

5.1. MCUC TAVERN AT SHOP 13, 53-61 MACROSSAN STREET, PORT DOUGLAS

REPORT AUTHOR(S)	Jenny Elphinstone, Senior Planning Officer
GENERAL MANAGER	Nick Wellwood, General Manager Sustainable Communities
DEPARTMENT	Development Assessment and Coordination
PROPOSAL	Material Change of Use for a Tavern (Bar)
APPLICANT	Danielle Piat PO Box 4 PORT DOUGLAS QLD 4877
LOCATION OF SITE	Shop 13, 53-61 Macrossan Street, Port Douglas
PROPERTY	Lot 1 on SP150461

LOCALITY PLAN



Figure 1 - Locality Plan

LOCALITY	Port Douglas and Environs
PLANNING AREA	Commercial
PLANNING SCHEME	Douglas Shire Planning Scheme 2006
REFERRAL AGENCIES	State Assessment Referral Agency (Department of Transport and Main Roads)
NUMBER OF SUBMITTERS	Not Applicable
STATUTORY ASSESSMENT DEADLINE	19 December 2016.
APPLICATION DATE	17 November 2016

RECOMMENDATION

That Council approves the development application for a Material Change of Use for a Tavern for Shop 13, over land described as Lot 1 on SP150461, located at 53-61 Macrossan Street, Port Douglas, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site And Internal Floor Plans	Generally as Prepared By The Applicant (to be amended by Condition 3)	As Submitted To Council On 15 November 2016

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.
Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Amended Plan

- 3. Prior to commencement of use, provide Council with a properly-scaled and dimensioned plan showing the bar area fit-out and internal and external seating arrangements for the proposed use. Any external seating is not to interfere with pedestrian circulation to other tenancies in the development.**

Air-Conditioning Screens

- 4. Air-conditioning units located above ground level and visible from external properties and the street must be screened with appropriate materials to improve the appearance of the building. Such screening must be completed prior to the Commencement of Use.**

External Areas and Customer Numbers

- 5. Any use of external seating areas is limited to undercover areas on the land and the total use is limited to 60 patrons.**

Vehicle Parking

- 6. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of seven (7) car spaces for the Tavern use for visitors and employees to be provided on the land. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.**

Advertising Signage

- 7. All signage associated with the use must be approved by the Chief Executive Officer. No flashing or animated signage is permitted. The signage must comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to the Commencement of Use.**

8. Hours of Use

Hours of use open for trading for food and liquor service are 11:00 am to 12:00 midnight, seven days of the week. All customers must vacate the premises within thirty (30) minutes after the venue closes liquor and food service. The operator must seek to ensure patrons leave in an orderly manner.

ADVICE

- 1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act 2009*.**

2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Note a Department of Transport and Main Roads (section 50) approval where the verandah is within the State-controlled road reserve as the use is changing.

Infrastructure Charges Notice

3. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please note that this Decision Notice and the Adopted Infrastructure Charges Notice are stand-alone documents. The Sustainable Planning Act 2009 confers rights to make representations and appeals in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact Development Assessment and Coordination at Council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

4. For information relating to the *Sustainable Planning Act 2009* log on to www.dilgp.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au.

LAND USE DEFINITIONS*

In accordance with the *Douglas Shire Planning Scheme 2006*, the approved land use of Tavern is defined as:

Means the use of premises for:

- the sale of liquor for consumption on or off the premises;
- dining activities;
- entertainment activities, including gaming machines.

The use may include accommodation of tourists or travellers.

The use includes facilities commonly described as:

- hotel; or
- tavern.

***This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.**

EXECUTIVE SUMMARY

Application has been made for a Material Change of Use to convert a shop, within the complex at 53-61 Macrossan Street, Port Douglas, to a small licensed bar for sixty patrons. The Planning Scheme defines the use as a Tavern. Car parking associated with the use will be provided on the land. All noise emissions associated with any entertainment will be regulated by the subsequent license from the State Office of Liquor and Gaming Regulation. No issues are identified as concerns and the report recommends the application be supported subject to conditions. The recommended conditions reflect the proposed use in regards to limiting patron numbers, hours of use, provision of car parking, advertising and patron behaviour when leaving the premises.

