

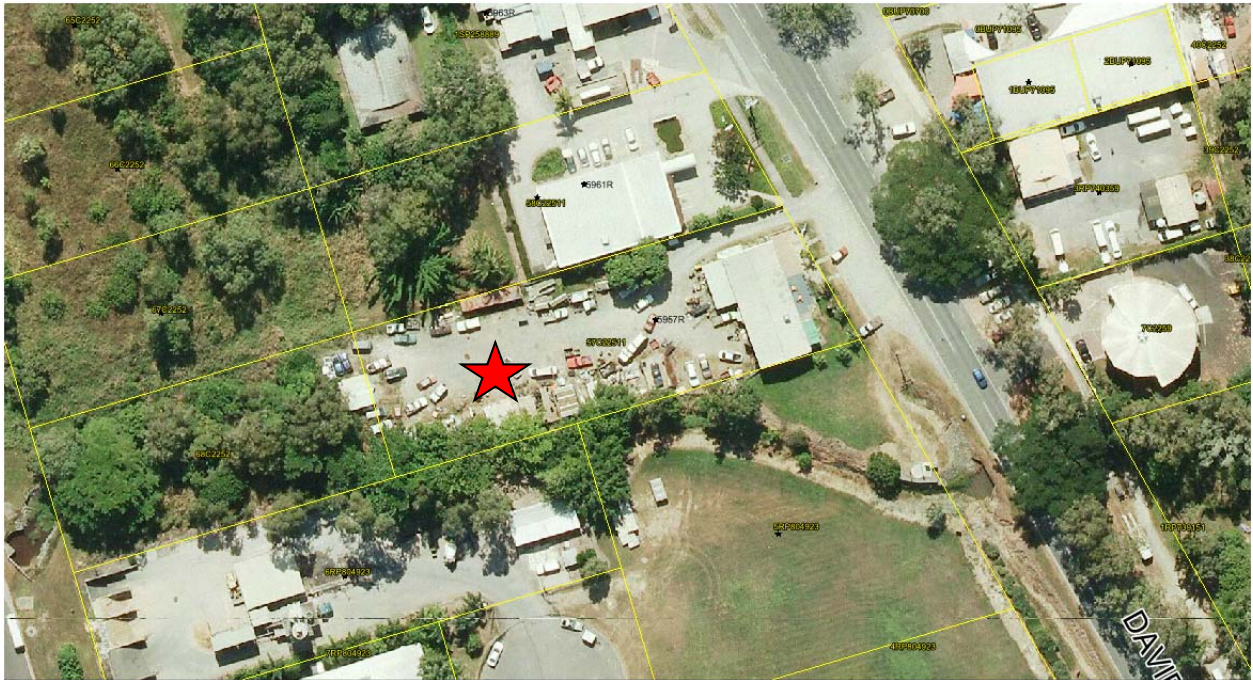
ORDINARY MEETING 4 NOVEMBER 2014	5.2
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APPEAL 123 OF 2014 (GORDON ALLAN WELLHAM VS DOUGLAS SHIRE COUNCIL) NEGOTIATED DECISION FOR MATERIAL CHANGE OF USE (CODE ASSESSMENT) SERVICE INDUSTRY- 5957R DAVIDSON STREET CRAIGLIE

Jenny Elphinstone: (D#431972)

<u>PROPOSAL:</u>	MATERIAL CHANGE OF USE FOR SERVICE INDUSTRY
<u>APPLICANT:</u>	GORDAN WELLHAM 3 CAPTAIN COOK HIGHWAY CRAIGLIE QLD 4873
<u>LOCATION OF SITE:</u>	5957R DAVIDSON STREET, CRAIGLIE (AKA 3 CAPTAIN COOK HIGHWAY)
<u>PROPERTY:</u>	LOT 57 ON C22511
<u>LOCALITY:</u>	PORT DOUGLAS AND ENVIRONS
<u>PLANNING AREA:</u>	INDUSTRY
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 2008
<u>REFERRAL AGENCIES:</u>	DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE AND PLANNING (ADJACENT TO STATE-CONTROLLED ROAD)
<u>NUMBER OF SUBMITTERS:</u>	NOT APPLICABLE
<u>STATUTORY ASSESSMENT DEADLINE:</u>	7 NOVEMBER 2014
<u>APPLICATION DATE:</u>	16 DECEMBER 2013
<u>APPENDIX:</u>	1. NEGOTIATED DECISION 2. ADR AGREEMENT

LOCALITY PLAN



RECOMMENDATION:

- A. That Council instruct its Solicitors to negotiate the settlement of the Planning & Environment Court Appeal 123 of 2014 (Cairns) for the appeal against conditions of the Negotiated Decision for the Material Change of Use for Service Industry over land described as Lot 57 on C22511, located at 5957R Davidson Street, Craiglie, in the following manner:**
- 1. The following conditions are deleted:**
- a. Condition 3(f) as follows is deleted:**
- f. Either:**
- i. Include “No Standing” signage adjacent to the road frontage for the full width of the property frontage to Davidson Street (Captain Cook Highway);**
- OR**
- ii. Where the Applicant demonstrates agreement from the State of Queensland for the provision of a bus stop and shelter adjacent to the land on the State-controlled road:**
- Provide a bus stop and shelter adjacent to the land; and**

- Provide “No Standing” signage adjacent to the remaining road frontage to Davison Street (Captain Cook Highway); and
- Design of the bus stop and shelter is to match the bus stop and shelter currently existing nearby on the eastern side of Davidson Street (Captain Cook Highway) to the satisfaction of the Chief Executive Officer;

b. Condition 14(c) as follows is deleted:

14. c. Provide ‘No standing’ signs to the whole width of the road frontage to Davidson Street (Captain Cook Highway).

c. Condition 25 as follows is deleted:

25. Where the Applicant has chosen to provide a bus stop and shelter in accordance with Condition 3.f.ii all associated costs with the provision of the bus stop and shelter must be borne by the land owner. The bus stop signage (indicating a maximum stop time of 30mins) must be provided prior to the commencement of the land use and shelter must be provided within twelve months of the commencement of the land use.

- B. That Council delegate authority, pursuant to section 257 of the *Local Government Act 2009*, to the Chief Executive Officer for all other matters in the approval for the settlement of the Planning and Environment Court Appeal 123 of 2014 (Cairns).
- C. Council resolves to advise the Appellant that, if and when it sees fit, Council will exercise its power to install any official traffic signs to regulate parking along Davison Street / Captain Cook Highway.

EXECUTIVE SUMMARY:

At the Ordinary Meeting held on 3 June 2014 Council resolved to issue a Negotiated Decision Notice for the Material Change of Use for a Service Industry. Subsequently the Applicant appealed conditions of the Notice seeking the deletion of Condition 3(f) and the inclusion of a new Condition to allow 30 minute parking on the Captain Cook Highway. A copy of the Negotiated Decision is included in Appendix 1.

The Planning and Environment Court directed the parties attend an Alternative Dispute Resolution (ADR) mediation meeting which was held at Cairns Courthouse on Wednesday 22 October 2014 with the Court Registrar John Taylor. Mr Wellham stated he considered the requirement to provide a bus stop and shelter unreasonable due to the associated cost and noted his vehicles were not licensed to stop at a “bus stop.” Council’s representatives explained that: the application had been lodged on the premises that all demand associated on the use was provided on the land; that Council had determined the application on this consideration; the Planning Scheme sought a high standard of amenity in this area of Craiglie; there was no physical ability to provide parking on this side of the road; the conditions of the approval required for a grassed verge between the property boundary and the road pavement; and Council held authority to regulate parking on the state-controlled road.

The parties agreed that the Planning Scheme requires the demand for parking and loading, generated by the development to be contained on the land. Council's representatives agreed that the conditions requiring the bus stop and no standing signs could be deleted as Council held authority to regulate parking on the road when and if it sees fit. The Appellant commented that he could include signage on his premises to indicate the availability of parking rear of the building which would assist visitors to his land. Council's representatives and the Appellant agreed the appeal could be settled on this basis and that each party would bear its own costs. A copy of the ADR agreement is included in Appendix 2.

Council officers recommend that Council settle the appeal as per the ADR agreement.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Regulator:	Meeting the responsibilities associated with regulating activities through legislation or local law.
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Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

APPENDIX 1. NEGOTIATED DECISION NOTICE



PO Box 723 Mossman Qld 4873
www.douglas.qld.gov.au
enquiries@douglas.qld.gov.au
ABN 71 241 237 800

OUR REF: MCUC 001/2013 (422145)

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

4 June 2014

Mr Gordon Wellham
3 Captain Cook Highway
CRAIGLIE QLD 4877

Dear Sir

**NEGOTIATED DECISION NOTICE UNDER S 363 SUSTAINABLE
PLANNING ACT 2009: DEVELOPMENT APPLICATION FOR
5957R DAVIDSON STREET, CRAIGLIE**

With reference to the abovementioned request for a Negotiated Decision, which was determined by Council at the Ordinary Meeting held on 3 June 2014, please find attached the relevant Negotiated Decision Notice.

