MATERIAL CHANGE OF USE – (IMPACT ASSESSMENT) - TAVERN EXTENSION – 6-8 GROVE STREET CAIRNS NORTH – DIVISION 7


PROPOSAL: TAVERN EXTENSION

APPLICANT: JAPT PTY LTD (TTE)
C/- PLANNING FAR NORTH
PO BOX 7801
CAIRNS QLD 4870

LOCATION OF SITE: 6 – 8 GROVE STREET CAIRNS NORTH

PROPERTY: LOT 1 & 2 ON SP 102690

PLANNING DISTRICT: CBD NORTH CAIRNS

PLANNING AREA: COMMERCIAL/SPORT AND RECREATION

PLANNING SCHEME: CAIRNSPLAN 2008

REFERRAL AGENCIES: DEPARTMENT OF MAIN ROADS

NUMBER OF SUBMITTERS: ONE

STATUTORY ASSESSMENT DEADLINE: 1 JUNE 2009

APPLICATION DATE: 23/03/2009

DIVISION: 7

APPENDIX:
1. APPROVED PLAN(S) & DOCUMENT(S)
2. CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS
3. DEVELOPER CONTRIBUTION CALCULATIONS
LOCALITY PLAN

RECOMMENDATION:

That Council approve the development application for Tavern Extension over land described as Lots 1 & 2 on SP102690, located at 6 - 8 Grove Street Cairns North, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)
The term ‘approved drawing(s) and / or document(s)’ or other similar expressions means:

<table>
<thead>
<tr>
<th>Drawing or Document</th>
<th>Reference</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan</td>
<td>07039 01A</td>
<td>March 09</td>
</tr>
<tr>
<td>Proposed Covered Walkway</td>
<td>07039 02A</td>
<td>March 09</td>
</tr>
</tbody>
</table>
ASSESSMENT MANAGER CONDITIONS

1. The applicant/owner must at all times during development of the subject land carry out the development and construction of any building thereon and conduct the approved use(s) generally in accordance with:

   a. The plans, specifications, facts and circumstances as set out in the application submitted to Council;

   b. To ensure that the development complies in all respects with the following conditions of approval and the requirements of Council’s Planning Scheme and the FNQROC Development Manual; and

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Stormwater Quality

3. Pay a monetary contribution to Council in accordance with Council’s Trunk Infrastructure Contributions Policy towards the improving Stormwater Quality.

   Contributions must be paid at the rates applicable at time of payment. On the present method of calculation, the contributions are $2,145.45 for Stormwater Quality.

   Payment is required prior issue of a Development Permit for Building Work.

Water Supply and Sewerage Works Internal

4. Undertake the following water supply and sewerage works internal to the subject land:-

   a. The development must be serviced by a single internal water and sewerage connection made clear of any buildings or structures;

   b. Any redundant sewer infrastructure shall be decommissioned and removed;

   c. Provide easement over any Council sewer or manhole located within the property.
The above works must be shown on a plan of works and designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use.

Damage to Infrastructure

5. In the event that any part of Council’s existing sewer/water infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Water & Waste immediately of the affected infrastructure and have it repaired or replaced by Water & Waste, at the developers cost, prior to the Commencement of Use.

Sewer Easement

6. Create an easement in favour of Council having a nominal width of 3 metres over the existing sewer manhole within Lot 2 SP102690 to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement document must be submitted to Council for the approval by Council's solicitors at no cost to Council.

   a. The approved easement document must be lodged and registered with the Department of Environment and Resource Management.

Water Saving

7. All toilet devices in the development must be fitted with dual flush cisterns and showers and hand basins in the development must be fitted with flow control valves or similar water control devices to generally restrict flow to 9 litres of water per minute.

Refuse Storage

8. Refuse storage is required to service the site in accordance with Council requirements. Brochures on these requirements – ‘Requirements for Refuse Storage’ are available from CRC Water & Waste.