TOWN PLANNING CONSIDERATIONS

Background

The existing Shop is part of a complex developed under a Town Planning Consent (TPC 1258) for 2 Multi-Unit Dwellings (tourist), Shops and Restaurant issued by the former Douglas Shire Council in 2007. The respective application for TPC 1258 was lodged under the 1996 Planning Scheme. The approval required the provision of 35 onsite car spaces as follows:

- 2 for the relocation of car parking associated with the adjacent land use;
- 3 car spaces for the two Multi-Unit dwellings, meeting the then Scheme requirement for 3 spaces;
- 9 spaces for the Restaurant (Shop 16 on the approved plan), being 135m² gross floor area (GFA) and meeting the then scheme requirement of 1 car space per 15m² GFA; and
- 21 spaces for the Shops (Shops 9-15 inclusive), being a total of 420m² GFA and meeting the then scheme requirement of 1 car space per 20m² GFA.

The development provided the required thirty-five (35) onsite car parking spaces for the overall development, three of which must be dedicated to the tourist residential use.

Proposal

The layout plan is included in Attachment 1.

The development proposes to use an existing shop for a small Bar, which the Planning Scheme defines as a *Tavern*. The use will be limited to sixty (60) patrons consistent with the State liquor licensing requirements for a Bar. Limited external seating will be provided on

the land, in under verandah area, adjacent to the Bar. Amenities are available in the existing complex and will provide for staff and patrons. Proposed hours of use are 11:00 am to 12:00 midnight, seven days a week.

The Applicant has advised that there is no current intention for live entertainment and any music played will be at reasonable levels so as to not extend beyond legal decibel range. The Applicant comments in their planning submission, *"We will respect our community and the law at all times regarding sound levels emitted from the Tavern."* The Applicant is conscious of the need to achieve a liquor license from the State Office of Liquor and Gaming Regulation (OLGR) and is aware that noise emissions will be regulated by the OLGR.

The Tavern will utilise existing parking on the land and can provide seven car spaces to meet the Acceptable Solution of the Planning Scheme Vehicle Parking and Access Code.

No specific advertising signage has as yet been nominated.

State Planning Requirements

Part E of the State Planning Policy applies as the Planning Scheme preceded the Policy. The development is consistent with the State interest requirements as identified in the State Policy.

Douglas Shire Planning Scheme Assessment

Douglas Shire Port Douglas and Environs Planning Locality		Code Applicability	Compliance
Locality	Port Douglas and Environs	✓	Complies though existing development approval.
Planning Area	Commercial	✓	Complies though existing development approval.
Defined Use	Tavern	✗	No applicable code
Overlay Codes	Acid Sulfate Soils Code	✗	-
	Cultural Heritage and Valuable Sites Code	✗	-
	Natural Hazards Code	✗	-
General Codes	Design and Siting of Advertising Devices Code	✓	Complies through a condition.-
	Filling and Excavation Code	✓	Complies
	Landscaping Code	✓	Complies through existing development approval
	Natural Areas and Scenic Amenity Code	✗	-
	Reconfiguring a Lot Code	✗	-
	Vehicle Parking and Access Code	✓	Complies, refer to comment.
Vegetation Amendment	Sustainable Development Code	✗	-
	Vegetation Damage Code	✗	-

Compliance Issues

Vehicle Parking and Access

The current Planning Scheme requires a much lower rate of onsite car parking to floor area than the 1996 Planning Scheme under which TPC 1258 was approved. The complex of shops/restaurants/residential units remain in single ownership. The onsite car parking, other than the 3 spaces for the residential units, are not allocated by the conditions of the existing approval and a credit of 30 spaces is available for the proposed allocation of 7 spaces for the Tavern use (70m²) and 17 spaces for the restaurant and remaining shops (485m² GFA). On this basis the total provision of 30 spaces for the Shops/Restaurant and proposed Tavern exceed the current demand requirement of 24 spaces. No additional onsite car parking is required. A condition of the approval requires the maintenance of 7 car spaces for the Tavern use.

