

8.1 **DA 2019/123 - 74 Ballina Street, Lennox Head**



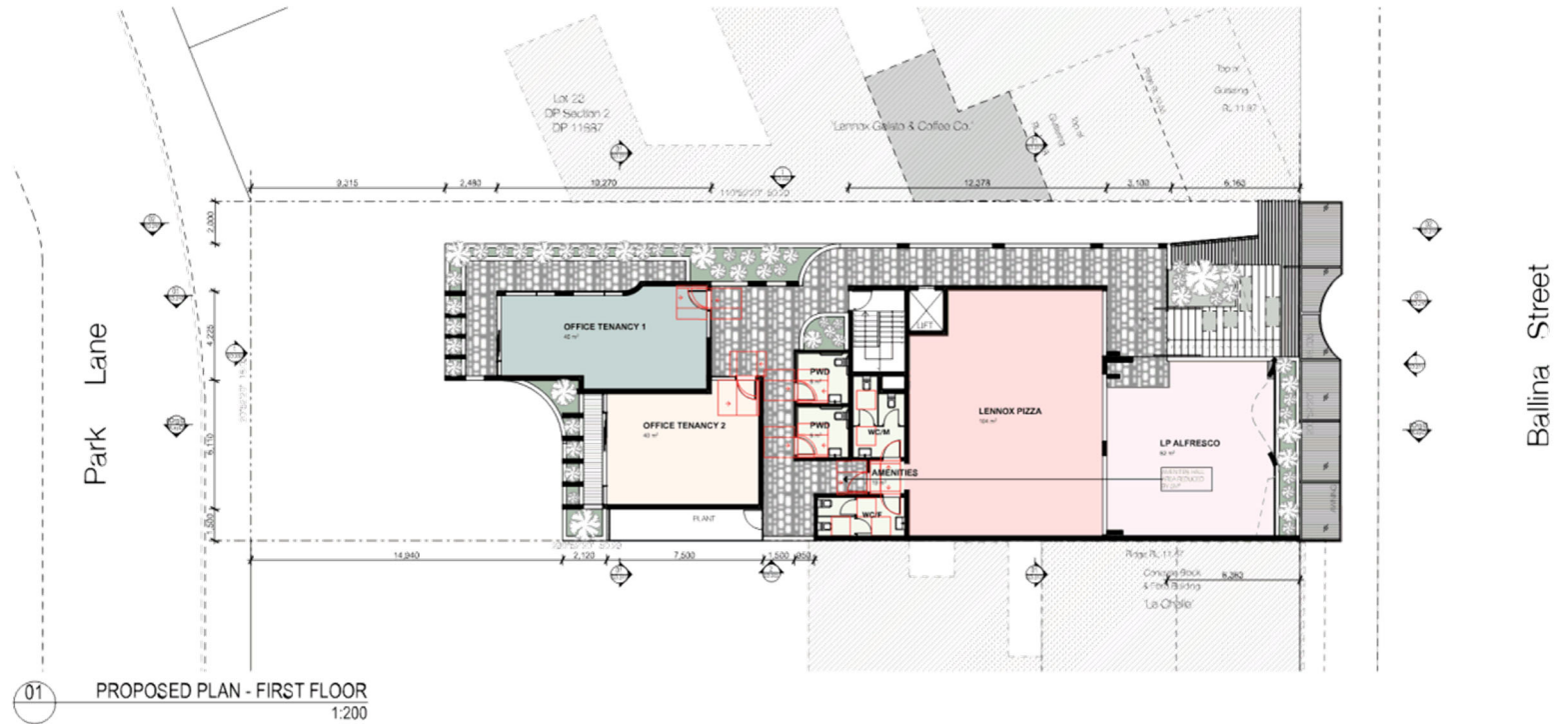
Ballina Shire Council  
40 Cherry Street  
BALLINA NSW 2478  
  
PO Box 450  
BALLINA NSW 2478  
  
1300 964 444  
council@ballina.nsw.gov.au  
www.ballina.nsw.gov.au



**DA 2019/123 - 74 Ballina Street, Lennox Head**

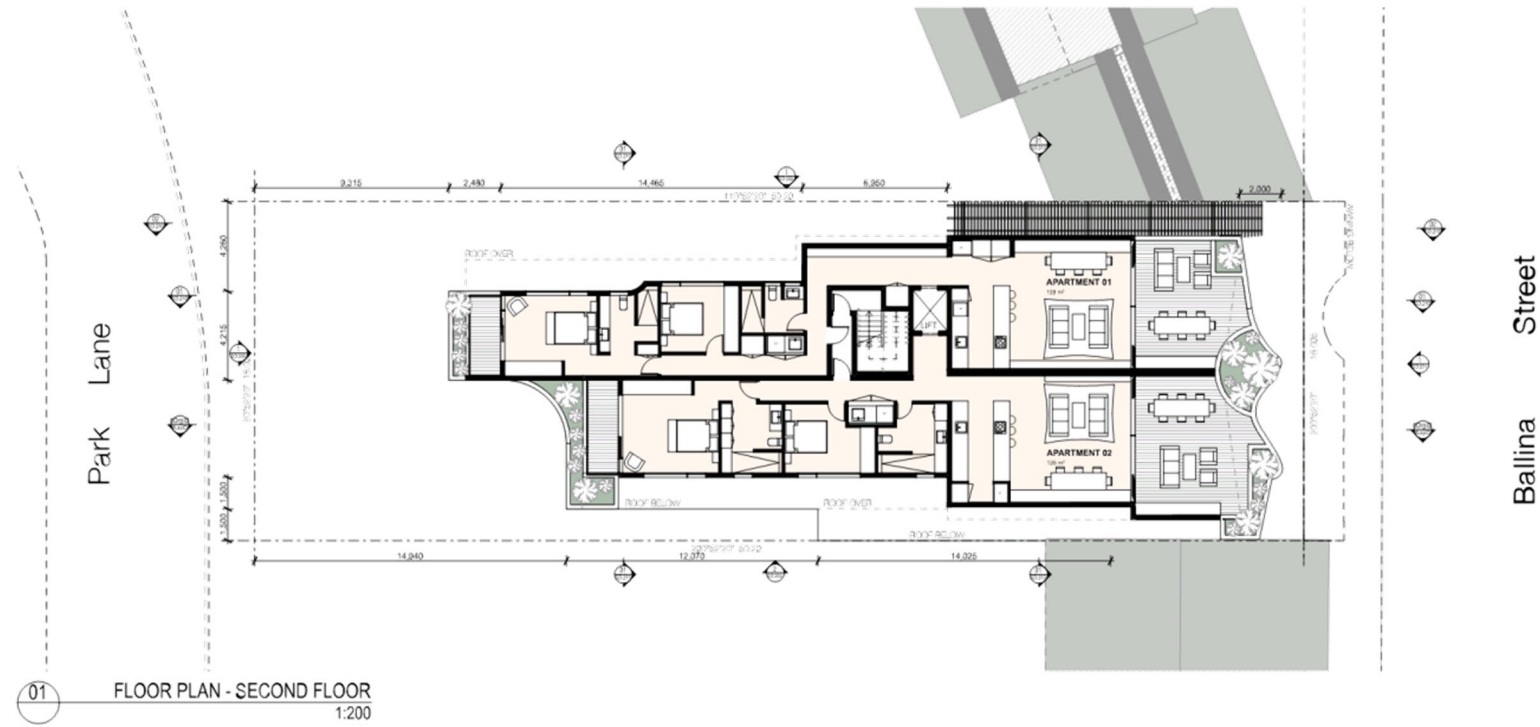
**ballina** shire council  
geographical information system  
  
Projection: GDA94 / MGA zone 56  
Date: 8/05/2020

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01 PROPOSED PLAN - FIRST FLOOR  
1:200

<b>HARLEY GRAHAM ARCHITECTS</b> <small>LVL 1/144 JOHNSON STREET BYRON BAY   PO BOX 1285 NSW 2461                  P: (02) 99609620   F: (02) 99609990   E: info@hgrarch.com.au                  AHN: 45118240001 NSW 7932</small>	<small>All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors who to verify all dimensions prior to commencement of site work or off-site fabrication. Figures dimensioned take precedence - do not scale.                  Copyright HARLEY GRAHAM ARCHITECTS</small>	22 30.04.20 DA Revision 03.2 21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.06.19 DA Revision 02 18 30.07.19 DA Revision 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA Issue: Date Description	Project: <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client: <b>BLUE HAT PROPERTIES</b>	Drawing No: <b>SD.202</b> Drawing Name: <b>PROPOSED PLAN - FIRST FLOOR</b> Scale: _____ Drawn: _____ SW: _____ Job No: <b>217</b> Revision: _____ A: _____
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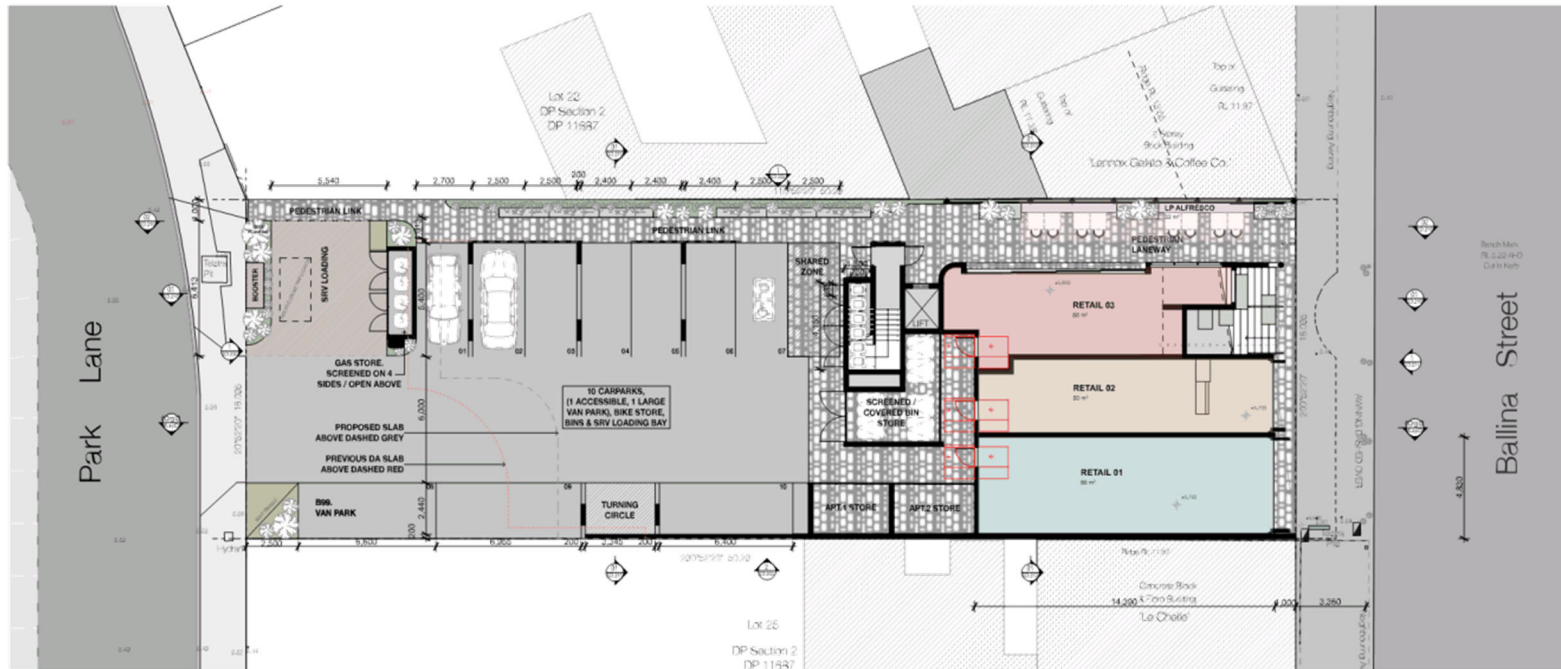
01 FLOOR PLAN - SECOND FLOOR  
1:200

