

From:
Sent:
To:
Subject:

redacted for the web

Wednesday, 20 November 2019 3:58 PM
submissions
10.2019.576.1 Byron Bay, 7 Marvell Street (Lot 9 Sec 26 DP 758207)

Clearly state what aspects of the plan or proposed development is being opposed:

- I oppose the demolition of the current building because of its history and its heritage characteristics and because it forms part of the overall character of Byron Bay. It looks unloved and in need of attention because it hasn't been afforded the care this fine example of vernacular timber architecture, once so common in this town, deserves. The current plans indicate it will be replaced by a generic form of unexciting and bulky architecture (found everywhere) that does not speak to the personality of this town or to the scale of the buildings around it.
- I particularly object to another hotel and all the noise that this would entail, especially the use of the rooftop for electrified music (live or otherwise) for hotel guests cutely called 'guest activities'. This development makes no mention of walls or sound proofing and indicates a 'roof top platform'. This sound will travel all over Byron. How do I know this, because The Rails proves it does and they are not even on a rooftop! Many residents are affected daily depending on the prevailing winds by the nearby pub The Rails. I currently have a complaint with Liquor and Gaming NSW about the noise generated by The Rails because they have no walls or sound proofing around their live music stage and they are currently trialling extended trading hours. Residents who live in Marvel Street, Tennyson and all the streets (which are residential) across the park and include, Cowper, Marvell, Carlyle, Kingsley, Browning and Seaview and all the lanes that go off them all hear The Rails now and wait for them to finish so they can go to bed. Another venue doing the same thing is totally unacceptable. Residents are forever battling multiple forces for some peace and some quiet and they are entitled to this if this town is to retain them.

redacted for the web

From: [redacted for the web]
Sent: Thursday, 28 November 2019 11:57 AM
To: submissions
Cc: [redacted for the web]
Subject: Proposed amendments to planning controls: Byron Bay town centre

To the Minister for Planning, NSW, Robert Stokes:

Dear Mr. Stokes,

With regard to the Building Proposal for #7Marvel St10.2019.576.1 Lot9. Sec26 DP 758207, as a long term resident of Byron, I am opposed to this development in it's current form as I don't believe it will achieve it's stated objectives. Further to that, as a Council which has recently declared a climate emergency in this Shire, I believe it is both irresponsible and flawed to even consider a development of this magnitude when Byron can scarcely cope with the current tourist influx. With tourist visitation at 1.2 Million per year, our roads, water supply and sewage treatment works are stretched to the limit. We must not exacerbate these current issues by bringing more tourists to our town and enabling enormous profit margins for out of town developers to reap. This is nothing to do with affordable housing, it is simply development exploitation at it's very worst.

Concerned Byron Resident,

[redacted for the web]
[redacted for the web]

From: redacted for the web
Sent: Tuesday, 3 December 2019 1:20 PM
To: council
Subject: Re: Objection to DA 10.2019.576.1

To Whom it May Concern:

Re: Objection to DA 10.2019.576.1

The application for Marvel St 10.2019.576.1 has just come to my attention and as a business owner and a resident in the shire I am writing to place my strongest objection to this proposal.

Firstly, it is inconceivable to have 3 car parking spots available for a 29 roomed hotel with a potential of 123 guests. The application states it will have 16 car parking spaces in total, 12 car spots are allocated for business premises, 1 car spot for staff and 3 spots for the hotel guests as per Table 4.2. Parking is already at a premium in Byron Bay where parking in the CBD is prohibited between 1-6 am, my question is where are these hotel guests expected to park? What allowances have been made for them? I am aware other hotel owners nearby have had to pay hefty additional costs for parking in past applications to cater for their guests.

Secondly, there are already a great number of Health Spas in the area, adding another is condemning small business like mine to die. There are also many shops within a 50m radius of this proposed site with for lease signs in the window. Adding to an already flooded commercial retail market is ridiculous.

I feel that developments such as this detract from the Byron feel that tourists flock to the area for, the relaxed beachside town is becoming the crowded city suburb people are trying to escape from.

The application also says it will be great for employment opportunities however in another part of the application that covers parking it states it will only have 4 staff members so this is a little contradictory to say the least.

It was interesting to find the original application in 2015 that was to include 4 retail spaces, 6 x 1 bedroom apartments and 2 x 2 bedroom apartments with 21 car spaces. How has this become the monstrosity that is being considered today?

I cannot state my objection to this more strongly and will look forward to hearing a response to this email in the near future.

