ORDINARY MEETING	F 1
20 JANUARY 2015	5.1

REQUEST FOR PERMISSIBLE CHANGE TO DEVELOPMENT APPROVAL (CONVERSION OF MOTEL UNITS TO GAMING AREA AND ANCILLARY STORAGE) – 7-9 MACROSSAN STREET & 6 WARNER STREET, PORT DOUGLAS Neil Beck: MCUC 5400/2013: (437068)

PROPOSAL: REQUEST FOR PERMISSIBLE CHANGE TO

DEVELOPMENT APPROVAL (CONVERSION OF MOTEL UNITS TO GAMING AREA AND ANCILLARY

STORAGE)

APPLICANT: HILROK HOTEL GROUP PTY LTD

C/- VICTOR G FEROS TOWN PLANNING

CONSULTANTS PO BOX 1256 CAIRNS QLD 4870

LOCATION OF SITE: 7-9 MACROSSAN STREET & 6 WARNER STREET,

PORT DOUGLAS

<u>PROPERTY:</u> LOTS 10 & 11 ON SP262348

LOCALITY: PORT DOUGLAS AND ENVIRONS

<u>PLANNING AREA:</u> COMMERCIAL

<u>PLANNING SCHEME:</u> DOUGLAS SHIRE PLANNING SCHEME 2008

<u>REFERRAL AGENCIES:</u> DEPARTMENT OF STATE DEVELOPMENT,

INFRASTRUCTURE & PLANNING

NUMBER OF SUBMITTERS: NOT APPLICABLE

STATUTORY ASSESSMENT

DEADLINE: 9 FEBRUARY 2015

APPLICATION DATE: 19 NOVEMBER 2014

APPENDIX: 1. APPROVED PLAN(S) & DOCUMENT(S)

2. CORRESPONDENCE ISSUED BY FORMER

COUNCIL

3. DSDIP RESPONSE TO PERMISSIBLE

CHANGE

4. ADOPTED INFRASTRUCTURE CHARGES

NOTICE

LOCALITY PLAN



RECOMMENDATION:

That Council approves the request for a Permissible Change to a Development Approval for the conversion of existing motel units to gaming area and ancillary storage over land described as Lots 10 and 11 on SP262348, located at 7-9 Macrossan Street and 6 Warner Street, Port Douglas, subject to the following:

1. Amend Approved Drawings table as follows:

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		
Proposed Site Plan	PET 004 DD 11-02 Rev	24 July 2013		
	DA2			
Shed Extension Plan and	PET 004 DD11-03 Rev	24 July 2013		
<u>Elevations</u>	DA2			
Proposed Ground Floor Plan -	PET 004 DD11-04 Rev	8 August 2013		
Hotel & Kitchen	DA1			
Proposed First Floor Plan - Hotel	PET 004 DD11-05 Rev	8 August 2013		
& Kitchen	DA1			
Preliminary Site Plan	PET 006 PR1.1	10 November		
_		2014		
Preliminary Ground Floor Plan	PET 006 PR1.4	10 November		
_		2014		
Preliminary First Floor Plan	PET006 PR1.5	10 November		
-		2014		

2. Amend Condition 9 to read as follows:

The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of ten (10) eleven (11) for the use approved herein. 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 maneuvering areas must be imperviously sealed, drained and line marked.

During the operating hours of the Tavern, the car park must remain freely available and accessible for use by patrons and employees of the Tavern. A sign advising of the location of the off-street visitor parking area must be erected on the Warner Street frontage of 7-9 Macrossan Street to the satisfaction of the Chief Executive Officer.

3. That all other conditions of the Amended Decision Notice dated 25 October 2013 (#397149) remain unchanged.

FURTHER ADVICE

- 1. This approval lapses on 9 December 2015 as detailed in correspondence dated 12 December 2013.
- 2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.

3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

Infrastructure Charges Notice

4. 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 appeal 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 the Development and Environment Branch 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.

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

EXECUTIVE SUMMARY:

Council is in receipt of a request for a Permissible Change to a Development Approval relating to the extension of the existing Tavern located at 7-9 Macrossan Street and 6 Warner Street Port Douglas. The Tavern is locally known as the Central Hotel.

