

<b>ORDINARY MEETING</b> <b>3 JUNE 2014</b>	<b>5.2</b>
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REQUEST FOR NEGOTIATED DECISIONS FOR MATERIAL CHANGE OF USE (CODE ASSESSMENT) AND NEGOTIATED INFRASTRUCTURE CHARGES NOTICE - SERVICE INDUSTRY- 5957R DAVIDSON STREET CRAIGLIE

Jenny Elphinstone: 8/7/2906 : (F drive: )

PROPOSAL:

REQUEST FOR NEGOTIATED DECISION NOTICE FOR MATERIAL CHANGE OF USE AND NEGOTIATED INFRASTRUCTURE CHARGES NOTICE- SERVICE INDUSTRY

APPLICANT:

GORDAN WELLHAM  
3 CAPTAIN COOK HIGHWAY  
CRAIGLIE QLD 4873

LOCATION OF SITE:

5957R DAVIDSON STREET, CRAIGLIE (AKA 3 CAPTAIN COOK HIGHWAY)

PROPERTY:

LOT 57 ON C22511

LOCALITY:

PORT DOUGLAS AND ENVIRONS

PLANNING AREA:

INDUSTRY

PLANNING SCHEME:

DOUGLAS SHIRE PLANNING SCHEME 2008

REFERRAL AGENCIES:

DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE AND PLANNING (ADJACENT TO STATE-CONTROLLED ROAD)

NUMBER OF SUBMITTERS:

NOT APPLICABLE

STATUTORY ASSESSMENT DEADLINE:

NOT APPLICABLE

APPLICATION DATE:

16 DECEMBER 2013 (ORIGINAL APPLICATION 16 APRIL 2014 (DETAIL OF REPRESENTATIONS FOR NEGOTIATED DECISION))

APPENDIX:

1. APPROVED PLAN(S) & DOCUMENT(S)
2. CONCURRENCE AGENCY DECISION
3. NEGOTIATED INFRASTRUCTURE CHARGES NOTICE
4. APPLICANT'S REPRESENTATIONS FOR NEGOTIATED DECISION

## LOCALITY PLAN



### **RECOMMENDATION:**

That Council in part approve the request for a 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, whereby:

**1. The Assessment Manager Condition 3(f) is amended as follows:**

**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 (Caption 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;**

**2. Include the following condition:**

- 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 and shelter must be provided prior to the commencement of the land use.**
- 3. That Council issue a Negotiated Infrastructure Charges Notice, calculated giving credit to the land use approved under the Town Planning Consent 1072 issued by the former Douglas Shire Council.**
- 4. The remaining Conditions, Approved Plans and Documents and Advice Notes of the Decision Notice issued on 24 February 2014 remain unchanged.**

**EXECUTIVE SUMMARY:**

At the Ordinary Meeting held on 18 February 2014 Council resolved to approve the Material Change of Use for a Service Industry subject to conditions. Considerations of the approval had regard to the Applicant's initial concerns for the provision of a public footpath.

The Applicant has requested a Negotiated Decision whereby two conditions, requiring the provision of a footpath and No Standing signage are deleted and the quantum of infrastructure charges are reduced.

The request to delete the condition requiring a footpath adjacent to the land is not supported. The footpath will provide connectivity to the land and is a reasonable and relevant requirement.

The representations regarding the requirement for "No Standing" signage has been reviewed having regard to the needs of the development, the Planning Scheme Purpose to contain the impacts of development to the land and the Concurrence Agency conditions issued by the State Government. It is considered that these requirements and needs can be satisfactorily achieved by the provision of a bus stop adjacent to the land subject to the Applicant gaining approval from the State and the facility being of a suitable standard. The report recommends that the condition be varied and an additional condition included regarding associated costs and timing of the bus stop facility.

The Applicant's representations regarding the quantum of infrastructure charges give regard to the overall cost of the compliance applications and statutory requirements. A review of the Council files identified a previous approval for which developer contributions were due, and remain payable, together with detail of a bond that can be called on for such purpose. Given the circumstances it is appropriate that a credit be applied for the extent of approved, existing floor area. This credit substantially reduces the infrastructure charges payable for the development and it is recommended that a Negotiated Infrastructure Charges Notice issue.