Yours sincerely,

redacted for the web

From: [redacted for the web]
Sent: Tuesday, 3 December 2019 11:31 AM
To: council
Subject: Submission for application (10.2019.576.1)

Hi

We run a Bed & Breakfast situated directly adjacent to the proposed development area and have major concerns over how this development will affect the utility of our guests and ultimately the viability of our business.

Regards

[redacted for the web]
[redacted for the web]

From: redacted for the web
Sent: Thursday, 5 December 2019 9:23 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

To whom it concerns,

I was born and bred in Byron Bay and have lived in a number of places both around Australia and internationally including Paris, London and San Francisco.

One of the elements I have noticed from travels and living in new environments is the effect that town planning has on how citizens interact and engage in their local communities.

As someone who now has a young family and cares very much about the Byron Community, I do not feel a development like this should proceed on the current information provided. It is essential we uphold planning requirements not just for process sake, but because they hold a minimum standard on which communities can rely on.

Whilst it can be acknowledged that some of our planning controls could be adjusted, we should not be supporting the development application for the following reasons:

- It has several significant elements that do not comply with current planning controls
- it is using an unapproved DRAFT strategy to justify these changes
- PARKING
- Byron's current planning regulations articulate that a hotel is meant to have 1 car space per unit plus 1 space per 2 employees. This is a 29 room hotel with only 16 car spaces when it should have at least 35-40 spaces.
- The proponents say they will supply 8 bikes (2 electric) and 2 electric cars for guests. Where will staff park and where will extra cars go?
- Removing car spaces is allowed in the DRAFT changes to planning controls "*if ancillary car parking is provided within the B3 zone or within 400m walking distance*". This ancillary parking is not identified in the DA.
- Parking is already a highly contentious and problematic issue for Byron and no new development should be adding to the problem.
 - Should the proposed changes to Byron Town Centre Planning Controls be endorsed - and they may not, or the draft may be altered, then would be the time to consider this DA
 - It doesn't conform to floor space ratio or height restrictions
 - A rooftop area is proposed for "yoga". There is also a toilet on this level. Although the walls are going to be high around it, it is still effectively an extra storey.
 - The building is in a 11.5m height zone. The plan is for 13.1m, 1.6 above the allowed provisions. The only reason that the building doesn't keep within its height limit is to maximise the site, which is already being done with the variations to floor space ratio.

It's still extraordinary to me that after all of its history, Byron Council is allowing new developments which will hinder the towns functionality (let alone the social, community or environmental impacts). Byron needs to build adequately equipped accommodation that meet the unique needs of the town and DO NOT add undue pressure to inhabitants or indeed the very visitors we're seeking.

Regards,

redacted for the web



From: [redacted for the web]
Sent: Thursday, 5 December 2019 9:05 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

I feel very strongly that this development is extremely unsuitable for this part of Byron Bay. There are many reasons why this DA should not be passed but the two issues I have are with Parking and Height. 16 car spaces for 29 rooms will not work. We have owned rental properties in The Bay and we know the problems caused by visitors cars and extra customer cars. Having electric bikes and cars is not a solution.

The allowed height in this area is 11.5m, not 13.1m. The extra 1.6m of rooftop area is equal to another floor, why should this be allowed.

[redacted for the web]
[redacted for the web]

From: redacted for the web
Sent: Thursday, 5 December 2019 6:39 PM
To: submissions
Cc: redacted for the web
Subject: DA 10.2019.576.1 Hotel at 7 Marvell St. Byron Bay

I am fully supportive of Byron Residents' Group's oppositon to this DA for the reasons they have made clear.

This DA should not be on exhibition. It clearly does not conform to our current planning provisions. It is relying on DRAFT proposed amendments to Byron Bay's LEP (about which BRG recently emailed you), the DRAFT Bryon Town Centre Planning Controls. These changes have only just been exhibited for public exhibition and have not yet been approved by Council or the Minister for Planning. We have not had time to read through the entire DA. Here are some reasons why it should not be approved at this point.

Whilst it can be acknowledged that some of our planning controls could be adjusted, we should not be supporting the development application for the following reasons:

- It has several significant elements that do not comply with current planning controls
- it is using an unapproved DRAFT strategy to justify these changes
- should the proposed changes to Bryon Town Centre Planning Controls be endorsed - and they may not, or the draft may be altered, then would be the time to consider this DA
- does not conform to floor space ratio or height restrictions
- Byron's current planning regulations say a hotel is meant to have 1 car space per unit plus 1 space per 2 employees. This is a 29 room hotel with only 16 car spaces when it should have at least 35-40 spaces.
The proponents say they will supply 8 bikes (2 electric) and 2 electric cars for guests. Where will staff park and where will extra cars go?
- Removing car spaces is allowed in the DRAFT changes to planning controls "*if ancillary car parking is provided within the B3 zone or within 400m walking distance*". This ancillary parking is not identified in the DA.
- A rooftop area is proposed for "yoga". There is also a toilet on this level. Although the walls are going to be high around it, it is still effectively an extra storey.
- The building is in a 11.5m height zone. The plan is for 13.1m, 1.6 above the allowed provisions. The only reason that the building doesn't keep within its height limit is to maximise the site, which is already being done with the variations to floor space ratio.

