

8 June 2018

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Our Ref: MCUC 2675/2018 (Doc ID 858788)
Your Ref: J000699

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Helen Kathryn Wagner
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Attention Mr Patrick Clifton

patrick@gilvearplanning.com.au

Dear Sir

ACTION NOTICE
DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE
FOR A DWELLING UNIT
AT 4-5/12 MACROSSAN STREET PORT DOUGLAS
ON LAND DESCRIBED AS LOTS 4 AND 5 ON BUP PLN 70539

Council refers to the above Development Application that was lodged with Council on the 31 May 2018.

Please note that this is an **Action Notice** in accordance with section 3.1 of the *Development Assessment Rules*.

The application is **not** a properly made application in accordance with Section 51(5) of the *Planning Act 2016*. The following is a statement of reasons why the application is not a properly made application:

- There is no clear statement that covers the consent of the landowner attached to the application.

The following actions must be undertaken in order to make the application a properly made application:

- Written consent of the owner of the premises to the application if required.

Please note that in accordance with section 3.7 of the *Development Assessment Rules*, the application will be taken to have been not made if the above actions are not complied within twenty (20) business days of this Action Notice. If the requirements within this Notice are not undertaken within this period, Council will return the application and refund any paid application fee as soon as practicable.

The assessment period for the application will not commence until the application is taken to be properly made.

Attention is drawn to your application which utilises access and the use of outdoor area, including the balcony, that is, on Lot 0 on BUP PLN 70539. The application requires the consent of the land owner of Lot 0 on BUP PLN 70539.

Without Prejudice Comment on Application

The following concerns are held regarding the provision of suitable private open space for the Dwelling Unit occupants.

1. The balcony area, adjacent to the proposed unit and identified to be used as private open space is body corporate land.
2. The internal courtyard, in front of the building, is also body corporate land and would be available to all occupants and their guests.
3. The adjacent balcony does not achieve the minimum 2m dimension for private open space.

The development incorporates a sliding door to open from the dining/living room out onto the rear yard. It is suggested that consideration be given to achieving exclusive use of the adjacent rear open space /setback area from the body corporate. Where exclusive use was achieved, the rear yard would be considered a suitable private open space in this instance.

It is also suggested that the applicant achieve exclusive use of the balcony area for privacy and use purposes.

Car Parking – Previous Off-Site Provision

The existing development was undertaken in 1985 for shops and offices, both of which were as of right uses under the 1981 Planning Scheme for the Whole of the Douglas Shire. The shops are to the front of the site with the offices in the building at the rear of the site. Two offices are situated at the ground level of this rear building and one office above. While no car parking was provided on the land, a car parking contribution was paid to the former Douglas Shire Council for 15 spaces for the amount of \$30,000.00. Nine (9) car spaces were provided for the shops and six (6) car spaces were provided for the offices. Having regard to continuing use rights and previous provision of car parking, Council considers three (3) car spaces to have been provided for the Units 4 and 5. Council officers are supportive on the continued provision and arrangement of car parking for the land in respect to the proposed material change of use.

Submitted Report

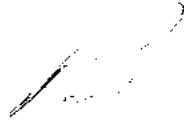
For clarity, please confirm that the proposed use is Dwelling Unit. The planning report refers to a Dwelling House, which is a separately defined use under the Planning Scheme.

Cost of Application

Council's fees and charges nominate a fee of \$320.00 for the application for a Dwelling Unit. Please note this is less than the invoiced amount and Council apologises for any inconvenience in this issue. Where the fee has already been paid, the additional payment will be reimbursed. Please advise where the fee has not as yet been paid and a corrected invoice will be issued.

Should you require any further clarification regarding this matter, please contact Jenny Elphinstone of Development Assessment and Coordination on 07 4099 9482 or by email jenny.elphinstone@douglas.qld.gov.au .

Yours faithfully

A handwritten signature in black ink, appearing to read 'Paul Hoyer', is positioned above the printed name.

PAUL HOYE
Manger Sustainable Communities