## **TOWN PLANNING CONSIDERATIONS:**

### **Background**

Application was lodged to establish a Service Industry on the land, more particularly a bus and limousine depot and office and an electrical service centre. The land fronts the Captain Cook Highway and forms part of the entry to Craigie and the Port Douglas area.

Council at the Ordinary Meeting held on 18 February 2014 resolved to approve the development application subject to conditions. A copy of the Approved Plans is included in Appendix 1.

Under the *Sustainable Planning Act 2009* the Applicant has the ability to suspend the Applicant's appeal period and make representations to the Assessment Manager regarding a matter stated in the Decision Notice. Where the Assessment Manager agrees with the representations a Negotiated Decision is issued. Only one Negotiated Decision Notice can issue and there is no limiting time by which the Assessment Manager is required to determine the request. Where agreed by the Assessment Manager a negotiated infrastructure Charges Notice can issue.

### **Applicant's Request**

The Applicant has made representations and requested a Negotiated Decision seeking:

- a. The deletion of the requirement for a two metre wide footpath across the front of the property;
- b. The deletion of the requirement for "No Standing" signs at the front of the property; and
- c. A reduction in the quantum of the Adopted Infrastructure Charges.

A copy of the Applicant's representations is included in Appendix 4 and each of three matters are discussed separately below.

### **Footpath Requirement**

Condition 3a requires the development to be amended to accommodate a footpath to Davidson Street as follows,

- "3. *The proposed development must be amended to accommodate the following changes: ...*
  - a. *Provide a two 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; ..."*

The Applicant states that the \$6,000 footpath provides no utility, will not be attractive as soft landscaping and will be hazardous. The Applicant does not consider that the footpath will meet the following objective and soft landscaping would better achieve the objective,

*"Development on lots adjacent to the Captain Cook Highway is sited, designed and landscaped to provides an attractive visual approach to Port Douglas with all buildings, structures and car parking areas setback a sufficient distance from the Frontage to enable landscaping to screen or soften the appearance of the development. (Ref: Douglas Shire Planning Scheme. Page 79. Item A29.1)"*

The Applicant contests that there is little passing foot-traffic and this lack of pedestrian activity is likely to continue. The Applicant contends that the footpath does not lead to anywhere. Refer to the Applicant's photographs in Appendix 4. The Applicant also states the pedestrian traffic associated with the land use does not go beyond the site as the majority of pedestrian movements are to and from the rear yard. The Applicant comments that the neighbouring bottle shop has a footpath and no one uses that footpath. Clients to the neighbouring premises park in the car parking areas on the neighbouring land. The Applicant states that there is no current neighbouring development to the immediate south and there is little likelihood of there being a neighbour. Therefore there is no need for continuity of the footpath further to the south and there is adequate existing provision of a footpath along the eastern side of the State controlled road. The Applicant is concerned with the safety as the footpath would dead-end adjacent to the land's southern boundary. It is also contended that the hard surface of the footpath would result in greater storm water runoff than a grassed or landscaped area. The Applicant has requested that the condition be deleted.

### **Officer's Comment**

The safest form of pedestrian movement is via constructed footpaths that are of a sufficient width to cater for disabled person access. The provision of a footpath is integral to the landscaping of the streetscape and the character of the area. The area is one of service industry and the standard commercial 2m wide footpath provides access to all adjacent to the land. There are residential areas to both the south and north with opportunity for workers and clients to walk to the premises. The condition requires the footpath be provided only where adjacent to the land and this gives connectivity through the area and to and from the site in a safe manner. The footpath requirement meet the FNQROC Development manual standard for the state-controlled road and is a reasonable and relevant requirement. It is not recommended that the condition be deleted.