The Permissible Change seeks to convert two (2) existing motel rooms located on the first floor into a new gaming area. The gaming area is to be relocated from the ground floor to the first floor. The Permissible Change also seeks to convert another two (2) motel rooms into additional storage area.

The area on the ground floor area previously occupied by the gaming room will be utilised for additional dining.

The request results in an onsite car parking shortfall of 1.2 spaces bought about by the relocation of the gaming area to the first floor.

The request is recommended for approval subject to conditions. Infrastructure contributions for the shortfall of onsite car parking are also recommended to be levied.

PLANNING CONSIDERATIONS:

Background

The majority of the Central Hotel was established prior to the introduction of planning scheme controls. Interim Order 11 was issued 27 September 1973 for the development of seven (7) motel units, a common laundry area for those units and additional bar/lounge area for the Hotel. There are currently four (4) motel units operating onsite.

Recent changes to the land include the removal of the bottle shop and drive-through facility at the Macrossan Street frontage and replacement of this area with a beer garden/dining area. A Material Change of Use (Code Assessable) Development Application for the extension of the Tavern was approved at a Council meeting held 24 June 2009. Representations were received from the applicant, with a Negotiated Decision Notice approved 9 December 2009.

In October 2013, the applicant requested a Permissible Change which sought to replace existing shipping containers with a storage shed measuring 6.9m x 11m. The location of the storage shed had regard to the approved car parking layout and was located adjacent to the back of house / loading dock areas.

The request was approved with the Amended Decision Notice containing the latest set of approved plans and Condition 9 of the Development Permit amended to require the provision of eleven (11) spaces for the extension as advised in correspondence dated 27 September 2012. Correspondence issued with respect to onsite parking is discussed in further detail below.

Proposal

The request seeks to relocate the gaming room from the ground level into two (2) existing motel rooms while converting an additional two (2) motel rooms into a storage areas for the Hotel.

The gaming room on the first floor will have a floor area of 52m^2 and will provide for further separation of this activity from other patrons of the Hotel and improved layout on the ground floor with respect to dining activities and the location and access to the kitchen servery.

The area of the motel units to be used for storage purposes will be 59m².

A copy of the proposed plans is attached at Appendix 1.

Sustainable Planning Act 2009

Section 367 of the *Sustainable Planning Act (SPA)* 2009 outlines what constitutes a Permissible Change for a development approval.

A Permissible Change for a development approval is a change to the approval that would not:

- (a) result in a substantially different development; or
- (b) if the application for the approval were remade including the change-
 - (i) require referral to additional concurrence agencies; or
 - (ii) for an approval for assessable development that previously did not require impact assessment require impact assessment; or

- (c) for an approval for assessable development that previously required impact assessment be likely, in the responsible entity's opinion, to cause a person to make a properly made submission objecting to the proposed change, if the circumstances allowed; or
- (d) cause development to which the approval relates to include any prohibited development.

Having regard to the above considerations, the proposed relocation of the gaming area to the first floor and the conversion of two motel rooms to ancillary storage areas constitute a Permissible Change.

Car Parking

While the relocation of the gaming room to the first floor is considered to constitute a Permissible Change, such a change does result in a shortfall of onsite car parking spaces.

The area of the gaming room attracts a car parking rate of one (1) space / 10m² and therefore requires the provision of 5.2 spaces. A credit of four (4) spaces exist for the four (4) motel rooms leaving a shortfall of 1.2 spaces.

The site falls within the land covered by Douglas Shire Planning Scheme Policy No 3 – Car Parking Contributions which enables the Applicant to pay a monetary contribution for the shortfall.

