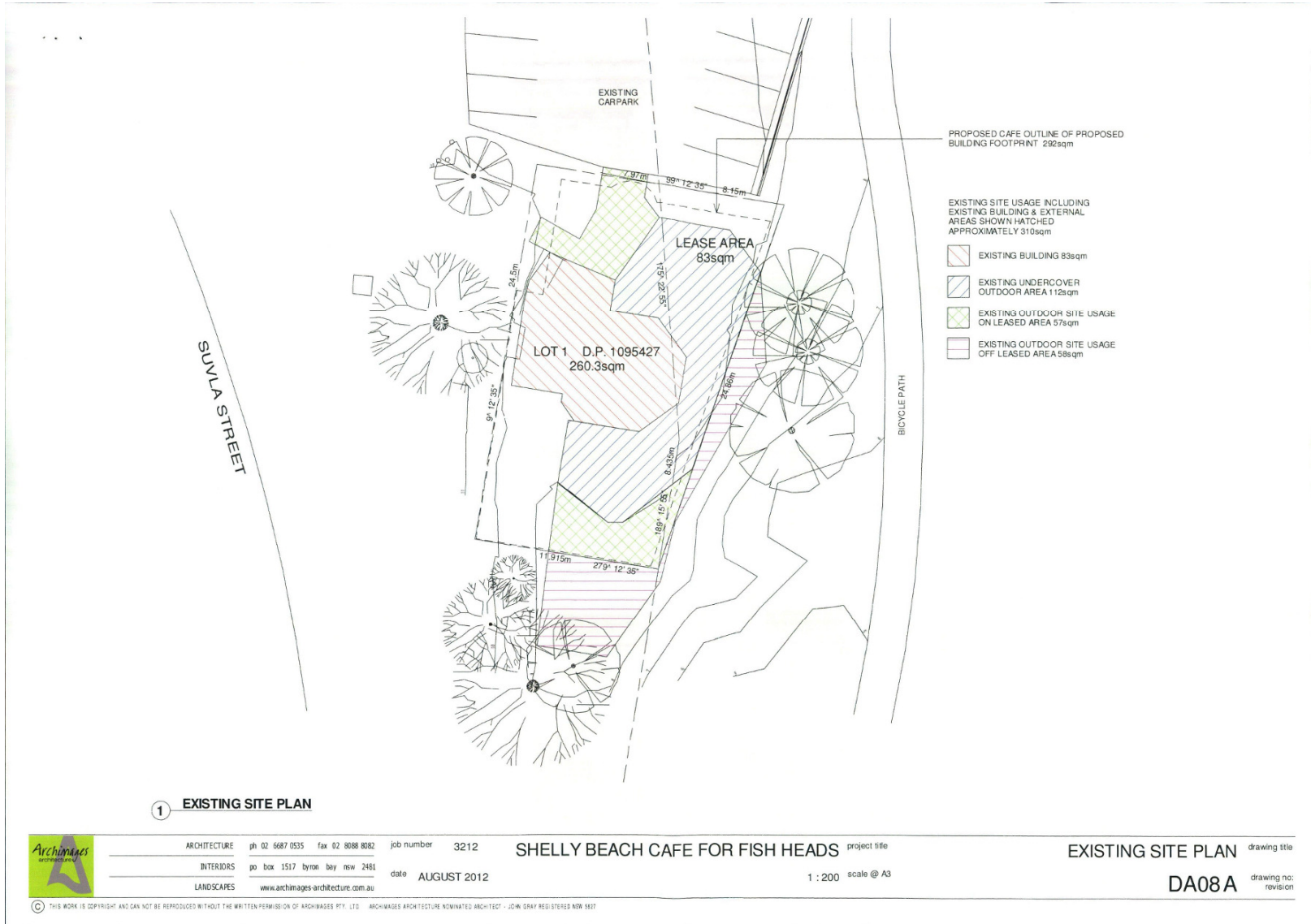
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 INTERIORS po box 1517 byron bay nsw 2481 date AUGUST 2012
 LANDSCAPES www.archimages-architecture.com.au

SHELLY BEACH CAFE FOR FISH HEADS project title
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PERSPECTIVE VIEWS drawing title
 DA07D drawing no:
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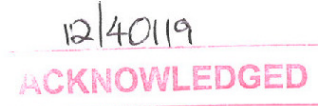
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8.2 DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC



Geoff Barlow
23 Suvla St
East Ballina NSW 2478

Ballina Shire Council
PO Box 450
Ballina NSW 2478



Att: Jenna McNabb

Re: DA 2012/348

Dear Sir

I object to the Development Application 2012/348. In summary my objection is that the DA is an over development of the site with negative affects on both the environment as well local infrastructure including parking. There will also be negative affects to local residents including myself with regard to traffic, vista and noise. Finally the DA seeks commercial use of non-lease land and public amenities without paying any consideration. My objections are based on the following points:

1. The DA is based on the "existing usage" under DA 1992/215. DA 1992/215 provided approval for 60sq mtr of building. DA 1998/24 provided for approximately 30sq metres of covered and 100sq metres of uncovered paved area. The new D/A 2012/348 requests that 292 sq metres ground level covered area plus 30 sq metres of upstairs storage. This is a total of 322 sq metres compared to a previously approved 190 sq metres – an increase of 70%. It also represents a proposed footprint of 85% versus the current footprint of 55%.

This is a complete overdevelopment of both the site and the environment and does not fall within reasonable limits of existing usage under the approved DA 1992/215 and therefore falls outside "existing usage" provisions.

Under the dBLEP2012 Coastal Planning Doc a DA for a refreshment room would not be approved unless it is under "existing usage" which it fails to do, due to the 70% increase in size.

2. The DA is based on the "existing usage" under DA 1992/215. This DA did not approve any defined number for seating capacity. Any attempt by the new DA to set a minimum seating capacity of 120 should not be approved by council. The submission made by a previous

operator – Tom Kelly was based on a vague recollection and not definite statement of fact. Also some previous operator has extended the paved/seating area beyond the approved lease area by approximately 40 square metres. This illegal use of non-leased land would substantially inflate the previous seating capacity.

My own observations that the maximum seating capacity was approximately 80-90 seats when unleased land was illegally used.

3. The southern aspect borders a terrace area which is outside the leased area. This area has been previous used although it was not leased. The plans indicate they plan to have doors opening out to this non-leased terrace area. I objective that this area could be used free of charge.
4. The DA 2012/348 seeks to use the existing car park. Council regulations require 15 car spaces per 100 sq metres of Gross Area – 322 sq metres. They claim they only need 42 car spots, however council regulations require 49 parking spaces. The current car park has only 43 cars spaces. The previous approved DA had a total of 190 sq metres and therefore to meet council regulations only needed 28 car spaces. This left 14 car spaces for general use of the public in addition to the parking area on the north side of the life saving club house and under these circumstances, councils engineering at the time believe that there was sufficient parking. This old determination is not valid for the new DA as the Gross building size is 70% bigger and the required number of parking spaces exceeds the number of spaces available.

Currently on popular days the current car park is full and that is with the cafe currently closed. During the summer period when the existing cafe was operating, on a regular basis all parking spaces were taken. Even the DA submission Map3 on Page 5 – Aerial view of site shows that the car park is 100% full. On these popular days people illegally park in the public reserve across the road as well as along parts of Shelly Beach Rd and Suvia St. Referring back to Map 3 this shows 2 cars illegal parked in Suvia St as well as one car in the public reserve across the road as the car park was full. With the opening of a 70% bigger cafe than previous, there will not be sufficient parking for both cafe customers and the general public. This will force the general public to illegally park in an unsafe manner which may result in a fatal accident especially as young children use the playground in the parking area in question as well as one of the main users of the beach area.

In the D/A it states that during busy periods the cafe will employ 5 permanent and 5 casual staff. That means the staff could use 10 (23%) of the existing 43 spaces leaving potentially only 33 spaces for customers and the general public.

5. DA 2012/348 seeks to utilise 42 car spaces (although they need 48 spaces under council regulations) free of charge with no contribution to the ongoing maintenance. The car park was established before the cafe was ever approved in 1992. I strongly objective that a profit orientated business that is using the premises on a commercial basis can take over the whole car park and have free usage of this public amenity. Every 2 weeks council staff attend to the maintenance of the parking area by mowing the grass, general gardening and cleaning.

The cafe should pay for their share of maintenance for use of the carpark or develop parking on the land that they lease as other new "refreshment rooms" – McDonalds on Kerr Road had to do recently. It should be noted that both McDonalds and Fish Heads offer both dine-in and take away menus.

On numerous occasions over the last 5 years I have requested council to mow the grass on council land in front of my house. The answer is always that they do not have the time or money to do so. So it frustrates me that the cafe gets free use of the car park and it is maintained every 2 weeks by council, while I cannot get the grass on council land mowed twice a year.