### **No Standing Signage**

Condition 3(f) requires the development to be amended to:

*"f. Include "No Standing" signage adjacent to the road frontage for the full width of the property frontage to Davidson Street (Captain Cook Highway)."*

The Applicant states that over the last year a considerable number of vehicles have been parked for long periods in front of the land (Lot 57) and on the opposite side of the Highway in front of Lot 3 (currently occupied by the Applicant). While the parking is

legal the Applicant admits it is not ideal and there are safety implications. The Applicant states that the on-street parking is necessary in order to provide sufficient parking for their employees. The Applicant has in the past paid for the drain outside Lot 3 to be covered in order to provide on-street parking. This work and parking arrangement was lawfully approved by the Douglas Shire Council and created provision for over flow parking.

The Applicant states that the new premises at Lot 57 will provide for employee parking for staff and clients as well as those of the sub tenancy. However it is envisaged that the on-street area will continue to be utilised for short term parking and access to the premises. This includes the ability for staff to make a short stop to collect manifests and baby seats etc. The on-street parking will also give quick and easy access for the sub tenancy customers.

The Applicant considers the condition unreasonable and if applied will result in customers parking in front of the bottle shop and/or the service station, or to park at the rear of the building. The Applicant states that access to the rear is limited by DTMR to one driveway and contends that the 6m width is only wide enough for one vehicle which does not cater for larger coaches. Further it would not be a “good look” for coaches, loaded with passengers to have to park at the rear of the premises for a brief stop when this could be achieved by a quick stop in front of the property.

The Applicant does not consider the Scheme requires any such condition or limitation and requests that the condition be deleted.

### **Officer Comment**

The Scheme’s Purpose of the Vehicle Access and Parking Code is to ensure, amongst other matters,

- “• *Sufficient vehicle parking is provided on-site to cater for all types of vehicular traffic accessing and parking on the Site, including staff, guests, patrons, residents and short term delivery vehicles,*
- *Onsite parking is provided so as to be accessible and convenient, particularly for any short term use.”*

The Purpose seeks the impacts and demands of the development are provided for on the land. The Department of Transport and Main Roads, as a Concurrence Agency, includes the following conditions,

- “7. *Ensure there is sufficient on-site car parking without a reliance on parking in the state-controlled road reserve.”*
- 8. *All loading and unloading associated with the development must not be carried out within the state-controlled road reserve.”*

A copy of the Department’s advice is included in Appendix 2.

The requirement to provide “No Standing” signage ensures the compliance with this requirement at least for the frontage of the land and provides advice with visitors to the land.

A bus stop is situated to the north on the eastern side of the State-controlled road and this could be utilised for a short term parking of a coach or bus when the driver needs to undertake a temporary stop to collect a baby seat or manifold etc.

Should the Applicant undertake successful discussions with the Department regarding the provision of a bus stop adjacent to the land, and provide then the condition could be relaxed to cater for the bus stop facility and enable large vehicles to stop irrespective of their direction of travel.

It is recommended that the condition be reworded to enable a bus stop to be established but that this be contingent on the Applicant achieving agreement with the Department which controls the adjacent roadway.

### **Infrastructure Charges**

The Applicant finds the quantum of infrastructure charges of \$16,000.00 unreasonable and has requested Council waive or reduce this quantum. The Applicant comments that the cost of the infrastructure charges, compliance applications and the public footpath sum to \$35,000.

### **Officer Comment**

The proposed development triggers Adopted Infrastructure Charges. As explained in the previous report to Council there are two, alternative methods available for determining infrastructure charges:

- a. Council's (Douglas Shire Planning Scheme Policy) Developer Contributions Policy; or
- b. Applying the adopted State Infrastructure Charges.

Cairns Regional Council resolved that the method that produced the lower charge should apply. The previous report to Council identified for this application the State charges were the lower of the two methods.