Take care,
redacted for the web

From: redacted for the web
Sent: Thursday, 5 December 2019 6:18 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

Just on the question of parking allocation this plan fails completely due to there already being a distinct lack of parking during holiday peak and shoulder periods!

Yours Sincerely,
redacted for the web

From: [redacted for the web]
Sent: Thursday, 5 December 2019 5:28 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

To whom it may concern,

I am a resident of the Byron Shire for over 25 years and I strongly believe this DA should be rejected because it is out of character with our town. We don't want to see a few gross developments like this destroy our town.

Please reject this development application.

Sincerely,

[redacted for the web]
[redacted for the web]

From: redacted for the web
Sent: Thursday, 5 December 2019 5:25 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - hotel at 7 Marvell St

Dear Councillors,

This DA should be rejected for the following reasons:

- It has several significant elements that do not comply with current planning controls
- it is using an unapproved DRAFT strategy to justify these changes
- should the proposed changes to Bryon Town Centre Planning Controls be endorsed - and they may not, or the draft may be altered, then would be the time to consider this DA
- does not conform to floor space ratio or height restrictions
- Byron's current planning regulations say a hotel is meant to have 1 car space per unit plus 1 space per 2 employees. This is a 29 room hotel with only 16 car spaces when it should have at least 35-40 spaces. The proponents say they will supply 8 bikes (2 electric) and 2 electric cars for guests. Where will staff park and where will extra cars go?
- Removing car spaces is allowed in the DRAFT changes to planning controls *"if ancillary car parking is provided within the B3 zone or within 400m walking distance"*. This ancillary parking is not identified in the DA.
- A rooftop area is proposed for "yoga". There is also a toilet on this level. Although the walls are going to be high around it, it is still effectively an extra storey.
- The building is in a 11.5m height zone. The plan is for 13.1m, 1.6 above the allowed provisions. The only reason that the building doesn't keep within its height limit is to maximise the site, which is already being done with the variations to floor space ratio.

Once again, a developer is trying to circumnavigate council regulations and set new precedents. Please refuse.

Regards,

redacted for the web

From: [redacted for the web]
Sent: Thursday, 5 December 2019 5:05 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

This DA should not be on exhibition. It clearly does not conform to our current planning provisions. It is relying on DRAFT proposed amendments to Byron Bay's LEP (about which BRG recently emailed you), the DRAFT Bryon Town Centre Planning Controls. These changes have only just been exhibited for public exhibition and have not yet been approved by Council or the Minister for Planning. We have not had time to read through the entire DA. Here are some reasons why it should not be approved at this point:

Whilst it can be acknowledged that some of our planning controls could be adjusted, we should not be supporting the development application for the following reasons:

- It has several significant elements that do not comply with current planning controls
- it is using an unapproved DRAFT strategy to justify these changes
- should the proposed changes to Bryon Town Centre Planning Controls be endorsed - and they may not, or the draft may be altered, then would be the time to consider this DA
- does not conform to floor space ratio or height restrictions
- Byron's current planning regulations say a hotel is meant to have 1 car space per unit plus 1 space per 2 employees. This is a 29 room hotel with only 16 car spaces when it should have at least 35-40 spaces. The proponents say they will supply 8 bikes (2 electric) and 2 electric cars for guests. Where will staff park and where will extra cars go?
- Removing car spaces is allowed in the DRAFT changes to planning controls "*if ancillary car parking is provided within the B3 zone or within 400m walking distance*". This ancillary parking is not identified in the DA.
- A rooftop area is proposed for "yoga". There is also a toilet on this level. Although the walls are going to be high around it, it is still effectively an extra storey.
- The building is in a 11.5m height zone. The plan is for 13.1m, 1.6 above the allowed provisions. The only reason that the building doesn't keep within its height limit is to maximise the site, which is already being done with the variations to floor space ratio.

I do not approve of this submission.

[redacted for the web]

From: [redacted for the web]
Sent: Thursday, 5 December 2019 4:20 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - hotel at 7 Marvell St

I am totally against this submission. The town needs less fancy buildings like this DA and needs to retain more of the original buildings in town to retain the soul of Byron.