The notice includes extracts from the Act with respect to lodging an Appeal.

This notice also includes an Infrastructure Charges Notice issued in accordance with section 648F of the *Sustainable Planning Act 2009*.

Should you have any enquiries in relation to this Negotiated Decision Notice, please contact Jenny Elphinstone of Council's Development and Environment Branch on telephone number (07) 4099 9482.

Yours faithfully

Donna Graham
Manager Development & Environment

Att

43.2013.1
1/34



PO Box 723 Mossman Qld 4873
 www.douglas.qld.gov.au
 enquiries@douglas.qld.gov.au
 ABN 71 241 237 800

Administration Office
 64 - 66 Front St Mossman
 P 07 4099 9444
 F 07 4098 2902

APPLICANT DETAILS

Gordon Wellham
 3 Captain Cook Highway
 CRAIGLIE QLD 4873

ADDRESS

5957R Davidson Street, Craiglie

REAL PROPERTY DESCRIPTION

Lot 57 on C22511

PROPOSAL

Service Industry >100 m²

DECISION

Approved subject to conditions (refer to approval package below).

DECISION DATE

This Negotiated Decision Notice dated 3 June 2014 replaces the Decision Notice dated 18 February 2014.

TYPE

Material Change of Use (Development Permit)

REFERRAL AGENCIES

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
State-controlled road	Department of State Development, Infrastructure and Planning	Advice or Concurrence	Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Works
 Development Permit for Plumbing Works
 Development Permit for Operational Works

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT

None

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)

Not in conflict

APPROVED DRAWING(S) AND/OR DOCUMENT(S)

The term 'approved drawing(s) and/or document(s)' or other similar expression means:

Drawing or Document	Reference	Date
Site Plan	Exemplar Drawing 101, Revision B	22 January 2014
Car Parking and Pedestrian Flows	Exemplar Drawing 102, Revision B	22 January 2014
Ground Floor Proposed Plan	Exemplar Drawing 202, Revision B	22 January 2014
Main Building, East and West Elevations	Exemplar Drawing 204, Revision B	22 January 2014
Main Building North and South Elevations	Exemplar Drawing 205, Revision B	22 January 2014
Schematics	Exemplar Drawing 500, Revision B	22 January 2014
Ground Floor Existing	Exemplar Drawing 201, Revision A	6 December 2013
First Floor Existing and Proposed	Exemplar Drawing 203, Revision A	6 December 2013
Canopy Plan	Exemplar Drawing 206, Revision A	6 December 2013
Canopy Elevations	Exemplar Drawing 207, Revision A	6 December 2013
Landscape Overview	Exemplar Drawing 301, Revision A	6 December 2013
Landscape Plan	Exemplar Project no 1301, Drawing 302a	12 December 2013
Landscape Details	Exemplar Project no 1301, Drawing 302b	12 December 2013
Driveway Plan	Exemplar Project No 1301, Drawing 302c dated 12 December 2013 and as amended by condition 3	To be determined

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council;

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

- b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

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.

Amendment to Design

3. The proposed development must be amended to accommodate the following changes:
- a. Provide a two (2) metre wide concrete footpath to the full width of the property frontage external to the land and landscape the verge between the footpath and the road pavement to Davidson Street (Captain Cook Highway) with plant material (not gravel or paving). The Driveway Plan, Exemplar Project No 1301, Drawing 302c dated 12 December 2013, is to be amended deleting the 'Manicured Turf and Exiting Verge' and including the concrete pathway and landscaping in accordance with *FNQROC Development Manual* standard and any requirements of the Department of Transport and Main Roads;
 - b. Remove the existing grease trap, currently inside the premises;
 - c. Where it is proposed to provide onsite vehicle washing provide a silt trap to the covered, vehicle wash bay area;
 - d. Remove the two (2) mango trees adjacent to the parking area in the rear yard adjacent to Council's sewer easement, by cutting the trunk above ground level and poisoning the remaining stump;
 - e. Remove pole structures in the front of the building and in the road reserve; and
 - f. Either:
 - i. Include 'No Standing' signage adjacent to the road frontage for the full width of the property frontage to Davidson Street (Captain Cook Highway);

OR

- ii. Where the Applicant demonstrates agreement from the State of Queensland for the provision of a bus stop and shelter adjacent to the land on the State-controlled road:
 - Provide a bus stop and shelter adjacent to the land; and
 - Provide 'No Standing' signage adjacent to the remaining road frontage to Davidson Street (Captain Cook Highway); and
 - Design of the bus stop and shelter is to match the bus stop and shelter currently existing nearby on the eastern side of Davidson Street (Captain Cook Highway) to the satisfaction of the Chief Executive Officer;

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Details of the above amendments must be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Operational Work.

Vehicle Wash Bay / Detailing Area

4. Where the land use includes a vehicle wash bay it must be undertaken in a covered and bunded area that is connected to Council's sewer with a silt trap and any other compliance requirements in accordance with a Trade Waste Environmental Management Plan 2011. The infrastructure must be to the satisfaction of the Chief Executive Officer and compliance achieved prior to the commencement of washing vehicles on the land.

Staff Parking

5. Staff vehicles are to be parked on the land.

Airconditioning Screens

6. Airconditioning units located above ground level and visible from the street must be screened with appropriate materials to improve the appearance of the building.

Sustainable Development

7. The office component of the Service Industry must comply as far as practically possible with the provisions of 4.6.7 Sustainable Development Code of the Douglas Shire Planning Scheme 2006, or a higher standard as required by the *Building Code of Australia* (BCA).

Damage to Council Infrastructure

8. In the event that any part of Council's existing sewer, water supply, stormwater and/or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owner's/builder's cost, prior to the Commencement of Use.

Water Supply Internal

9. When providing any water supply sub-metering, where installed, the infrastructure must be designed and installed in accordance with the *Plumbing and Drainage Act* 2002 and the *Water Act* 2000 at a location on the land agreed to by the Chief Executive Officer.

Vehicle Parking

10. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of six (6) spaces. The car parking must be provided prior to Commencement of Use.

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 having regard to the following:

43.2013.1
5/34

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

- a. The initial driveway access from the state-controlled road and the disabled driver car parking space and connecting pedestrian access to the building is to be sealed, drained and marked;
- b. The remaining driveway and vehicular manoeuvring areas must be appropriately gravelled with crushed rock, drained and marked.

All works are to be undertaken to the satisfaction of the Chief Executive Officer under a Development Permit for Operational Work.

Bicycle Parking

11. Provide secured, on-site bicycle parking in accordance with Table 10-1 of *AUSTROADS Guide to Traffic Engineering Practice Part 14 – Bicycles* for a minimum of two (2) parking spaces. The bicycle parking area must be constructed prior to Commencement of Use to the satisfaction of the Chief Executive Officer.

Loading and Unloading

12. All loading and unloading must occur on the land.

Lighting

13. 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

14. Undertake the following works external to the land at no cost to Council:
 - a. Construct a two (2) metre wide concrete footpath to Davidson Street (Captain Cook Highway) frontage, adjacent to the land and connecting with the adjoining pathway and in accordance with *FNQROC Development Manual Standard Drawing S1035*;
 - b. Landscape the verge between the footpath and the road pavement for Davidson Street (Captain Cook Highway) with plant material (not gravel or paving) for the whole width of the road frontage excepting the vehicle crossover to the requirements of the Department of Transport and Main Road; and
 - c. Provide 'No Standing' signs to the whole width of the road frontage to Davidson Street (Captain Cook Highway).

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded.

The external works outlined above constitute Operational Works. 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.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Stockpiling and Transportation of Fill Material

15. 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;
 - b. before 7:00 am or after 6:00 pm Monday to Friday;
 - c. before 7:00 am or after 1:00 pm Saturdays; or
 - d. on Sundays or Public Holidays.
16. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

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

Landscaping Plan

18. The site must be landscaped in accordance with details included on a Landscaping Plan. The completion of all landscaping works must be undertaken in accordance with the approved plan prior Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Lawful Point of Discharge

19. 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.

Minimum Fill and Floor Levels

20. All floor levels in all buildings must be located 100 mm above the Q100 flood immunity, plus any hydraulic grade effect (whichever is the greater), in accordance with the *FNQROC Development Manual* and Planning Scheme requirements.

Street Fencing

21. 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 per cent visually transparent; or
 - c. 1.8 metres in height if at least 50 per cent visually transparent.