9. The refuse bin enclosure must be roofed and bunded and fitted with a bucket trap.

Liquid Waste Disposal

10. Trade waste discharge to sewer must meet the requirements of CRC Water and Waste’s Trade Waste Environmental Management Plan (TWEMP).
A report demonstrating that the facility complies with the TWEMP must be submitted to and be approved by Council prior to the issue of a Development Permit for Building Work.

The applicant must have all measures for pre-treatment installed prior to commencement of use.

Vehicle Parking

11. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of 51 spaces. 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 manoeuvering areas must be imperviously sealed, drained and line marked.

Protection of Landscaped Areas From Parking

12. Landscaped areas adjoining the parking area must be protected by a 150mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.

Parking Signage

13. Erect signs advising of the location of the off-street visitor parking area and access thereto. The signs must be erected prior to Commencement of Use. One sign must be located on the Grove Street frontage.

Bicycle Parking

14. Provide secured, on-site bicycle parking in accordance with Table 10-1 of AUSTROADS Guide to Traffic Engineering Practice Part 14 - Bicycles. Based on the provisions in Table 10-1 (page 133) the minimum number of parking spaces required for this development is 20 spaces. The bicycle parking area must be constructed prior to Commencement of Use.

Lighting

15. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.

External Works

16. Undertake the following works external to the land at no cost to Council:
a. Construct full width asphalt widening to the northern side of the Grove Street frontage immediately adjacent to the site of the Tavern extension;

b. Provision of concrete crossovers and aprons in accordance with FNQROC Development Manual Standard Drawing 1015;

c. Make good the kerb(s) at redundant crossover(s);

d. Upgrade the street lighting to comply with requirements of the FNQROC Development Manual;

e. Construct tree guard around the existing trees in the road reserve. The tree guard is to include a 450mm wide maintenance strip in accordance with the FNQROC Standard Drawing S1000;

f. Repair any damage to existing kerb and channel, footway or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

g. Linemark parking spaces in front of and adjacent to the subject land at Grove Street;

h. Relocate/erect traffic/parking signs outside the subject land (and/or adjacent properties) where necessary as a result of the development;

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e. the provision of temporary kerb ramps if pedestrian diversions are necessary.

The external works outlined above require approval from Council in accordance with Local Law 22 – (Activities on Roads). Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Street Lighting
17. Street lighting along the full frontages is to be upgraded to the applicable Lighting Category and lighting columns are to be of steel construction.
Speed Control

18. Provide a means of speed control at the entry exit point to the carpark at the property boundary.

Above Ground Transformer Cubicles/ Electrical Sub-Stations

19. Above ground transformer cubicles and/or electrical sub-stations are to be positioned so that they do not detract from the appearance of the streetscape and must be clear of footpath areas. This will require cubicles/sub-stations to be setback from the street alignment behind a screen of landscaping, or incorporated within the built form of the proposed building. Details of the electrical sub-station positioning must be endorsed by the Chief Executive Officer prior to the issue of Development Permit for Building Work.

Construction Access

20. Vehicular access to the site for construction and demolition purposes must be provided from Grove Street only, unless authorised by the Chief Executive Officer.

Stockpiling and Transportation of Fill Material

21. Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

a. peak traffic times; or
b. before 7am or after 6pm Monday to Friday; or
c. before 7 am or after 1pm Saturdays; or
d. on Sundays or Public Holidays.

22. Dust emissions or other air pollutants, including odours, do not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery & Plant

23. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.
Demolish Structures

24. All structures not associated with the approved development (including disused services and utilities) must be demolished and/or removed from the subject land prior to Commencement of Use.

Access Easement/s

25. Create an Access Easement to allow pedestrian access over Lot 2 SP 102690 in favour of Lot 1 SP102690, to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council.

The approved easement documents must be lodged and registered with the Department of Natural Resources and Water prior to the commencement of use.

26. Create an Access Easement to allow vehicle access and on-site manoeuvring over Lot 2 SP 102690 in favour of Lot 1 RP 735837, to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council. The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Water in conjunction with the Plan of Survey.