Thanks

[redacted for the web]

Sent from my iPhone

From: redacted for the web
Sent: Thursday, 5 December 2019 4:07 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

Dear Sir/Madam,

I oppose the approval of this new submission. (DA 10.2019.576.1-7 Marvell St.)

I will not support any submission of any development application that relies on a DRAFT proposal to Byron Bay's LEP & the DRAFT Byron Town Planning Controls, before the Minister for Planning approves the changes to allow buildings of this height & magnitude to be built in the town of Byron Bay. (Which I hope never happens).

I also will not support any proposal to build anything that is so obviously inappropriate to the overall town itself & this building is inappropriate.

Sincerely,

redacted for the web

From: redacted for the web
Sent: Thursday, 5 December 2019 4:03 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - hotel at 7 Marvell St

Dear BSC,

I wish to express my opposition to the proposed hotel in Marvell St on the grounds that:

* it is too high — beyond the established limits — and would set a bad precedent for future development, while standing out in an ugly, disproportionate way to the rest of the street; Why would the regs be waived for this building? Aren't they there for a good reason?

* Marvell St is already a dangerous road, busy and with several 'hidden' streets and alleyways off it, and a hotel of this size, with a shortage of parking, would only add to the dangers to drivers.

Thank you,

redacted for the web

Sent from my iPhone

From: redacted for the web
Sent: Thursday, 5 December 2019 3:41 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

To Whom it may concern,,

I have concerns about the approval of this development.

It is inappropriate for the site.

Near by cafes already struggle with enough parking for their customers.

The medical centre and pathology also struggle to provide enough parking for their customers. It also :

- does not conform to floor space ratio or height restrictions
- Byron's current planning regulations say a hotel is meant to have 1 car space per unit plus 1 space per 2 employees. This is a 29 room hotel with only 16 car spaces when it should have at least 35-40 spaces.
- The relaxation regarding draft amendments to Byron Bay CBD are still in draft form and not approved. If their are amendments or rejection of these draft plans then this development would be in contravention of that.
- Parking is a huge issue in Byron Bay. Planning should be an important part of the D.A.

Regards

redacted for the web

Sent from my iPhone

From: [redacted for the web]
Sent: Thursday, 5 December 2019 2:30 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - hotel at 7 Marvell St

This development is not within current planning rules and regulations and as such should not proceed to exhibition.

I object.

[redacted for the web]

I

Sent from my iPhone

From: redacted for the web
Sent: Friday, 6 December 2019 8:56 AM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

Objection

This DA anticipates planning changes which are only in discussion and which **do not exist yet**

so how is it even submitted, accepted and put on public exhibition??

The building is too tall, an attempt is made to get a fourth story

There is not enough parking by any means.

I could go on but I am first and foremost

affronted to have to consider -- via public exhibition --

a DA which is a complete fantasy -- there are no such planning regulations in place or changed to allow this kind of development.

I strongly object to planning made by

preemptive haphazard guesstimate of future planning rules.

redacted for the web

From: redacted for the web
Sent: Friday, 6 December 2019 8:11 AM
To: submissions
Subject: HPE CM: submission on DA 10.2019.576.1 - 7 Marvell St

I wholeheartedly oppose the development as it's not in the interests of Byron Bay or its residents.

It will only serve the interests of the developers who have scant regard for planning guidelines.

The planned development will worsen the town of Byron Bay, and won't improve it in any way.

redacted for the web

From: redacted for the web
Sent: Friday, 6 December 2019 2:37 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

- * Apart from ignoring the overwhelming drought that is gripping this state currently, this proposed huge development has no regard for either water use or water conservation.
- * This DA does not comply with current planning controls and is using an unapproved DRAFT strategy to justify significant elements in the DA
- * The building is in an 11.5m height zone proposing a 13.1m height, 1.6m above allowed provisions - the Mercato building next door had a special extra height allowance approved by Council and is an ugly, alienating building which is ridiculously and unnecessarily high - all the businesses on the top floor are struggling from lack of customers and only half leased.
- * There is a proposed rooftop 'Yoga' level with a toilet and high walls all around which will effectively be an extra storey
- * Current planning regulations say a hotel must have 1 car space per unit plus 1 car space per 2 employees - this is a 29 room hotel with just 16 car spaces which should have 35-40 car spaces? Byron is already choked with cars and already severely lacks sufficient parking - extra car parking can be provided by the hotel as long as it is in 400m walking distance from the hotel - this DA has no ancillary car parking options stated in their DA. All around this hotel is the dense Byron CBD where there is no 'ancillary' car parking available ANYWHERE ELSE!
- * The 8 bikes (2 electric) and 2 electric cars make extra parking too where there is none - WE HAVE A SEVERE TRAFFIC AND PARKING ISSUE IN BYRON BAY
- * Soon this town will be just another generic alienating cement traffic jam where the community can't fit anymore - and then there is the drought which is caused by climate change and unprecedented in recorded history.