**HARLEY GRAHAM ARCHITECTS**  
 U/L 1/144 JOHNSON STREET BYRON BAY | PO BOX 1265 NSW 2481  
 P: 02 49809820 | E: office@hargraham.com  
 ABN: 85158249001 NSW 7932

All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors are to verify all dimensions prior to commencement of site work or off-site fabrication. Figure dimensions take precedence - do not scale.  
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Issue	Date	Description
21	07.04.20	DA Revision 03.1
20	30.03.20	DA Revision 03
19	20.08.19	DA Revision 02
18	30.07.19	DA Revision 1
17	26.07.19	Draft DA 02
16	23.07.19	Draft DA
15	18.07.19	GFA Revision

Project	<b>74 BALLINA STREET MIXED USE DEVELOPMENT</b>	Drawing No.	217
	<b>74 BALLINA STREET, LENNOX HEAD</b>	Drawing Name	<b>PROPOSED PLAN - SECOND FLOOR</b>
Client	<b>BLUE HAT PROPERTIES</b>	Scale	Drawn DW
		Revision	A



**01** PROPOSED PLAN - GROUND FLOOR  
1:200

<b>HARLEY GRAHAM ARCHITECTS</b> <small>LVL 1/144 JOHNSON STREET BYRON BAY   PO BOX 1285 NSW 2461                  P: (02) 99609620   F: (02) 99609990   E: info@harleygrahm.com.au                  AHN: 45116240001 NSW 7932</small>	<small>All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors who to verify all dimensions prior to commencement of site work or off-site fabrication. Figures dimensioned take precedence over not scale.                  Copyright HARLEY GRAHAM ARCHITECTS</small>	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.08.19 DA Revision 02 18 30.07.19 DA Revision 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision Issue: Date Description	Project: <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client: <b>BLUE HAT PROPERTIES</b>	Drawing No: <b>SD.201</b> Drawing Name: <b>PROPOSED PLAN - GROUND FLOOR</b> Scale: _____ Drawn: _____ SW	Job No: <b>217</b> Revision: _____ A
		Scale: _____ Drawn: _____ SW		Job No: <b>217</b> Revision: _____ A	

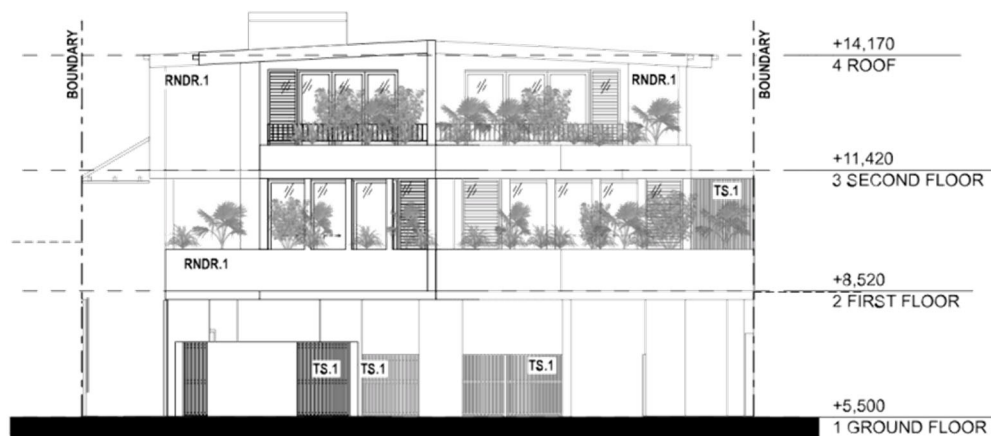
LEGEND:	
BK.1	BRICK
BAL.1	METAL BALUSTRADE
CO.1	CONCRETE
RND.1	RENDER
TS.1	ALUMINIUM SCREEN
SC.1	FIXED METAL SCREEN



1 EAST ELEVATION  
1:100

<p><b>HARLEY GRAHAM ARCHITECTS</b>                  U/L 1/144 JOHNSON STREET BYRON BAY   PO BOX 1265 NSW 2481                  P: 02 9907820   F: 02 9900990   E: info@hargraham.com                  AHN: 45156249001 NSW 7932</p>	<p>All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors are to verify all dimensions prior to commencement of site work or off-site fabrication. Figure dimensions take precedence - do not scale.                  Copyright HARLEY GRAHAM ARCHITECTS</p>	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.06.19 DA Revision 02 18 30.07.19 DA Revision 01 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision	Project <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> Client <b>BLUE HAT PROPERTIES</b>	Drawing No <b>SD.301</b> Drawing Name <b>ELEVATIONS - EAST</b> Scale _____ Drawn _____ Revision _____	Job No <b>217</b>
		Issue _____ Date _____ Description _____	Scale _____ Drawn _____ Revision _____		

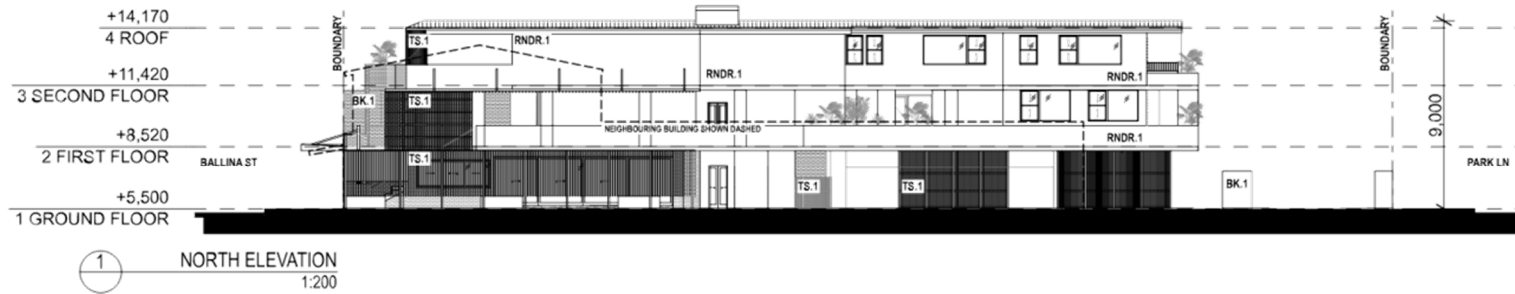
LEGEND:	
BK.1	BRICK
BAL.1	METAL BALUSTRADE
CO.1	CONCRETE
RND.1	RENDER
TS.1	ALUMINIUM SCREEN
SC.1	FIXED METAL SCREEN



1 WEST ELEVATION  
1:100

<b>HARLEY GRAHAM ARCHITECTS</b> <small>U/L 1/144 JOHNSON STREET BYRON BAY   PO BOX 1285 NSW 2461                  P: 02 99609620   F: 02 99609990   E: office@harleygrahm.com                  A/NR 45196249003 NSW 7932</small>	<small>All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors who to verify all dimensions prior to commencement of site work or off-site fabrication. Figure dimensions take precedence - do not scale.                  Copyright HARLEY GRAHAM ARCHITECTS</small>	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.08.19 DA Revision 02 18 30.07.19 DA Revision 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision Issue: _____ Date: _____ Description: _____	Project: <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client: <b>BLUE HAT PROPERTIES</b>	Drawing No: <b>SD.302</b> Drawing Name: <b>ELEVATIONS - WEST</b> Scale: _____ Drawn: SW Revision: A	Job No: <b>217</b>
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LEGEND:	
BK.1	BRICK
BAL.1	METAL BALUSTRADE
CO.1	CONCRETE
RNR.1	RENDER
TS.1	ALUMINIUM SCREEN
SC.1	FIXED METAL SCREEN



<b>HARLEY GRAHAM ARCHITECTS</b> <small>U/L 1/144 JOHNSON STREET BRYCON BAY   PO BOX 1265 NSW 2481                  P: 02 99009820   F: 02 99009990   E: office@hgrarchitects.com                  ABN: 45158249001 NSW 7932</small>	<small>All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors are to verify all dimensions prior to commencement of site work or off-site fabrication. Figure dimensions take precedence - do not scale.                  Copyright HARLEY GRAHAM ARCHITECTS</small>	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.06.19 DA Revision 02 18 30.07.19 DA Revision 01 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision	Project <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> Client <b>BLUE HAT PROPERTIES</b>	Drawing No <b>SD.303</b> Drawing Name <b>ELEVATIONS - NORTH / SOUTH</b> Scale _____ Drawn <b>DW</b> Revision <b>A</b>	Job No <b>217</b>
		Issue Date Description	Project <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> Client <b>BLUE HAT PROPERTIES</b>	Drawing No <b>SD.303</b> Drawing Name <b>ELEVATIONS - NORTH / SOUTH</b> Scale _____ Drawn <b>DW</b> Revision <b>A</b>	Job No <b>217</b>