A review of the file identified that the previous approval over the land, TPC 1072 issued by the former Douglas Shire Council dated 16 May 2002 for a Takeaway Food and Retail Seafood Shop required the following payment of developer contributions as follows:

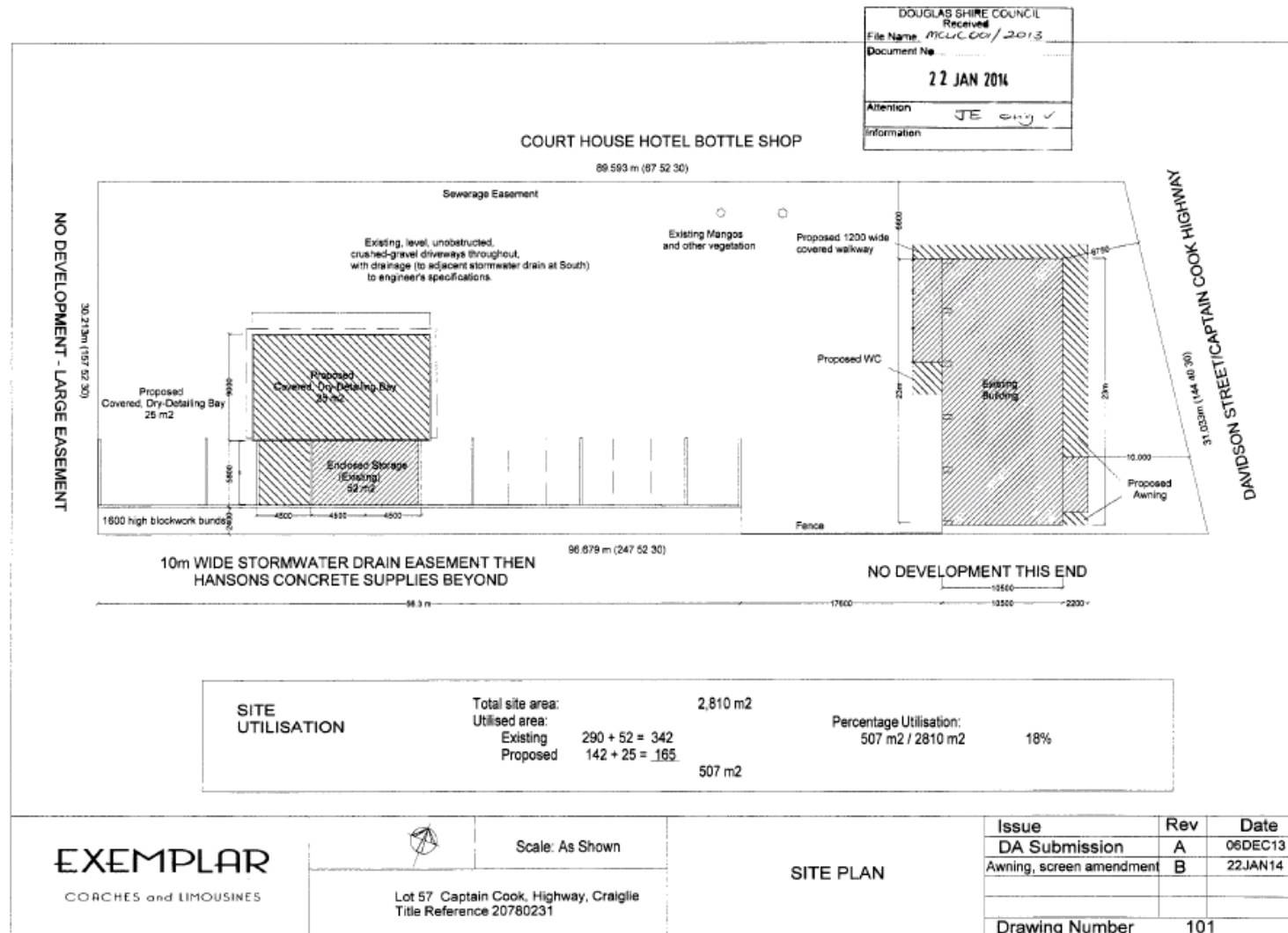
\$2,248.00 for water supply; and  
\$944.50 for sewerage.