This is a sinister and erroneous DA which is an insult to the community they are proposing to build this in

Yours sincerely,

redacted for the web

From: redacted for the web
Sent: Friday, 6 December 2019 9:31 PM
To: submissions
Subject: submission on DA 10.2019.576.1 - 7 Marvell St

Hi,

This DA should not be on exhibition. It clearly does not conform to the current planning provisions. We should not be supporting the development application for the following reasons:

- It has several significant elements that do not comply with current planning controls
- it is using an unapproved DRAFT strategy to justify these changes
- should the proposed changes to Bryon Town Centre Planning Controls be endorsed - and they may not, or the draft may be altered, then would be the time to consider this DA
- does not conform to floor space ratio or height restrictions
- Byron's current planning regulations say a hotel is meant to have 1 car space per unit plus 1 space per 2 employees. This is a 29 room hotel with only 16 car spaces when it should have at least 35-40 spaces. The proponents say they will supply 8 bikes (2 electric) and 2 electric cars for guests. Where will staff park and where will extra cars go?
- Removing car spaces is allowed in the DRAFT changes to planning controls *"if ancillary car parking is provided within the B3 zone or within 400m walking distance"*. This ancillary parking is not identified in the DA.
- A rooftop area is proposed for "yoga". There is also a toilet on this level. Although the walls are going to be high around it, it is still effectively an extra storey.
- The building is in a 11.5m height zone. The plan is for 13.1m, 1.6 above the allowed provisions. The only reason that the building doesn't keep within its height limit is to maximise the site, which is already being done with the variations to floor space ratio.

Kind regards
redacted for the web

From: redacted for the web
Sent: Wednesday, 18 November 2020 3:05 PM
To: Development Support Officer
Subject: Comment on application 10.2019.576.1

For the attention of the General Manager / Planning Manager / Planning Department

Application 10.2019.576.1
Address 7 Marvell St, Byron Bay 2481 NSW
Description Demolition of Existing Building and New Mixed Use Development comprising of Hotel or Motel Accommodation (Twenty Nine (29) Rooms), Ground Floor Retail Premises, Basement Carpark including Health Spa and Roof Top Platform for Hotel Guest Activities
Name of commenter redacted for the web
Address of commenter redacted for the web
Email of commenter redacted for the web

Comment

Dear Byron Council,

Byron Bay can not hold any more tourists for the following reasons -

- I am seeing more roadkill on my street due to increased traffic to and from holiday retreats
- more trash around the streets since the increase in tourists that don't care as much about the town as locals do
- There is not enough parking space at ANY of the beaches for more cars to be invited into the area
- Cars are parking on nature strips now, destroying them
- there is not enough space in restaurants and bars for locals to enjoy as they are all booked out and have long lines

Continuing to develop more and more holiday accommodation is unsustainable and destroying the town. The council needs to put a cap on all holiday development.

This comment was submitted via PlanningAlerts, a free service run by [the OpenAustralia Foundation](#) for the public good. [View this application on PlanningAlerts](#)

From: redacted for the web
Sent: Wednesday, 4 December 2019 4:04 PM
To: submissions
Subject: 10.2019.576.1_Submission and Acknowledgement_Oppose_info@byronbayside.com
redacted for the web

Description: Demolition of Existing Building and New Mixed Use Development comprising of Hotel or Motel Accommodation (Twenty Nine (29) Rooms), Ground Floor Retail Premises, Basement Carpark including Health Spa and Roof Top Platform for Hotel Guest Activities

Properties: 7 Marvell St, Byron Bay 2481 NSW (LOT: 9 SEC: 26 DP: 758207)

Council acknowledges receipt of your submission in relation to the above Development Application. Your participation in the assessment process is greatly appreciated.

The comments outlined in your submission will assist in Council's consideration of the matter. Council will inform you of its decision once the Development Application has been finally determined.

For your convenience Council's Application Tracker provides you the opportunity to follow the details and progress of applications online.

If you have any enquiries in relation to the application please contact Luke Munro of Council's Planning and Environment Department on 02 6626 7000.

Summary of Submission details.