PERSPECTIVE FROM BALLINA STREET

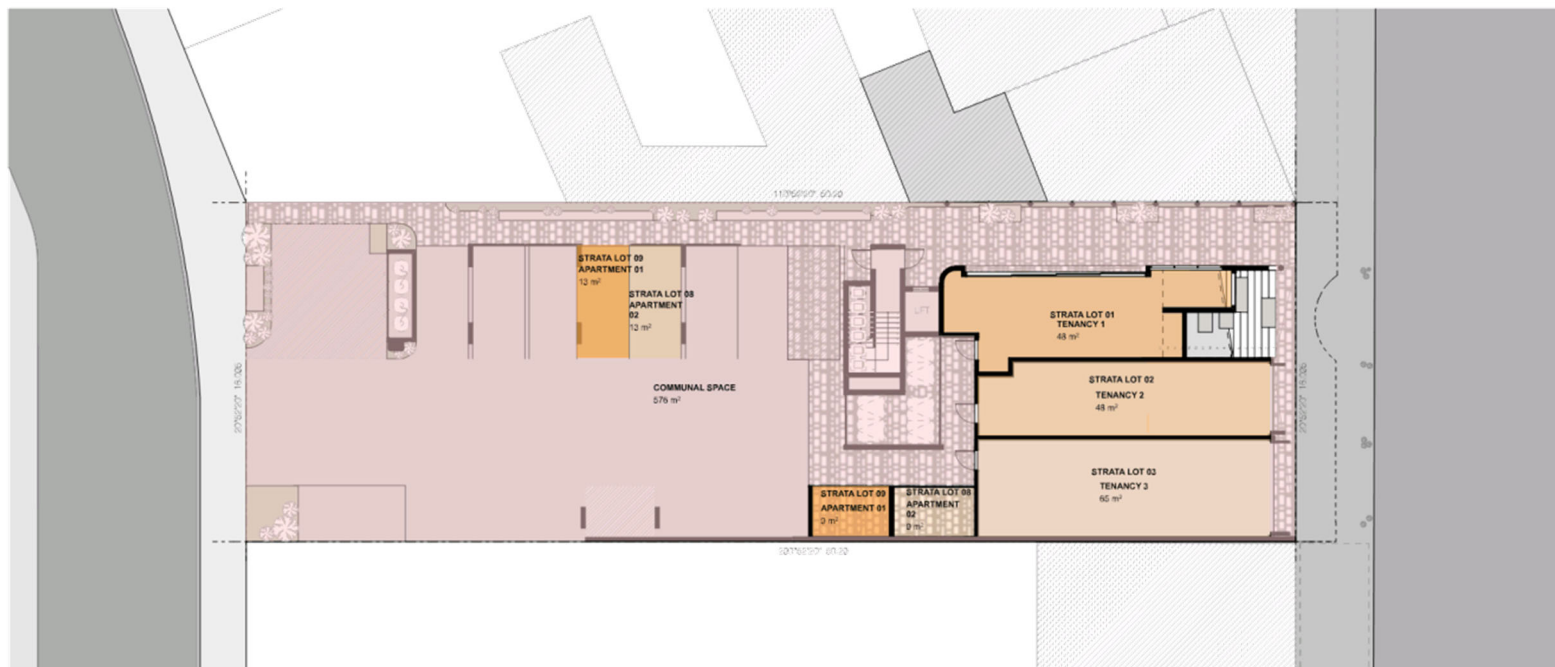
<p><b>HARLEY GRAHAM ARCHITECTS</b>                  U/L: 1/144 JOHNSON STREET BYRON BAY   PO BOX 1285 NSW 2461                  P: 02 99609625   T: 02 99609990   E: info@harleygrahm.com.au                  A/N/N: 451196240001 NSW 2992</p>	<p>All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors who to verify all dimensions prior to commencement of site work or off-site fabrication. Figures dimensions take precedence - do not scale.                  Copyright HARLEY GRAHAM ARCHITECTS</p>	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.08.19 DA Revision 02 18 30.07.19 DA Revision 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision Issue: _____ Date: _____ Description: _____	Project: <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client: <b>BLUE HAT PROPERTIES</b>	Drawing No: <b>SD.901</b> Drawing Name: <b>PERSPECTIVE - BALLINA STREET</b> Scale: _____ Drawn: SW Revision: A	Job No: <b>217</b>





PERSPECTIVE FROM PARK LANE

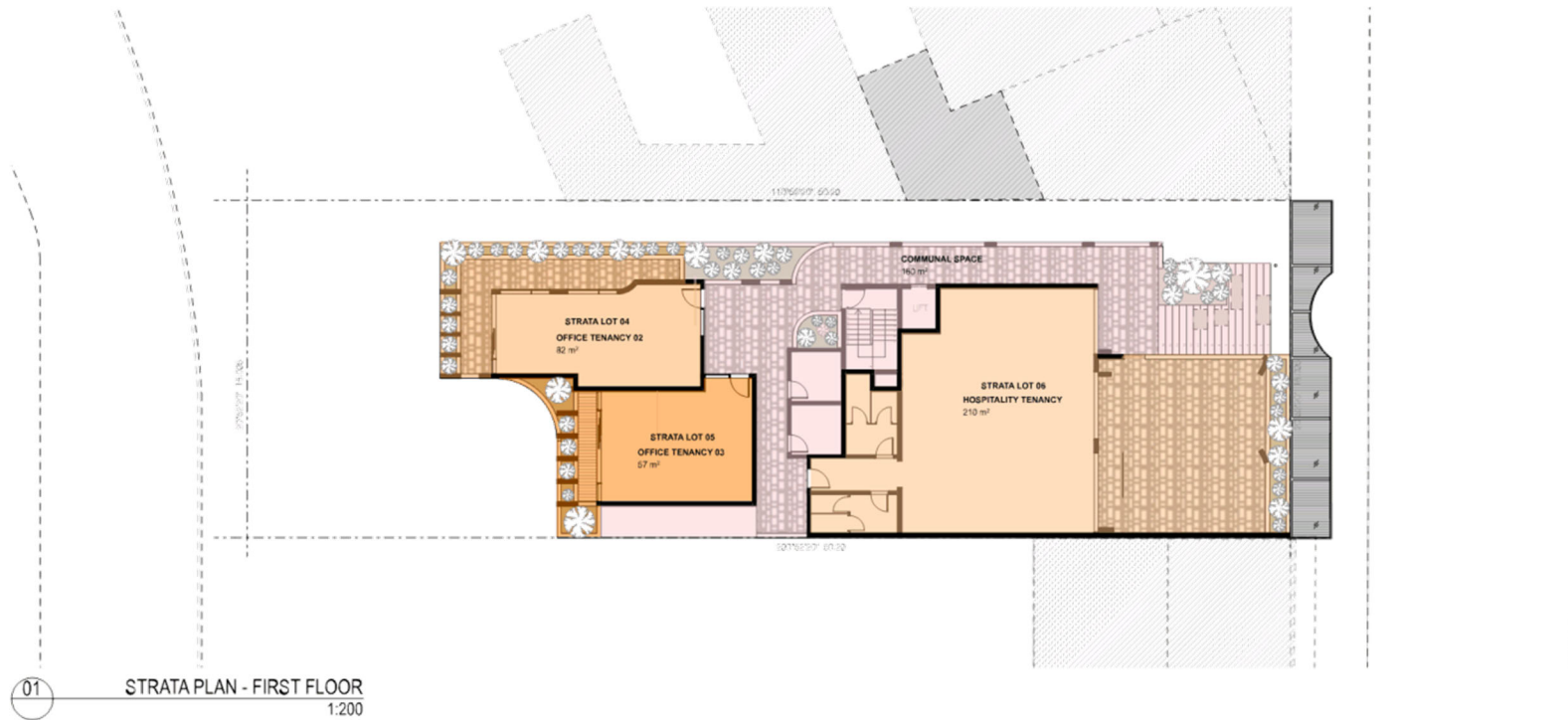
<p><b>HARLEY GRAHAM ARCHITECTS</b>                  U/L 1/144 JOHNSON STREET BYRON BAY   PO BOX 1265 NSW 2481                  P: 02 49809820   F: 02 49809830   E: office@hargraham.com                  ABN: 85158249031 NSW 7492</p>	<p>All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors are to verify all dimensions prior to commencement of site work or off-site fabrication. Figure dimensions take precedence - do not scale.                  Copyright HARLEY GRAHAM ARCHITECTS</p>	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.08.19 DA Revision 02 18 30.07.19 DA Revision 01 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision	Project <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client <b>BLUE HAT PROPERTIES</b>	Drawing No. <b>SD.902</b> Drawing Name <b>PERSPECTIVE - PARK LANE</b> Scale _____ Drawn _____ Revision _____	Job No. <b>217</b> Revision <b>A</b>
		Issue: Date Description	Scale _____ Drawn _____ Revision _____	Job No. <b>217</b> Revision <b>A</b>	



**01** STRATA PLAN - GROUND FLOOR  
1:200

NOTE: STRATA BOUNDARIES SHOWN ARE INDICATIVE ONLY AND ARE TO BE CONFIRMED AFTER CONSTRUCTION BY A REGISTERED SURVEYOR.

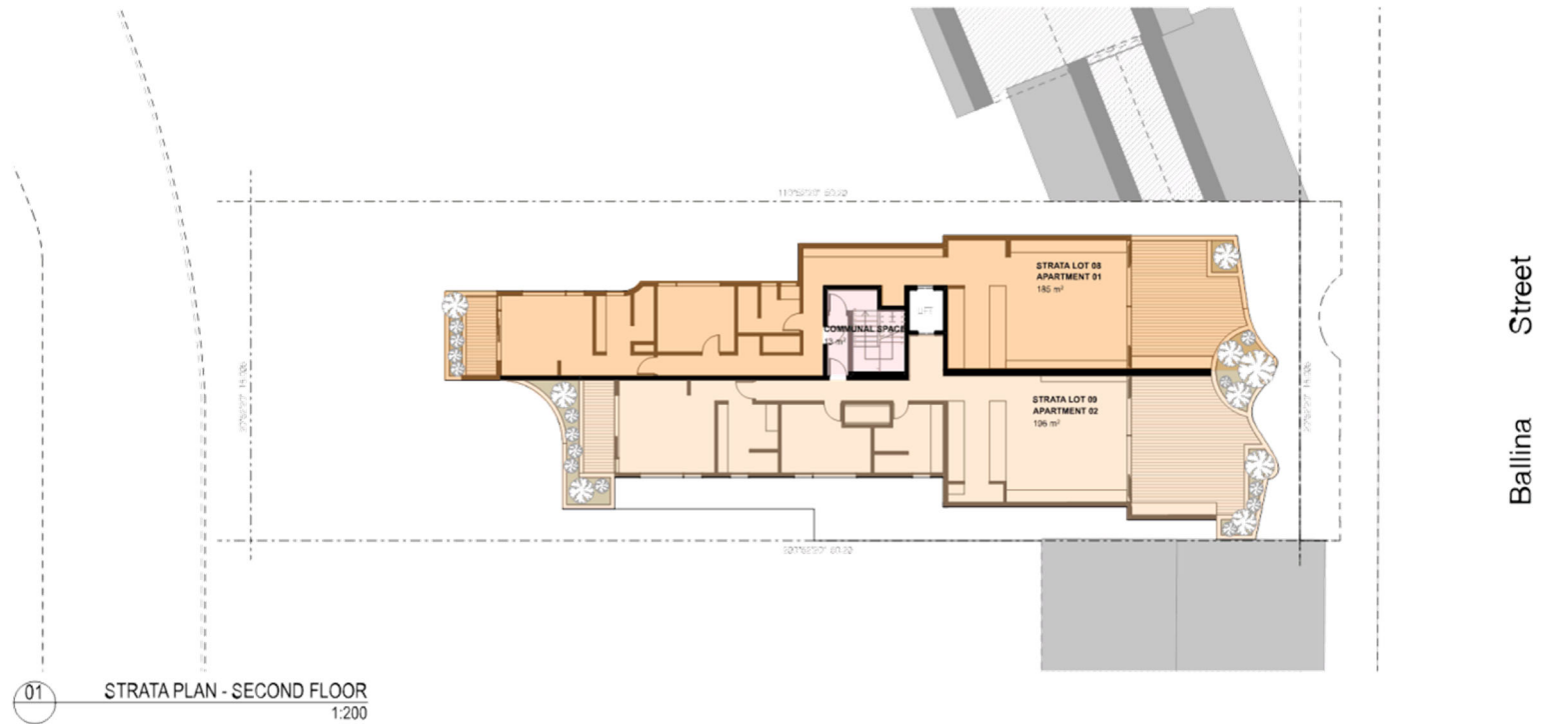
<b>HARLEY GRAHAM ARCHITECTS</b> LIV: 1/144 JOHNSON STREET BYRON BAY   PO BOX 1285 NSW 2461 P: (02) 99609620   F: (02) 99609990   E: info@hgrarchitects.com.au AHN: 65116240001 NSW 7932	All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principle certifying authority. Builders/Contractors who to verify all dimensions prior to commencement of site work or off-site fabrication. Figures dimensioned take precedence - do not scale. Copyright HARLEY GRAHAM ARCHITECTS	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.08.19 DA Revision 02 18 30.07.19 DA Revision 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision Issue: _____ Date: _____ Description: _____	Project: <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client: <b>BLUE HAT PROPERTIES</b>	Drawing No: <b>SD.801</b> Drawing Name: <b>STRATA PLAN - GROUND FLOOR</b> Scale: _____ Drawn: _____ SW	Job No: <b>217</b> Revision: _____ A



01 STRATA PLAN - FIRST FLOOR  
1:200

NOTE: STRATA BOUNDARIES SHOWN ARE INDICATIVE ONLY AND ARE TO BE CONFIRMED AFTER CONSTRUCTION BY A REGISTERED SURVEYOR.