Refuse Storage

22. Refuse storage is required to service the site to the satisfaction of the Chief Executive Officer. The refuse bin enclosure must be roofed and enclosed.

43.2013.1
7/34

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Service Area

23. No washing of vehicles is permitted on the land other than as undertaken in regards to the requirement of Condition 4 above.

Crime Prevention Through Environmental Design

24. All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).
25. Where the Applicant has chosen to provide a bus stop and shelter in accordance with Condition 3.f.ii all associated costs with the provision of the bus stop and shelter must be borne by the land owner. The bus stop signage (indicating a maximum stop time of 30 minutes) must be provided prior to the commencement of the land use and shelter must be provided within 12 months of the commencement of the land use.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
Department of State Development, Infrastructure and Planning	SDA-0114-007493	24 January 2014	412628

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 *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 339 and section 341 of the *Sustainable Planning Act 2009*.
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 all relevant Local Laws and statutory requirements.
4. 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.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

5. Infrastructure Charges

A monetary contribution to Council towards the provision of infrastructure is required in accordance with the Infrastructure Charges Notice attached to this decision. The contribution payable will be the lesser amount as calculated in accordance with:

- a. The Regulated Charge for non-residential development as detailed in the State Planning Regulatory Provision;
- or,
- b. The Planning Scheme Policy.

Contributions must be paid at the rates applicable at time of payment. Payment is required prior to the issue of a Development Permit for Building Work.

LAND USE DEFINITIONS*

In accordance with Douglas Shire Planning Scheme 2008, the approved land use of Service Industry is defined as:

Service Industry

Means any premises used, or intended to be used for trades and services that cater to the tourist and marine activities in Port Douglas. This includes the manufacturing of goods on the premises, depots for receiving goods to be serviced and any administration and minor sales functions associated with the use, where these are carried out on the same Site and are ancillary to the Service Industry activity. Service Industry uses are limited to uses, which are allied to tourist and marine activities in Port Douglas.

The term may include but is not limited to the following activities:

- *Limousine/bus depot;*
- *Cleaning or detailing of motor vehicles;*
- *Catering business;*
- *Servicing of small items and appliances such as:*
 - *Bicycles;*
 - *Cameras;*
 - *Electrical appliances for domestic or office use; and*
 - *Marine equipment;*
- *Printing;*
- *Fishing gear manufacturing;*
- *Marine engineering;*
- *Bulk storage and ancillary sales of:*
 - *Indoor/Outdoor furniture;*
 - *Hardware supplies;*
 - *Raw materials;*
 - *Plants and Landscaping supplies;*

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

Any off-Site effects do not cause any detriment to the amenity of the area. In particular, the noise levels generated, any dust, fumes, odours or other emissions produced from the Site, the appearance of the Site and any traffic generated by the activities on the Site must be managed so as not to cause detriment to adjoining Sites.

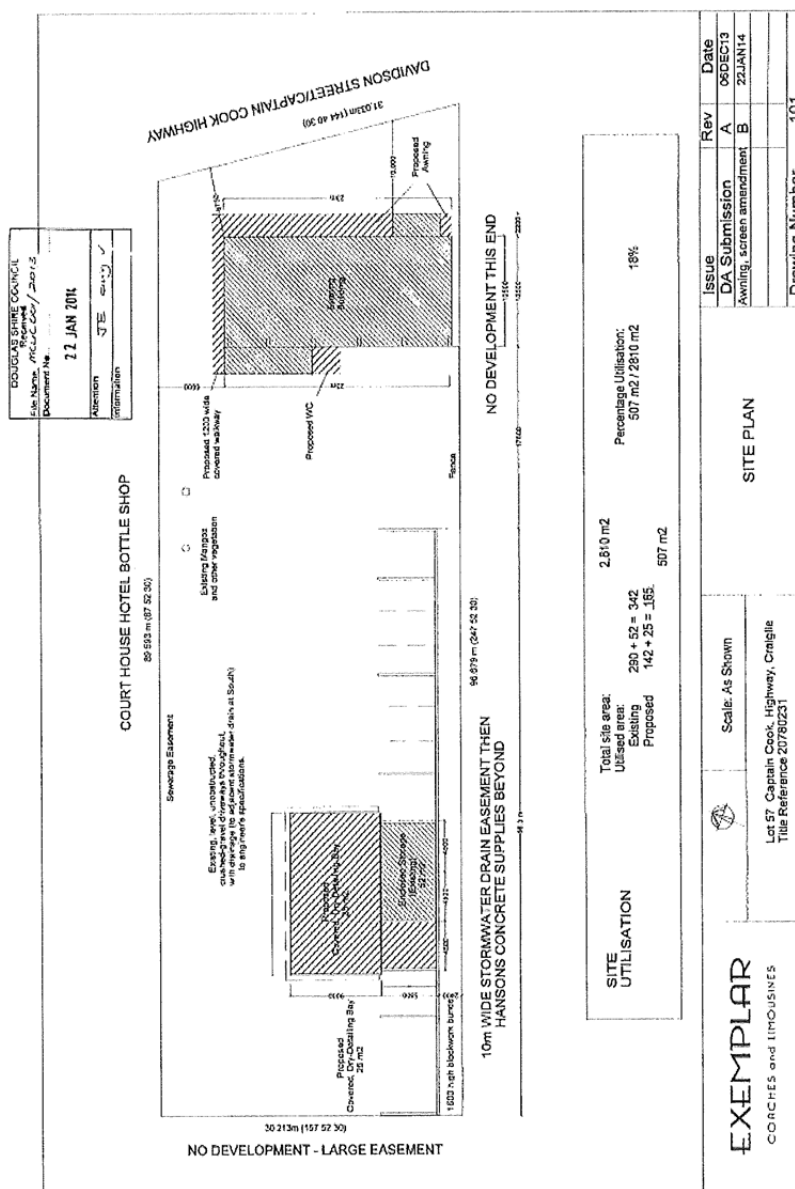
*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