In response to the car parking issue and the allocation of credits, the applicant has provided the following representations:

Notwithstanding the ability to allocate the car parking credits to the proposed gaming room, the following aspects are noted in relation to the actual car parking generated by the proposal:

- i) On the basis that the proposed gaming area will be associated with other activities located on the site, including the public and private bars, beer garden and dining area, it is submitted that there will be an 'overlap' between patrons using each of the facilities. Therefore, the overlapping nature of the use will result in an overall reduction in on-site car parking demand for the individual activities comprising the tavern use;
- ii) Given the location of the Central Hotel within the centre of Port Douglas where it is surrounded by tourist accommodation within walking distance, it is submitted that the overall onsite car parking demand for the existing uses and the proposed gaming area would be reduced when compared with other equivalent uses located in either a remote location or within a standard suburban neighbourhood.
- iii) It is submitted that it is reasonable and appropriate for Council to exercise discretion and determine that there is no requirement to provide onsite car parking or a monetary contribution towards onsite car parking associated with the relocated gaming room. This determination and action by Council is considered to be equally applicable to the following circumstances:

The allocation of the car parking credits to the relocated gaming area resulting from the removal of the motel units; or

Where there is no allocation of car parking credits to the gaming room.

In relation to the onsite car parking spaces for the development including the extension to the Hotel approved in 2009, the following is noted:

- The Hotel has existing land use rights and therefore existing credits attaching to the land as a consequence of being in existence prior to the introduction of planning controls.
- The extension to the Hotel approved in 2009 provided for an additional 93m² of floor area requiring the provision of ten (10) spaces. Condition 9 of the Development Permit required ten (10) spaces be provided in addition to the four (4) spaces required for the four (4) motel rooms ie a total of 14 spaces.
- The applicant sought a Negotiated Decision requesting that a total of ten (10) spaces be provided for the entire development inclusive of the four (4) motel rooms. This request was not supported and remained a condition of the approval. The Negotiated Decision Notice was issued dated 10 December 2009 maintaining this requirement.
- On 8 August 2012, the applicant made an enquiry to Council accompanied by an amended plan seeking Council officer comment in relation to reduce the requirement from 14 spaces to 11 based on site constraints. The applicant anticipated that such a change would require a formal application to Change a Development Approval as detailed in sections 369–372 of the SPA. A response was issued dated 6 September 2012 advising that the shortfall of three (3) spaces would trigger the Planning Scheme Policy No 3 and a monetary contribution of approximately \$75 000 for the shortfall would be required. This advice is attached at Appendix 2.
- On 27 September 2012, correspondence signed by the Acting General Manager Planning & Environment approved a reduction in car parking spaces from 14 to 11 spaces as detailed in the Applicants submission dated 8 August 2012. The advice also went on to say that no further request to change an existing approval is required to be lodged with Council. This correspondence is also attached at Appendix 2.

It is noted that the car parking layout includes two (2) spaces in tandem being spaces 10 and 11. This in effect provides for the provision of nine (9) spaces which have the ability to comply the Australian Standard for Off-street Car Parking; a reduction of five (5) spaces.

See Appendix 1 which maintains the same car parking layout as referenced in the correspondence dated 27 September 2012.

• In October 2013, the applicant requested a Permissible Change which sought to replace existing shipping containers with a storage shed. The request was approved and Condition 9 of the Development Permit amended to require the provision of eleven (11) spaces for the extension as advised in correspondence dated 27 September 2012.

It is considered reasonable that the car parking credit of four (4) spaces for the motel rooms be allocated to the relocated gaming room area. This in turn leaves a shortfall of 1.2 spaces.

The grounds raised by the Applicant above are considered valid, in particular item (i) which raises the notion of cross utilisation whereby patrons using the facilities of the Hotel will be likely to also use the gaming room facility.

However, from a review of the relevant documentation and the questionable departure from Condition 9 of the Negotiated Decision Notice by correspondence dated 27 September 2012, it is apparent that the site has already had the benefit of parking relaxations without paying a monetary contribution to Council for the shortfall. Having regard to all the facts and circumstances associated with the development approval, it is considered reasonable that a monetary contribution be paid for the shortfall of 1.2 spaces.

In addition, it is proposed to amend Condition 9 of the approval to ensure the car park remains freely accessible for use by employees and patrons of the venue during opening hours.

