

From: [byroneforms](#)
To: [council](#)
Subject: 10.2014.724.2 - Submission of Object -
Date: Tuesday, 1 December 2020 5:18:33 PM
Attachments: [BSC-005-280-Formal Objection 33 Lawson St Byron .pdf](#)
Importance: Low

Development Application - Submission notification

Submission ID: BSC-005-280

DA number: 10.2014.724.2

Subject address: 33 lawson street Byron Bay

Application type: Object

Other details:

Grounds: ... We have bought this unit in 2017 and we knew about the original development application. We are planning to retire next year and live in this unit as our permanent home. We are very worried since the announcement of the new development application. We have saved money for many years and found this unit to enjoy Byron Bay and its peaceful life. Therefore we are asking the Council to refuse the application. Please find some explanations: My unit is a two bedrooms (one on level 1 and one on level 2 with windows both overlooking 33 Lawson) with two terraces on level 1 and one balcony on level 2. These bedrooms, terraces and balcony are overlooking 33 Lawson street. In the previous development there were 43 motel rooms and 26 car parking spaces. The new proposal seeks to introduce a number of important changes such as demolition of the existing building, new construction, increase of motel suites by 8 so a total of 51 motel suites!!!! and the introduction of a new top pool terrace with a bar and a communal open space area. More parking and maximum floor space ratio and maximum building height permitted: 14.67 m ! That is a 63%variation from the Maximum 9 m permitted. This is an unacceptable design in a medium density residential location. The design is inadequate and incongruous. This could cause a very significant loss of amenity with noise from 6 am to 10 pm, no more privacy with overlooking balconies, cooking smell from the bar just overlooking our unit. I will add the loss of natural sunlight to my entire unit. We have attached a document detailing our objection. We asked the Council to refuse this application.

From: [byroneforms](#)
To: [council](#)
Subject: 10.2014.724.2 - Submission of Object -
Date: Tuesday, 1 December 2020 5:18:34 PM
Attachments: [BSC-005-281-Formal Objection 33 Lawson St Byron .pdf](#)
Importance: Low

Development Application - Submission notification

Submission ID: BSC-005-281

DA number: 10.2014.724.2

Subject address: 33 lawson street Byron Bay

Application type: Object

Other details:

Grounds: Dear Council As explained in the attached report, the proposal is beyond acceptable development limits in terms of visual impact, aural, social impact and environmental impact. This proposal forces us to retreat into our house and close all of our doors and windows. This is unacceptable. We are going to retire next year in our unit and we ask the Council to consider our objection as we deserve a peaceful life in Byron.

From: [byroneforms](#)
To: [council](#)
Subject: 10.2014.742.2 - Submission of Object -
Date: Friday, 27 November 2020 9:46:13 PM
Attachments: [BSC-005-270-Formal Objection 33 Lawson St Byron .pdf](#)
Importance: Low

Development Application - Submission notification

Submission ID: BSC-005-270

DA number: 10.2014.742.2

Subject address: 33 Lawson St Byron Bay

Application type: Object

Other details:

Grounds: ... The DA submission is not acceptable on the following grounds and I urge Council to refuse the application : 1. It offends and is at odds with the amenity of the local area - particularly to the residential building at 31 Lawson St Byron Bay 2. The bulk and scale and height are not compliant with the Byron LEP and DCP design rules 3. It has been lodged under section 4.55 as essentially the same development when it is a large departure from the originally approved DA 4. The maximum height permissible is 9m in this area - this building proposal seeks 14.67m - a 67% departure from the statutory height limits 5. There has been no formal requests in the proposed modification to vary Floor Space Ratios and therefore Council should not consider varying maximum statutory limits. 6. Apart from the overbearing height of the building the development looks directly onto 31 Lawson St (residential) and we have concerns about noise, privacy and light particularly with a proposed pool on the roof (noise travelling downwards) Overall the proposed modification does not meet DCP requirements and must be refused. Please see the complete report from local planner Chris Lonergan

From: [byroneforms](#)
To: [council](#)
Subject: 10.2014.742.2 - Submission of Object -
Date: Monday, 30 November 2020 12:18:07 PM
Attachments: [BSC-005-276-Formal Objection 33 Lawson St Byron .pdf](#)
Importance: Low

Development Application - Submission notification

Submission ID: BSC-005-276

DA number: 10.2014.742.2

Subject address: 33 Lawson Street Byron Bay

Application type: Object

Other details:

Grounds: The amendment proposes to take the height level well above all the other buildings on our side of Lawson Street and given the property is adjacent to the property where I own a unit it will overlook the back yard of my property. The suggestion of having a rooftop bar in that location will ensure that noise levels will flow down to my property impacting on my enjoyment of my property. I also question having that number of units one that one site is suitable for the location. The attractiveness of Byron Bay, as opposed to the Gold Coast is for suitable low rise development.