Landscaping Plan

27. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:

a. Deep planting of setback areas. In particular a dense screen of landscaping is to be provided along the western boundary adjacent to the existing multi unit housing;

b. Planting of the footpath with trees, using appropriate species with regard to any site constraints.

c. Inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Approval must be given to the applicant’s Landscape Architect/Designer.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.
Lawful Point of Discharge

28. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

Sediment and Erosion Control

30. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

Screen Fence

31. A screen fence must be provided to the side and rear boundaries of the subject land, to the satisfaction of the Chief Executive Officer. The fencing must be consistent in terms of design and materials with other fences in the locality. The fencing must be constructed such that it prevents light spillage to adjacent properties and reduces noise impacts. The fencing must be completed prior to the Commencement of Use.

Street Fencing

32. Any proposed fences and/or walls to any road frontage are to be limited to the following:

   a. 1.2 metres in height if solid; or
   b. 1.5 metres in height if at least 25% visually transparent; or
   c. 1.8 metres in height if at least 50% visually transparent.

Details of the street fencing must be detailed in the Landscape Plan and be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Noise Ameliorative Measures

33. The applicant/owner must at all times ensure that the operation of the Tavern does not cause a nuisance to residents living in the adjacent or surrounding properties by implementing noise ameliorative measures as outlined in a Noise Impact Study. The Noise Impact Study is to be prepared by a suitably qualified acoustic professional and is to provide information detailing the noise impacts to adjacent residential properties, whether such noise complies with relevant legislation and the mitigative methods recommended to the buildings and property which ensure that adjacent and surrounding residential properties achieve internal noise limits in accordance with noise regulations. The Noise Impact Study is to be submitted to and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.
At the completion of the building works and prior to use within the new areas at the Tavern, tests should be carried out by a suitably qualified acoustic engineer which verify that adequate attenuation measures have been provided to ensure the noise limits inside noise-sensitive premises (i.e. adjacent residential buildings) is achieved. Written confirmation by the suitably qualified acoustic engineer is to be provided to Council prior to the use of the Tavern extension verifying that noise limits specified are complied with.

34. Noise emanating from the car parking areas associated with loading activities and traffic movements in this facility must be attenuated to achieve the requirements for sensitive place (residence). The applicant/owner must submit an Acoustic Engineer's report demonstrating the ability of any proposed structures to achieve these requirements.

Plans and reports that ensure the above noise ameliorative measures are implemented into the design must be submitted and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

35. Noise from the mechanical equipment associated with the facility must be attenuated to achieve the requirements for sensitive place (residence). The applicant/owner must submit an Acoustic Engineer's report demonstrating the ability of the proposed structures to achieve these requirements, with particular respect to the location of plant and acoustic screening of plant.

Plans and reports that ensure the above noise ameliorative measures are implemented into the design must be submitted and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

36. The applicant/owner must prepare a Noise Management Plan to manage and control noise emissions from the premises while it is operating. In particular, the Noise Management Plan must include operational aspects relating to noise attenuation for the Tavern as outlined in the required Noise Impact Study. The Noise Management Plan must incorporate measures to reduce impacts to adjacent residents, including:

a. Patron use of the outdoor areas and beer gardens of the Tavern must be prohibited after 7.00pm;

b. The management of the Tavern must take all reasonable precautions to control noise emissions to nearby residences by Patron use of outdoor areas. In particular, the management of the Tavern should generally limit the number of Patrons in outdoor areas in a single area to 50 persons;
c. Entertainment conducted at the Tavern is prohibited in any outdoor area;

d. Deliveries to any business on the subject site must not be made prior to 7.00 am and after 6.00 pm.

The Noise Management Plan must be complied with at all times. The Noise Management Plan is to be submitted and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

37. The applicant/owner is not permitted to host “live band” entertainment at the premises. The applicant/owner is not permitted to play amplified music that will cause a nuisance to adjacent residential properties.

Hours of Operation

38. The hours of operation of the Tavern extension are restricted to between 12pm midday and 7pm, seven days per week.

Details of Development Signage

39. The development must provide clear and legible signage incorporating the street number for the benefit of the public.

Advertising Signage

40. Signs on the subject land must conform with Council’s Local Law No. 28 (Control of Advertising), to the requirements and satisfaction of the Chief Executive Officer.