REFERRAL AGENCY:

The Department of Transport and Main Roads (DTMR) was triggered as a Concurrence Agency for the original application. As a consequence, the request was forwarded to Department of State Development, Infrastructure and Planning (DSDIP) for comment. No concerns were raised as detailed in the response at Appendix 3.

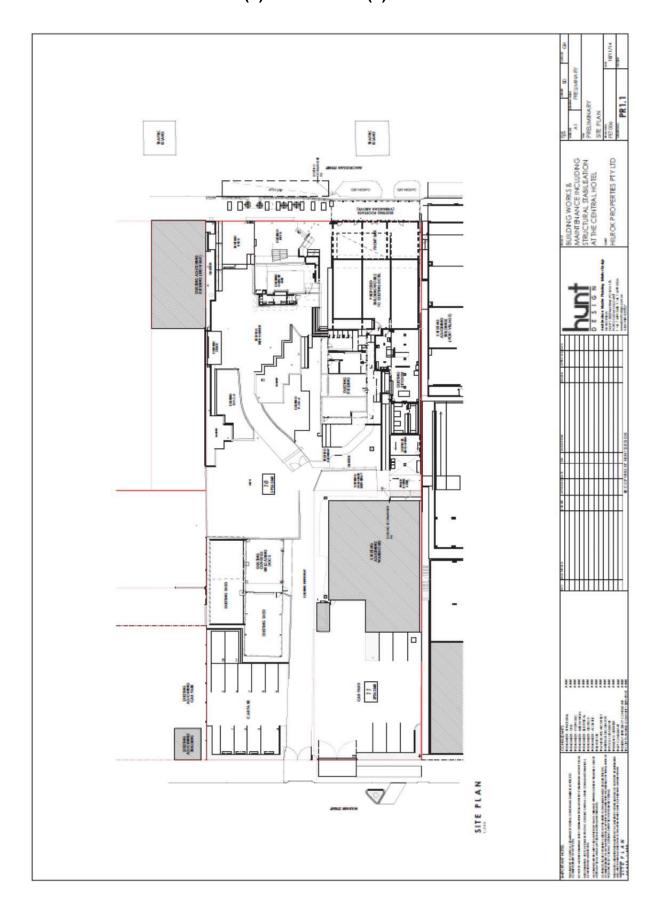
ADOPTED INFRASTRUCTURE CHARGES

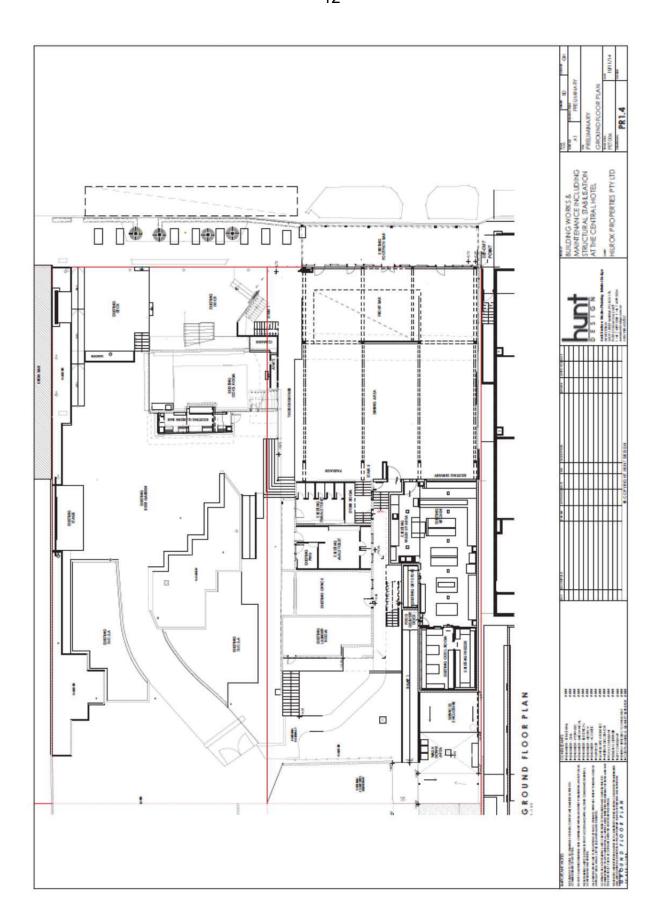
The proposed development triggers Adopted Infrastructure Charges. Refer to Appendix 4 to view calculations.