From: [byroneforms](#)
To: [council](#)
Subject: 210.2014.742.2 - Submission of Object -
Date: Tuesday, 8 December 2020 3:53:29 PM
Importance: Low

Development Application - Submission notification

Submission ID: BSC-005-309

DA number: 210.2014.742.2

Subject address: 33 Lawson Street Lawson Street Byron Bay

Application type: Object

Other details:

Grounds: This proposed building will certainly damage the local residents right to have some peace and quiet. The current noise from the Waves Apartment complex is at times overbearing and they do not do anything about the complaints. They do not seem to care who they allow in their premises as long as they pay. The residents at 31 Lawson st will be massively put out by the lack of privacy and also the addition of the noise coming from a rooftop bar and pool area that will not be shut down at 10.00PM, There are already enough bars for the drunks to visit, and they have security workers policing them. We do not need any more licensed venues close to residential buildings.



Manentia
Ubicumque

BYRON BAY PLANNING & PROPERTY CONSULTANTS

Chris Lonergan – Town Planner, Design, BASIX, Landscaping, Ecology, Bushfire Assessment.
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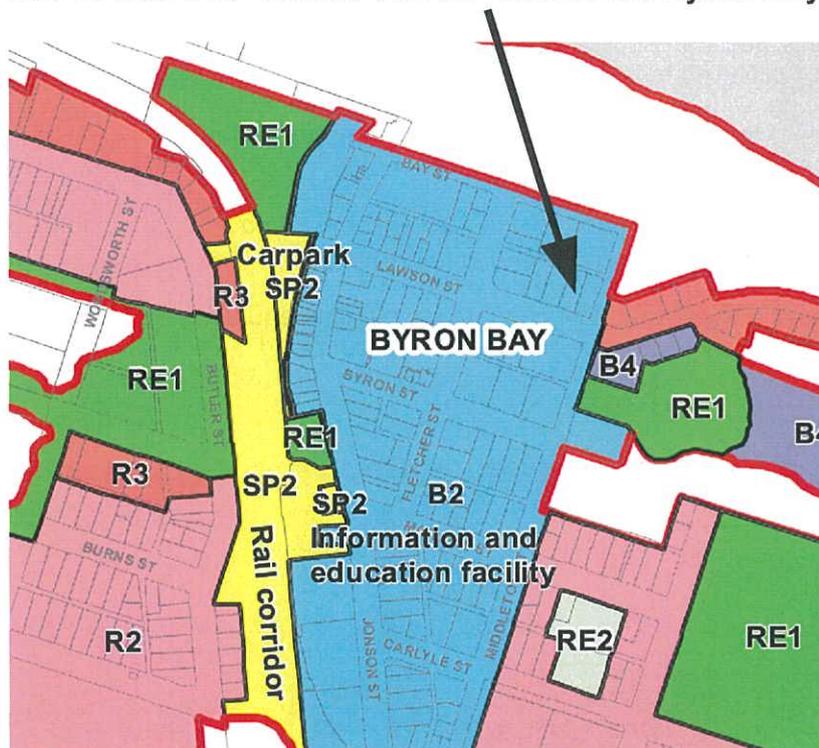
www.byronbayplanning.com.au

Ph. (02)66809255

27 November, 2020

Objection to S4.55 to Modify Consent to include Eight (8) Additional Motel Units, Remove the Ground and Third Floor Swimming Pools, Add a Roof Top Recreation Area comprising a Swimming Pool, Bar and Cafe Spaces, DA 10.2014.742.2

Lot 18 Sec 8 DP 758207 No. 33 Lawson St. Byron Bay.