<b>HARLEY GRAHAM ARCHITECTS</b> U/L 1/144 JOHNSON STREET BYRON BAY   PO BOX 1265 NSW 2481 P: 02 49809820   F: 02 49809890   E: info@hargraham.com ABN: 65158249001 NSW 7892	All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors are to verify all dimensions prior to commencement of site work or off-site fabrication. Figure dimensions take precedence - do not scale. Copyright HARLEY GRAHAM ARCHITECTS	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.08.19 DA Revision 02 18 30.07.19 DA Revision 01 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision	Project <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client <b>BLUE HAT PROPERTIES</b>	Drawing No. <b>SD.902</b> Drawing Name <b>STRATA PLAN - FIRST FLOOR</b> Scale _____ Drawn _____ Revision _____	Job No. <b>217</b>
		Issue _____ Date _____ Description _____	Scale _____ Drawn _____ Revision _____		



01 STRATA PLAN - SECOND FLOOR  
1:200

NOTE: STRATA BOUNDARIES SHOWN ARE INDICATIVE ONLY AND ARE TO BE CONFIRMED AFTER CONSTRUCTION BY A REGISTERED SURVEYOR.

<b>HARLEY GRAHAM ARCHITECTS</b> U/L 1/144 JOHNSON STREET RYHOON BAY   PO BOX 1285 NSW 2461 P: 02 99609620   F: 02 99609990   E: info@hgrarch.com.au ABN: 65196240001 NSW 7932	All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principal certifying authority. Builders/Contractors who to verify all dimensions prior to commencement of site work or off-site fabrication. Figures dimensioned take precedence - do not scale. Copyright HARLEY GRAHAM ARCHITECTS	21 07.04.20 DA Revision 03.1 20 30.03.20 DA Revision 03 19 20.08.19 DA Revision 02 18 30.07.19 DA Revision 17 26.07.19 Draft DA 02 16 23.07.19 Draft DA 15 18.07.19 GFA Revision Issue: _____ Date: _____ Description: _____	Project: <b>74 BALLINA STREET MIXED USE DEVELOPMENT</b> 74 BALLINA STREET, LENNOX HEAD Client: <b>BLUE HAT PROPERTIES</b>	Drawing No: <b>SD.803</b> Drawing Name: <b>STRATA PLAN - SECOND FLOOR</b> Scale: _____ Drawn: _____ SW: _____ Revision: _____ A: _____	Job No: <b>217</b>

## **Voluntary Planning Agreement**

**BLUEHAT PROPERTIES PTY LTD (ACN 163 230 804)**

**and**

**BALLINA SHIRE COUNCIL**

Dated:

**Voluntary Planning Agreement – Bluehat Properties Pty Ltd & Ballina Shire Council**

Council have each complied with their respective obligations under this Agreement, or the earlier date that this Agreement is terminated.

(d) This Agreement has effect as a deed.

**1.2 Capacity**

Each party warrants and represents to the other that this Agreement creates legally binding and valid obligations enforceable against the relevant party in accordance with its terms.

**2. Material Public Benefit to be provided under this Deed**

- 2.1 The Developer must pay the Development Contribution to Council prior to the issue of a construction certificate for the Development and as otherwise provided for in this Agreement.
- 2.2 The Development Contribution is made for the purposes of this Agreement when Council receives the Development Contribution either as cleared funds or in the form of a bank cheque.
- 2.3 Council must apply to the Development Contribution towards the Public Purpose for which it is made.

**3. Calculation of Development Contribution**

- 3.1 The Development Contribution is to be calculated using the following formula:

$$DC = \text{Car Parking Shortfall} \times \text{Contribution Rate}$$

where

DC = Development Contribution in Australian Dollars

Contribution Rate = \$17,554.00 as at the date of this Agreement, being the relevant contribution rate for Lennox Head Village Centre, indexed in accordance with the Contributions Plan

**4. Application of Sections 7.11, 7.12 and 7.24 of the Act to the Development**

This Agreement does not exclude the application of section 7.11, section 7.12 and section 7.24 of the Act to the Development.

**5. Registration of this Agreement**

This Agreement is not required to be registered.

**6. Enforcement**

- 6.1 Council will not issue a Construction Certificate in relation to the Development until the Developer had made the Development Contribution in accordance with clause 2.1.
- 6.2 Without limiting any other provision of this Agreement, the parties may enforce this Agreement in any Court of competent jurisdiction.

**Voluntary Planning Agreement – Bluehat Properties Pty Ltd & Ballina Shire Council**

- (vi) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (vii) in relation to costs and expenses:
  - (A) each party will bear their own professional expert costs incurred in connection with the mediation;
  - (B) the costs of the mediator will be shared equally by the parties unless the mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.
- (f) If the dispute is not finally resolved either party is at liberty to litigate the dispute.
- (g) Each party must continue to perform its obligations under this Agreement notwithstanding the existence of a dispute.

**8. Notices**

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- (a) Any notice, consent, information, application or request that much or may be given or made to a party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (i) Delivered or posted to that party at its address set out below.
- (ii) Emailed to that party at its email address set out below.

**Council**

Attention: The General Manager  
Address: 40 Cherry Street,  
BALLINA NSW 2478  
Email: [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)

**Developer**

Attention: Bluehat Properties Pty Ltd  
ACN 163 230 804  
Address: 6 Tallow Wood Place,  
LENNOX HEAD NSW 2478  
Email: [brad@latdigital.com.au](mailto:brad@latdigital.com.au)

- (b) If a party gives the other party 3 business days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or emailed to the latest address or email address.

**Voluntary Planning Agreement – Bluehat Properties Pty Ltd & Ballina Shire Council**

**14. No Fetter**

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Nothing in this Agreement shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

**15. Representations and Warranties**

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The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

**16. Severability**

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If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause is to be treated as removed from this Agreement but the rest of this Agreement is not affected.

**17. Modification**

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No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

**18. Waiver**

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The fact that a party fails to do or delays in doing something the party is entitled to do under this Agreement does not amount to a waiver of any obligation of or breach of obligation by another Party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

**19. GST**

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(a) **Consideration does not include GST**

Any consideration expressed in this Agreement is unless otherwise specified GST exclusive and does not include any amount for, or on account of, GST

(b) **GST Payable**

If any supply under or in connection with this Agreement constitutes a taxable supply made for GST exclusive consideration, the supplier may, subject to issuing a tax invoice, recover from the recipient of the supply an amount on account of the GST payable in respect of that taxable supply (**GST Amount**).

The GST Amount is:

- (i) equal to the value of the supply calculated in accordance with the GST Act multiplied by the applicable GST rate; and



**Voluntary Planning Agreement – Bluehat Properties Pty Ltd & Ballina Shire Council**

**Development Contribution** means the amount calculated in accordance with clause 3.

**Land** means the property known as 74 Ballina Street, Lennox Head and legally described as Lot 24 Section 2 Deposited Plan 11687.

**Public Purpose** means the carrying out of car parking and infrastructure-related studies encompassing or involving Lennox Head or any purpose that benefits the public or a section of the public, including but not limited to a purpose specified in section 7.4(2) of the Act.

**21. General Provisions**

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**Interpretation**

In this document, unless the context otherwise requires or permits:

- (a) each of the persons and/or entities referred to as the Developer herein is bound by the terms hereof jointly and severally;
- (b) references to legislation or legislative provisions will include modifying, consolidating or replacing legislation or legislative provisions;
- (c) references to dollars, "\$" or amounts of money mean that amount in Australian dollars (AUD\$);
- (d) the use of headings are only for convenience and do not affect interpretation and any headings are only included for ease of reference;
- (e) if the day on which any act, matter or thing is to be done under or pursuant to this document is not a business day, that act, matter or thing may be done on the next business day;
- (f) references to a party will include as the context requires the respective executors, administrators, successors and permitted assigns of that party;
- (g) references to a person includes any other entity recognised by Law;
- (h) words denoting the singular number include the plural and vice versa;
- (i) words denoting one gender include each gender;
- (j) every covenant or term applying to or binding more than one person will bind them jointly and each of them severally;
- (k) a term of this document will not be construed against a party because that party was responsible for its drafting or insisted upon its inclusion in this document;
- (l) this document is governed by the law in force in New South Wales. The parties submit to the exclusive jurisdiction of the Courts of New South Wales and any Court that may hear appeals from those Courts in respect of any proceedings in connection with this document;
- (m) references to clauses, subclauses, paragraphs, annexures and schedules are references to clauses, subclauses, paragraphs, annexures and schedules in this document;

**Voluntary Planning Agreement – Bluehat Properties Pty Ltd & Ballina Shire Council**

**Explanatory Note (pursuant to clause 25E of the Environmental Planning and Assessment Regulation 2000)**

**Draft Planning Agreement**

Under s7.4 of the Environmental Planning and Assessment Act 1979

**Parties**

**Ballina Shire Council** (ABN 53 929 887 369) of 40 Cherry Street, Ballina NSW 2478

**Bluehat Properties Pty Ltd** ACN 094 710 942 of 6 Tallow Wood Place, Lennox Head NSW 2478

**Description of Land to which this Draft Planning Agreement applies:**

Lot 24 Section 2 Deposited Plan 11687

**Description of Proposed Change to Environmental Planning Instrument/Development Application**

The development application seeks consent for the development and subdivision of the Land for the purpose of commercial and residential mixed use, including a three storey mixed use building.

**Summary of Objectives, Nature and Effect of the Draft Planning Agreement**

The Objective of the Draft Planning Agreement is to provide for improved car parking infrastructure associated with the development of the Land with respect to car parking requirements in the Lennox Head Village Centre.

**Assessment of the Merits of the Draft Planning Agreement**

**The Planning Purposes Served by the Planning Agreement**

Through the provision of car parking and infrastructure-related studies, the Planning Agreement reasonably provides for the achievement of the following planning purposes:

- to promote the orderly and economic use and development of land to which the agreement relates;
- to promote good design and amenity of the built environment; and
- to provide for enhanced and improved car parking and infrastructure facilities in the Lennox Head Village Centre.

**How the Planning Agreement Promotes the Public Interest**

Facilitates the provision (or the recoupment of the cost of providing) public amenities or public services, including but not limited to enhanced car parking facilities.

**For Planning Authorities:**

**Councils - How the Planning Agreement promotes the Council's Charter**

The Planning Agreement, by making provision for the study of car parking and infrastructure-related needs within the Lennox Head Village Centre, benefits the wider community and promotes the following elements of the Council's Charter:

- to provide directly or on behalf of other levels of Government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively

**Whether the Planning Agreement conforms with Council's Works Program**

Not applicable

## Variation to Development Standard(s) Application and Supporting Information



Clause 4.6 of the Ballina Local Environmental Plan (BLEP) 2012 and  
SEPP 1 Ballina Local Environmental Plan (BLEP) 1987

**Lodge Applications** at Ballina Shire Council • 40 Cherry Street Ballina (Mon-Fri 8.15am to 3.00pm)  
mail PO Box 450 Ballina 2478 • e council@ballina.nsw.gov.au  
t 1300 864 444 • w ballina.nsw.gov.au

This form guides you to what should be included in a written request. Please complete the form and submit it with your Development Application. Further documentation may be attached to support your submission.