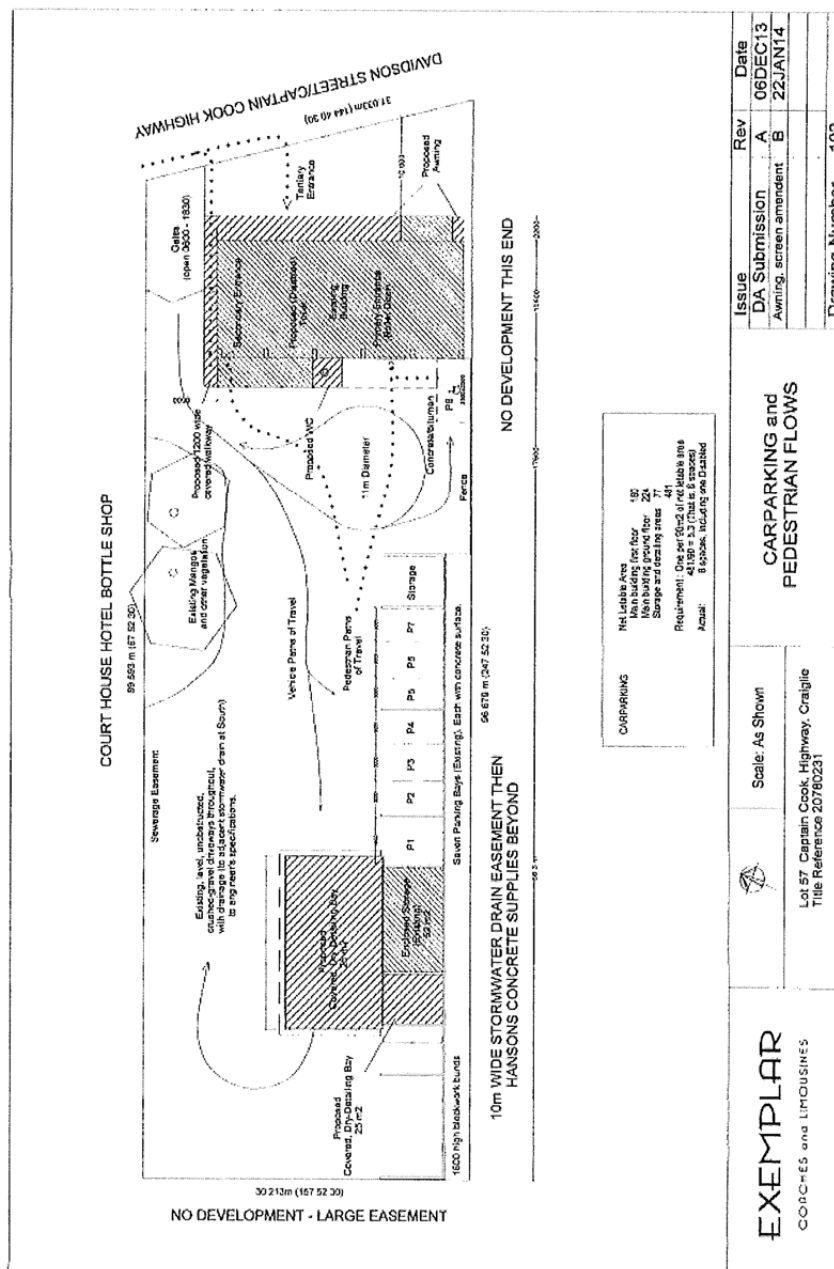
RIGHTS OF APPEAL

Attached

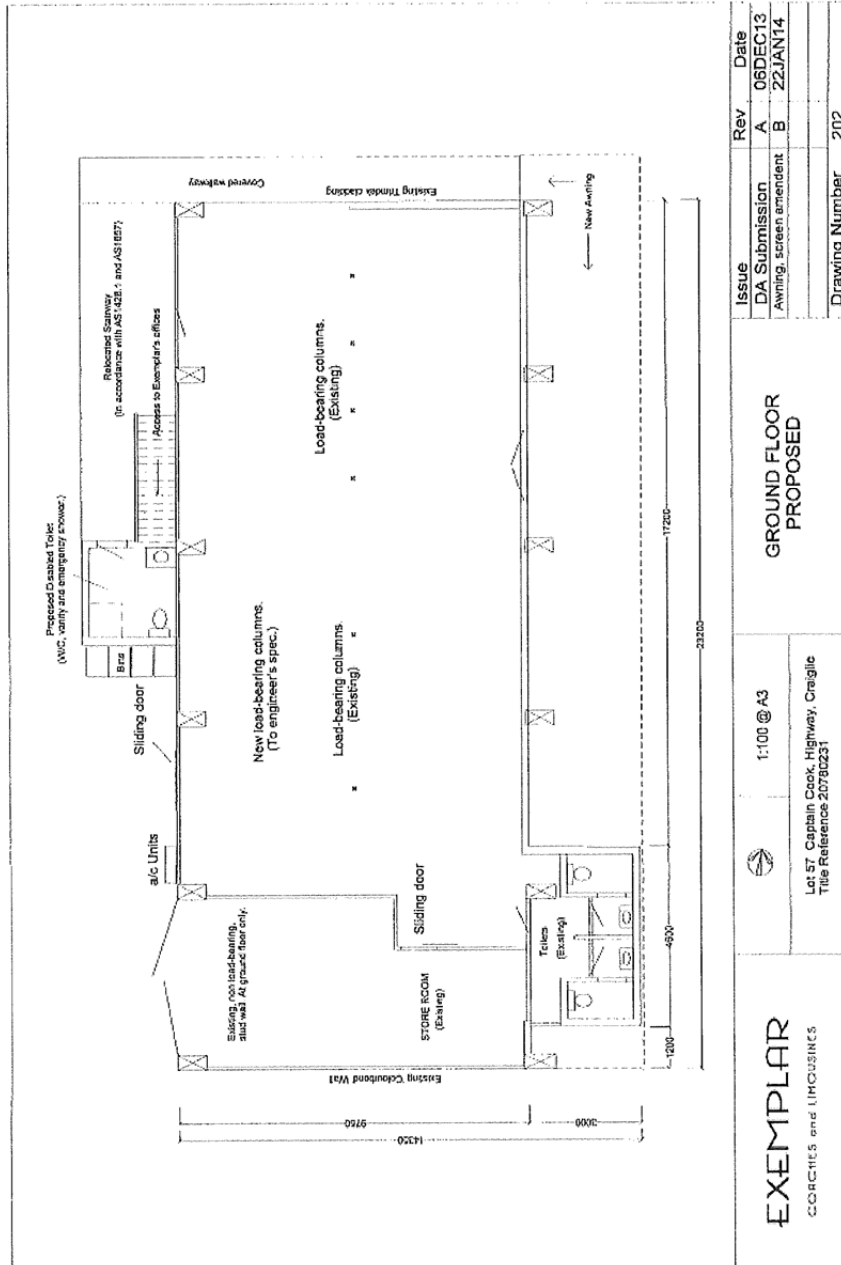
End of Decision Notice

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

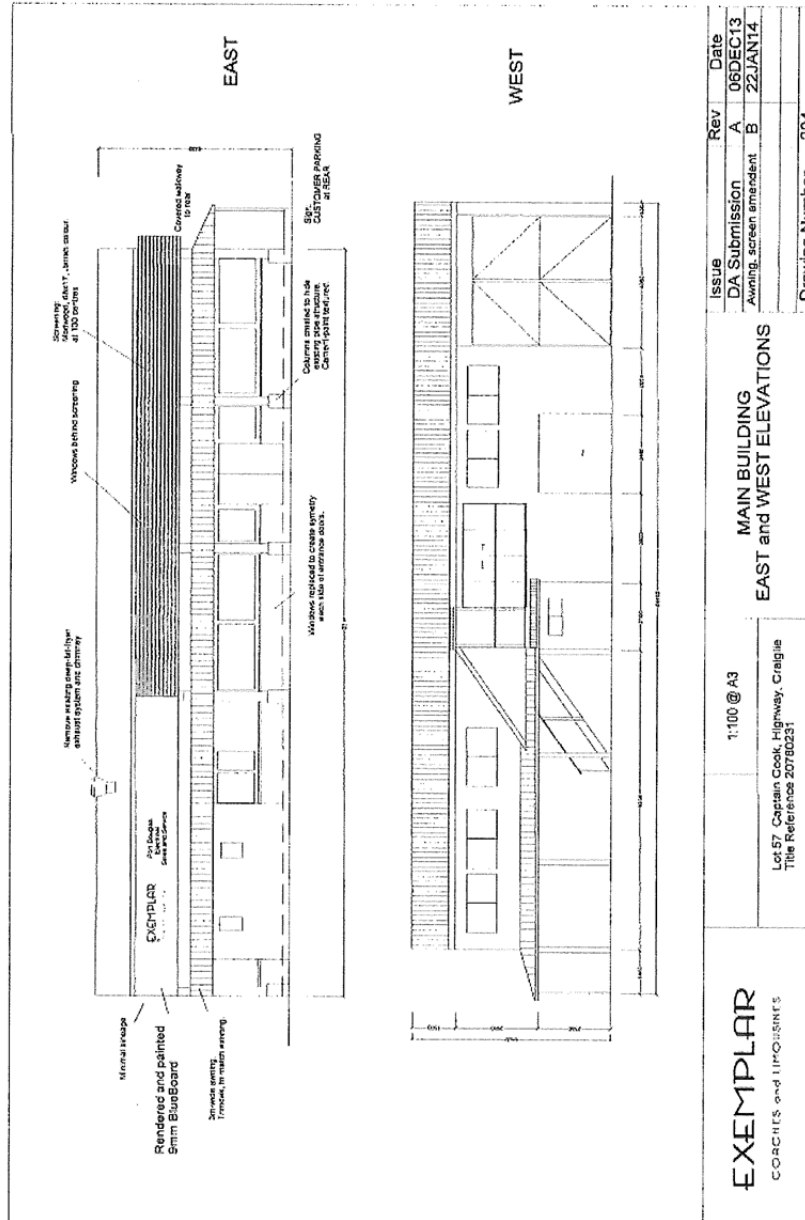




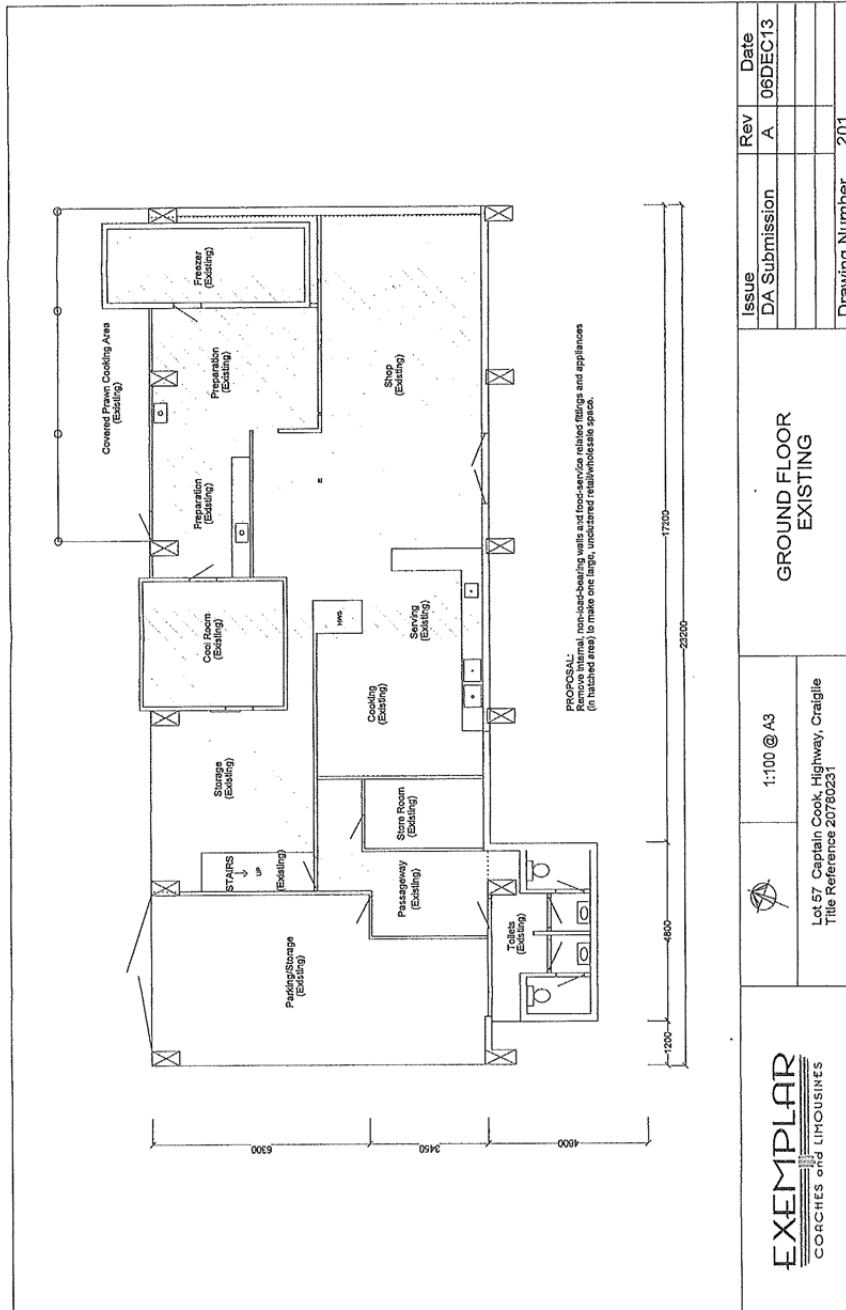
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SUSTAINABLE PLANNING ACT 2009**