1 INTRODUCTION

This Objection relates to a submitted Sec. 4.55 application which seeks to Modify a previous Consent to include, Eight (8) Additional Motel Units, Remove the Ground and Third Floor Swimming Pools, Add a Roof Top Recreation Area comprising a Swimming Pool, Bar and Cafe Spaces. The Application number is DA 10.2014.742.2, and the property is Lot 18 Sec 8 DP 758207 No. 33 Lawson St. Byron Bay.

The existing approval via Consent 10.2014.742.1 approved the demolition of the existing building to achieve a new five (5) level motel development comprising two (2) levels of basement parking and a three-storey motel building above.

In this previous development there were forty-three (43) motel rooms each with double bed, private bathroom and an external balcony. Fifteen (15) of the proposed motel rooms had kitchenette facilities.

An elevator and stair access were proposed between each of the proposed levels, with a chair lift and stairs proposed to provide street level access.

In the previous approval the development comprised :-

Basement Level 2 twenty-six (26) car parking spaces, service area, and one-way signal control vehicular access ramp.



Basement Level 1 twenty-one (21) car parking spaces (including three accessible parking spaces and four stacked parking spaces), bicycle parking area, garbage bin storage room, two store/service rooms, two-way vehicle access ramp to ground level and one-way signal control vehicular access ramp to Basement Level 2.

Level 1 (Ground Floor) reception and office, access chair lift, swimming pool and thirteen (13) motel rooms

Level 2 (First Floor) fifteen (15) motel rooms including two wheelchair accessible rooms

Level 3 (Second Floor) fifteen (15) motel rooms including one wheelchair accessible room.

Vehicular access to the proposed basement parking levels is proposed from Lawson Street. Basement parking is proposed to contain a total of forty-seven (47) parking spaces including six (6) accessible parking spaces and a separate bicycle parking area.

The proposal under this Sec 4.55 Application, seeks to introduce a number of important changes to the approved form, which can be summarised as follows: -

- a. Introduction of staging, with Stage 1 being the demolition of the existing building and Stage 2 being the construction of the remainder as described in the approval;
- b. An increase in the number of Motel suites by a total of eight (8). This modification will result in a total of 51 Motel Suites; and
- c. The introduction of a new roof top pool terrace area encompassing a bar and communal open space area. This proposed area is for the use of guests only.

The proposal also seeks a variation to the standard car parking requirements, the maximum Floor Space Ratio permitted, and the maximum Building Height permitted.

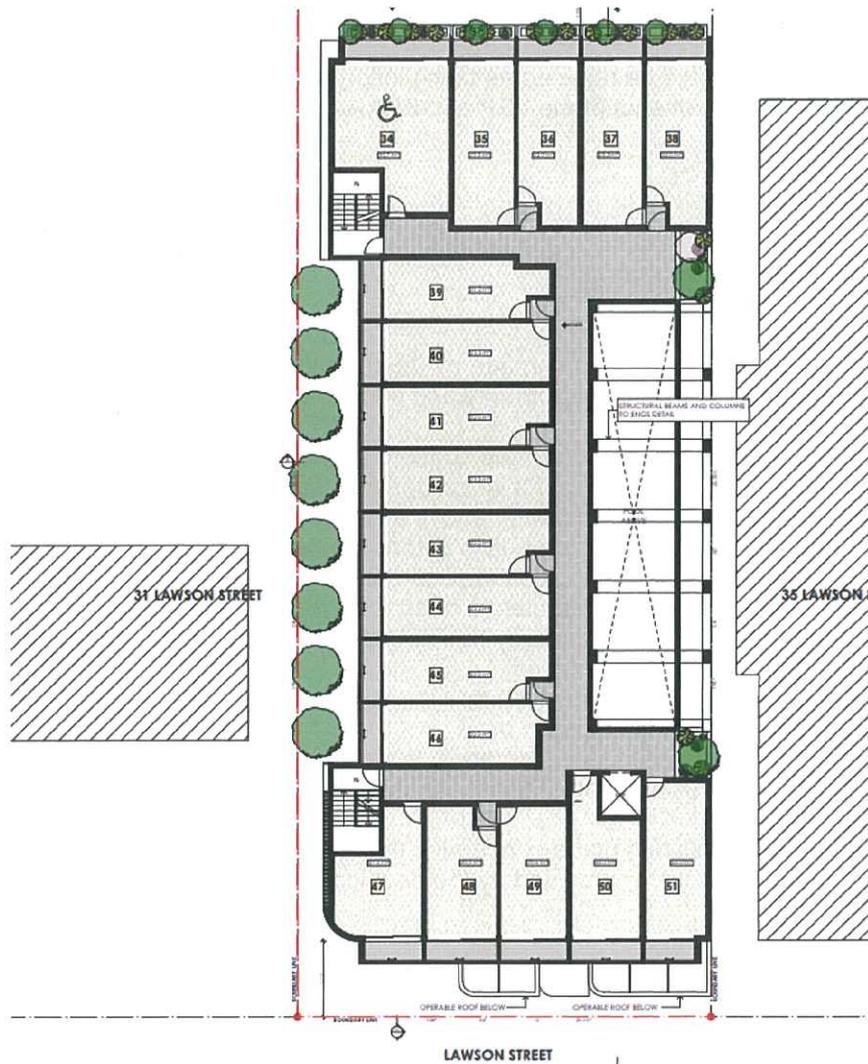
Southern Elevation Max Height Proposed - 14.67m.