Construction Signage

41. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including respective phone contact numbers:-

   a. Developer;
   b. Project Coordinator;
   c. Architect / Building Designer;
   d. Builder;
   e. Civil Engineer;
   f. Civil Contractor;
   g. Landscape Architect
Crime Prevention Through Environmental Design

42. The applicant/owner must ensure that all lighting and landscaping requirements complies with Council’s General Policy Crime Prevention Through Environmental Design (CPTED).

Health

43. Premises intended to be used for the storage, preparation, handling, packing and/or service of food must comply with the requirements of the Food Act 2006 and the Food Standards Code.

44. Prior to construction or alteration of any premises used for storage, preparation, handling, packing and/or service of food, application for such must be made with Council’s Public Health Unit.

45. An application for the construction or alteration of any food premises must be accompanied by two copies of plans drawn to a scale not smaller than 1:100. Such plans are to include details of ventilation (including mechanical exhaust ventilation systems), finishes to walls, floors and ceilings, details of the proposed layout and materials to be used in the construction of all fixtures, fittings and equipment. The plans should include detailed cross sections of all areas to be included in the construction or alteration. All works must be carried out in accordance with the requirements of the Food Act 2006, Food Safety Standards and AS 4674 – 2004 – Design, construction and fit-out of food premises.

46. Prior to operation of the food business, the operator must hold a current Food Licence issued by Councils Public Health Unit under the Food Act 2006. Every licensed food business is required to have a Food Safety Supervisor who has met specified competencies and is reasonably available at all times the business is operating. Contact the Council’s Public Health Unit for further information.

47. Noise from air conditioning units, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of the Environmental Protection Act 1994, Environmental Protection (Noise) Policy 1998.

Clearance Height

48. The proposed covered walkway is to be increased in height to ensure that the minimum clearance height required for service vehicles is provided.
CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

<table>
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<tr>
<th>Concurrence Agency</th>
<th>Concurrence Agency Ref</th>
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<td>Department of Main Roads</td>
<td>214/20A/102 (1596.06)</td>
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</tbody>
</table>

Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

ADVICE

1. This approval, granted under the provisions of the Integrated Planning Act 1997, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 3.5.21 of the Integrated Planning Act 1997.

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 potential cyclone warning 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 relevant Local Laws and statutory requirements.


5. Headwork contribution calculations are attached as Appendix 3. Please note that the contributions must be paid at the rates applicable at the time of payment. Updated calculations must be requested prior to payment.

EXECUTIVE SUMMARY:

The proposed development is to extend the existing Cock and Bull Tavern within the adjacent building previously accommodated by a Lawn Bowls Club. The proposal incorporates an additional 51 space car park. The proposal is consistent with the Acceptable Measures of the relevant codes within Cairns Plan. The application is Impact Assessable and received one objection during Public Notification. The matters raised in the objection can be overcome through appropriate conditions. The assessment of the application reveals that the proposal is consistent with the Planning Area and the surrounding land uses in the area and will not result in adverse impact to the area. Approval is recommended subject to conditions.
TOWN PLANNING CONSIDERATIONS:

Site and Surrounds

The proposal relates two properties known as Lot 2 SP 102690 (former Lawn Bowling Club site) and Lot 1 SP 102690 (containing the existing Cock and Bull Tavern) which have areas of 2,078 sqm and 3,394 sqm respectively. The total site area is therefore 5,472 sqm. The land is located on the northern side of Grove Street centrally within the block as well as on the corner of Digger Street. The lot containing the existing Cock and Bull Tavern has a car parking area to the rear that contains 16 spaces and is accessed off both Grove and Digger Streets.

The Tavern is a single storey building. The lot adjacent to the Tavern contains a disused clubhouse and bowling greens formerly used by the Masonic Bowling Club. The disused clubhouse is single storey and access is available via a driveway at the eastern end of the site. The bowling greens remain but have not been maintained to a playing standard.