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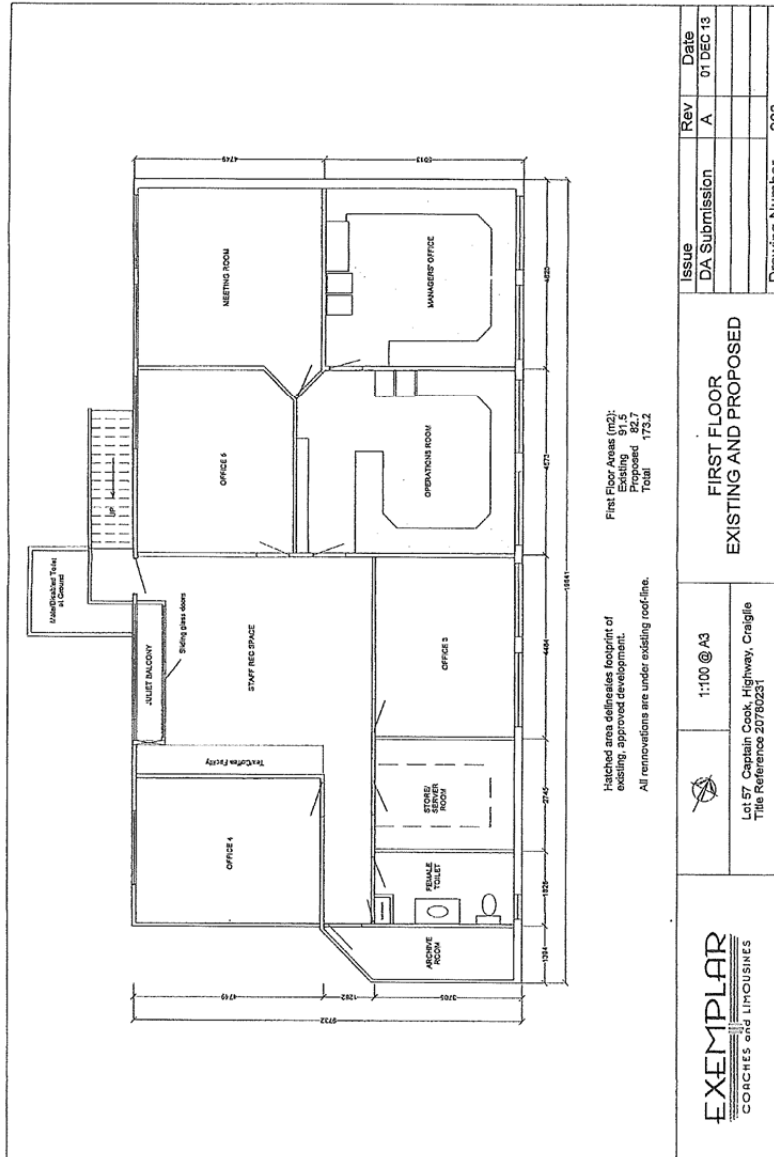


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SUSTAINABLE PLANNING ACT 2009**



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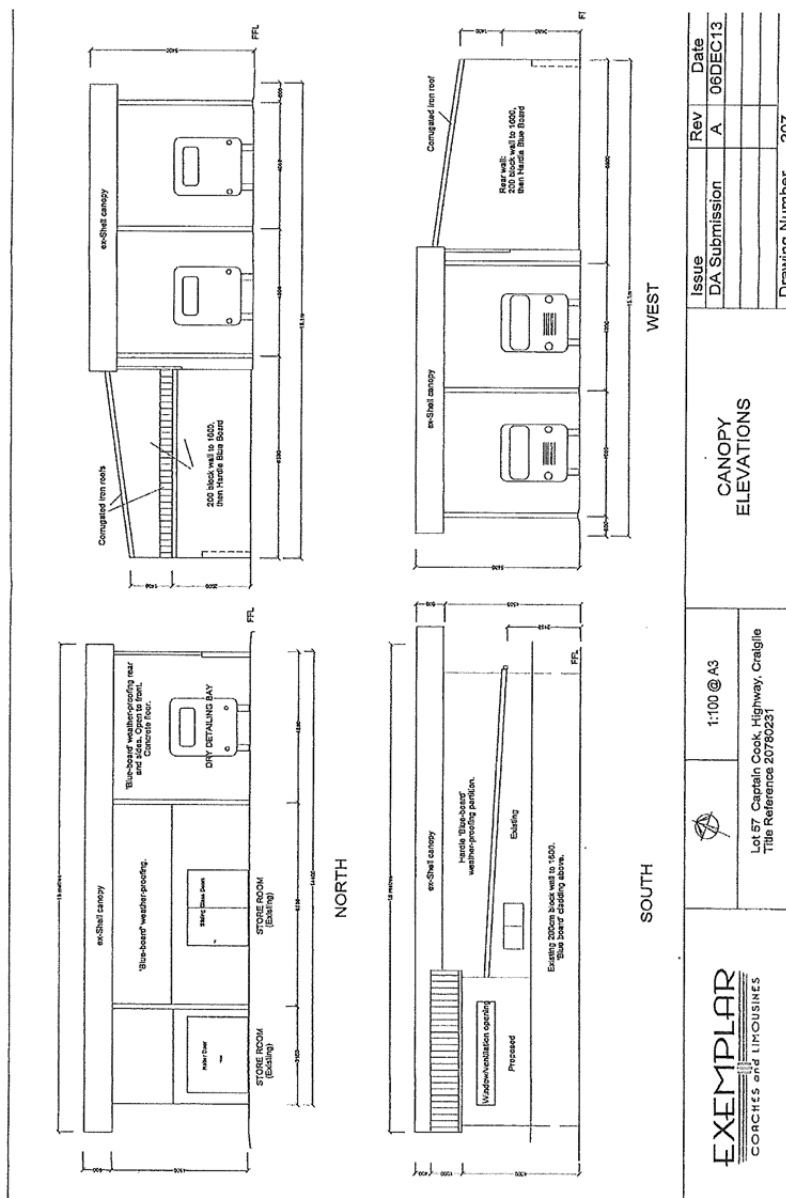
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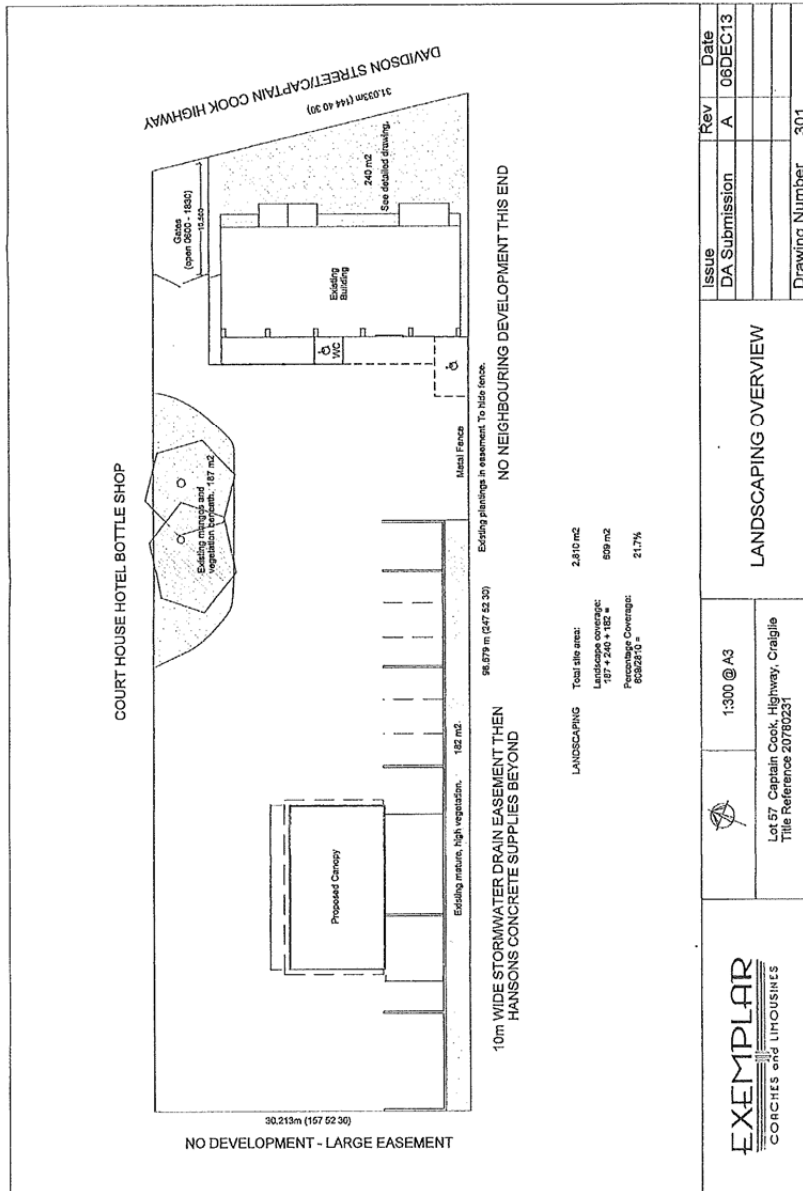