The proposed inadequate and incongruous design, not only offends the amenity of the area as a result of its bulk and scale, but the design also causes a significant loss of amenity to the adjacent residences to the west at No 31 Lawson Street, with noise from the entertainment areas, and overlooking balconies.

This is an unacceptable design outcome for the Medium Density Residential Units.



The design is also at odds with not only the existing streetscape, parking, and design guidelines set within DCP 2014 and the Byron LEP 2014, but the loss of natural sunlight to the west.

For these reasons, this objection is made in the strongest terms as it is evident, following our assessment of the proposal, that the resultant development will totally and adversely detract from the amenity of this area.



2. Sec. 4.15(1)(a) ZONING - Zone B2 Local Centre

Although the Motel additions are a permissible landuse within the B2 Zone, the detailed assessment within this report clearly demonstrates that the proposed design is contrary to the other Statutory provisions of Byron LEP 2014, in that the proposal exceeds the Maximum Statutory Height, the proposal exceeds the Maximum Statutory Floor Space Ratio, the Design fails to provide adequate parking in accordance with the provisions of Byron DCP 2014, the proposal fails to meet the test imposed by the EPA Act to enable a variation to be granted under Section 4.55 of the EPA Act, and the proposal fails to seek a formal variation to the Development Standards it breaches under the provisions of Clause 4.6 of Byron LEP 2014.

On this basis the application should be rejected as being incompetent, as it fails to meet the Statutory and Procedural Requirements of the LEP and EPA Act.

2.2 Section 4.55 Application

Section 4.55 of the Environmental Planning and Assessment Act, so far as is material to the development proposed provides as follows:

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates **is substantially the same development** as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a DCP that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

In this regard, an additional 8 units cannot be considered the same development, particularly when no additional parking is being provided, and the development breaches statutory Development Standards relating to Height and Floor Space.

(3) In determining an application for modification of a consent under this section, **the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.** The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

In this regard, an additional 8 units, which result in breaches to statutory Development Standards relating to Height and Floor Space, cannot be considered under Sec 4.15 provisions without formal applications accompanying the Sec 4.55 Application, under Sec 4.6 of the Byron LEP 2014, seeking variations to these Development Standards.

In summary, the overall development will occur within the framework well removed from the intensity of development approved under the existing Consent.



As such the development **CANNOT** be considered to be the “same development”. As such the requested amendments cannot be approved using the provisions of Sec 4.55 of the EPA Act.

2.3 Maximum Height - Byron LEP - CLAUSE 4.3 Height of Buildings

(1) The objectives of this clause are as follows:

- (a) building not exceed spec. max. height from existing ground level to finished roof or parapet,
- (b) height of buildings complements streetscape and character of the local area,
- (c) minimise visual impact, disruption of views, loss of privacy & loss of solar access to existing development.

(2) height of building not to exceed max. height shown for the land on Height of Buildings Map.