Surrounding development to the west includes a two storey block of residential units followed by shops/offices at the corner of Grove Street and Sheridan Street. Land to the rear or north is vacant and land to the northeast is a backpackers. The surrounding area contains a mix of residential, tourist, commercial and hospital/medical uses. The sporting fields for the Cairns High School are located across Grove Street to the south.

Proposal

It is proposed to refurbish the existing disused lawn bowls clubhouse for the purpose of a Tavern extension to the adjacent Cock and Bull Tavern. The proposal involves an internal fitout of the clubhouse, a covered pedestrian walkway accessing the proposed tavern extension with the existing tavern and the creation of a 51 space car park at the rear of the extension over the current disused lawn bowling green. The refurbished building will contain an entry area, office/store, cold room, bar, lounge area, toilets and unenclosed beer gardens. The car park will be accessed via a two way driveway located at the eastern side of the site and obtaining access off Grove Street. The proposed car park and associated vehicle access will not be connected to or absorbed with the existing car park and accesses to the existing Cock and Bull Tavern. The proposed additional floor area (including beer gardens) is 510sqm. It is intended to employ 10 persons to work in the Tavern extension and the proposed hours of operation are Midday to 10pm, seven days per week. The height of the building is 3m and the proposed landscaped area over the lot containing the extension is 23.1%.

CairnsPlan

The existing Cock and Bull Tavern is located in a Commercial Planning area while the site containing the proposed extension is located in a Sport and Recreation Planning Area. The proposed extensions are an impact assessable inconsistent use in the Sport and Recreation Planning Area and hence were publicly notified.
Planning Scheme Codes

CairnsPlan Assessment

<table>
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<tr>
<th>Planning Area</th>
<th>Land Use</th>
<th>Code Applicability</th>
<th>Compliance</th>
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<td>Sport and Recreation &amp; Commercial</td>
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<td>Tavern</td>
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<td>Flood Management</td>
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<td>Parking &amp; Access Code</td>
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Sport and Recreation Planning Area

The lot containing the existing lawn bowls clubhouse and bowling greens - which is proposed to be converted into a Tavern - is in a Sport and Recreational Planning Area. This Planning Area has been applied to the site under CairnsPlan so that it reflects the use of the site for lawn bowls. The desired development outcomes of the Planning Area are closely tied in with using the land for active and sporting parklands as well as recreational pursuits. No specific mention of non-sporting or non-recreational type uses is made in the purpose/intent of the Planning Area. The proposed use is therefore inconsistent with the intent of the Planning Area. Despite this, adjacent properties are in either a Tourist and Residential Planning Area or a Commercial Planning Area where a Tavern is impact assessable. Surrounding land uses include backpackers accommodation, residential units, retail uses, office uses and the existing Cock and Bull Tavern. The site therefore contains an isolated parcel of Sport and Recreation land which does not reflect the general land use pattern of the area and does not relate to the predominant Planning Areas located in the area. The clubhouse has existed for many years and was licensed and provided entertainment and alcoholic beverages to its patrons.

The applicant submits the following with respect to the conflict between the proposed use and the Planning Area:

*It is acknowledged that a Tavern is identified as an Inconsistent Use in the Sport and Recreation Planning Area. However, it should be noted that the clubhouse for the Masonic Bowls Club contained a licensed bar area. A similar use is proposed in this application as an extension to the existing Tavern which has operated for a considerable time without any adverse effect on the amenity of the area.*
It is considered that despite the inconsistency between the proposed use and the overriding Planning Area, the proposed extension to the Cock and Bull Tavern is not dissimilar to the existing use. The Planning Area is unusual and out of place given the surrounding context. The proposal does not involve the construction of a new building and the proposal does not limit the ability to use the site for Sport and Recreation uses in the future. The proposed land use is therefore considered appropriate despite its inconsistency with the Planning Area.

**Land Use Impacts**

There is no code for Taverns in CairnsPlan. Matters relating to the use must therefore be considered under other codes within the scheme, namely the Planning Area code, the overlay codes and the general codes. The application has been assessed under the relevant codes within the scheme and is considered worthy of approval subject to conditions.