A \$5,000 bond was provided to Council on 5 August 2002 to ensure compliance with the conditions of the approval including the payment of developer contributions. The approved use commenced. Council currently has no record of either the contributions being paid or either the bond being called upon or refunded. In this circumstance it is considered appropriate that the credit be attributed to the land in respect of the current application. T

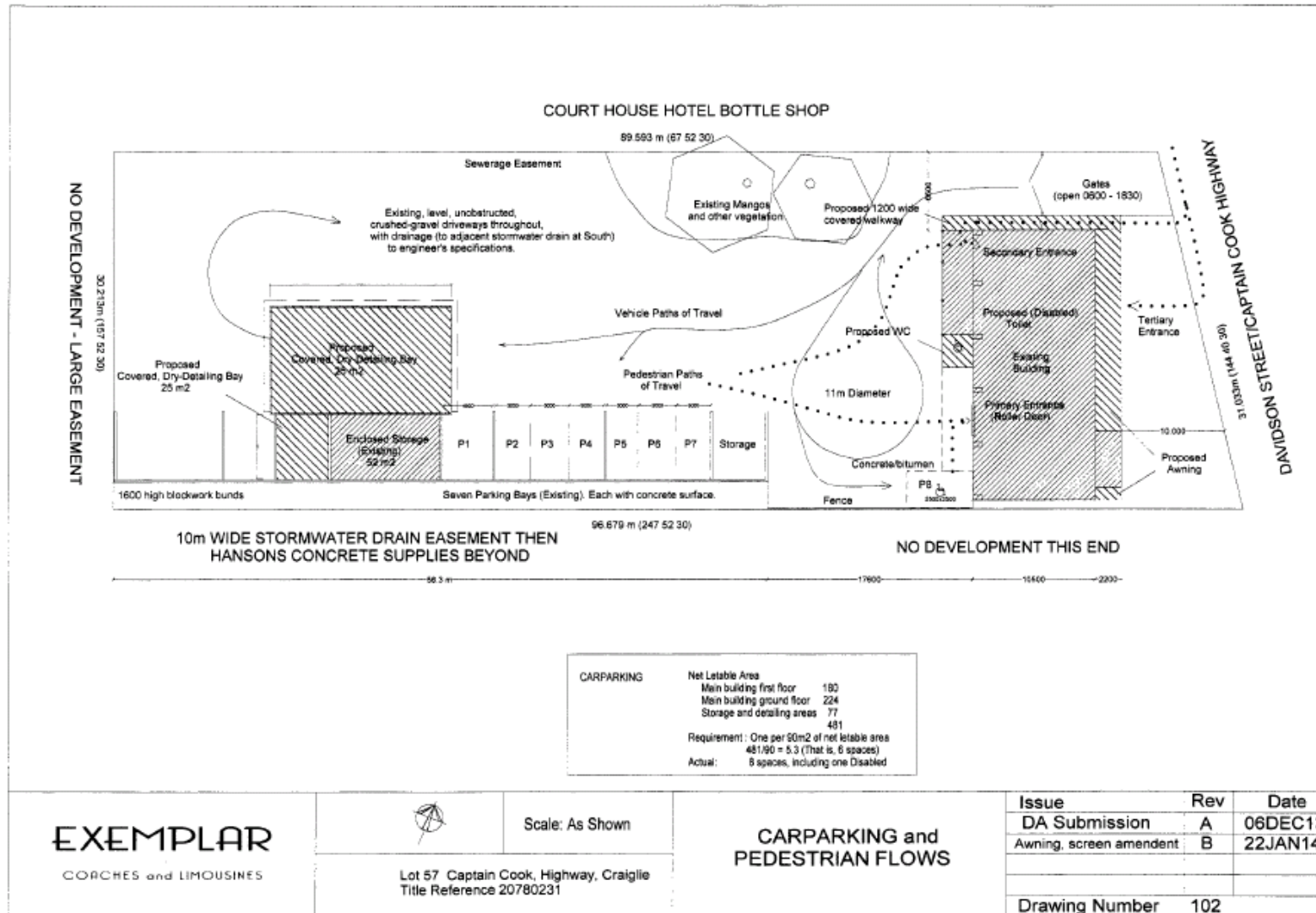
The credit has been calculated and taken into account. The new charges only apply to the increase in floor area since the TPC 1072 approval. The re-calculation result in a charge for this development of \$5,029.76 instead of some \$16,000. Refer to Appendix 3 to view the re-calculation. It is recommended that a Negotiated Infrastructure Charges Notice issue.