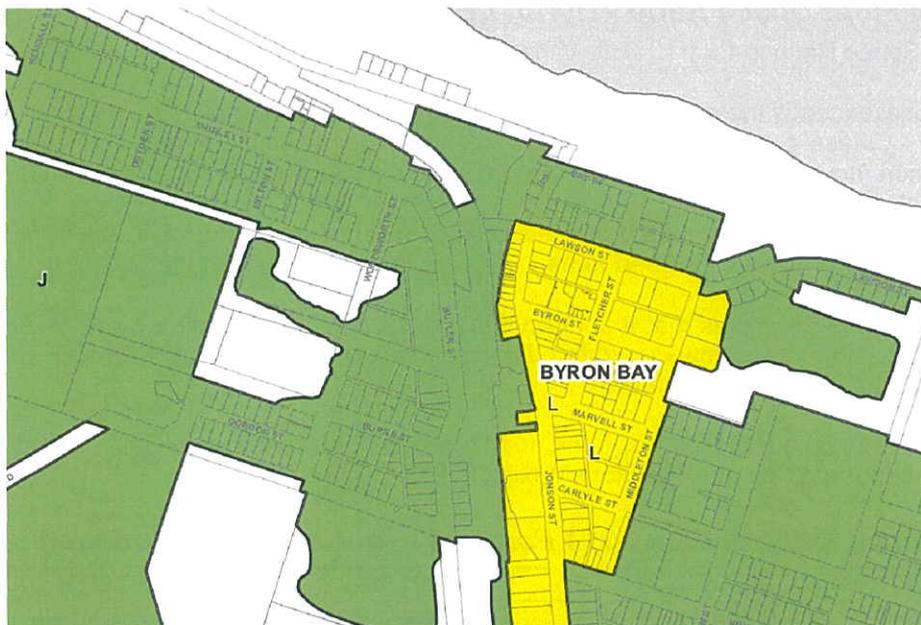
Maximum Height Permitted 9m. -

The proposed bar and amenities structure provide for a maximum height of 14.67m.

Height of Buildings Map - Sheet HOB_003CC

Maximum Building Height (m)

J	9
L	11.5



The proposal exceeds the maximum Statutory Height Limit by 5.67m. That is a 63% variation from the Maximum 9m permitted.

Byron LEP 2014 - Clause 4.6 Exceptions to development standards, would permit Council to consider a variation, however no formal request to vary the Development Standard accompanies the Sec 4.55 Application.

Due to the large scale of the departure proposed to the Development Standard, it is difficult to see how such a variation could be argued to be justified when tested against the Objective of the EPA Act.



The logical conclusion from this is that it is difficult to see how such a variation could be argued when tested against the benchmarks proffered in the decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827.

1. *The applicant must satisfy the consent authority that ‘the objection is well founded’, and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act.*

Council must be satisfied that the variation of the development standard in the particular circumstances of the case can be seen as achieving a development which would otherwise not be able to meet the outcomes sought by the Objectives of the EPA Act and those of the particular Development Standard.

3. *It is also important to consider:*

- a. *Whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
- b. *The public benefit of maintain the planning controls adopted by the environmental planning instrument.”*

The conclusion is that the application has done no of these things, and as such Council cannot consider such a dramatic departure from the Statutory Maximum 9m Height Limit.

2.4 Maximum Floor Space Ratio - Byron LEP - CLAUSE 4.3

Maximum Floor Space Ratio is 1.3 : 1. The Variation Proposes a FSR of 1.312 : 1.

Again, the proposal exceeds the maximum Statutory Height floor space ratio of 1.3 : 1. Byron LEP 2014 - Clause 4.6 Exceptions to development standards, would permit Council to consider a variation, however no formal request to vary the Development Standard accompanies the Sec 4.55 Application.

Due to the significance of the departure proposed to the Development Standard, it is difficult to see how such a variation could be argued to be justified when tested against the Objective of the EPA Act.

The logical conclusion from this is that it is difficult to see how such a variation could be argued when tested against the benchmarks proffered in the decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827. (Previously Detailed).

The conclusion is that the application has done no of these things, and as such Council cannot consider such a departure from the Statutory Maximum Floor Space Ratio.

2.5 Development Control Plan 2014 Part "D3" Tourist Accommodation

PRESCRIPTIVE MEASURES	PROPOSALS COMPLIANCE WITH D.C.P.
<p>Part D.3.1.1 Aims of this Chapter</p> <ol style="list-style-type: none"> 1. To provide development guidelines and controls for various forms of sustainable tourist accommodation development across the Shire. 2. To promote a high standard of environmentally sustainable and responsive design for tourist accommodation development that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire. 3. To promote energy efficiency and to ensure 	<p>The over development proposed, which significantly departs from Maximum Height, Maximum Floor Space Ratio, and Parking Requirements, results in adverse amenity impacts, which if approved would prejudice the proper future planning of the area.</p>