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SUSTAINABLE PLANNING ACT 2009



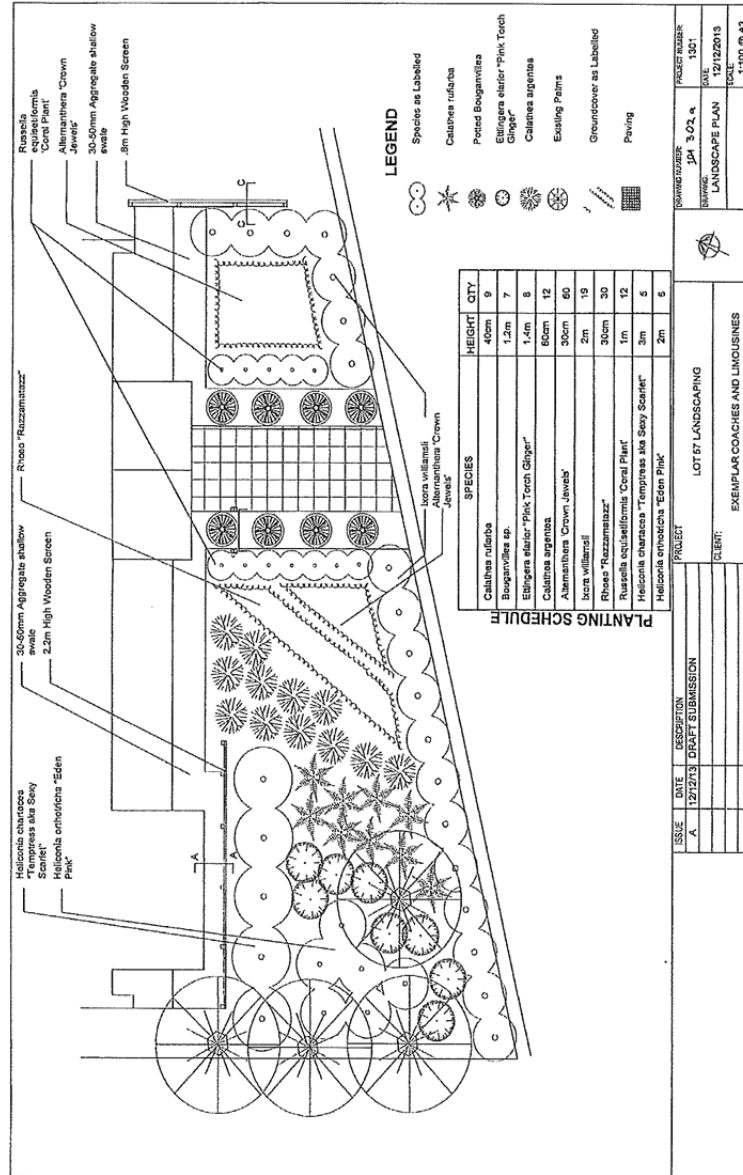
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**DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009**

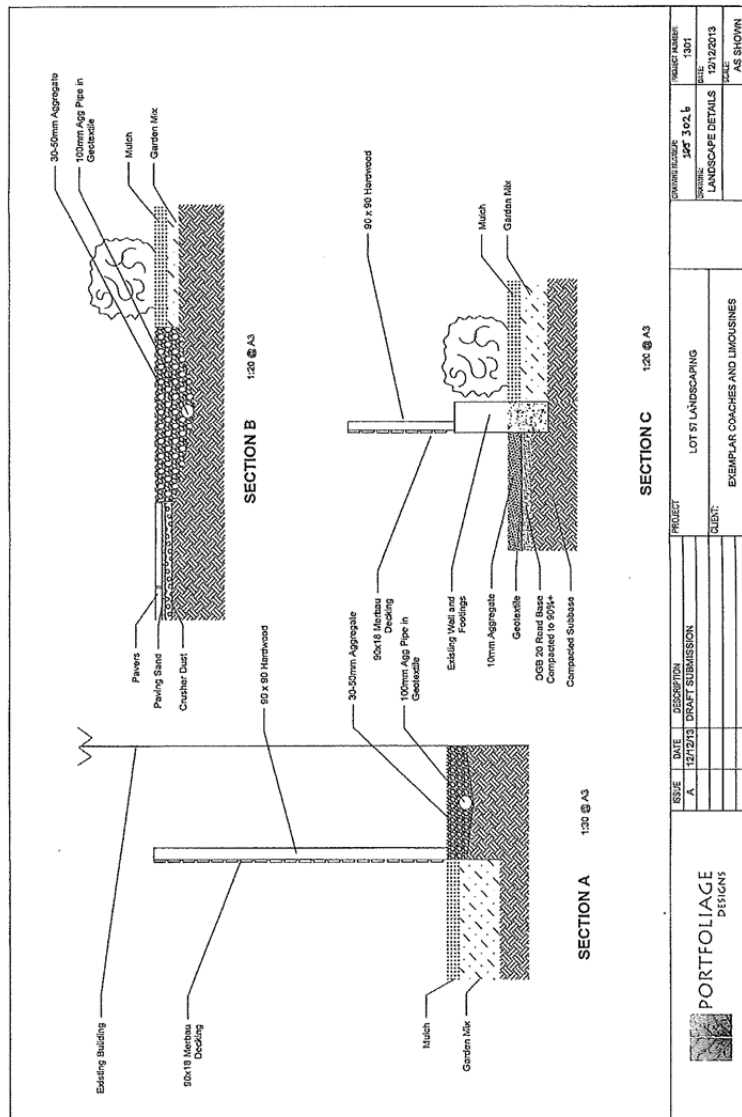


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Ordinary Meeting 4 November 2014