6. DA 2012/348 has varying building set backs as low as zero. These setbacks are outside council regulations. If they proceed that would mean construction and ongoing maintenance work would be completed from public land and cause damage to the environment.

Instead of building to the environment and incorporating reasonable setbacks they want to build to the boundary line and remove trees that hinder potential views. As an example they plan to remove the screw pine which straddles both lease and crown land despite their own experts state that transplanting such a tree comes with risks. They plan to remove the screw pine and plant only ground cover and small scrubs along the eastern boundary crown land so the views are not hindered

If council allows this to happen a precedent will be set that any tree near a boundary that is on council/crown land can be removed if it blocks your view and replaced with ground cover and low shrubs. I have a few trees that hinder my view that are in a similar position.

7. DA 2012/348 has some walls of the building built up to the boundary. With roof overhang outside the site boundary as much as 1.5mtrs on the Northern, Eastern and Southern boundaries. This is against council regulations. How can a commercial enterprise build over public land and pay no rent for the use of that land that is over shadowed by the roof when it provides no benefit to the general public like a shop awning provides protection to the general public from the climate?? The building should have a setback that ensures that the roof does not overhang non-leased land.

Also one of the conditions of the previous DA was that the building including roof had to be wholly within the boundaries/lease area.

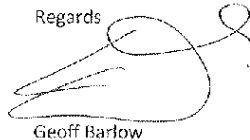
8. In the DA it states that there is a "bar area". However on Page 43 it states that "There is no bar to the proposed development as described in this report." The current usage of the cafe is non-alcoholic premises and they ask this new DA is based on "existing usage", therefore one of the conditions of the DA should be that the sale of alcohol is not allowed.
9. In the DA it talks about providing "entertainment". The current usage of the cafe does not provide entertainment and as this new DA is based on "existing usage". I objective to the premises providing entertainment as this will affect the local residents with increase in noise, therefore one of the conditions of the DA should be that no entertainment is allowed.

10. The DA does not indicate the usage of temporary or permanent signage. A condition of the DA is that no signage is allowed unless it is specifically covered by an approved DA.
11. The DA does not indicate any outdoor lightning. Any outdoor lighting will have a major impact on both the local fauna as well as local residents including myself. A condition of the DA is that no outdoor lighting is allowed unless it is specifically covered by an approved DA.
12. The existing usage of the cafe has been dine-in only. Currently Fishy Heads in other locations also offer a take-away service. How is the waste from take away going to be collected?? How are they going to stop waste being moved onto the beach and the adjoining land bushland by wind etc?? Who is going to pay for the extra public garbage bins and ongoing waste removal from these??
13. In the DA it indicates that under the plant regeneration they plan to plant a Morton Bay Fig Tree. The current canopy height at the southern end of the site is approximately 5 metres (14 AHD). A Morton Bay Fig Tree which is not normally found on the beachside can grow to over 30 metres in height. This will block my ocean views which I object to as the tree has been artificially inserted into the environment that it would not naturally be found. Any new plantings should not exceed the existing canopy height of (14AHD) and be naturally found on the beachside.

Summary

I am not against development of the existing cafe in line with the current usage which includes 190sq metres of covered and uncovered areas with no alcohol or entertainment supplied. I would also support a DA where the building had reasonable set backs with no overhang onto non-leased land and impact to vegetation in the non-leased areas is not allowed. Finally as the major user of the car park they should pay their share for maintenance of such which also includes waste removal generated from the take away business.

Regards

A handwritten signature in black ink, appearing to read 'Geoff Barlow', with a stylized flourish at the end.

Geoff Barlow

Fulvio and Rosemary Godina
9/1 Grandview St
East Ballina, 2478.
fgodina@optusnet.com.au

29th September, 2012

Ballina Shire Council
Via email – council@ballina.nsw.gov.au
Attention: Jenna McNabb

Dear Jenna,

Re: DA 2012/348 Redevelopment of Cafe at Shelly Beach

We have reviewed the DA for the redevelopment of the Shelly Beach Cafe. Whilst in favour of a redevelopment of the site I have some concerns about the scale and impact of the proposed design.