Name: redacted for the web
Address: redacted for the web
Phone: redacted for the web
EMail: redacted for the web

Submission: Oppose

Grounds For Objection or Support: The development application, as it stands at the moment, is confusing and missing valuable information to make an informed assessment of the application. Based on the review of the information that has been submitted it is of our opinion that the design of the development should be amended to reflect the site constraints. The height, floor space ratio (FSR), Character and design of the building; the adequacy of the proposed carparking, social and environmental impacts on the surrounding area; precedent; and the public interest'. The 'community expects the council to impose applicable development standards and ensure that developments do not generate negative impacts on the surrounding area. If approved, this development would set a precedent that undermines the development standards that the community expects to be upheld'. It is recommended that Council request the applicant to revise the application in the following ways to address the issues with the design and the impact on adjoining properties and the wider community: • Reject the amendment/ variation to proposes less than the maximum number of car parking spaces. • Amend the design of level 3 to remove access to the roof top area to ensure that the roof top will not be used by hotel patrons. • Reject the Loading Zone removed from the previous submission and to be reallocated onto Fletcher Lane • Amend the design of the development to reduce the height of the development to comply with the maximum height limit of 11.5 meters. • Amend the design of the project to reduce the floor space ratio to comply with the development standard • Request that a new/ updated Acoustic Assessment be completed and include our property and the residential complex located on Fletcher Lane.

Yours faithfully,
Byron Shire Council

70 Station Street
PO Box 219
Mullumbimby NSW 2482
02 6626 7000

Web <https://www.byron.nsw.gov.au/>

All formal correspondence to submissions@byron.nsw.gov.au

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From: Byron Bayside Central <info@byronbayside.com>
Sent: Wednesday, 4 December 2019 3:56 PM
To: council; info@byronbayside.com; fgbienke@gmail.com
Subject: DEVELOPMENT APPLICATION: NO. 10.2019.561.1 & NO. 10.2019.561.2
Attachments: Scan0027.pdf

Francis & Maryann Bienke,
Owner/ operators of Byron Bayside,
Corner of 14 Byron / Middleton Street and Fletcher Lane, Byron Bay
NSW 2481
4th December 2019

To The General Manager
Byron Shire Council,
PO Box 219,
Mullumbimby NSW 2482

Att: The General Manager Byron Shire Council,

As the owner Francis Gordon Bienke and on-site manager Maryann Julia Bienke of Strata Plan 53096 – Byron Bayside Central Studio Apartments and 7 Commercial Shops at 14 Byron/ Middleton Street Byron Bay we wish to submit our strong rejection in relation to the Development Application (10.2019.576.1 / 10.2019.576.2)

Our review of the Development Application (10.2019.576.1) has been based on the information that is available from Byron Shire Council Website for the development site located at 7 Marvell Street, Byron Bay 2481 NSW (LOT: 9 SEC: 26 DP 758207). On Tuesday 3rd December 2019 we spoke to a number of the local businesses that the 'applicant' has referenced as the 'Noise Sensitive receivers*' (As Per. Table 5 and illustrated in Figure 1 of the Acoustic Assessment) and said they had not been consulted or were about unaware of the multitude of the new development site and they voices their concerns relating to the social and environmental impact it will have on their businesses and the Byron Bay Community as a whole.

Background

In 2001 Development consent DA: 01/0003 was granted for mixed retail and tourist apartments. The development was commenced by demolition of a two storey building at the rear of the property but did not proceed any further.

In 2003 – A Development Application – DA: No 03/384 for a change of use from doctor's surgery to retail premises, office and storage, was approved in October 2003 and an Occupation Certificate was issued in September 2004.

In 2015 - A original Development Application was submitted to Byron Shire Council for

- 4 Retail Shops
- 6 x 1 Bedroom Holiday Apartments
- 2 x 2 Bedroom Holiday Apartments
- 21 Onsite Carparking Spaces

In 2016 – A Development Application – DA: No 10.2016.97.1 was submitted to Byron Shire Council for the Demolition of existing building, Mixed Use Development comprising Hotel or Motel Accommodation with ancillary swimming pool, and ground floor Retail Premises (Three storey building above two levels of basement parking)

Ground Floor

- Retail area of 155m²;
- Motel lobby and two motel accommodation units;
- Pool area for motel guests;
- Undercroft lounge area for motel guests.
- A loading bay along the northern boundary of the site - accessed directly to/from Fletcher Lane

First Floor

- 11 x 1 Bedroom Holiday Apartments
- 4 x 2 Bedroom Holiday Apartments

Second Floor

- 11 x 1 Bedroom Holiday Apartments
- 3 x 2 Bedroom Holiday Apartments

Two Level Under Ground Carpark

- A total of 42 Car Parks – accessed via a ramp from Fletcher Lane

In 2019 – A Revised Development Application – DA: No 10.2019.576.1 was submitted to Byron Shire Council for the