**Parking**

The proposed development results in a total floor area (including unenclosed beer gardens) of 510 sqm. CairnsPlan specifies a rate of 1 space per 10 sqm of bar, beer garden, etc. The proposal therefore creates a demand for 51 spaces. The application provides 51 spaces to the rear of the site which complies with the code.

**Impact of Proposal**

The proposal is an extension of an existing use and essentially results in the occupation of a building that was formerly used for a similar use. Notwithstanding this, the amenity to the adjacent two storey residential units adjacent needs to be taken into account, particularly with respect to noise, light spillage and the hours of operation. Conditions can be imposed preventing amplified noise, restricting the hours of operation and providing a landscaped buffer as well as undertaking acoustic attenuation in accordance with a Noise Impact Study to prevent noise impacts. To minimise the impact of the proposal to adjacent residential uses, the hours of operation shall be restricted to 12pm midday to 7pm, seven days per week.

**Public Notification/Submissions**

The proposed development was publicly notified in accordance with the requirements of the Integrated Planning Act. One submission was received relating to the proposal and is addressed as follows:

**The proposal has the potential to greatly devalue adjacent properties.**

**Officer Comment**

No evidence has been tendered to demonstrate that the proposal will devalue nearby properties.
The proposed car park is too close to the boundary of adjacent residential units to the west.

**Officer Comment**

The car parking layout complies with the relevant acceptable measures of the parking code. It is noted that a 4.5m setback is required to side boundaries that abut properties in a Residential 1, 2 and 3 Planning Area. The adjacent properties are in either a Commercial Planning Area or a Tourist and Residential Planning Area where the acceptable measure does not apply. Despite this, the car park has been designed such that vehicles will not park adjacent to neighbouring properties to the west as a driveway is proposed adjacent to those boundaries. An appropriate fence will be required to prevent light spillage and reduce noise impacts to adjacent properties.

The extended establishment will have a total of 67 car parks which could mean hundreds of people day and night, 7 days per week with approved hours of trading 17 hours per day. This would cause major disruption to residents through cars coming and going, doors opening and closing, odours from vehicles and noisy inebriated patrons.

**Officer Comment**

The concerns raised by the submitter are valid and conditions will be imposed that will minimise disturbances, including restricting the hours of operation, preventing amplified music and bands and construction of appropriate fencing and other sound attenuation measures.

The area is a long term established medium density residential area. Extensions to the Tavern could mean congregations of hundreds of people and associated noise of inebriated patrons, loud music, fights and the like which is already a problem with the existing Cock and Bull Tavern.

**Officer Comment**

The surrounding area contains a variety of uses, including some residential uses. The issue of noise and other amenity issues has been acknowledged in the report and appropriate conditions can be imposed to ensure adjacent residential amenity is preserved.

**Noise associates with daily garbage disposal in the early morning will cause a nuisance.**

**Officer Comment**

It is not anticipated that the removal of refuse from the site will pose an unreasonable amenity issue.
The atmosphere will be very different from the bowls club. This is to be for people to sit and drink at their leisure (rather than a quiet drink after a game of bowls) and to be entertained for an unlimited period of time, and for the duration of the establishments extended trading hours to 3am each day.

**Officer Comment**

This matter has been addressed previously. Restrictions on the hours of operation will be imposed and noise attenuation measures introduced to minimise impacts to neighbours.

**Lighting from the car park will impact on adjacent residents.**

**Officer Comment**

Conditions have been imposed to prevent lighting nuisance to adjacent properties.

**HEADWORKS / CONTRIBUTIONS:**

The application triggers Headworks Contributions which are included as conditions and provided as an appendix.

**Summary**

The proposed development is generally consistent with the relevant CairnsPlan Codes. Where issues have arisen, particularly with respect to amenity, conditions have been included in the recommendation to Council to ensure that the Performance Criteria are met. It is recommended that the application be approved.