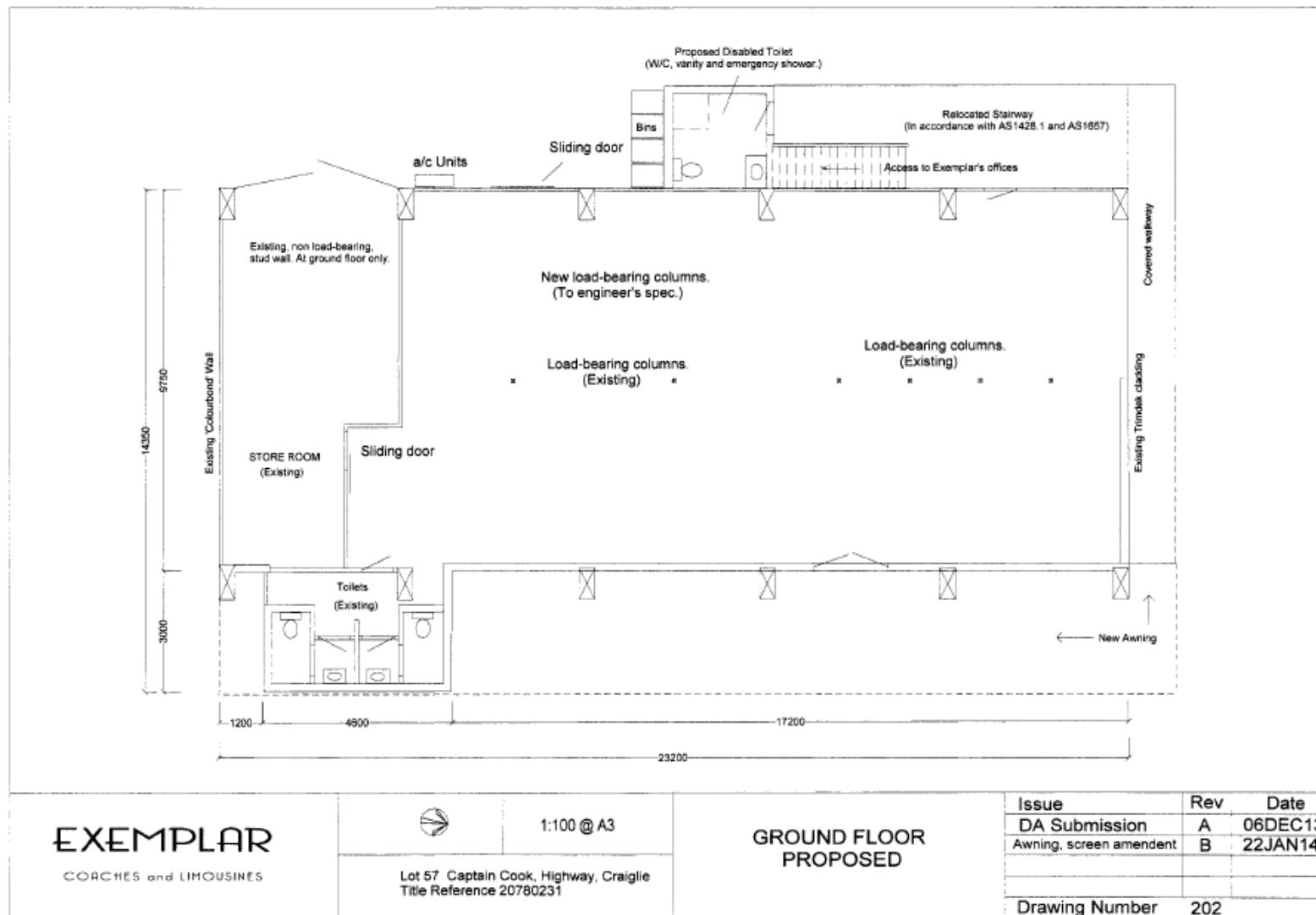


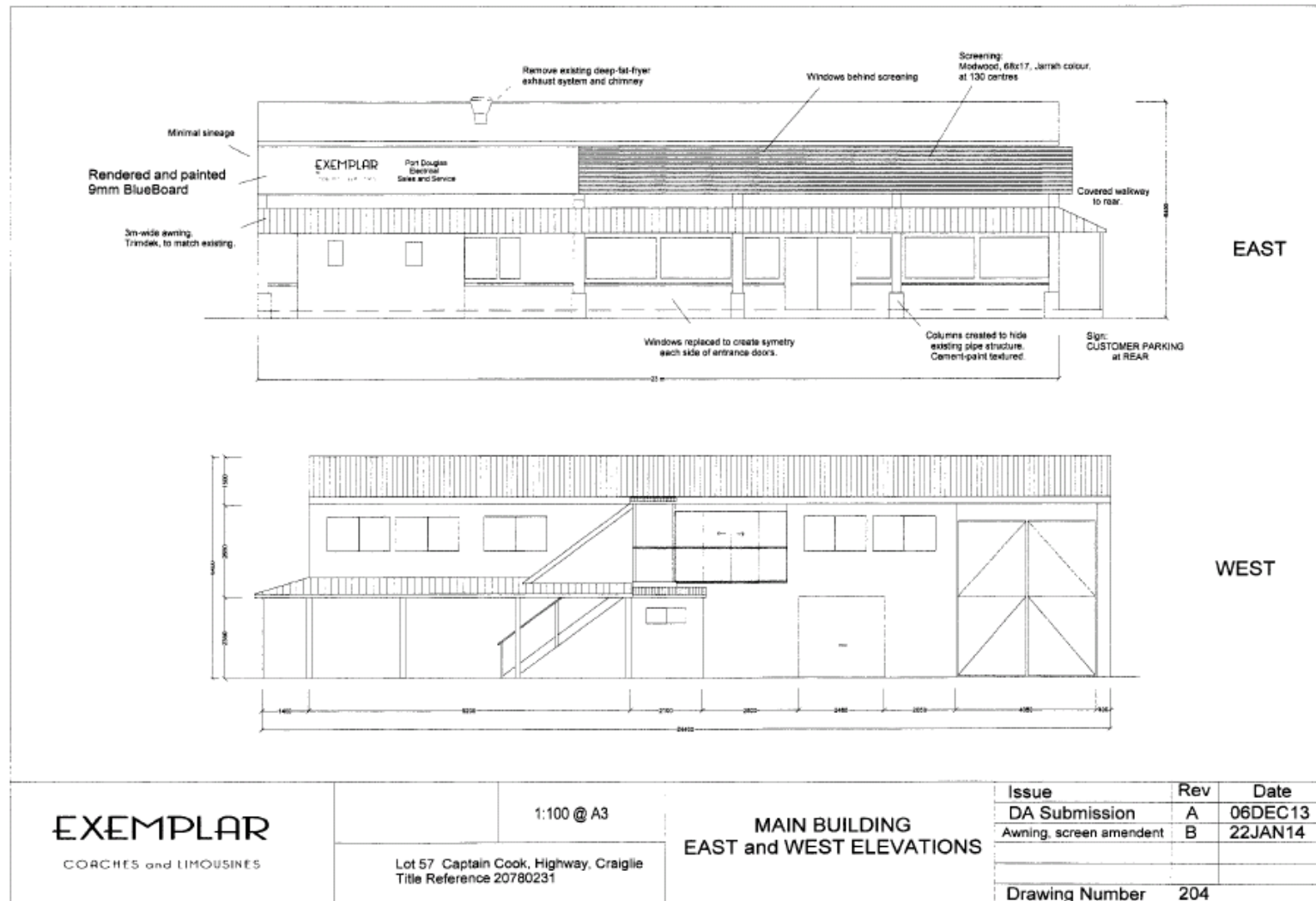
## APPENDIX 1: APPROVED PLAN(S) &amp; DOCUMENT(S)