Deletion of the second level of the basement carpark

- **A reduction of 42 Car Parks to 16 car parks ("including 4 electric car parking spaces and one accessible car parking space"). (As set out under Chapter B4 of the Development Control Plan 2014 – requiring 2 spaces per 100m² (or part thereof) up to a floor area of 200m², and 1 space per 200m² thereafter); Hotel / hotel or serviced Apartments: 1 space per 4 staff; Residential accommodation: 1 space per dwelling.**

Car Parking Allocations have been nominated as per the below:

Hotel Guest 3 Spaces for 29 Holiday Apartments = 22 x 1B and 7 x 2B Apartments

**As per Chapter E9 of the Byron Shire DCP – requiring 1 space per unit*

Hotel Staff 1 Space (4 staff)

** As per Chapter E9 of the Byron Shire DCP – requiring 1 space for the on-site manager*

Business Premises 12 Spaces (5 Retail – Floor Area of 300m²)

Total 16 spaces

- **8 Bicycle spaces (As set out under Chapter B4 of the Development Control Plan 2014 – requiring 2 spaces per 100m² (or part thereof) up to a floor area of 200m², and 1 space per 200m² thereafter); Hotel / hotel or serviced Apartments: 1 space per 4 staff; Residential accommodation: 1 space per dwelling.**

Bicycle Allocations have been nominated as per the below:

With Business Premises Floor Space comprising of 300m² 4 Bicycle spaces

Hotel / hotel or serviced Apartments 4-Staff : 1 Bicycle space

Residential accommodation: On-site Manager 1 Bicycle space

A larger hotel lobby with a corresponding 30m² reduction in the floor area of the retail spaces fronting Marvell Street

- **A Increase of 145m² in Retail Floor Space (Business Premises) with the Addition of**

- Two (2) Additional retail spaces that will front *Fletcher Lane* (2 x 20m²)
- A Health Spa in the basement car park (135m²)
- An open roof platform for activities for hotel guests e.g. yoga classes
- A reduction from 32 Holiday Apartments to 29 Holiday Apartments (with the same amount of beds) with a minor reconfiguration of the room layout.

Traffic and Parking

The proposed development is a hotel that provides 29 Holiday Apartments, and under the DCP the proposed development has a car parking requirement to provide a maximum of 30 spaces for the hotel component of the development (1 space per unit, plus 1 space for the on-site manager) and (1 space per 20m² of gross floor area). The Traffic Impact Assessment Report – 1284REP04-F01 references a minimum car parking requirement of 12 spaces for 233m² my personal calculations reflect the gross floor area is now 300m² requiring a minimum of 15 spaces for the business premises taking into consideration the most recent amendments as detailed below increasing the gross floor area by 145m² -

A larger hotel lobby with a corresponding 30m² reduction in the floor area of the retail spaces fronting Marvell Street; Two (2) Additional retail spaces that will front Fletcher Lane (2 x 20m²) and A Health Spa in the basement car park (135m²)

The proposed development provides 16 carparking spaces (1 disability accessible car park, 4 electric vehicle compatible parks with 2 charge point locations and 11 standard car parks) located on a single basement area via a ramp with ingress and egress points via Fletcher Lane. Car Parking allocations have only allowed for 3 Spaces for 29 Holiday Apartments – 2 of which will be for electric vehicles only, 1 for Onsite-Management and 12 for the Business Premises. As it stands at the moment As Per Table 4.2 Carparking Allocation within the Traffic Impact Assessment Report – 1284REP04-F01.

We have found the information provided in Table 4.3 Refers to a Maximum Car Parking Rate Assessment of 15 car parking spaces allocated to the business premises and will be signed and line-marked appropriately to prevent these spaces being occupied by guests of the hotel. We find the two to be contradictory and confusing as it refers to different allocations.

We have strong concerns regarding the traffic Impact Assessment Report – 1284REP04-F01 that was submitted with the application and the assessment of traffic and parking. In particular we are very concerned in the assessment of the parking. As Per **6.13 Carparking ancillary to other development section 4** “1 space per unit, plus 1 space for on-site manager” and **section 5** “Development consent must not be granted to development that proposes less than the maximum number of spaces outlined in part (4) unless the consent authority has considered a Sustainable Travel Plan provided by the proponent to outline commitments to firm initiatives for arrangements, including those that promote walking, cycling and the use of public transport”.

In addition, it appears the site provides no service vehicle parking and no on-site passenger pick up and set down area. Nor does the site provide an adequate location for bus/coach parking to justify the lack of car parking available for hotel patrons and the general public alike.