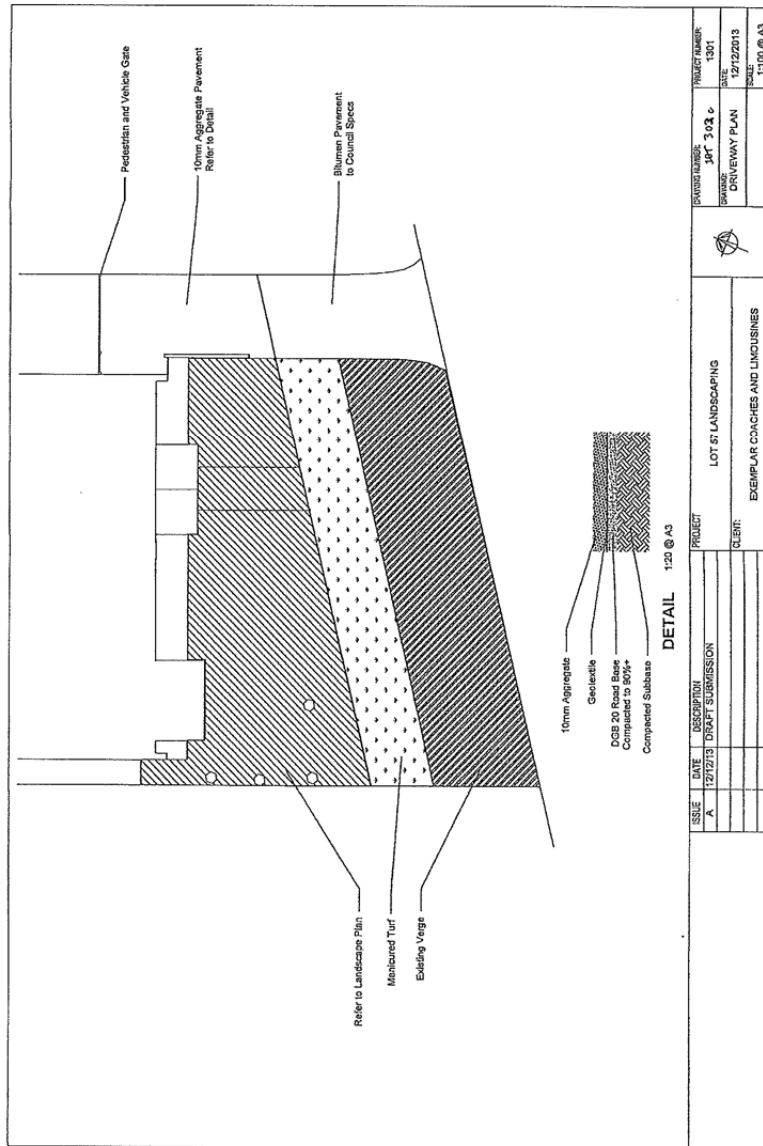


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SUSTAINABLE PLANNING ACT 2009**



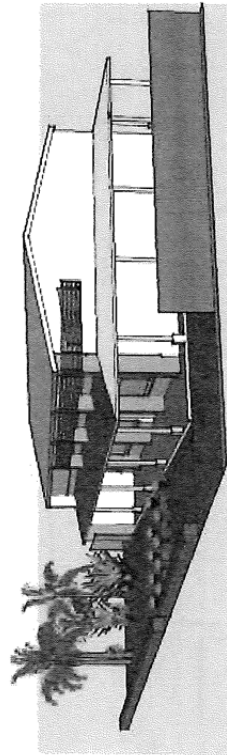
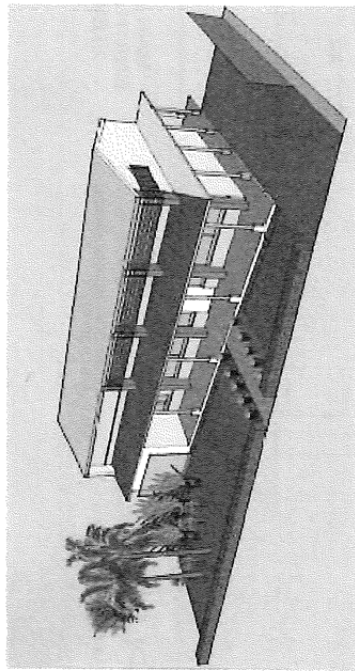
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21/34

**DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009**



43.2013.1
22/34

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009



<div>EXEMPLAR</div> <div>CONCRETE AND LIMOUSINES</div>	Lot 57 Captain Cook Highway, Craigie Title Reference 20760231	SCHEMATICS			Issue	Rev	Date
					Awning, screen amendment	B	22JAN14
				Drawing Number 500			

43.2013.1
24/34

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

APPENDIX 2: CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

SDA-0114-007493



Department of
State Development,
Infrastructure and Planning

Our reference: SDA-0114-007493
Your reference: MCUC1/2013

Date: 24/01/2014

Mr Jeff Tate
Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossman, Qld, 4873

Att: Jenny Elphinstone

Dear Mr Tate

Concurrence agency response—with conditions

5957R Davidson Street, Craiglie, Qld, 4877
(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of State Development, Infrastructure and Planning under section 272 of the *Sustainable Planning Act 2009* on 20 January 2014.

Applicant details

Applicant name:	Gordon Wellham
Applicant contact details:	3 Captain Cook Highway Craiglie, Qld, 4877

Site details

Street address:	5957 Davidson Street, Craiglie, Qld, 4877
Real property description:	Lot 57 on C22511
Site area:	2 810 square metres
Local government area:	Douglas Shire Council

Application details

Proposed development:	Development permit for a material change of use for service industry
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Aspects of development and type of approval being sought

Department of State Development, Infrastructure and Planning
Far North Queensland Regional Office
Ground Floor, Cairns Port Authority
PO Box 2358
Cairns QLD 4870

Page1

43.2013.1
25/34

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0114-007493

Nature of Development	Approval Type	Brief Description of Proposal	Level of Assessment
Material Change of Use	Development permit	Refurbishment of existing building for use as offices and wholesale / retail facility.	Code Assessment

Referral triggers

The development application was referred to the department under the following provisions of the Sustainable Planning Regulation 2009:

Referral trigger Schedule 7, Table 3, Item 1— State-controlled road

Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the department requires that the conditions set out in Attachment 1 attach to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, the department is required to set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Further advice

Under section 287(6) of the *Sustainable Planning Act 2009*, the department offers advice about the application to the assessment manager—see Attachment 3.

A copy of this response has been sent to the applicant for their information.

If you require any further information, please contact Joanne Manson, Senior Planning Officer, Regional Services – Far North Queensland on (07) 4048 1498 who will be pleased to assist.

Yours sincerely



Angela Foster
A/Manager (Planning)

cc: Gordon Wellham, g.wellham@exemplaronline.com.au
 enc: Attachment 1—Conditions to be imposed
 Attachment 2—Reasons for decision to impose conditions
 Attachment 3—Further advice

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0114-007493

Our reference: SDA-0114-007493
 Your reference: MCUC1/2013

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material change of use		
State-controlled road – Department of Transport and Main Roads		
1.	Development must be carried out generally in accordance with the following plan and report, except as modified by these concurrence agency conditions: # Exemplar Site Plan, Drawing Number 101, Rev B 22 Jan 14 # Exemplar Development Application report, dated 14 December 2013 # Exemplar email dated 22 January 2013 providing revised drawings and development specifications.	From the date this approval takes effect and to be maintained at all times.
2.	Vehicles must enter and exit the subject site at the permitted road access location in a forward direction.	At all times
3.	The permitted road access location for the development is between Lot 57 on C22511 and Davidson Street (state-controlled road), that is the existing access adjoining the northern side boundary and generally in accordance with the site plan.	From the date this approval takes effect and to be maintained at all times.
4.	Direct access is not permitted between Davidson Street (state-controlled road) and the subject site at any location other than the permitted road access location.	At all times
5.	A. Provide vehicular access comprising an industrial standard driveway to the development at the permitted road access location. AND B. The vehicular access between the Davidson Street (state-controlled road) pavement and the property frontage must be designed and constructed in accordance with Far North Queensland Region of Council specifications with a minimum width of 6 metres and incorporate existing stormwater and drainage infrastructure.	A and B From the date this approval takes effect and to be maintained at all times.
6.	Any landscaping on the subject land that is located between the existing building and the road frontage with Davidson Street (state-controlled road) must be planted in accordance with the Department of Transport and Main Roads' Road Landscape Manual 2004, section C5 – Safety Requirements and Landscape Design.	From the date this approval takes effect and to be maintained at all times.
7.	Ensure there is sufficient on-site carparking without a reliance on parking in the state-controlled road reserve.	From the date this approval takes effect and to be maintained at all times.
8.	All loading and unloading associated with the development must not be carried out within the state-controlled road reserve.	From the date this approval takes effect and to be maintained at all times.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0114-007493

Our reference: SDA-0114-007493

Your reference: MCUC01/2013

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

Condition 1

- # The department's assessment of the development application was undertaken on the proposal details and the associated plans of development that detail how the proposed development is to be carried out.

