



BNC Ref. DA018-23
TCC Ref. MCU23/0014

>> 14 November 2025

ASSESSMENT MANAGER
(RESPONSIBLE ENTITY)
TOWNSVILLE CITY COUNCIL
PO BOX 1268
TOWNSVILLE QLD 4810

Dear Assessment Manager/Responsible Entity,

**RE: CHANGE NOTICE UNDER s78 OF THE PLANNING ACT 2016
CHANGE APPLICATION (OTHER) TO AN EXISTING MATERIAL CHANGE OF USE DEVELOPMENT PERMIT
270 KERN BROTHERS DRIVE, KIRWAN QLD 4817 (RPD: LOT 2 on SP347663)**

BNC Planning acting on behalf of the applicant and landowner lodge this *change application* under section 78 of the *Planning Act 2016* (the Act) for changes to the assessment managers conditions associated with an existing development approval over the above referenced premises. The subject development approval is in the form of a material change of use development permit to facilitate a Hotel use (the Avenues Hotel).

1.0 INTRODUCTION

The existing development approval (council ref. MCU23/0014 as amended) is in the form of a development permit for a material change of use issued by the Townsville City Council as assessment manager by way of a Change Application (Other Change) dated 07 February 2024. The current approval was issued subject to conditions, was approved in full and involved a referral agency response (Powerlink Queensland). Powerlink Queensland will remain a referral agency for this Change Application.

The amendments proposed as part of this change application are to facilitate an extension of the hours of operation for the Hotel in response to a Noise Assessment that supports the extension of activities, excluding the sale of liquor. More specifically, the applicant is seeking to extend the closing hours from 2am to 4am excluding the serving of alcohol, which will remain at 2am. The change is considered by Council to be a *substantially different* development. Accordingly, the proposed change constitutes an *other change* under the *Planning Act 2016* (the Act) and in accordance with schedule 1 of the *Development Assessment Rules*.

Given the continued consistency with the applicable assessment benchmarks from the relevant planning instruments, a direct assessment against each of the components and the planning scheme is not considered necessary. Alternatively, a higher-level discussion and justification against the current conditions of approval has been provided to show that the proposal remains generally consistent with the existing development permit and in turn remains generally consistent with the codes and policies from the applicable planning instruments. The justification provided as part of the original development application, along with the reasoning provided within this

BNC Planning Pty Ltd
ABN 80 147 498 397
Office 7 / Ground Floor / 41 Denham Street
TOWNSVILLE CITY QLD 4810
PO BOX 5493 TOWNSVILLE Q 4810
(07) 4724 1763 or 0438 789 612
enquire@bncplanning.com.au
www.bncplanning.com.au

Notice and attached supporting Noise Assessment, provides assessing authorities with the surety that the applicable policy outcomes continue to be addressed and that this other change request can be supported.

2.0 OTHER CHANGE REQUEST

The relevant components of the current development approval which require amending are listed and discussed below:

ASSESSMENT MANAGER DECISION NOTICE

Townsville City Council Decision Notice MCU23/0014.01

Assessment Manager's Conditions

1. PROPOSAL PLAN (Amend)

Condition 1 will require amending to refer to the additional Noise Assessment report attached. The current Noise Report needs to remain given it makes reference to certain acoustic mitigation works that have already been undertaken. The general wording of the condition remains relevant.

3. STAFF DOSAS (DESIGNED OUTDOOR SMOKING AREA) (Amend)

Condition 3 will require amending to reflect the update Noise Report attached. Specifically, an extension of the staff DOSA hours through to 4am in line with the rest of the use. The general wording of the condition remains relevant, including the Advice note.

17. HOURS OF OPERATION (Amend)

Condition 17 is proposed to be amended to reflect the recommendations of the attached Noise Assessment. The report supports an extension to the hours of operation for the Hotel without the need to impose any additional controls. It is however noted that the assessed noise levels are close to the decibels thresholds and as such require additional operational steps to be taken to ensure compliance is not an issue. In response, the applicant/operator is not seeking for these extended hours to include the service of alcohol, which will remain at a 2am cessation. This operational policy ensures that the behaviour of patrons during the hours of 2am – 4am is more manageable and commensurate with the need to limit noise sources in general and provides more certainty to Council that the recommendations from the Noise Assessment are practical and achievable.

It is pertinent to highlight that a planning approval is only one of many statutory permits and licenses that govern the use and operation of a hotel. Most notably the Commercial Hotel License issued by the Office of Liquor and Gaming Regulation under the *Queensland Liquor Act 1992*. This liquor license regulates specific noise outputs through conditions of approval in the same way as a development permit, but to a greater degree of scrutiny. The compliance powers able to be utilized by the Office of Liquor and Gaming Regulation are significantly greater than those of Council, with on-the-spot fines able to be issued at short notice and ultimately the removal of liquor licensing all together. The point being that compliance and regulation of noise impacts is not considered to be an issue for the proposed extended hours of operation given there is no ability for the venue to operate for any extended period of time outside of the imposed noise limits without risking the loss of their liquor license. As such, it is requested that Condition 17 be re-worded as follows:

Hotel

- (a) Liquor is not to be served after 2:00am.
- (b) Internal areas: 10:00am to 04:00am, Monday to Sunday;
- (c) Function Terrace and Bistro Terrace and Gaming Designated Outdoor Smoking Area (DOSA): 10:00am to 04:00am, Monday to Sunday;
- (d) All other external terraces and/or balconies, including the Sports Bar Terrace (upper and lower levels): 10:00am to 10:00pm Monday to Sunday.

The liquor store hours are not proposed to change.

3.0 SUMMARY

The following information has been included in support of this *Change Application*:

- Change Application Form (Form 5)
- DA Form 1 (Part 7 only)
- Noise Assessment Report
- A full copy of current development approval MCU23/0014

The proposal constitutes a development of the site in a manner that continues to meet the strategic outcomes sought by the planning instruments, that responds to the economic demands and localised environmental constraints of the locality and is consistent with the expectations of the community and previous development decisions over the site. This is based on the following characteristics of the proposal:

- The proposal remains generally consistent with an approved development outcome for the site and remains appropriate given the physical characteristics, surrounding land uses and the existing development and use rights;
- The proposed amendments do not substantially change the type, scale or intensity of the approved development;
- The proposal remains consistent with the *Strategic Framework* for the planning scheme;
- The proposal remains consistent with the outcomes prescribed by all other relevant codes and policies;
- The proposal remains consistent with the outcomes prescribed in the relevant State codes, State development assessment provisions and all other relevant regional, State and Federal level planning policies.

I trust this information is sufficient for acceptance of the *change application* as *properly made* subject to payment of any relevant processing fees. Please contact me should there be any issues or if you require any further information.

Kind regards,



Benjamin Collings, Director
BNC Planning Pty Ltd

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