It is of our strongest opinion and paramount that the development provides sufficient parking as a basic requirement for all the patronising of this development once completed. As an accommodation provider of 20 Apartments – On Tuesday 3rd December we had 15 car parking spaces utilized in our basement car park by inhouse guest and 1 car parking space utilized by the on-site manager. Due to our central location within the CBD OF Byron Bay our property is a very strong advocator of the ease of use for public transport to and from our premises including but not limited to Airport Transfers, Bus. However, there is still a very strong demand for on-site car parking facilities. In addition, we have concerns regarding the traffic within Fletcher Lane. While the traffic in the lane is minor compared to other streets in Byron Bay CBD, it is considered that the traffic is considerably heavy due to the size and width of the street. The lane is a thoroughfare for adjoining businesses and is used by commuters as a shortcut to avoid traffic. The lane is extremely narrow and is currently a two-way street. Residence and Businesses adjoining Fletcher Lane have deep concerns regarding garbage pickup periods and a proposal for a loading bay to be allocated in the Lane way. Not to dismiss the impact that will be imposed by the development being negligible with

two new Retail Spaces fronting Fletcher Lane as this particular area does not have any Retail Spaces on Fletcher Lane as present.

“When my beloved wife Kathleen Bienke and myself Francis Bienke developed 14 Byron/ Middleton Street Byron Shire Council required us to ensure we have sufficient and adequate off street parking for our 20 apartments/ rooms and commercial retail areas.

In addition, Under Section 94 - our car parking contributions paid for the completion of 37 public car parking bays located on Byron/ Middleton Street (currently restricted to 4 hour paid parking). In addition to our contribution to converting the original one way gravel road along Middleton Street to 2 way as it is today, and our contributions to Fletcher Lane and Byron Street, Byron Bay.”

Noise

The proposed development site is surrounded by a mixture of commercial buildings and residential complexes on Marvell and Fletcher Lane. The Acoustic Assessment 20E-19-0308-TRP-8551516-0 complied by Pace Development Group Pty Ltd, monitored a small minority of effected business and residence in March 2016 with no consideration to the noise implication this would have of the residential apartment complex along Fletch Lane and our 20 Holiday Apartment complex and 9 commercial/retail shops located at LOT 6 Strata Plan 53096. During construction and any potential ongoing noise after completion.

In 2010 when the Construction of the mixed development was taking place on the corner of Middleton and Marvel Street, our business alone was scientifically impacted costing us many thousands of dollars in lost revenue due to the noise ambient from the construction site and seeing our occupancy levels drop to an all time low from 98% to 60%.

Height of buildings

As per the Byron LEP 2014 the height requirement of the building must not exceed the maximum height of 11.5 meters. The approved building was designed with a roof of 11.5 meters above ground level at RL13.84M ADH. However, the proposed development exceeds the maximum height of 11.5 meters by 1.6 meters. Resulting in the building height now being 13.1 meters above ground level and a RL15.44 M AHD.

‘This will result an increase and negative impact to the human scale of the town currently valued by the community’ and could result in undesirable planning outcomes.

Floor space ratio

As per the Byron LEP 2014 the floor space ratio for a building is not to exceed 1.3:1 However, the proposed development has exceeded the Byron LEP 2014 floor space ration with a maximum floor space ratio of 1.5:1

Conclusion

The development application, as it stands at the moment, is confusing and missing valuable information to make an informed assessment of the application. Based on the review of the information that has been submitted it is of our opinion that the design of the development should be amended to reflect the site constraints.

The height, floor space ratio (FSR), Character and design of the building; the adequacy of the proposed carparking, social and environmental impacts on the surrounding area; precedent; and the public interest’.

The ‘community expects the council to impose applicable development standards and ensure that developments do not generate negative impacts on the surrounding area. If approved, this development would set a precedent that undermines the development standards that the community expects to be upheld’.

It is recommended that Council request the applicant to revise the application in the following ways to address the issues with the design and the impact on adjoining properties and the wider community:

- Reject the amendment/ variation to proposes less than the maximum number of car parking spaces.
- Amend the design of level 3 to remove access to the roof top area to ensure that the roof top will not be used by hotel patrons.
- Reject the Loading Zone removed from the previous submission and to be reallocated onto Fletcher Lane
- Amend the design of the development to reduce the height of the development to comply with the maximum height limit of 11.5 meters.
- Amend the design of the project to reduce the floor space ratio to comply with the development standard
- Request that a new/ updated Acoustic Assessment be completed and include our property and the residential complex located on Fletcher Lane.

Yours faithfully,

Francis & Maryann Bienke

Owner & On-Site Manager

Byron Bayside Central Studio Apartments