Note: If more than one Development Standard is proposed to be varied, an application is required for each variation (eg. floor space ratio (FSR) and height).

### Development Standard Details

1. What is the name of the Environmental Planning Instrument (EPI) that applies to the land? *eg. BLEP 1987 or BLEP 2012*

Ballina Local Environmental Plan 2012

2. What is the zoning of the land?

B2 - Local Centre

3. What are the objectives of the zone?

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local areas.
- To encourage employment opportunities in accessible locations et al.

4. What is the Development Standard being varied? *eg. FSR, height, lot size*

Height of Buildings

5. Under what clause is the Development Standard listed in the relevant BLEP?

Clause 4.3 - Height of Buildings

6. What are the objectives and purpose of the Development Standard? How are the objectives / purpose of the standard relevant to your development?

- To ensure that the height of buildings is compatible with the bulk, scale and character of the locality.
- To minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality et al.

7. What is the numeric value of the Development Standard in the relevant BLEP?

9m

8. What is the proposed numeric value of the Development Standard in your Development Application?

9.7m

9. What is the percentage variation (between your proposal and the relevant BLEP)?

7.7%

10. How is strict compliance with the Development Standard unreasonable or unnecessary in this particular case?

Refer to Section 4.2.4 of Statement of Environmental Effects

11. How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Environmental Planning and Assessment Act 1979? *relevant for BLEP 1987/SEPP1 applications only*

Refer to Section 4.2.4 of Statement of Environmental Effects

12. Demonstrate how the objectives of the zone and the objectives of the development standard have been complied with despite the variation to the development standard.

Refer to Section 4.2.4 of Statement of Environmental Effects

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why? Will approval of the variation of the Development Standard set a precedent? Why or why not?

Refer to Section 4.2.4 of Statement of Environmental Effects

14. Are there sufficient environmental planning grounds to justify contravening the Development Standard? *provide details*

Refer to Section 4.2.4 of Statement of Environmental Effects

15. Is compliance with the development standard unreasonable or inappropriate due to the current use of the land and current environmental character of the particular parcel of land? Should the particular parcel of land have been included within the current zone?

Refer to Section 4.2.4 of Statement of Environmental Effects

**Applicant Details**

Applicant Name

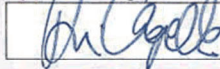
Damian Chapelle

Property Details

74 Ballina Street, Lennox Head

DA Number *if known*

Applicant Signature



Date

26.02.2019

**Privacy Protection Notice**

The completed Application for a Variation to a Development Standards form contains personal information which is being collected for the purpose of assessing this application. The information will be processed by the Development and Environmental Health Group and may be made available to public enquiries under the Government Information (Public Access) Act. The information will be stored in Councils electronic document management system.

## Request for Variation to a Development Control and Supporting Information

Clause 1.12 of the Ballina Shire Development Control Plan (DCP) 2012

**Lodge Applications** at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)  
**mail** PO Box 450 Ballina 2478 • **e** council@ballina.nsw.gov.au  
**t** 02 6686 1254 • **w** ballina.nsw.gov.au • **abn** 53 929 887 369



This request is to accompany a development application lodged with Council where the development does not meet the development control(s) contained with the **Ballina Shire Development Control Plan (BSDCP) 2012**, and a variation to such control(s) is sought.

### Clause 1.12 of the BSDCP 2012

#### 1.12 Application of the DCP and Variations

Under the Environmental Planning & Assessment Act 1979, Development Control Plans (DCP's) are required to be applied flexibly, and consent authorities are required to allow for alternate solutions to DCP requirements so that otherwise permissible development may be carried out. The role of the DCP is to give effect to an environmental planning instrument (EPI) by supporting the aims of the instrument, the range of permitted development under the EPI and the objectives of applicable land use zones.

Council will consider variations to the development controls set out in the DCP where a proposed development can otherwise demonstrate that it achieves the applicable planning objectives. Council will consider variations to the DCP provisions as set out below:

- a. Where a proposal does not comply with a particular development control, applicants may propose an alternative solution. In some circumstances, variations can produce improved and innovative solutions for particular site.
- b. A written variation request must:
  1. Identify the development control that is to be varied and detail the extent of variation proposed;
  2. Identify the general and/or specific objectives of that control and how the variation complies with the objectives;
  3. Justify why the specific provisions of the policy do not make appropriate provisions with regard to the subject application; and
  4. Demonstrate why compliance with the provisions of this DCP is unreasonable or unnecessary in the particular circumstances of the case.

Note: Variations to a development control(s) will only be considered where the specific development objective can be met.

**The following section is required to be completed as part of any development application where a variation is sought to a development control(s) contained within the BSDCP 2012. Alternatively, the listed questions may be addressed within a Statement of Environmental Effects (SEE) document lodged with the development application. Further documentation may be attached to support your submission.**

1. What is the development control(s)? (specify)

Chapter 4 - Residential & Tourist Development - Element A Building Height  
 Chapter 4 - Residential & Tourist Development - Element H Vehicular Access and Parking  
 Chapter 4 - Residential & Tourist Development - Element L Roof Pitch

2. Provide details of the extent of variation (ie. what is the non-compliance? Is it minor or extensive? Percentage of variation between your proposal and the development control)

Refer to Section 4.3.11 of Statement of Environmental Effects

3. What are the objectives of the development control(s)?

- a. Ensure that the height of buildings (building height) is compatible with the bulk, scale and character of the locality;
- b. Minimise adverse impacts on existing or future amenity of adjoining properties and scenic or landscape quality of the locality; and
- c. Protect significant views from public places et al.

4. How does the proposed variation comply with those objectives listed above?

Refer to Section 4.3.11 of Statement of Environmental Effects

5. Please provide justification/reasoning as to why the development control(s) does not make specific provision in relation to your proposal/does not enable you to achieve the outcome you are seeking?


Refer to Section 4.3.11 of Statement of Environmental Effects

6. Demonstrate why compliance with the development control(s) is unreasonable or unnecessary in your particular circumstance.

Refer to Section 4.3.11 of Statement of Environmental Effects

7. Any other considerations?

**Applicant Details**

Name	Damian Chappelle	
Property Details	74 Ballina Street, Lennox Head	
DA No. (if known)		
Signature		Date 26.02.2019

**Privacy Protection Notice**

The completed Request for a Variation to a Development Control form contains personal information which is being collected for the purpose of assessing this application. The information will be processed by the Development and Environmental Health Group and may be made available to public enquiries under the Government Information (Public Access) Act. The information will be stored in Councils electronic document management system.

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**From:** carlie jupp <carlie.jupp@hotmail.com>  
**Sent:** Friday, 22 March 2019 5:32 PM  
**To:** Ballina Shire Council  
**Subject:** Submission for application (2019/123.1)

Hello,

I would like to submit an objection to this DA 2019/123 application.

My objection is with a proposed height, this is over and beyond what is required for the main street and recommended that the height restriction remain at the 7 meters. I would also like to object to a three story proposal and suggest that the building should only be a two story to maintain the cultural aesthetics of the Main Street.

Thanks, Carlie  
Lennox Head

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**From:** chandler55 chandler55 <chandler55@bigpond.com>  
**Sent:** Wednesday, 27 March 2019 2:55 PM  
**To:** Ballina Shire Council  
**Subject:** DA 2019/123

The General Manager

As owner of a property at 5/67 Ballina Street Lennox Head, I wish to object in full to the above DA2019/123 at 74 Ballina street Lennox Head for the following reasons:

- 1) Height of the building is three levels 9.7 m which is above height limit allowed.
- 2) This is overdevelopment for size of land being only 809.5 m
- 3) It appears there will not be enough parking with only 11 spaces considering the creation of 9 strata allotments.
- 4) Landscaping on the ground floor is very minimal, which I believe is on purpose to maximise the exposure to their shops.
- 5) This development compares their height limit to the Lennox Head Cultural Community Centre & controversial building now being constructed where Thai Gardens restaurant was located, in which this development was actually two lots being much larger then the proposed development. We note Council took almost two years to approval that development as they requested three levels.
- 6) With changes to one way currently on trail, this building will impact on Lennox Head.
- 7) Level one & two are both commercial use, as well there is residential units proposed on third floor, which I believe is to maximise their value at the expense of an already over populated main street with lack of parking. I feel this third floor is added only so the development obtains ocean views & I believe these residents will be exposed to commercial street noise being in this main part of town as a rapidly growing area.
- 8) This type of development if approved will set precedent in Lennox Head with three levels from being a seaside village atmosphere of the Lennox Head Village Centre to a development more suited in a down town city location.
- 9) Having lived in this area all my life, I understand we must grow, but not as expense of greedy developers.
- !0) I feel there is currently not enough infrastructure in the township of Lennox Village for the recent approved subdivisions at Epiq, Meadows, Elevation, Skennars Head & Reservoir Hill estates sites that have recently being approved & released with giving approval to this type of development.

We already face lack of parking for most of the year & in particular during holiday times, market days or long weekends when the situation is absolutely ridiculous.



I strongly object to this type of development.

I would hope council rejects this development in full as it is proposed on the grounds of all the above.

Kind Regards

Terry Chandler

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**From:** Nathan, Nicole Meredith <lennoxheadpizzaandpasta@gmail.com>  
**Sent:** Friday, 29 March 2019 12:01 PM  
**To:** Ballina Shire Council  
**Subject:** DA number 2019/123

Attn: General Manager

I would like to submit a letter of support towards development proposal DA number 2019/123. This new development in LennoxHead is exactly what the town needs. Myself and other business owners are very quickly out growing their current premises with the growth of the town. As a business owner you wish to move to a larger premise however there is never anything available.

I know the building is 3 stories high, however the building still remains within the hight limit. They have designed an attractive building with wonderful use of space and have provided 7 more carpark which is something Lennox needs. It will drive more customers into town which will have a positive impact all the economy of the village.

Our community really requires this type of well thought out development to cater to the rapid growth of the village.

Please contact me if you wish to discuss the matter further.

**Thank you,**

**Nathan Meredith**  
**Owner**  
**Lennox Head Pizza and Pasta**  
**Mob: 0405069026**  
[www.lennoxheadpizzaandpasta.com.au](http://www.lennoxheadpizzaandpasta.com.au)  
[Find us on Facebook](#)  
02 66877080

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**From:** support.26791.b3a1bf49eccc758@helpscout.net on behalf of Bright Cloud Bookkeeping <hello@brightcloudbookkeeping.com>  
**Sent:** Friday, 29 March 2019 11:38 AM  
**To:** Ballina Shire Council  
**Subject:** DA number 2019/123

**Nicci** sent a message

Mar 29, 11:38am

To the General Manager re: DA number 2019/123

To who it may concern,

I am writing this letter in support of development proposal DA number 2019/123 in Lennox Head.