L Jackson  
Planning Officer  
**Action Officer**

Simon Clarke  
Manager Development Assessment
APPENDIX 1 APPROVED PLAN(S) & DOCUMENT(S)
APPENDIX 2 CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

27 March 2009

Noel Briggs
Chief Executive Officer
Cairns Regional Council
PO Box 359
Cairns Qld 4870

Dear Mr Briggs

Cairns Regional Council: Captain Cook Highway (Sheridan Street)
Situated at 6-8 Grove Street, Cairns North
Lots 1 & 2 on SP 102690, Parish of Cairns
JAPT Pty Ltd
Proposed Material Change of Use (Tavern Extension) Application
Referral Agency Response (conditions apply)

I refer to the above application received at the Department 26 March 2009 requesting consideration of the above development.

Pursuant to sections 3.3.15, 3.3.16 and 3.3.18 of the Integrated Planning Act 1997, the Queensland Department of Main Roads, as a Concurrence Agency, has assessed the impact of the proposed development on the State-controlled road network and requires that Council include the following attached conditions of development for the subject application.

Should you have any queries regarding the response please contact Malcolm Hardy on telephone 4050 5511.

Council is requested to reflect the conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

This Department would appreciate a copy of Council's decision notice regarding the application.

A copy of this letter has been sent to the applicant.

Yours sincerely

Malcolm Hardy
Senior Planner Far North

Queensland Government
Department of Main Roads

Records

31 May 2009

Malcolm Hardy
Senior Planner Far North
## Conditions of Development and Statement of Reasons

### Council Ref:
8/8/1079

### Date:
27 March 2009

### State-controlled road:
Captain Cook Highway (Sheridan Street)

### Proposal:
Material Change of use (Tavern Extension)

### Real property description:
Lots 1 & 2 on SP 102690, Parish of Cairns

### Site locality:
6-8 Grove Street, Cairns North

### Applicant:
JAPT Pty Ltd

### Conditions of Development

<table>
<thead>
<tr>
<th>Layout</th>
<th>Reasons</th>
<th>Condition Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Unless otherwise approved in writing by Main Roads the development site layout must generally comply with JH Design Cairns Pty Ltd Site Plan Drawing No. 07039 01A, dated March 09.</td>
<td>To ensure the development proceeds in accordance with the proposal</td>
<td>s. 62 Transport Infrastructure Act 1994 (Qld)</td>
</tr>
<tr>
<td>2. Vehicular access between the state-controlled road (Sheridan Street) and the Subject Land shall be via Grove Street, to the satisfaction of Cairns Regional Council.</td>
<td>Main Roads must ensure that access between to the Subject Land does not adversely impact the safe and efficient operation of the state-controlled road</td>
<td></td>
</tr>
<tr>
<td>3. No direct vehicular access between the state-controlled road (Sheridan Street) and the Subject Land is permitted.</td>
<td>Advertising devices may obscure signage and distract motorists.</td>
<td>s. 50 Transport Infrastructure Act 1994 (Qld)</td>
</tr>
</tbody>
</table>

### Permitted Road Access Location

4. No advertising device for the proposed development is permitted within the state-controlled road reserve (Sheridan Street).
# APPENDIX 3 DEVELOPER CONTRIBUTION CALCULATIONS

## DEVELOPERS CONTRIBUTIONS

### SUMMARY

<table>
<thead>
<tr>
<th>Description</th>
<th>District No.</th>
<th>Other Details</th>
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</thead>
<tbody>
<tr>
<td>Water Supply</td>
<td>15</td>
<td>Inner City</td>
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<tr>
<td>Base Rate</td>
<td>$2,693.00</td>
<td>Current Rate ( Indexed ) $3,706.77</td>
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<tr>
<td>Base Rate - proposal</td>
<td>$568.00</td>
<td>Current Rate ( Indexed ) $743.07</td>
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<td>Base Rate - total</td>
<td>$3,261.00</td>
<td>Current Rate ( Indexed ) $4,449.84</td>
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<td>Base Date</td>
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<tr>
<td>Proposed Demand</td>
<td>7.3 Tax/Recreation ( per 70m2 gha)</td>
<td>7.29</td>
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<tr>
<td>Existing load</td>
<td>13.58</td>
<td>ERA</td>
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<tr>
<td>Total demand</td>
<td>20.87</td>
<td>ERA</td>
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<tr>
<td>Nominal use credit</td>
<td>13.58</td>
<td>ERA</td>
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<th>Wastewater</th>
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<th>Other Details</th>
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<td>Base Rate</td>
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<td>Current Rate ( Indexed ) $2,140.14</td>
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<td>Base Rate - proposal</td>
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### Water Supply