Conditions 2 and 5

State Development Assessment Provisions State Code 19.1

- # To comply with PO6 conditions required to ensure:
 - o the development maintains the safety and efficiency of the state-controlled road

Conditions 3 and 4

State Development Assessment Provisions State Code 19.1

- # To comply with PO1 and PO2 conditions required to ensure:
 - o safety and efficiency of the state-controlled road is maintained by limiting the number of direct access point; and
 - o no additional direct access points are created to and from the development site to the state-controlled road.

Condition 6

State Development Assessment Provisions State Code 18.1

- # To comply with PO3 condition required to ensure:
 - o landscaping is undertaken in accordance with the Road landscape manual prepared by the Department of Transport and Main Roads

Conditions 7 and 8

State Development Assessment Provisions State Code 19.1

- # To comply with PO6 and PO7 conditions required to ensure:
 - o sufficient on-site area for vehicle parking, including the loading and unloading of vehicles associated with the development is provided to mitigate impacts on the safety and efficiency of the state-controlled road

Findings on material questions of fact

- # The development application was properly referred to the Department of State Development, Infrastructure and Planning on 20 January 2014.
- # The development application contained a planning report and associated plans of development which the department relied on in making its referral agency assessment.
- # The applicant provided additional information on 22 January 2014 that demonstrated minor modifications to the design drawings and other development specifications.
- # Technical advice from the Department of Transport and Main Roads recommended the proposed development is supported subject to conditions.

Evidence or other material on which the findings were based

- # The development triggers referral agency assessment under the *Sustainable Planning Regulation 2009*.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0114-007493

- # The department undertook an assessment against in accordance with the provisions of Section 282 of the *Sustainable Planning Act 2009*.
- # The development application was assessed against the relevant code provisions prescribed in State Development Assessment Provisions; published by the Department of State Development, Infrastructure and Planning on 22 November 2013 version 1.1 (in effect 2 December 2013).
- # The *Transport Infrastructure Act 1994* that prescribes requirements for other approvals required from the Department of Transport and Main Roads.

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0114-007493

Our reference: SDA-0114-007493
Your reference: MCUC1/2013

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

SDA-0114-007493

Attachment 3—Further advice

General advice	
Advertising devices	
1.	Under section 43 of the <i>Transport Infrastructure Act 1994</i> , the local government must obtain the Department of Transport and Main Roads' approval if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be visible from a state-controlled road; and beyond the boundaries of the state-controlled road; and reasonably likely to create a traffic hazard for the state-controlled road.
Further permits, compliance permits or compliance certificates	
Road Access Works	
1.	Under section 33 of the <i>Transport Infrastructure Act 1994</i> , written approval is required from the Department of Transport and Main Roads to carry out road works, including road access works and intersection upgrade works, on a state-controlled road. Please contact the Department of Transport and Main Roads on 4045 7151 (Ron Kaden) to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).

DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

APPENDIX 3: NEGOTIATED INFRASTRUCTURE CHARGES NOTICE

DOUGLAS SHIRE COUNCIL		2006 & 2008 Douglas Shire Planning Schemes Applications					
NEGOTIATED INFRASTRUCTURE CHARGES NOTICE							
Gordon Wellham				0		0	
DEVELOPERS NAME				ESTATE NAME		STAGE	
5957 Davidson Street				Craiglie		L57 C22511	
STREET No. & NAME				SUBURB		LOT & RP No.s	
MCUC Service Industry				43.2013.001		31-Mar-14	
DEVELOPMENT TYPE				COUNCIL FILE NO.		QUARTER ENDING	
421498				1		This logsheet is indexed appropriately only for payments made within the quarter noted above.	
DSC Reference Doc . No.				VERSION No.			
	DIST	\$ / EDC	NET EDC	ADJUSTMENT	AMOUNT DUE	AMOUNT PAID	WO / Task
WATER							
Existing	11	6,641.15 X	0.46	0.00	\$3,054.93		1179 / 1010
Proposed	11	656.83 X	0.46	0.00	\$302.14		1180 / 1010
Water sub - total					\$3,357.07		
SEWERAGE							
Existing	6	2,534.49 X	0.46	0.00	\$1,165.87		1181 / 1019
Proposed	6	1,101.80 X	0.46	0.00	\$506.83		1182 / 1019
Sewerage sub - total					\$1,672.69		
OPEN SPACE							
	DSC Area				\$0.00		1183 / 1020
Off-Site Car Parking	None				\$0.00		
TOTAL					\$5,029.76		
Prepared by	J Elphinstone			on	22-May-14	Amount Paid	
Checked by	M Henderson			on		Date Paid	
Date Payable							
Amendments							
						Cashier	

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, the total charge due at the date of payment may change. 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



PO Box 723 Mossman Qld 4873
 www.douglas.qld.gov.au
 enquiries@douglas.qld.gov.au
 ABN 71 241 237 800

Administration Office
 64 - 66 Front St Mossman
 P 07 4099 9444
 F 07 4098 2902

OUR REF: MCUC 001/2013 (422145)

4 June 2014

Mr Gordon Wellham
 3 Captain Cook Highway
CRAIGLIE QLD 4877

Dear Sir

**NEGOTIATED ADOPTED INFRASTRUCTURE CHARGES NOTICE FOR
 5957R DAVIDSON STREET, CRAIGLIE**

Please find attached a Negotiated Adopted Infrastructure Charges Notice issued in accordance with section 648F of the *Sustainable Planning Act 2009* (the Act).

The amount in the Negotiated Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

The amount in the Negotiated 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.

These charges are payable prior to the change of use occurring in accordance with section 648H of the Act.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Negotiated Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Negotiated Adopted Infrastructure Charges Notice.

Should you have any enquiries in relation to this Negotiated Adopted Infrastructure Charges Notice, please contact Jenny Elphinstone of Council's Development and Environment Branch on telephone number 07 4099 9482.

Yours faithfully

Donna Graham
 Manager Development & Environment

Att

43.2013.1
 33/34

NEGOTIATED INFRASTRUCTURE CHARGES NOTICE

DOUGLAS SHIRE COUNCIL		2006 & 2008 Douglas Shire Planning Schemes Applications	
NEGOTIATED INFRASTRUCTURE CHARGES NOTICE			
Gordon Wellham		0	0
DEVELOPERS NAME		ESTATE NAME	STAGE
5957 Davidson Street		Craiglie	L67 C22511
STREET No. & NAME		SUBURB	LOT & RP No.s
MCUC Service Industry		43.2013.001	31-Mar-14
DEVELOPMENT TYPE		COUNCIL FILE NO.	QUARTER ENDING
421498		1	This logsheet is indexed appropriately only for payments made within the quarter noted above.
DSC Reference Doc. No.		VERSION No.	
	DIST	\$ / EDC	NET EDC
WATER			
Existing	11	6,641.15	X 0.46
Proposed	11	656.83	X 0.46
Water sub - total			
			\$3,357.07
SEWERAGE			
Existing	6	2,534.49	X 0.46
Proposed	6	1,101.80	X 0.46
Sewerage sub - total			
			\$1,672.69
OPEN SPACE			
DSC Area			\$0.00
Off-Site Car Parking			
None			\$0.00
TOTAL			\$5,029.76
Prepared by	J Elphinstone	on	22-May-14
Checked by	M Henderson	on	
Date Payable			
Amendments	Date		
		Cashier	

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, the total charge due at the date of payment may change. Please contact the Development & Environment Douglas Shire Council prior to payment for review.

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APPENDIX2. ADR AGREEMENT

22 / 10 / 14

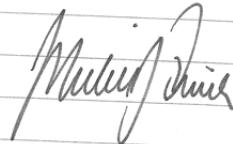
MEDATION AGREEMENT

COUNCIL OFFICERS WILL MAKE RECOMMENDATIONS TO THE COUNCIL THAT THE APPEAL OUGHT BE RESOLVED ON THE BASIS THAT:-

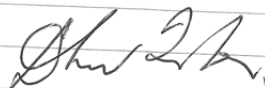
1. CONDITIONS 3(f), 14 (c) AND 25 BE DELETED FROM THE DEVELOPMENT APPEAL; AND
2. COUNCIL WILL, IF AND WHEN IT SEES FIT, EXERCISE ITS POWER TO INSTALL ANY OFFICIAL TRAFFIC SIGNS TO REGULATE PARKING ALONG DAVIDSON STREET / CAPTAIN COOK HIGHWAY
3. EACH PARTY BEAR ITS OWN COSTS



VANESSA MALINA SOLICITOR
FOR APPELLANT G. WEHMAN



MICHAEL OWEN SOLICITOR
FOR DALLAS SHINE CARRIERS



MICHAEL OWEN SOLICITOR