As a long time resident and business owner in Lennox Head I am in favour of this proposed development going ahead for the reasons stated below:

- It's great to see another mixed use building being proposed for the Lennox town centre as it helps activate the town at night and improves security.
- The building is attractively designed. It will attract more people to town and improve business conditions for other businesses in the town.
- Customer parking is being provided. The current site does not offer any parking for customers.
- While the building is 3 stories, the building is within the height limit with the exception of the lift shaft and the lift shaft will actually be lower than the building heights of other buildings in town.

Our town is growing rapidly, in order to cater to this we need more of these types of building to sustain growing business.

Please feel free to contact me regarding the above.

Kindest Regards,

Nicci Meredith

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**\*\*Office hours are 10:30am-3:pm Mon -Thurs, Office closed Fridays.\*\***

Bright Cloud Bookkeeping

Registered BAS Agent  
Cert IV Financial Services (Accounting)  
Certified Xero Partner  
Certified Xero Payroll Specialist

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**From:** Claire Quince <seequince@gmail.com>  
**Sent:** Sunday, 31 March 2019 6:03 PM  
**To:** Ballina Shire Council  
**Subject:** DA number 2019/123

I am writing to provide support for the above DA because the current post office building and house behind it are unattractive. It's redevelopment will improve the vibrancy of the town and make it easy to get from Williams Reserve to the Foreshore.

Claire Quince

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<BR

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**From:** Penny Hill <penelope\_hill@live.com.au>  
**Sent:** Saturday, 30 March 2019 4:16 PM  
**To:** Ballina Shire Council  
**Subject:** Support of DA 2019/123

To the General Manager,

We are writing in **support** of **DA 2019/123**.

We support the development application for the following reasons:

- The design of the proposed development is attractive, fits in with its surroundings and will add vibrancy to the centre of town.
- The development will add additional office space in town which is in short supply
- The design appears to have maximised all opportunities for on-site car parking.
- The 3rd storey is set well back from the street making the building look like a 2 storey building.

We hope council staff assessing the development application approve it for the reasons provided.

Please contact us if you have any questions with regards to our submission.

Sincerely,

Penny and Mitch Hill  
[78 North Creek Road](#)  
[Lennox Head](#)

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**From:** Brett Stinson <brett@blazeprojects.com.au>  
**Sent:** Monday, 1 April 2019 11:51 AM  
**To:** Ballina Shire Council  
**Subject:** 74 Ballina Street DA 2019/123 - Local support for the development

**Attn: Mr Paul Hickey**  
General Manager  
Ballina Shire Council

**Submission Re 74 Ballina Street, Development DA Number 2019/123**

Good Afternoon Mr Hickey,

I wish to register my support for the plans for an exciting new development on the Post Office site at Lennox Head.

This project will result in a worthy asset to the main street of Lennox Head not only through it's modern architecture but also in the services it will bring to the town.

The first floor dining overlooking the park and the beach will be a major attraction to tourists and locals alike and the modern designed building will complement the existing arcades and restaurants to the North.

The recent trial of one way traffic has been extremely successful in opening up the street for pedestrians and buildings of this nature will only add to this facility.

I understand there may be some concerns regarding the height level but in view of the fact that the third level is minimal (lift shaft only) and does not impede any residential views it should pose no real impediments.

I am appreciative of the parking spaces being provided on the ground floor on the Park Lane side as parking is becoming more and more of an issue as Lennox Head grows.

I would appreciate my comments being forwarded to the planners and decision makers involved with this worthy new development.

**Brett Stinson**  
Managing Director



0437 883 215  
02 6687 5304  
PO Box 471  
Lennox Head NSW 2478  
[www.blazeprojects.com.au](http://www.blazeprojects.com.au)  
QBCC Lic. 15094938

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**From:** Lara <larajcrompton@hotmail.com>  
**Sent:** Monday, 1 April 2019 11:58 AM  
**To:** Ballina Shire Council  
**Subject:** Submission in support of DA 2019/123

To the General Manager,

I am writing in support of the building proposed in DA 2019/123.

I have viewed the plans and I find that the building is not only practical, it is also aesthetically attractive and will greatly enhance the character of the town.

I understand the building will be three story, however the roof line will not be significantly higher than surrounding buildings, and will therefore, not detract from the current streetscape.

The existing building does nothing for the character of Lennox Head town centre. It is an extremely unattractive building and it would be great to have a new building at such a central point in the landscape. It appears that the design has been well considered to enhance the coastal character of the town, and offers a much needed mixed use space on an otherwise underutilised site.

The addition of customer parking is also a major benefit and much desired by locals.

Being so central, and opposite the park, the upper levels will take advantage of some of the best views in town, without detracting from the views or privacy of any other buildings.

I look forward to seeing this great new building taking pride of place in Lennox Head.

Kind regards  
Lara Crompton

Sent from [Mail](#) for Windows 10

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**From:** Surfit Lennox <surfitlennox@outlook.com>  
**Sent:** Monday, 1 April 2019 1:36 PM  
**To:** Ballina Shire Council  
**Subject:** DA Application 74 Ballina st Lennox Head

**RE: Submission for 74 Ballina Street DA Number 2019/123**

Good Morning,

I am writing to SUPPORT the current development application before council being for 74 Ballina St Lennox Head.

As a business owner & operator in Lennox Head I support this project because of the positive contribution it will make to Ballina Street.

It's a good looking building with a 3rd storey that is set a long way back from the street.

It's mixed use design will mean there are more people in town after hours which will improve safety and security via passive surveillance.

The design generously provides over half of it's available ground floor area to car parking.

Please pass on my submission to the planners and staff involved in determining this development application.

Sincerely,  
David Westaway

SURFIT 24/7 FITNESS  
9/90-92 Ballina St  
Lennox Head NSW 2478

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**From:** Shannon Hewitt <bcshannon@gmail.com>  
**Sent:** Monday, 1 April 2019 8:43 PM  
**To:** Ballina Shire Council  
**Subject:** DA number 2019/123

To the General Manager.

I am writing this letting in support of the above DA.

I am a long time Lennox head resident of over 30+ years and have worked for several local Lennox Head and Ballina Businesses over this time.

I am sure we all agree Lennox Head is struggling with the growth that has gone on over the past several years. I have looked at the plans and think the design of the building will not be an eye sore and will attract people to the town and improve problems such as our number 1 issue at present being parking and also offer much needed security along the main street at night. It will also improve facilities for current local businesses and attract new ones to the area.

Yours sincerely

Shannon Hewett

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<BR

5 Fieldcrest Pl  
Lennox Head  
NSW 2478

2 April 2019

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

Dear sir

**DA 2019/ 123**

I am writing to say that I am completely opposed to D.A Application 2019/123 for the following reasons:

Lennox Head has a huge parking problem. This has been recently recognised by the many businesses that have been severely impacted by the current one way traffic trail.

This DA aims to place two residential units and several commercial offices on floors three and two respectively. These will all require parking accommodation that will severely limit the available parking for regular shoppers who may wish to not only access the Post Office and restaurant within the building, but also other shops within the village. The proposal only provides 10 parking places. The developer has said he is willing to compensate council for the remaining 13 places a proposal of this nature requires but this will not help current shoppers or even shoppers into the foreseeable future..

Because of the serious parking problem many shoppers, like me, prefer to travel to East Ballina or Ballina than spend time cruising around the town looking for parking. This is already impacting the shop owners now and we should not be exacerbating the problem further.

Council needs to act urgently to ensure that sufficient parking remains specifically for people to shop. By allowing three story developments we are allowing the density of our village to rise well above the levels intended to create the atmosphere that was expressed in the strategic plans produced in the early 2000's.

Yours sincerely

Malcolm Milner

---

**From:** Zain Peart <zain@zepfinance.com.au>  
**Sent:** Tuesday, 2 April 2019 12:01 PM  
**To:** Ballina Shire Council  
**Subject:** Support for DA 2019/123

Hi Paul,

I would like to write to you to support the development of 74 Ballina Street Lennox Head. As I am sure you are aware I am currently a tenant at the building and the DA will cause my business a lot trouble and disruption. Despite this the overall proposal to modernise Lennox Head, create more retail and residential space and overall improve the look of both Ballina street and Park lane greatly outweighs the disruption I will have to go through.

There is already a 3 story building on the main street so I do not see this as an issue for the town as I have heard other residents noting this as a point of contention. Lennox Head town centre (village) including the shops, streets and amenities need a major renewal to keep Lennox competitive and ensure we capture the ongoing visitors needed to support the businesses. This building will certainly help in this vision and make more spaces for professionals and businesses in town.

Regards,  
**Zain Peart**  
MORTGAGE BROKER

Mobile: 0401 158 896  
Office Ph: 0431 951 076  
[www.zepfinance.com.au](http://www.zepfinance.com.au)



2/74 Ballina Street  
PO Box 326  
Lennox Head NSW 2478

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The General Manager

As owner of a property at 4/67 Ballina Street Lennox Head as well as a retailer at shop 3/72 Ballina Street Lennox Head, I wish to strongly object in full to the above DA2019/123 at 74 Ballina street Lennox Head for the following reasons:

- 1) Height of the building is three levels 9.7 m which is above height limit allowed.
- 2) This site completely overdevelopment for size of land being only 809.5 m. Council show not even consider this type of development in Lennox Head.
- 3) It appears there will be a not be enough parking with only 11 spaces considering the creation of 9 strata allotments. Surely there will be more cars than one per allotment.
- 4) Landscaping on the ground floor is very minimal to say the least, which I believe is on purpose to maximise the exposure to their shops.
- 5) This development compares their height limit to the Lennox Head Cultural Community Centre & controversial building now being constructed where Thai Gardens restaurant was located, in which this development was actually two lots being much larger then the proposed development.  
We note Council took almost two years to approval that development as they requested three levels.
- 6) With changes to one way currently on trail, this building will have major impact on Lennox Head with is shortage in proposed parking arrangements & overdevelopment of the site will have an ugly visual impact totally out of character for the village atmosphere of Lennox Village.
- 7) Level one & two are both commercial use, as well there is residential units proposed on third floor, which I believe is to maximise their value at the expense of an already over populated main street with lack of parking. I feel this third floor is added only so the development obtains ocean views & I believe these residents will be exposed to commercial street noise being in this main part of town as a rapidly growing area.
- 8) This type of development if approved will set precedent in Lennox Head with three levels from being a seaside village atmosphere of the Lennox Head Village Centre to a development more suited in a down town city location.
- 9) I note the post office boxes proposed for the post office have been located directly to the left out the front of my shop premises. This will impact directly on my business.

10) I feel there is currently not enough infrastructure in the township of Lennox Village for the recent approved subdivisions at Epiq, Meadows, Elevation, Skennars Head & Reservoir Hill estates sites that have recently being approved & released with giving approval to this type of development.

We already face lack of parking for most of the year & in particular during holiday times, market days or long weekends when the situation is absolutely ridiculous.

I strongly object in full to this type of development.

I would hope council rejects this development in full as it is proposed on the grounds of all the above.

Kind Regards

A handwritten signature in black ink, appearing to read 'Michelle Chandler', written in a cursive style.

Michelle Chandler

Mr Anthony Peters

Planning and Environmental health division

Ballina Shire Council

40 Cherry Street

BALLINA NSW 2478

29 March 2019

**RE: DA 2019/123**

**APPLICANT: Newton Denny Chapelle**

**PROPERTY: Lot 24 Sec: 2DP: 11687, 74 Ballina Street ,Lennox Head**

Dear Mr Peters

Thank you for forwarding to us the development application for the proposed development at 74 Ballina Street, Lennox Head.