1. The proposed development is an over development of the site. The design proposes a large expansion of what is currently in place with the building maximising its footprint on the site and no set back from the boundary. No attempt has been made to accommodate existing flora into the design.
2. The proposal will see an increase in available seating capacity of some 50% over what is currently available. I have seen little evidence in my visits to the cafe over a number of years that the claimed patronage of 126 was realisable and I would put the figure at a more realistic 80. Thus the DA proposes significant increase over existing usage and the potential knock on in traffic without properly addressing the issue.
3. The proposal makes no allowance for outdoor dining which would be highly desirable in this unique position. Its focus appears to be maximum all weather seating rather than maximising the unique appeal of this rare position so close to the beach.
4. The proposal makes no allowance for waste removal bins. Will the current arrangement with the skip in the car park continue?
5. There is no recognition of the community of water dragons which inhabit the area.
6. A valued feature of the previous cafe was its family friendly nature with kids free to explore the outdoors. The new proposal does not allow for this due to the over development of the site and lack of open space.

Thank you for the opportunity to comment. Please direct all future correspondence to my email address.

Yours faithfully,

Fulvio and Rosemary Godina

General Manager
Ballina Shire Council
PO Box 450,
Ballina NSW 2478
27 September 2012



Re: DA 2012/348 – Redevelopment of Shelly’s By The Beach Café with a New Single Storey
120 Seat Café, Removal of Trees, Compensatory Regeneration & Landscaping
Lot 1 DP 1095427 & Lease Area Part Lot 402 DP 755684, Shelly Beach Road, Ballina

Dear Sir/Madam

I wish to lodge an objection against the above Development Application on the following grounds –

1. The proposed café use area is nearly 100% bigger than the existing building and the proposed land area to be leased is some 300% greater. This indicates a serious departure from the original land use as a small café with outdoor terrace areas.
2. A plan showing the existing café on the site, and the location of the existing café in relation to the proposed redevelopment of the café should be submitted to clearly identify the extent the area of vegetation removal and the comparison of size to the existing building footprint and location.
3. If the additional café space is approved, it is likely that the existing car park capacity will be inadequate. The application states some 44 spaces will be required, which will place stress on the public car park in the summer months. In the event the applicant should pay the scheduled rate for the additional car parking spaces.
4. There is a second floor proposed for storage, and it is unclear whether this part of the building will be visible from the road. The existing canopy of vegetation hides the café and this principle should be retained.
5. The proposed opening hours of 7am to 10 pm, with a restaurant use at night, will cause light pollution and acoustic problems to the adjoining residential areas.

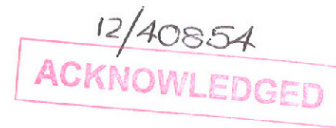
Whilst we enjoy the café in its present location, we consider the development as proposed is excessive, and is likely to seriously impact the visual amenity of this prominent area of Ballina’s foreshore.

Yours faithfully,

Marienne Ovens for

Marienne Ovens
Unit 4 - "Stella Maris"
Harbourview Street
Ballina

*(postal address
64 Mowbray Rd
Kingsford 2032
NSW)*



12/39967
ACKNOWLEDGED

12/39919
SCANNED
27 SEP 2012

David & Barbara Short
25 Suvla St
East Ballina NSW 2478

Ballina Shire Council
PO Box 450
Ballina NSW 2478

Attn Jenna McNab

re D A 2012/348

We object to this D A as follows

1 The existing usage approval as it presently stands is for 30 sq m covered and 100 sq m of open paved area. This new D A wants a total of 322 sq m an increase of 70 %. This is an outrageous overdevelopment of what has heretofore been an acceptable Café for breakfast & lunch and the D A does not come within the existing usage and therefore cannot be approved

2 In line with the overdevelopment is the attempt to obtain a seating capacity of 120 based on a vague recollection and one that never existed. Also a nonapproved extension of seating capacity beyond the lease area compounded the problem. A 120 seat restaurant takes the area away from existing usage into a large commercial proposition totally wrong for this residential area with attendant problems of parking traffic noise etc

3 The parking area is also a problem. The council engineering belief there was sufficient parking there now is impossible to understand. Any check of parking for the beach on any sunny weekend without the café open would find a parking overload with cars spilling over Shelly Beach Road onto the reserve on the western side of the

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27 SEP 2012
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road. There is no reason to think this will abate when the new clubhouse has been built as this situation was occurring when the surf club patrolled Lighthouse Beach.

4 The overdevelopment is exacerbated by the D A having building set backs as low as zero. These are outside Council regulations and if permitted would result result in building and maintenance activity on public land and damage the existing fragile environment.. The present application does not have reasonable setbacks and want to remove trees so they can build to the zero setback.

It is noted also that some walls are planned to be up to the boundary with roof overhangs outside the boundary as much as 1.5m. This is against Council regulations,\.