<p>consideration of the Shire's ecological characteristics and sub-tropical climate in the design process.</p> <p>4. <u>To minimise conflict arising from development, including conflict with the amenity of local residents and residential precincts</u>, commercial areas and agricultural activities on farming lands.</p> <p>5. To give effect to the objectives of the 'Byron Shire Tourism Management Plan 2008 to 2018' through the development process.</p>	<p>This results in loss of privacy and significant amenity impacts relating to noise transmission over a very short distance, particularly in relation to adjacent residential and accommodation properties.</p> <p>This does not meet this DCP objective, as it increases conflict rather than Minimising it.</p>
<p>D3.2.1 Location & Siting</p> <p>1. To ensure that the siting and design of tourist accommodation does not conflict with important ecological characteristics or conservation values of the site or the Shire, and respects the natural systems and values of its location and surrounds.</p> <p>2. To ensure that decisions relating to siting of development are consistent with the Objectives and provisions of Chapter B6 Buffers and Minimising Land Use Conflict.</p> <p>Performance Criteria</p> <p>1. The siting, design and operation of tourist accommodation and associated development <u>must not adversely affect</u> important conservation values, ecological systems or <u>characteristics of the site</u> or the Shire. Development must respect and contribute to the natural environmental systems and values of its location and surrounds.</p> <p>2. Development applications for proposals located in or near ecologically sensitive areas, areas of high environmental values and/ or important natural features or sites must include a full description of those ecological, conservation and natural values and systems, together with a comprehensive, professional assessment of the impact of the proposed development thereon. The impact assessment must include an evaluation of the effectiveness and sustainability of any proposed amelioration and management measures.</p> <p>3. Determination of the siting, extent and nature of <u>development must be consistent with</u> the provisions of Chapter B6 Buffers and <u>Minimising Land Use Conflict.</u></p> <p>Prescriptive Measures - Nil</p>	<p>The overlooking, and dominating box style of this Motel redevelopment, totally breaches the maximum heights, which is significant when it adjoins residential development. It will by its lack of considerate design, significantly detract from the amenity of the adjoining area.</p> <p>As stated, the over development proposes Windows, and Patios that sit directly adjacent to the residential buildings on the adjacent site to the west.</p> <p>The Pool & Bar Area amenity impacts on adjacent dwellings and holiday accommodation.</p> <p>This results in loss of privacy and amenity relating to noise transmission over a very short distance.</p> <p>This does not meet these DCP objectives.</p> <p>Lack of details on lighting proposed for pool, entertainment, and activity areas, are significant factors that could further reduce residential amenity on adjoining properties.</p>
<p>D3.2.4 Character and Design in Business and Mixed Use Zones</p> <p>Objectives</p> <p>1. To ensure that tourist accommodation in Business and Mixed Use Zones <u>is compatible with the character and amenity of development in the locality.</u></p> <p>Performance Criteria</p> <p>Tourist accommodation in Zones B1, B2 and B4 must be compatible in character and</p>	<p>Again, the over development proposed, with Windows, and Patios sitting directly adjacent to the residential buildings on the adjacent site to the west.</p> <p>Pool & Bar Area amenity impacts on adjacent dwellings.</p> <p>Parking areas are below the number required for 51 units.</p>