- **Adjustment Index**: R&B
- **District No.**: 15
- **District Name**: Inner City
- **Base Rate**: $2,693.00
- **Base Rate - proposal**: $568.00
- **Base Rate - total**: $3,261.00
- **Base Date**: Jan-03
- **Proposed Demand**: 7.29 ERA
- **Existing load**: 13.58 ERA
- **Total demand**: 20.87 ERA
- **Nominal use credit**: 13.58 ERA

### Wastewater

- **Adjustment Index**: R&B
- **District No.**: 24
- **District Name**: City
- **Base Rate**: $1,615.00
- **Base Rate - proposal**: $746.00
- **Base Rate - total**: $2,361.00
- **Base Date**: Jun-03
- **Proposed Demand**: 7.3 EDC
- **Existing load**: 13.58 EDC
- **Total demand**: 20.87 EDC
- **Nominal use credit**: 13.58 EDC

### Road Network

- **Adjustment Index**: R&B
- **District No.**: 35
- **District Name**: Carina Urban
- **Base Rate**: $4,363.00
- **Base Date**: Dec-04
- **Proposed Demand**: 0.00 ERA
- **Existing load**: 0.00 ERA
- **Total demand**: 0.00 ERA
- **Nominal use credit**: 0.00 ERA

### Drainage

- **Adjustment Index**: R&B
- **District No.**: 26
- **District Name**: Carina Business District
- **Base Rate**: $6.95
- **Base Date**: Dec-00
- **Proposed Demand**: 0.00 ERA
- **Existing load**: 0.00 ERA
- **Total demand**: 0.00 ERA
- **Nominal use credit**: 0.00 ERA

### Credit for Works Externeal

- **Works external**: 0.00
- **Opening balance of credits**: 0.00
- **Closing Balance for works external**: 0.00

### Water Quality

- **District No.**: 30
- **District Name**: Carina Business District
- **Base Rate**: $6.95
- **Base Date**: Dec-00
- **Proposed Demand**: 0.00 ERA
- **Existing load**: 0.00 ERA
- **Total demand**: 0.00 ERA
- **Nominal use credit**: 0.00 ERA

### Open Space

- **Adjustment Index**: Other
- **MCU Land Use / Planning Area**: BREF
- **Density**: 269 5 Person
- **Existing load**: 0.00
- **Total demand**: 0.00
- **Nominal use credit**: 0.00

### Amenities

- **Prepared**: Luke Jackson
- **Checked**: Sarri Cook
- **Prepared Date**: 7-May-09
- **Checked Date**: 7-May-09
- **TOTAL**: $2,145.45
### CAIRNSPLAN APPLICATIONS ONLY

#### DEVELOPERS HEADWORKS CONTRIBUTIONS

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<th>JAPT Pty Ltd</th>
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<td><strong>Catchment</strong></td>
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<td><strong>Stormwater Quality $2,145.45</strong></td>
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**TOTAL** | | | | | | $2,145.45 |

**Prepared by** | **Luke Jackson** | **on** | **7-May-09** | **Amount Paid** | **Date Paid** |
|----------------|-----------------|--------|-------------|----------------|--------------|

**Checked by** | **Sarah Cook** | **on** | **7-May-09** | **Receipt No.** | **Cashier** |

---

1. The Developer should confirm these details with City Assessment prior to arranging payment.
2. City Assessment must update these details if the effective quarter is no longer current.
3. City Assessment must update these details in the event of policy change or variation to Development Approval.
4. These details must be presented at time of payment.
5. A photocopy of these details must be forwarded to City Assessment where payment is receipted.
6. The original of these details to be forwarded to Finance Department where receipt once payment is receipted.
7. Payment details to be entered into Developer Contributions Register by Finance Officer.