

5.3. MINOR CHANGE TO DEVELOPMENT APPROVAL FOR SEAFOOD VAN AT 11 WARNER STREET

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DEPARTMENT	Environment and Planning
APPLICATION NO	MCUC 2020_3679/1
PROPOSAL	Minor Change to Material Change of Use (Shop)
APPLICANT	G Armstrong PO Box 1069 PORT DOUGLAS QLD 4877
LOCATION	11 Warner Street PORT DOUGLAS
PROPERTY	LOT: 37 TYP: PTD PLN: 2091
PLANNING SCHEME	2018 Douglas Shire Council Planning Scheme Version 1.0
ZONING	Centre Zone
LEVEL OF ASSESSMENT	Code
PROPERLY MADE DATE	2 December 2020
STATUTORY ASSESSMENT DEADLINE	4 January 2020
REFERRAL AGENCIES	N/A

LOCALITY



Figure 1. Locality Plan

RECOMMENDATION

That Council approves the Minor Change to development approval for Material Change of Use (Shop) over land described as Lot 37 on PTD2091, subject to the following:

1. Condition 3 be amended to read as follows:

Limitation of Approval

3. This development permit shall lapse ~~three (3) months from the date the approval takes effect.~~ on 15 February 2021.

2. All other conditions remain unchanged.

REASONS FOR DECISION

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - a) to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b) to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - c) the development application was properly lodged to the Douglas Shire Council on 2 December 2020 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - d) the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 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 Centre Zone Code;
 - b) Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c) the applicant's reasons have been considered and the following findings are made:
 - i) Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

EXECUTIVE SUMMARY & DISCUSSION

Council is in receipt of a minor change application to change condition 3 of the development approval for material change of use of premises for a shop (seafood van) over land located at 11 Warner Street, Port Douglas, known as MCUC2020/3679.

At the Ordinary Council meeting of 29 September 2020, Council resolved to issue a development permit to the applicant for a retail seafood van with a limitation on the approval allowing three (3) months of operation only.

It is proposed to make a minor change to condition 3 of the development approval for a shop land use in a seafood van configuration. Condition 3 allows operation of the seafood van up until 1 January 2021.

The applicant is seeking a minor change to condition 3 to allow operation for a further one and a half months. The applicant has a lease over the land which runs out on 15 February 2021. The minor change application is recommended for approval to allow operation of the shop land use for a further 1.5 months up to and including 15 February 2021.

The approved land use is consistent with the planning intent for the area however the proposed configuration and operation from a van style trailer is inconsistent with the aesthetic requirements and built form intentions for the area, however an additional 1.5 months of operation is considered to have a negligible impact on the amenity of the locality and the minor change is recommended for approval.



Figure 2 – Seafood van

State Planning Requirements

There are no State Planning requirements for this application.

DOUGLAS SHIRE PLANNING SCHEME ASSESSMENT

In light of the particularly minor nature of the proposal it is of no value to assess the minor change application against the planning scheme.

Public Notification / Submissions

The development application was code assessable therefore no public notification is necessary for the minor change. No submissions were received in relation to the minor change application.

Internal Referrals

Nil. Referrals not necessary due to the minor nature of the proposal.

ADOPTED INFRASTRUCTURE CHARGES

The development did not trigger Infrastructure Charges.

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 Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.

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

ATTACHMENTS

Nil