<p>amenity with development in the locality. The provisions of the following Sections in Chapter D4 Commercial and Retail Development apply to all tourist accommodation development in Zones B1, B2 and B4 in the same way they apply to commercial and retail development in Business and Mixed Use zones: a) Section D4.2.1 – Design Character of Retail and Business Areas. b) Section D4.2.2 – Design Detail and Appearance. Prescriptive Measures No Prescriptive Measures.</p>	<p>This results in loss of privacy and significant amenity impacts relating to noise transmission over a very short distance.</p> <p>Lack of details of the impacts of Lighting on surrounding dwellings. All of these do not meet this DCP objective that Development <u>is compatible with the character and amenity of development in the locality.</u></p>
<p>D3.3.6 Hotel or Motel Accommodation Objectives</p> <p>1. To ensure that hotel or motel accommodation development <u>is compatible with the character and amenity of development in the locality.</u></p> <p>2. To ensure that establishment of hotel or motel accommodation development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and community areas and precincts. Performance Criteria</p> <p>1. The design and operation of hotel or motel accommodation <u>must be compatible with the streetscape and character of development in the locality.</u></p>	<p>The over development proposes Windows, and Patios that sit directly adjacent to the residential buildings on the adjacent site to the west.</p> <p>Pool & Bar Area amenity impacts on adjacent dwellings.</p> <p>This results in loss of privacy and significant amenity impacts relating to noise transmission over a very short distance.</p> <p>The development does not meet these DCP requirements, and as such it must be refused.</p>
<p>2. Development applications must demonstrate that the proposed development will be appropriately designed and landscaped consistent with the requirements of Chapters B11 Planning for Crime Prevention and B9 Landscaping.</p> <p>3. <u>Hotel or motel accommodation development must not adversely affect the amenity of the precinct in which it is located.</u> Development applications may need to be accompanied by a Social Impact Assessment prepared pursuant to Chapter B12 Social Impact Assessment, where applicable.</p> <p>4. External pedestrian access must be provided between accommodation units and other facilities associated with the development, including car parking. The access must comprise covered connecting pathways or access balconies with an all-weather surface and must be integrated with the overall landscape plan for the development.</p> <p>5. Motels must incorporate eating and living areas and facilities, together with outdoor recreation/ living areas with access to winter sun and summer shade. They may also include self-contained cooking facilities.</p> <p>6. <u>Development must be designed and constructed to minimise noise and vibration impacts on occupants of</u></p>	<p>Council has no option but to refuse this application.</p>



<p>adjoining or nearby dwellings or buildings. Prescriptive Measures There are no Prescriptive Measures.</p>	
<p>Chapter D4 Commercial and Retail Development D4.2.1 Design and Character of Retail and Business Areas Objectives</p> <ol style="list-style-type: none"> 1. To promote pedestrian and cycle usage, together with reduced vehicle dependency in the Shire's business, commercial and retail areas. 2. To encourage safety, accessibility and human scale in the Shire's business, commercial and retail areas. 3. To encourage diverse, multi-functional business, commercial and retail centres that provide a compatible range of commercial, recreational and community activities appropriate to the Shire's climate, environment, social fabric and scenic character. 4. To ensure that development reinforces the role of centres within the Shire's commercial centres hierarchy. 5. To ensure that establishment and operation of new development contributes to and does not detract from the social and economic robustness, diversity and vitality of retail, business and community areas and precincts. <p>Performance Criteria</p> <ol style="list-style-type: none"> 1. Business, commercial and retail development must be designed to promote and encourage safe, convenient pedestrian and cycle access to and from the development itself and the surrounding precinct. Development must be designed to integrate well with the locality's pedestrian and cycle network and to contribute to the aesthetics, landscape design and usage of adjoining streets. 2. The design of development must be compatible with the diversity and multi-functional character of its locality. In retail areas development must be designed to promote visual interest, to maximise shopfront window access, and to minimise blank walls along street frontages. 3. Design of development must respect the Shire's subtropical climatic conditions and must make provision for winter sunlight, summer shade and weather protection in adjoining streets and pedestrian areas. 4. Development must be compatible with and reinforce the role of the centre in the commercial centres hierarchy. Development within coastal centres must reflect a lowscale, tourist-beach image. Development in rural centres or localities must be compatible with the atmosphere and character of the 	<p>This modification will result in a total of 51 Motel Suites, unfortunately the proposal continues to provide for 46 spaces as originally approved, however, a variation to the standard control is sought on the basis of applying 'contemporary' and 'practical' controls to the proposed use in the circumstances.</p> <p>Despite this unjustified request, the development does not meet these DCP requirements, and as such it must be refused.</p> <p>The Bitzios report which accompanies the application is only in a "Draft" form, and as such it cannot be relied on for the variation of parking space requirements, as requested.</p>



