

**From:** [Susanna Andrews](#)  
**To:** ["Sera Rohan"](#)  
**Subject:** Your ref: J000186 - "Without prejudice" Douglas Shire Council advice  
**Date:** Tuesday, 24 February 2015 10:47:29 AM  
**Attachments:** [Approved Plan TPC 037\\_00.pdf](#)

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Hi Sera

The following advice is issued on a 'without prejudice' basis.

Reference is made to your recent Development Application for extensions to a Restaurant (Existing Building), and teleconference with Council's Senior Planning Officer, Jenny Elphinstone on Thursday, 19 February.

Following a review of the file, it has come to Council's attention that no approval has issued for part of the restaurant currently used as dining area.

On 12 October 2000 a Development Permit TPC 037/00 for a Material Change of Use was issued for extension to the restaurant / bar. The extensions included new dining deck areas to Warner and Wharf Streets (83 m<sup>2</sup>) and an internal non-dining landscaped patio area (80 m<sup>2</sup>). Part of the deck areas were roofed. The approval also included a new kitchen, coldroom and ramps for disabled persons access to the rear yard / car parking area. Six (6) car spaces were provided on the land with access to Warner Street. A copy of the approved plan is attached.

The on-site inspection carried out in relation to the application MCUC 554/2014 currently being assessed by Council identified the 'non-dining' landscaped patio being used as a dining area. No planning approval has issued for such use of this area.

The approval TPC 037/00 issued under the 1996 Douglas Shire Planning Scheme required car parking for a Restaurant be provided at a rate of one (1) space per 15 m<sup>2</sup> of total use area. Under the current Planning Scheme car parking is to be provided at the rate of one (1) space per 30 m<sup>2</sup> net lettable area. This is a 50 per cent reduction since the 1996 Scheme and provides ability to legitimise the landscaped patio as a dining area without further provision of car parking.

Council officers will support an approval for the use of the 'non-dining' landscaped patio to be utilised as dining area. It is possible to amend the current application to have regard to the additional floor area, without attracting an additional application fee. The amended application should include a description of the additional floor area.

A condition of the approval will require that an updated plan of the whole site be lodged, drawn to a scale of 1:100 by a suitably qualified professional, and detailing:

- accurate site boundaries,
- all buildings, including internal and external decks and dining areas,
- car parking, loading / unloading areas, and
- landscaped areas.

**Other**

The above information is offered on a 'without prejudice' basis. The determination of any future application is a matter for Council following detailed assessment of the application.

Should you require further information please contact me.

Kind regards  
Susanna

**Susanna Andrews** | Technical Planning Officer

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