A condition of approval also requires the provision of improved plans prior to commencement of use, and in particular outdoor seating on the verandah is not to interfere with pedestrian circulation to adjoining tenancies.

Referral Agency Requirements

The *Sustainable Planning Regulation 2009* requires referral to the State Assessment Referral Agency (SARA) due to the adjacent state-controlled road. Following consultation with the Department of Transport and Main Roads SARA advised the Applicant and Council that no referral is required due to:

- “• *The proposed development is basically an internal refurbishment of an existing shop;*
- *The internal fit-out is approximately 60m², well under the 250m² GFA;*
- *The subject site only has access via Davidson Road (Port Douglas Road);*
- *The access via Davidson Road is sealed and existing and services the existing basement car park;*
- *The existing car park only contains a certain number of car parking spaces (35), so unless the proposed development will construct additional car parks there will no change to the number of traffic movements in and out from the subject site. The applicant must ensure that there is sufficient onsite car parking without the reliance on parking in the state-controlled road reserve; and*
- *There is no access via Macrossan Street (Port Douglas Road).”*

SARA further advised that the Department may require a Department of Transport and Main Roads (section 50) approval if the verandah is within the State-controlled road reserve as the use is changing. This advice is included in the Advice statement of the approval. The applicant does not include the adjacent road area and it is understood the proposed verandah area to be used adjacent to the shop is on the land. A condition of the approval limits the land use to the land.

ADOPTED INFRASTRUCTURE CHARGES

The proposed development triggers Adopted Infrastructure Charges. Refer to Attachment 2 to view calculations.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

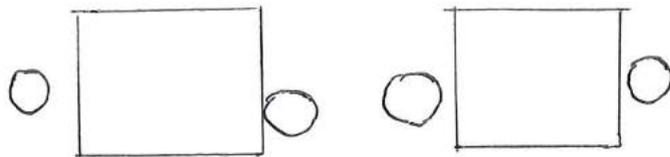
The following area outlines where Council has a clear responsibility to act:

Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

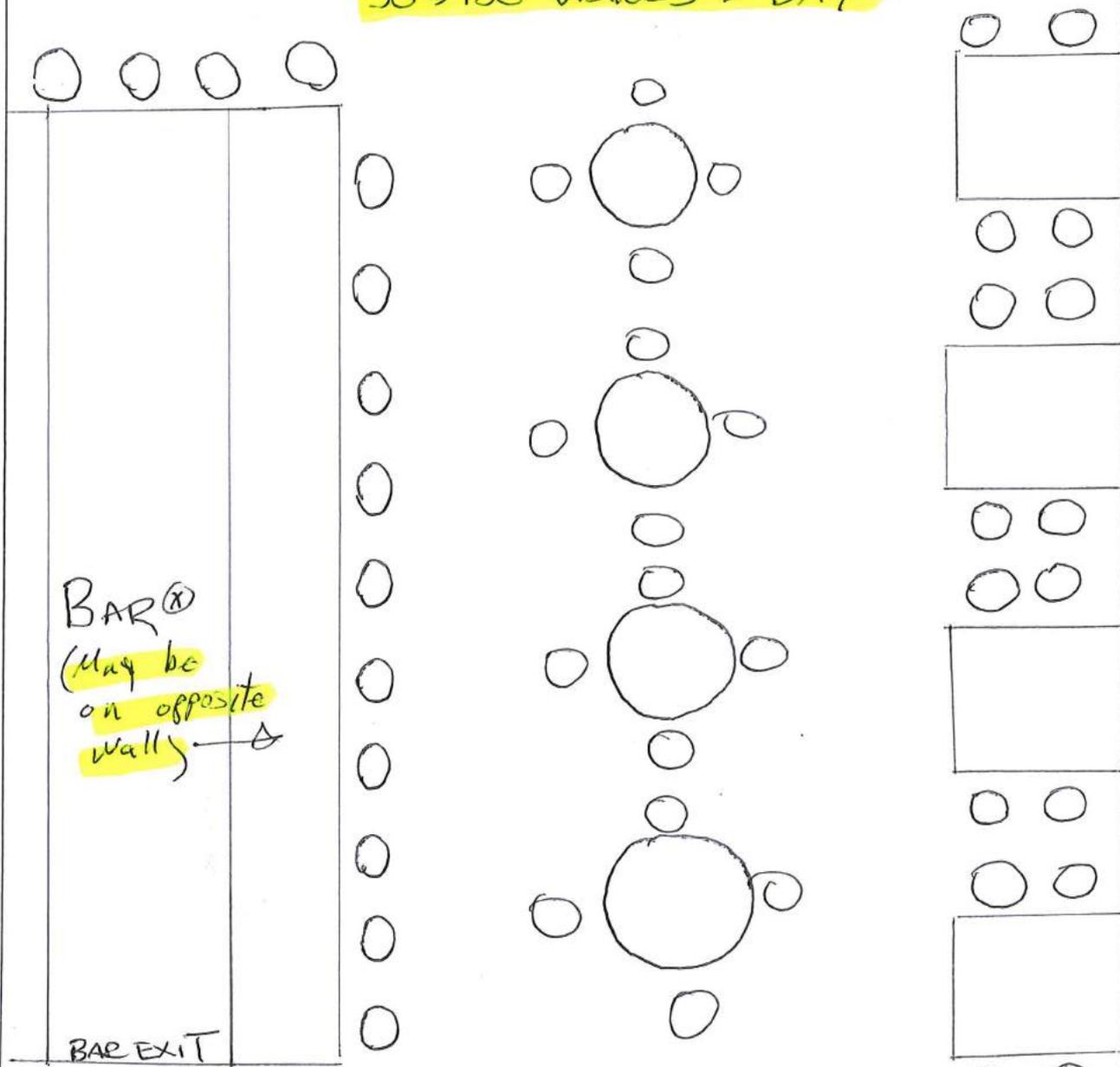
ATTACHMENTS

1. Tavern Attachment 1 Plans **[5.1.1]**
2. Tavern Attachment 2 Adopted Charges **[5.1.2]**



ENTRANCE

MAXIMUM CAPACITY 60 Pax
50 → 150 VISITORS / DAY



BAR ⓧ
(May be
on opposite
wall) →

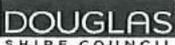
BAR EXIT

60 sq m

Door

TOILETS

STORAGE 5 sq m

	2008 Douglas Shire Planning Schemes Applications
ADOPTED INFRASTRUCTURE CHARGES NOTICE	

Danielle Plat	0	0	
DEVELOPERS NAME	ESTATE NAME	STAGE	
Shop 13 , 53-61 Macrossan St	Port Douglas	L1 SP150461	10888
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
MCUC Tavern	MCUC 1797/201		4
DEVELOPMENT TYPE	COUNCIL FILE	VALIDITY PERIOD (year)	
D#797263	1		
DSC Reference Doc . No.	VERSION No.		

	Use	Charge per Use	Amount Due	Amount Paid	Receipt Code & GL Code
Rural Areas - Water Only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water only					
proposed	0	0.00	0.00		
	0	0.00	0.00		
existing	0	0.00	0.00		
Total			0.00		
Urban Areas - Water & Sewer					
proposed	70	125.25	8,767.50		
	0	0.00	0.00		
existing	70	50.10	3,507.00		
Total			5,260.50		
TOTAL			\$5,260.50		

Prepared by	J Elphinstone	29-Nov-16	Amount Paid	
Checked by	Neil Beck	29-Nov-16	Date Paid	
Date Payable	MCU - Before the change occurs			
Amendments	Date		Receipt No.	
			Cashier	

Note:
 The Infrastructure Charges in this Notice are payable in accordance with Section 630 of the Sustainable Planning Act 2009 (SPA) as from Council's resolution from the Special meeting held on 24 June 2015.

Charge rates under the current Policy are not subject to indexing.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