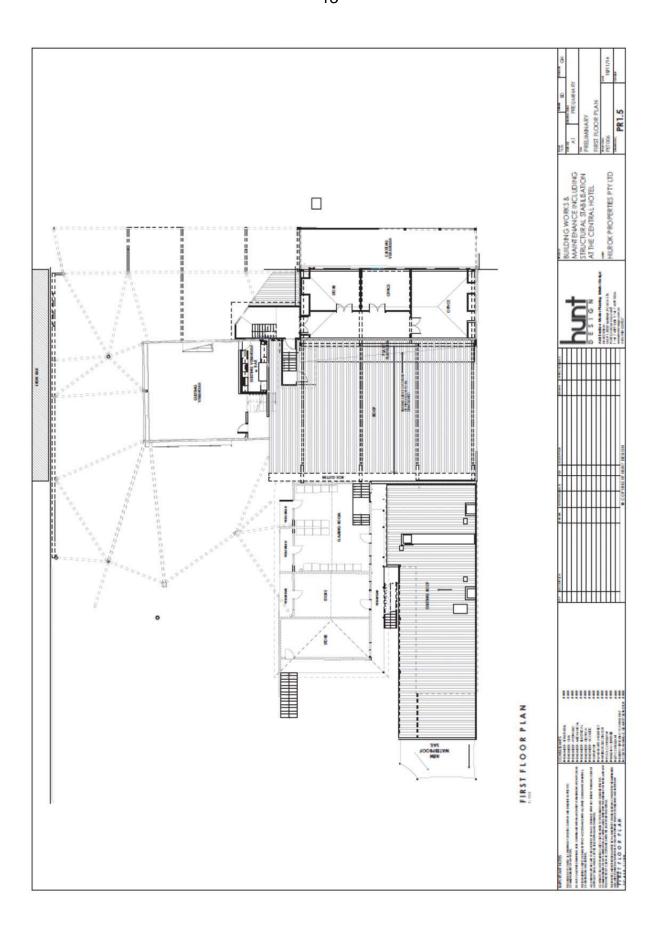
COUNCIL'S ROLE

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

APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)







APPENDIX 2: CORRESPONDENCE REGARDING ON SITE CAR PARKING

ENQUIRIES: Michelle Henderson PHONE: (07) 4099 9457 FAX: (07) 4044 3836 YOUR REF: VGF-C868 OUR REF: 8/7/1554 (3716312)

6 September 2012

Hilrok Hotel Group P/L C/- Victor G Feros PO Box 1256 CAIRNS QLD 4870

Dear Sir/Madam

PROPOSED CHANGES TO VEHICLE PARKING AT THE CENTRAL HOTEL – 7 – 9 MACROSSAN STREET, PORT DOUGLAS

Reference is made to your letter and attached plans dated 8 August 2012 (Council Ref No 3682352) pertaining to the Central Hotel at 7-9 Macrossan Street, Port Douglas. It is noted that you seek confirmation as to whether Council officers would support a request to change the existing approval such that the vehicle parking required onsite is reduced from a total of 14 spaces to a total of 11 vehicle parking spaces in accordance with Plan DD1-1 Revision P5, dated 9 January 2012.

It is considered that the proposed shortfall in vehicle parking spaces onsite would be able to be supported provided a contribution is paid in lieu of the 3 spaces to be removed, in accordance with the Douglas Shire Planning Scheme Policy No. 3 – Car Parking Contributions. The Policy states that Council may accept a car parking contribution for a development site anywhere in the Shire where:

- The construction of a car parking area, in part, is not preferred because of existing constraints on a development site; and
- The request to accept a contribution is accompanied by a Report prepared by a suitably qualified Traffic Engineer, substantiating the request.