We are totally opposed to this development as proposed. Development regulation standards for buildings in Lennox Head have a height restriction of 9.00m. and a limit of 2 storeys. That is acceptable. But, where does it go from there in the future 3 storeys, 4 storeys, multi storeys?

Stop the disfigurement of "Our little village by the sea" before it gets out of control.

We own property in Lennox Head, we love Lennox Head and we have been visiting Lennox Head for more than 50 years.

Yours faithfully



Jan & Volker Bertram

Mr Volker Bertram & Mrs Janice L Bertram

9 Onslow Place

SYLVANIA NSW 2224

bertramfamily@hotmail.com

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**From:** Byron Bay Electrical <byronbayelectrical@bigpond.com>  
**Sent:** Wednesday, 3 April 2019 7:11 AM  
**To:** Ballina Shire Council  
**Subject:** Submission DA2019/123- General Manager

Hi please find attached my reason for supporting the redevelopment of the old post building in Lennox Head .

- 1- Improve visual amenity , the existing building is an architectural dinosaur.
- 2- Pedestrian walkway thru to Park Lane is a huge plus and a big thank you to the developer.
- 3- I approve of mixed use as is happening in nearby buildings .
- 4- Set back of 3rd story residential will hardly be seen from Ballina St . I support this.
- 5- Small overheight area for lift shaft will not be seen from Ballina St and the precedent has already occurred with the IGA building and the spires at the Community Centre. I support this .

I live at 3/5 Byron St Lennox Head which I have owned since 2002 and also a 50% share in 2/5 Byron St .

So I add that yes I support the redevelopment and the building plans as per DA2019/123.

Signed Geoff Bensley

Geoff Bensley

Byron Bay Electrical

M- 0427857824

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Anthony Peters  
Planning and Environmental Health Division  
Ballina Shire Council  
40 Cherry Street  
BALLINA NSW 2478

April 3<sup>rd</sup> 2019

Hello Anthony,

Please register our opposition to the proposed redevelopment of lot 24 Sec: 2DP: 11687, 74 Ballina Street Lennox Head.

The development is out of character with the village, and at odds with Council's broader plans for beautification and enhancement of the streetscape in Lennox Head.

The Developer answered questions during this week's Lennox Head Resident's Association Meeting, but no assurances that were provided are enough to lead us to support the proposal. There are not many towns left like Lennox head – some were lucky enough to be born here, while others like us have chosen to make Lennox home.

It is the role of council to manage and monitor developments to ensure that they add to, not detract from the culture and ambience of the area. With Epiq and other large scale developments already approved and underway, there is more than sufficient growth to support commerce in Lennox Head. It's critical now that the beachside culture that defines Lennox is not traded to Developers by Council in the name of progress.


Progress is important, but growth purely for profit's sake is not a sustainable path in our town.

Thank you,



Kevin Gates

6 Hilltop Place, Lennox Head 2478



Patty Gates



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**From:** maree somerville <maree.somerville@gmail.com>  
**Sent:** Wednesday, 3 April 2019 9:08 PM  
**To:** Ballina Shire Council  
**Subject:** Submission for application (2019/123.1)

Attention: Anthony Peters  
Planning and Environmental Health Division Ballina Shire Council

I wish to object to the above application on two grounds:

1. The height limit of 9.7 metres is 0.7 metres above the current height limit of 9.0 metres. Any variation of the allowed limit, for whatever reason, leaves the door open for future developments to further push the allowed limits. The community of Lennox Head is very much against allowing any development to exceed the set limits as these limits were set to protect the village of Lennox Head.

2. The building application states that it is required to supply 23 car spaces for this development. It states that it is supplying 11 and is planning on meeting the 12 space shortfall by accessing the Ballina Car Parking Contribution Plan (2014), which only has 11.37 left. In examining the plans, I can only see 10 spaces being provided, 1 of which is a van park. Where is the 11th? And where is the 0.63 shortfall coming from? Any concession made regarding this aspect of the application, also opens the door to future developments challenging building requirements.

The village of Lennox Head is already under enough stress re parking and does not need any more stresses put on it. It is important to ensure that the building limits in Lennox Head are adhered to in order to protect what is Lennox Head.

Maree Somerville  
37 Gibbon Street  
Lennox Head

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**From:** Garry Somerville <garrysomerville@gmail.com>  
**Sent:** Wednesday, 3 April 2019 9:16 PM  
**To:** Ballina Shire Council  
**Subject:** Submission for application (2019/123.1)

To: Anthony Peters

**RE: Submission for 74 Ballina Street DA Number 2019/123**

Please register my opposition to the proposed redevelopment of lot 24 Sec: 2DP: 11687, 74 Ballina Street Lennox Head.

My objection is based on the following grounds.

1. The proposal is above the height limit and thereby creates a precedent for the next application to exceed it by more.
2. The numbered carparks drawn on the DA application does not match advertised number of parks supplied onsite.

Thank you  
Garry Somerville  
37 Gibbon Street  
Lennox Head 2478

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<BR

mjmarrs01@bigpond.com

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**From:** Rob Campbell [rob@axialwealth.com.au]  
**Sent:** Monday, April 1, 2019 4:02 PM  
**To:** 'mjmarrs01@bigpond.com'  
**Subject:** DA number 2019/123

Dear Sirs,

OBJECTION to the proposed site development DA 2019/123

Thank you for taking the time to read my objection to the proposed development. This is not in keeping with the character of Lennox Village, or with the Council's own regulations. The limit is two storeys or 9.00 metres.

I understand that the building is set back from the road, I also understand that it is simply a lift shaft, I understand that this building may not impede the view of any other residents currently.

My concern is where does this stop? Once the rules/by laws are ignored then past experience in other areas have shown us that new developments start to all exceed the limits/regulations set in place by the council. This could possibly open up a can of worms.

Kind regards,

Rob Campbell  
Owner Apartments 2B and 3B Absolute Beachfront Apartments  
77-81 Ballina St  
Lennox Head NSW 2468



| Director | Axial Wealth Management Pty Ltd  
P: +61 3 9661 0445  
M: 0416 118 141 | E: [rob@axialwealth.com.au](mailto:rob@axialwealth.com.au)  
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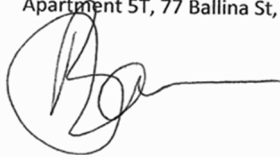


The General Manager,  
Ballina Shire Council  
PO Box 450, Ballina, 2478  
3/4/2019

Please find below a letter of objection to DA 2019/123.

We oppose to the proposal put forward in the above DA to demolish 74 Ballina St, Lennox Head and rebuild a mixed use building of 9.7metres in height. Regardless of the design of the proposed structure it clearly contravenes the current 9m height limit allowed in Lennox Head and we feel this will set a precedence for future Lennox Head development. The beautiful thing about Lennox Head is its village atmosphere, including the variety in building heights and facades. If we allow such a building to go ahead its highly likely other buildings will be then able to increase their height both reducing the amount of light to the main street of Lennox Head and compromising the village atmosphere. We therefore object to this DA.

Kind Regards,  
Robyn and John Cooper  
Apartment 5T, 77 Ballina St, Lennox Head

A handwritten signature in black ink, appearing to be 'Robyn and John Cooper', written over the typed name. The signature is stylized and includes a horizontal line extending to the right.

---

**From:** Bronwyn Thirkell <bronthirkell@gmail.com>  
**Sent:** Thursday, 4 April 2019 1:14 PM  
**To:** Ballina Shire Council  
**Subject:** Attention General Manager Ballina Shire Council Re: DA 2019/123 74 Ballina St Lennox Head

Re: DA 2019/123 74 Ballina St Lennox Head

I would like to express my support of the proposed development at 74 Ballina Street Lennox Head.

The project is in line with current development in the area, namely the new site (formerly Lennox Backpackers and Lennox Thai Garden) and the site housing Quattro, Lek Thai and Surf Fit.

With developments such as Aureus and Epic also promising new commercial development it's important Lennox Main Street keep up with aesthetic trends for consistent patronage. The project scope also offers new opportunity for local business owners to start, grow and advance their current practice.

I fully support the proposed plan and the improvement of Lennox Main Street commercial infrastructure.

Kind regards

Bronwyn Thirkell  
3 Survey Street  
Lennox Head  
NSW 2478

0488 740 439

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**From:** Timothy Kable <timothy@kable.com.au>  
**Sent:** Thursday, 4 April 2019 1:15 PM  
**To:** Ballina Shire Council  
**Subject:** DA 2019/123 - Redevelopment of 74 Ballina St LENNOX HEAD

To the General Manager (Ballina Shire Council).

**Regarding DA 2019/123 Redevelopment of 74 Ballina St Lennox Head**

I'd like to register my support for the development as proposed for 74 Ballina St Lennox Head.

The thoughtful building design is aesthetically pleasing, contemporary, relevant and respectful to the needs of Lennox head's residents, and is a massive improvement on the existing building. And the inclusion of first floor dining opposite Ross Park will be great for the town centre.

While the building is three stories it doesn't look like a three storey building. From Ballina Street the third storey is set well back, from Park Lane the ground floor is open space used for car parking. A genius design.

It's great to see that much needed car parking will be provided on the site and a loading bay so delivery vehicles do not have to park in Park Lane.

I have no objection to the building exceeding the height limit by 700mm as I understand it is just the lift shaft (for disabled residents/diners) that is above the height limit.

Please support this great addition to our growing town.

Best Regards,

Timothy Kable  
19 Longboard St  
Lennox Head NSW  
2478  
0408 741 741

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**From:** gbyres@icloud.com  
**Sent:** Thursday, 4 April 2019 2:47 PM  
**To:** Ballina Shire Council  
**Subject:** DA 2019/123

Attention General Manager  
Ballina Shire Council

I write in support of DA 2019/123 at 74 Ballina St, Lennox Head.

I support the application because I believe it is a sensible and sensitive proposal within the context of Lennox Head's renewal.

It will offer choice for local small businesses looking for a tenancy, as well as customers and tourists coming into the town centre.

I know there is a focus on one element of the proposal seeking a variation on the height limit, but given it won't be visible from the street front, is small and discreet, and sets no major precedent for overall building envelopes, then it shouldn't be a reason to reject the proposal.

As a local resident, I think opportunities to continue to attract sensible investment and renewal in the town centre make sense, particularly given increased demand from expanding residential growth in the broader Lennox area.

Regards

Glenn Byres  
18 Palisade Way  
Lennox Head NSW 2478.

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**From:** Robyn McIntyre <robann48@icloud.com>  
**Sent:** Thursday, 4 April 2019 3:50 PM  
**To:** Ballina Shire Council  
**Subject:** DA 2019/123.1 Objection

To Whom it May Concern

I am an owner/occupier of a unit at 70 Ballina St.

I wish to lodge my objection to the development proposal at 74 Ballina St.

One of the highlights of the Lennox Head Strategic Plan was to retain the village atmosphere of the CBD. This development contravenes this vision.

I object to the size of the development on the proposed site. It will almost fill the entire block from Ballina St through to Park Lane. This is not in keeping with our village but more a resort town like Noosa. This is setting a precedent for other adjacent blocks and before we know it our village atmosphere has disappeared.

I object to the height. I know it is ONLY 0.7m which is a lift shaft but then the next development will be only 0.9m and then 1.1m and so on. We are then on a slippery slope.