5 Of major importance to us is our somewhat limited ocean view. We note with concern the proposed plant regeneration plan. This appears to include a Morton Bay fig Such a tree is not normally found beside the ocean and in any event wherever planted would ultimately block our view . We are quite content with our limited view but would object vigorously to any man made planting which obscures that view. It seems OK for the proposal to remove trees that may block customers of their view from the café and OK to plant trees that may block present views of residents .

In any approval there should be strict adherence to the canopy heights as they currently appear from Suvla St and Shelly Beach Road and the right to cut down any offending plant.

6 Other concerns are (a) no signage plans,(b).no indication of sound and light arrangements (c) and we would object to any takeaway service or liquor license

application

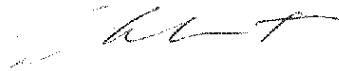
in general we have no objection to the current café usage with the 190 sqm of covered and uncovered areas providing breakfast and lunch without alcohol and entertainment.

Previous experience when the former owners had 3 or 4 evening meals at Christmas time the noise was a constant invasion in this residential area.

To allow the present application would be wrong and badly affect the whole Shelly Beach area.

Council has of course a conflict of interest in this application but must put the interests of the residential area ahead of commercial interests,\.

Yours truly



David & Barbara Short

Jenna McNabb

From: David & Wendy Fryer [dwfryer@idx.com.au]
Sent: Tuesday, 11 September 2012 9:35 AM
To: Ballina Shire Council
Cc: mmunro@idx.com.au; Marc Mittag - A Creative Life
Subject: DA 2012/348 n Applicant Fisheads at Byron P/L Lot 1 DP 1095427 Lot 402 DP 755684 Shelly Beach Roas East Ballina

Expires: Saturday, 9 March 2013 12:00 AM

Dear Rod or Jenna,

Thank you for giving me the opportunity to voice my comments to the above proposal.

We have been landholders in the Shelly beach area for some 30 plus years and have an interest in 3 properties..

After reading through the 40 or so pages of the DA my comments are as follows:

1. There was no reference to the additional light pollution/possible problem , relative to the close location to the Ballina Lighthouse.
2. The proposed new building is nearly 100% bigger than the old one and proposed land area to be leased some 300% greater, with no consideration for public desirable outdoor dining, previously nearly 50/50. Indoor/outdoor dining.(will another DA be lodged in the future for this additional outdoor dining expansion!!.
3. The stated BSC car parking spaces are not factual, I put it to you that there are two distinct car parks in Shelly beach, the aerial photo of the upper level of the car parking which is to the north of the existing Shelly's on the beach Cafe (shows approx 45 car parking spaces , (shared with the children's playgrounds areas as well as beach visitors joggers, whale watchers etc)and also the SLSC , the lower car park,(to the north of the Shelly beach SLSC) which is more SLSC patrons orientated is 250m and has approx 27 car parks. The DA states some 44 spaces required .
4. Seeing that it is proposed that the existing building will be demolished and replaced with a much larger building, I can see no reason for the new building to be granted/gifted all these car parking spaces. Did not the BSC recently pay some M\$2 for 2 CBD buildings to be demolished for additional 80 car parking spaces.
5. I object to the situation where an new restaurateur/cafe proprietor can be offered free parking benefits by BSC (their own submissions state that they will need 44 places ,) where local struggling businesses are obliged to pay rent, rates ,land taxes plus car parking provisions as well as BSC kerbside dining fees.
6. The existing building fits snugly into the contour/foilage of the hill ,the proposed with its opening hours of 7am to 10 pm and the height will cause light pollution and ambiance problems to perhaps Ballina most prestigious locations..
7. Double the size of the building viz 60m2indoor130ms outdoor to 322m2 means in effect, double the traffic flow, what are the provisions for this in our quiet neighbourhood.

So while we are not ante development, we consider the development as proposed is excessive, there is not enough car parking spaces available and the proposed building is out of character with the existing location

Yours faithfully,

David Fryer
10 Shelly Beach Rd
East Ballina

8.2 **DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC**



8.2 DA 2012/348 - Redevelopment of Shelly Beach Cafe.DOC



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CLIENT
Liz Keemink



PROJECT
Shellys on the Beach

DRAWN BY
VAS

ISSUE
15-05-10

RE-488UE

BALLINA SHIRE COUNCIL

This is the plan/document to which
development consent No: 2.010/336..... relates,
as determined by Council on 3.1.15/2.0.10.....
GENERAL MANAGER per:

DESCRIPTION
Design Proposal for extension to
existing cafe

SK_{01.4E.1}