The policy allows that Council will only accept a contribution for a maximum of 20% of the total car parking required for the development unless otherwise stated in the Planning Scheme. Three (3) vehicle spaces constitutes 21.42% of the fourteen (14 spaces) required to be provided onsite, however Acceptable Solution A9.1 of the Port Douglas and Environs Locality Code provides Council with the discretion to accept car parking contributions in excess of 20% for commercial development fronting Macrossan Street. Attached please find contributions calculations for the deficiency, being 3 vehicle parking spaces.

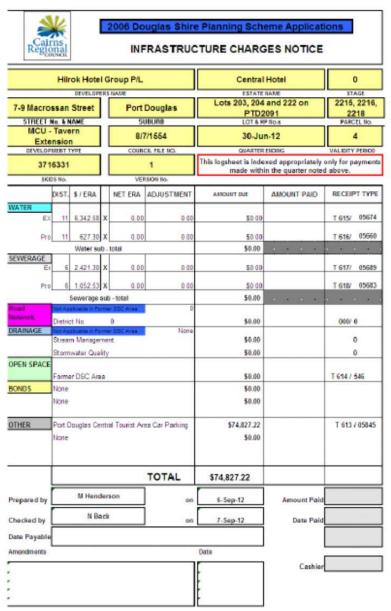
Should you require any further information or assistance, please contact Michelle Henderson of Council's Development Assessment Team on telephone number (07) 4099 9457.

Yours faithfully

Neil Beck A/Manager Development Assessment

Att: Contributions Calculations

Attachment 1



Note:

The infrastructure charges in this notice are payable in accordance with Section 629 of the Sustainable Planning Act 2009

Charge rates are subject to index adjustments. The total charge amount indicated on this notice is current at the date of issue. Development Assessment Team, Caims Regional Council prior to payment for review

Charges are payable to: Caims Regional Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Caims Regional Council. PO Box 359, Caims QLD 4870. Cheques must be made payable to Caims Regional Council and marked 1lot Negotiable." Acceptance of a cheque is subject to collection of the proceeds. Post

Any enquiries regarding infrastructure Charges can be directed to the Development Assessment Team, Caims Regional Council on 97.4044.3044 or by email on toemplanner@caims.qld.gov.au



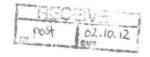
ENQUIRIES: PHONE: FAX: YOUR REF:

OUR REF:

Michelle Henderson (07) 4099 9457 (07) 4044 3836 VGF-C868 8/7/1554 (3740611)

27 September 2012

Hilrok Hotel Group P/L C/- Victor G Feros PO Box 1256 CAIRNS QLD 4870



Dear Sir/Madam

PROPOSED CHANGES TO VEHICLE PARKING AT THE CENTRAL HOTEL - 7 - 9 MACROSSAN STREET, PORT DOUGLAS

Reference is made to your letter and attached plans dated 8 August 2012 (Council Ref No 3682352) pertaining to the Central Hotel at 7-9 Macrossan Street, Port Douglas. It is noted that you seek confirmation as to whether Council officers would support a request to change the existing approval such that the vehicle parking required onsite is reduced from a total of 14 spaces to a total of 11 vehicle parking spaces in accordance with Plan DD1-1 Revision P5, dated 9 January 2012.

Please be advised that the changes proposed in Plan DD1-1 Revision P5, dated 9 January 2012 are considered to be generally in accordance with the approved plan of development for approval reference number 8/7/1554. No further request to change an existing approval is required to be lodged with Council in this instance. Please disregard advice provided in the earlier response dated 6 September 2012, our reference number 3716312.

Should you require any further information or assistance, please contact Michelle Henderson of Council's Development Assessment Team on telephone number (07) 4099 9457.