<p>centre or locality.</p> <p>5. Pedestrian areas, community spaces, vehicle parking and manoeuvring areas must be paved, furnished and landscaped in accordance with the provisions of Chapter B9 Landscaping.</p> <p>6. Development applications must demonstrate that the <u>establishment and operation of the proposed development will not adversely affect:</u></p> <p>a) The social and economic robustness, diversity and vitality of retail, business and community areas and precincts.</p> <p>b) <u>The social amenity of the precinct in which it is located.</u></p> <p>7. Development applications must demonstrate that the proposed development will be consistent with the requirements of this DCP, including (but not limited to) Chapter B4 <u>Traffic Planning, Vehicle Parking, Circulation and Access</u>, B8 Waste Minimisation and Management, B10 Signage and B11 Planning for Crime Prevention.</p> <p>Prescriptive Measures - Nil</p>	
<p>D4.2.2 Design Detail & Appearance Objectives To ensure that development is compatible with the design and amenity of development in the locality.</p>	<p>The inadequate incongruous design, not only offends the amenity of the area as a result of its bulk and scale, but the design also causes a significant loss of amenity to the adjacent residences, with noise, overlooking, parking, pool and entertainment area noise, and lighting, all forcing the occupants of adjacent residential properties to retreat into their units, and close all of their doors and windows.</p>
<p>Performance Criteria</p> <p>1. The design of new buildings must reflect and enhance the existing character of the precinct. The design, scale, bulk, design and operation of business, commercial and retail development must be compatible with the streetscape and with the aesthetics, function and amenity of development in the locality.</p> <p>2. Building design, roof profile, detailing, colours, materials and the like that are visible from the street and from adjoining properties must be compatible with any dominant design themes in the surrounding locality.</p> <p>3. The pattern of windows in retail areas must provide visual interest and variation and must relate to those of adjacent buildings. Contrasting materials may be used to provide diversity, however materials and colour must not be used so that they dominate the streetscape.</p> <p>4. Special emphasis must be given to the design of corner buildings, including consideration of:</p> <p>a) How the building addresses neighbouring buildings, its dual frontage and its turning of the corner.</p> <p>b) Stepping up at the corner and creating a perceived height greater than neighbouring buildings.</p> <p>c) Incorporation of distinctive features to</p>	<p>This is unacceptable.</p> <p>The design is at odds with not only the existing streetscape, parking, and design guidelines set within DCP 2014, but the loss of natural sunlight to the west, and the dominant and harsh lines of this imposing structure, and significant building height and Floor Space Ratio breaches, will create a design totally at odds with these DCP 2014 provisions.</p>



enhance the streetscape, e.g. stepped parapet, turrets, towers, clocks or the like. d) Creating a splayed or recessed treatment of the corner in a way that gives form to the intersection and provides more circulation space for pedestrians. Prescriptive measures - Nil	
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3. Sec. 4.15(1)(c) SUITABILITY OF THE SITE

As stated previously in the Statutory assessment of the proposal, this inadequate and incongruous design, not only offends the amenity of the area as a result of its bulk and scale, but the design also causes a significant loss of amenity to the adjacent units, with noise from the elevated pool / entertainment areas, overlooking balconies and windows, forcing the occupants of adjacent units to retreat into their houses, and close all of their doors and windows. This is unacceptable.

Further to this no details have been provided of the lighting of the outdoor pool and entertainment areas, or this large stark box of a building. These factors alone would also destroy the amenity and character of the adjacent area. It is thus imperative that Council refuse this application.

The design is at odds with not only the existing streetscape, parking, and design guidelines set within DCP 2014, but the loss of natural sunlight to the west, and the dominant and harsh lines of this imposing structure, and significant building height and FSR breaches, **will create a design totally at odds with LEP 2014 and DCP 2014 provisions.**

This position is only reinforced by the need for the application to seek a variation to the set Height and FSR Development Standards, albeit without being accompanied by a formal Clause 4.6 request to vary these Development Standards, thus making it impossible for Council to look at the requested departures.

In addition to this, the Variations requested from the previous approval are so great, that the proposal does not meet the “Same Development” test set by Sec 4.55 of the EPA Act, and as such this application Cannot be approved by Council using the provisions of Section 4.55 of the EPA Act.

These factors take the proposal beyond acceptable development limits in terms of visual impact, aural, social impact, and environmental impact. It is thus inconsistent with the character of the area in terms of its scale, design, and lack of consideration for the precautionary principle. As such, the proposed use will detract from the character of the area, and represents an inappropriate over development of the site.

On this basis, Council has no option but to refuse the application.

For these reasons, this objection is made in the strongest terms as it is evident, following our assessment of the proposal, that the resultant building and its associated parking, overlooking, bulk and scale and amenity impacts, totally and adversely detract from the amenity of the adjacent residential areas.

CHRIS LONERGAN. B.A. (Town Planning UNE)
27th. Nov. 2020.