I also object to this development over the parking issues this development will generate. I realise it contains some parking but other spaces are to be purchased from council. Now just where are these phantom parking spaces the developer can obtain through a levy ?????

The one way trial has turned my village into a car park to provide a few extra spaces. Today I drove down Park Lane at 11.30 and there was not one parking space available. There was the odd one along Ballina St. This is a quiet time in Lennox. Over the Christmas period there can be over 10 customers waiting in the Post Office alone each with their own car. There will be times that people using the restaurants, PO, office spaces, residents in this development will be well in excess of the estimated parking spaces suggested in this application.

Our village cannot support this type of development.

Yours sincerely,  
Robyn McIntyre  
PO Box 315  
Lennox Head  
6/70 Ballina St  
Lennox Head.

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*Ballina Environment Society Inc*  
*PO Box 166 Ballina*  
*NSW 2478 Australia*  
*Email: BES2478@gmail.com*  
*Ph: 0421-551-768*



**SUBMISSION AGAINST DA 2019-123.1**

Ballina Environment Society objects to DA 2019-123.1 as it sets dangerous precedents.

It would be the first three storey development permitted in LEP Height of Buildings Zone J. BES questions why the DA states that in a second pre lodgement meeting Council staff stated three storeys was 'acceptable'. The minutes of this meeting were not included in the submission. It has never been accepted in the past and this statement is a major concern. Council needs to clarify its position on the number of storeys that are acceptable.

The 9m height permitted in Lennox CBD is not sufficient to allow three storeys and to achieve the DCP Chapter 6 – Lennox Head, Design Control ii) *Skillion and/or peaked roofs are preferred within the Village Centre.*

Certainly, in the committees and consultation BES has participated in, the desire for two stories has held prominence. No matter how good the design may appear, allowing three stories sets a dangerous precedent.

The deficit of thirteen spaces with provision of only ten spaces for nine strata titles including two 2 bedroom units, will place an unacceptable strain on the CBD infrastructure.

The micro tenancy strata on the ground floor also sets a dangerous precedent for the size of future subdivisions in the CBD. The size of the living area in the third floor apartments is also a concern.

Until there is further strategic planning that shows:

- The support of the community for three storeys, and
- The ability for the CBD infrastructure to cope with this density of development,

BES urges Council to refuse DA 2019/123, as the size, scale and bulk of the proposal is not in the public interest.

Before three storeys are acceptable, Council needs to review the BLEP Height of Buildings to enable good design.

Prepared by Fiona Folan, Secretary  
4/4/2019

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**From:** Helen Sherman <sherman.helen@gmail.com>  
**Sent:** Thursday, 4 April 2019 10:58 PM  
**To:** Ballina Shire Council  
**Subject:** Supporting Lennox Head third story development proposal.

To whom this may concern,

I am writing to support the proposal for the third story development in Lennox Head. I personally think it would be wonderful to see another mixed used building in Lennox. I think that it would create more job opportunities for the locals and activate the night life in LennoxHead, therefore making the area at night time feel safer. Currently at night time, even in the town centre, it feels very dark and unsafe. Having more shops and resident buildings would illuminate the streets, making the streets feel safer for young women at night.

The building has been beautifully designed, it will attract more wealth into the area, creating more business opportunities for Lennox. Also there will be customer parking which would be amazing for all customers, as the current site does not have any parking for the customers. Taking all factors into considering, I know that the proposal is a good idea, small towns do not like change. However small towns need change to develop, grow and be stronger for the future generations.

Thank you for your time.  
Yours sincerely  
Helen Sherman

Sent from my iPhone

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**From:** Scott Nichols <number1fishboy@yahoo.com.au>  
**Sent:** Saturday, 6 April 2019 11:54 AM  
**To:** Ballina Shire Council  
**Subject:** DA2019/123 objection

To whom it may concern,

I wish to object to the DA 2019/123 as it proposes to exceed the current 9m height limit and construct a 3 storey building-something which will create a precedent for Lennox Head buildings and detract from Lennox's "village" feel.

I realise this submission is past the April 4 end to public exhibit, but I have only today found this development proposal.

I hope you consider this objection in your assessment.

Thanks,

Scott Nichols

215 Tooheys Mill Road Fernleigh 2479

0407976739

Sent from my iPhone

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**From:** Tom Berry <thomasberry@bigpond.com>  
**Sent:** Wednesday, 10 April 2019 10:06 AM  
**To:** Ballina Shire Council  
**Subject:** Submission DA 2019/123

The General Manager,  
Ballina Shire Council,  
P.O Box 450,  
Ballina, NSW  
2478.

10<sup>th</sup> April, 2019.

RE Development Application: DA 2019/123

Dear Sir,

I wish to express my support for the aforementioned development application proposed for 74 Ballina St, Lennox Head.

To me it replaces a ramshackle blight on the streetscape of Lennox Head for which the land can be far better utilized as in this proposal.

Though its height exceeds the 9 metre "limit" imposed on structures in Lennox Head it will be of little or no impact on the visual amenity and certainly of no consequence to light in the street as some are chattering about. I am amused at alarm focused on the notion of a "three storey" building despite the overall compliance with the height restriction excepting the lift shaft.

With regard to residential/holiday maker presence in the building, I think this can only be of benefit to the town adding, not detracting from the village atmosphere, enhancing security and presence.

On the matter of parking, whilst the proposal does have the potential to increase the number of parks required overall, the nature of business being proposed tends to call for parking in quantities at times that are in sequence with the use of the building. As such, the demand for on-site parking follows the change in customer types from daily business to evening restaurant goer, obviously with a little overlap at times. With 10 to 12 spaces included on site, whatever impact it has on the overall stock of parking spaces in town will certainly be minimal if not an actual improvement.

I applaud the modern, open appearance portrayed in the plans presented and feel this will be a major asset to the village rather than the demise to Noosa style development; a place *some* find unpleasant. The extra egress provided between Ballina St and Park Lane is a further benefit.

My compliments go the developer and designer for proposing such an overdue improvement to our community space.

Please feel free to contact me for any further discussion.

Thomas Berry,  
62 Killarney Crescent, Skennars Head.

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**From:** rob mccrossin <robmax2010@gmail.com>  
**Sent:** Tuesday, 16 April 2019 10:31 AM  
**To:** Ballina Shire Council  
**Subject:** Submission for application (2019/123.1)

My objection is against any relaxation of the height limits for the main street. Precedent will be set and it is a slippery slope until many of the older sites also get overdeveloped and the seaside streetscape becomes a 'canyon' with channelling winds and shadowing affecting the amenity of the town. Unfortunately it is mainly greed which leads to this sort of overdevelopment to maximise returns for the developer. I have no problem with change/modernisation but the height limits were chosen for a reason-to prevent the town turning into the gold coast or Noosa or Byron. Councillors, please stick to the rules and decline this DA as it stands. Maybe it should only be 2 storeys.

I also object (if the rumours are true ) to the way the parking requirements have been circumvented in a way that may be technically acceptable but not really in the true spirit of the requirement.

I also noted that the DA notification sign seemed to disappear after a relatively short public showing

Thank you

Robert McCrossin

Lennox Head

Sent from [Mail](#) for Windows 10

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**From:** Lisa King <lisajanelennox@gmail.com>  
**Sent:** Monday, 3 June 2019 1:27 PM  
**To:** Ballina Shire Council  
**Subject:** DA2019/123.1

Attention: Anthony Peters

Dear Anthony

Apologies for the lateness of this submission.

I wish to strongly object to the additional height proposed in this application. To allow this is a slippery slope and if approved, what is to stop more applications for height limit excesses. Council has maintained this control to date and should continue to do so.

Also all required car parking should be provided on the site. Given the lack of parks already felt in Lennox, all new developments must provide their required parking within their own property boundaries. There is just not enough land to accommodate additional parking from new developments elsewhere. Any additional space will be required to address population increases and should not be expended on new developments.

Thanks.

Lisa King

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**CONFIDENTIAL SUBMISSION**

**DA 2019/123 – 74 Ballina Street, Lennox  
Head**

*Please note private and identifying information has been removed from this submission in accordance with the Privacy & Personal Information Protection Act 1998 at the request of the submitter.*

**Ordinary Meeting 28/5/2020**

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**Sent:** Tuesday, 2 April 2019 1:26 PM  
**To:** Ballina Shire Council  
**Subject:** Support of DA 2019/123

Support of DA 2019/123

To whom this may concern,

I am writing this in support of the development DA 2019/123.

Lennox Head is a small but growing coastal town that I have lived in for over 25 years. As it has grown, the infrastructure and businesses have been chasing their tails to catch up with the demand to visit and to live here.

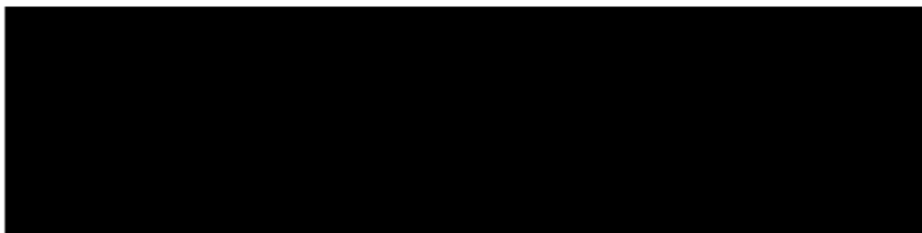
The one way main street has been a great start to maintaining a nice flow to the village and with some current developments giving the town a nice facelift to make it beautiful place to be.

The development DA 2019/123 is another great addition to this facelift. It is an aesthetically pleasing building with a warm comforting outlook onto the main street of Lennox Head, not bold or in your face. Also being a building that has multiple businesses in, it gives the locals and visitors a variety of places to shop and eat at. Businesses also get a chance for a fresh start or a chance to start in this wonderful town, drawing more trade to the town and jobs to the town.

This development has everything necessary. Adequate amounts of parking, stays within height limits and helps with the growth of Lennox Head. I know after working downtown in Lennox Head for the last 10 years, the town has started to out grow itself and needs developments like this to absorb some of the demand put on it.

Lennox Head can still be Lennox Head, a fun, relaxed surfing village. That is all about local attitude.

sincerely





---

**Sent:** [Redacted] Wednesday, 3 April 2019 8:50 PM  
**To:** Ballina Shire Council  
**Subject:** Opposition against DA 2019/123.1

Attn: Paul Hickey

Dear Paul,

We wish to oppose the DA to redevelop 74 Ballina Street.

We are led to believe that the developer, [Redacted], has conflicted interests in this regard [Redacted] pushing ahead with his DA whilst at the same time publicly pushing the one-way traffic trial to be accepted by the community and then adopted by BSC.

[Redacted] DA's success or otherwise, relies heavily upon the fact that [Redacted] DA – in its current form – does not provide sufficient car parking spaces. He has an agreement to make a funding contribution to the Ballina Shire Council in exchange for additional car parking spaces in order to see his DA approved. There are no car parking spaces available to satisfy this agreement with Council UNLESS the one-way parking trial is approved (hence providing [Redacted] with the car parks required).

As business owners in the town, we see the front façade of the proposed building in this DA as positive to the overall streetscape that it fronts, *however the one-way traffic trial is having a massive negative impact on our business.*

If the interests of the developer [Redacted] are to see the traffic trial adopted in order to see his own DA adopted – then we vehemently oppose the DA proposal.

[Redacted]

[Redacted]