

5.2. APPLICANT REPRESENTATION FOR NEGOTIATED DECISION FOR INFRASTRUCTURE CHARGE MCU (LIMITED FUNCTION FACILITY) AT 5146 CAPTAIN COOK HIGHWAY OAK BEACH

REPORT AUTHOR	Jenny Elphinstone, Senior Planning Officer
MANAGER	Paul Hoye, Manager Environment and Planning
DEPARTMENT	Environment and Planning
APPLICATION NO	MCUI 2020_3879/1
PROPOSAL	Applicant representation for negotiated decision for infrastructure charge for MCU (Limited Function facility)
APPLICANT	David & Jennifer Moodie, C/- Patrick Clifton, GMA Certification PO Box 831, Port Douglas Qld 4877
LOCATION	5146 Captain Cook Highway Oak Beach
PROPERTY	Lot 1 on RP742791
PLANNING SCHEME	2018 Douglas Shire Council Planning Scheme Version 1.0
ZONING	Rural Zone
LEVEL OF ASSESSMENT	Impact
PROPERLY MADE DATE	14 June 2021
STATUTORY ASSESSMENT DEADLINE	Not applicable.
REFERRAL AGENCIES	N/A in respect to adopted Infrastructure Charges
LOCALITY	



Figure 1. – Locality Plan

RECOMMENDATION

That Council issues a Negotiated Adopted Infrastructure Charges Notice in association for the approval of the development application for Material Change of Use for a Function facility in addition to the continuing use of a Dwelling house over land described as Lot 1 on RP742791, being 5146 Captain Cook Highway Oak Beach.

REASONS FOR DECISION

1. The reasons for this decision are:
 - a. Section 125 of the *Planning Act 2016*:
 - b. to ensure compliance with Council's Infrastructure Charges Resolution (No.2) 2021; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the applicant's representations for a Negotiated Infrastructure Charges notice was properly lodged to the Douglas Shire Council on 14 June 2021 under section 125 of the *Planning Act 2016*;
 - b. the representations development application contained information from the applicant which Council reviewed together with Council's own assessment against the Council's Infrastructure Charges Resolution (No.2) 2021 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Rural Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of section 125 of the *Planning Act 2016* and has issued a Negotiated Infrastructure Charges Notice; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. the charges as stated in the applicant's representations are considered reasonable.

EXECUTIVE SUMMARY

Council has previously supported a development application for a material change of use for an additional land use on the premises being a Function facility. An Infrastructure Charges Notice was issued associated with the Decision Notice.

A report considering a request for the full waiver of the infrastructure charges was prepared for Council's Ordinary Meeting held on 27 July 2021. Council's consideration of the report was deferred by a Council resolution.

The applicant has made further representations in respect to the Infrastructure Charges Notice. Through these further representations and discussions, a negotiated position has been achieved, whereby it was agreed that the area of which the calculation was based could be varied to reflect a density of one person per 3m³ for the proposed number of guests. The charges have been amended to reflect the new agreed charge rate with the total Infrastructure charge, payable to Council, going from \$13,518.80 to \$5,407.52.

Officer Comment

Council has the ability under S119 to apply a charge as a development approval has issued and an adopted charge applies to providing trunk infrastructure for the development. The charge has only been applied to the additional approved use that being a Function facility.

The new rate of charge is considered appropriate given the scope and nature of the approved development.

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 *Planning Act 2016* and the *Planning Regulation 2017*, Council is the assessment manager for the application.

ATTACHMENTS

1. Attachment 1 - Negotiated Adopted Infrastructure Charges Notice [5.2.1 - 1 page]
2. Attachment 2 - Adopted Infrastructure Charges [5.2.2 - 1 page]