Yours faithfully

Peter Boyd

A/General Manager, Planning & Environment

For all correspondence.
PO Box 359 Cairns Q 4870
Www.carns.gld.gov.au

Council Chambers 119-145 Spence Street, Cairns Q 4870 P: 07 4044 3044 | F- 07 4044 3022 Mossman Administration Centre 64-66 Front Street, Mossman Q 4873 P. 07 4099 9444 F. 07 4098 2902

ABN 24 310 025 910

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APPENDIX 3 – CONCURRENCE AGENCY RESPONSE



Department of State Development, Infrastructure and Planning

Our reference: SPD-1114-013129 Your reference: VGF-C923

9 December 2014

Ms Linda Cardew Chief Executive Officer Douglas Shire Council PO Box 723 MOSSMAN QLD 4873

Dear Ms Cardew

Notice about request for permissible change—relevant entity

7-9 Macrossan Street and 6 Warner Street Port Douglas and more precisely described as Lots 10 and 11 on SP262348

(Given under section 373(1) of the Sustainable Planning Act 2009)

The Department of State Development, Infrastructure and Planning received a copy of the request for a permissible change under section 372(1) of the Sustainable Planning Act 2009 on 19 November 2014 advising the department, as a relevant entity, of the request for a permissible change made to the responsible entity under section 369 of the Sustainable Planning Act 2009.

The department understands that the proposed changes are as follows:

 Convert two existing motel rooms on the first floor into a gaming room which was previously to be located on the ground floor.

The department has considered the proposed changes to the development approval and advises that it has no objection to the change being made subject to the following:

Far North Queensland Regional Office Ground Floor, Caims Port Authority PO Box 2358 Caims QLD 4870

SPD-1114-013129

 The development must be carried out generally in accordance with the following Plan: Preliminary Site Plan, prepared by Hunt Design, dated 18 November 2014, Drawing No. RP1.1.

If you require any further information, please contact Angela Foster, Principal Planning Officer, on 4037 3233, or via email angela.foster@dsdip.qld.gov.au who will be able to assist.

Yours sincerely

Robin Clark

Manager (Planning)

Rober Clash

APPENDIX 4: ADOPTED INFRASTRUCTURE CHARGES

DOUGL	AS		2			Shire Planning Sche		ns
	TERROR.		etra		INI KASIK		LS NOTICE	1000
Hilrok Hotel Group Pty Ltd						N/A		0
DEVELOPERS NAME						ESTATE N	STAGE	
7 - 9 Macrossan Street				Port	Douglas	Lot 10 SP262348		157682
STREET No. & NAME				SU	BURB	LOT & RP No.8		PARCEL No.
Extension to Tavern				MCI	JC 5400	30-Sep-14		4
DEVELOR	PMENT	TYPE	+	COUNC	IL FILE NO.	R&B INDEX QUARTER ENDING		VALIDITY PERIOD
	37017		Ī		1	This logsheet is indexed appropriately only for payments made within the quarter noted above.		
DSC Refer	ence D	oc . No.	+	VER	SION No.			
	DIST.	\$/EDC		NET EDC	ADJUSTMENT	AMOUNT DUE	AMOUNT PAID	Receipt Code & GL Code
WATER Existing	16	0.00	X	0.00	0.00	\$0.00		0
		0.00				ro oo		0
Proposed None	16	Water sub -		0.00 0.00		\$0.00		0
SEWERAGE	П	Water out	1			\$0.00		
Existing	8	0.00	X	0.00	0.00	\$0.00		0
Proposed	8	0.00	X	0.00	0.00	\$0.00		0
None		Sewerage sul	b -	total		\$0.00		
OPEN SPACE DSC Area						\$0.00		894 GL 07230.0135.0825
Off-Site Car Port Douglas Central Tourist Area Car Parking Parking						\$31,636.43		896 GL 07500.0135.0825
	TOTAL				TOTAL	\$31,636.43		
Prepared by Nell Beck				on	5-Jan-15	Amount Paid		
Checked by					on		Date Paid	
Date Payable	de la							
Amendments					1	Date	10	
							Cashler	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Section 629 of the Sustainable Planning Act 2009 (SPA).

Charge rates are subject to index adjustments (QLD Road & Bridge Index, ABS data as per SPA). The total charge amount indicated on this notice is current at the date of issue. The total charge due at the date of payment must reflect the current indexed value. Please contact the Development & Environment Douglas Shire Council prior to payment for review.

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