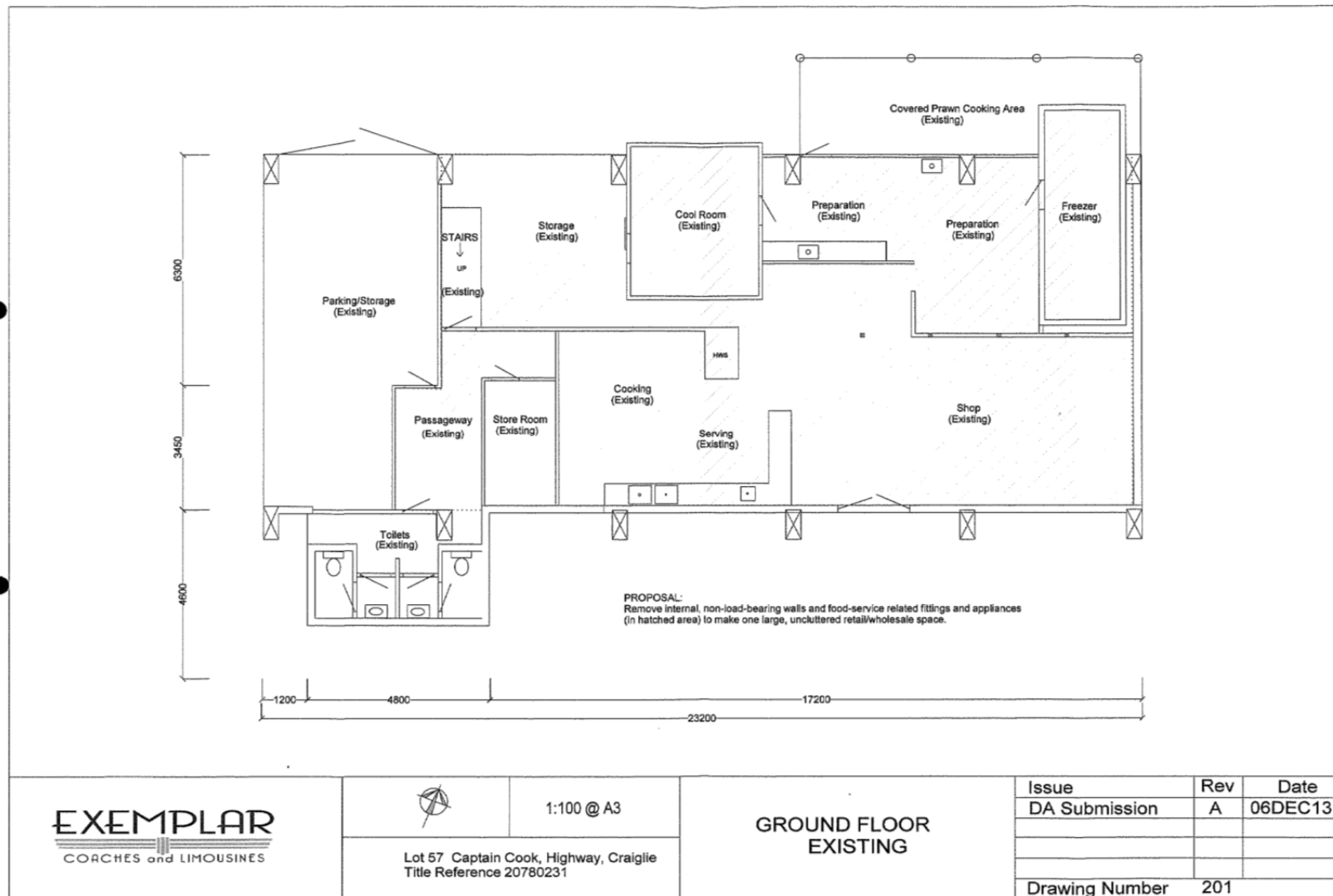


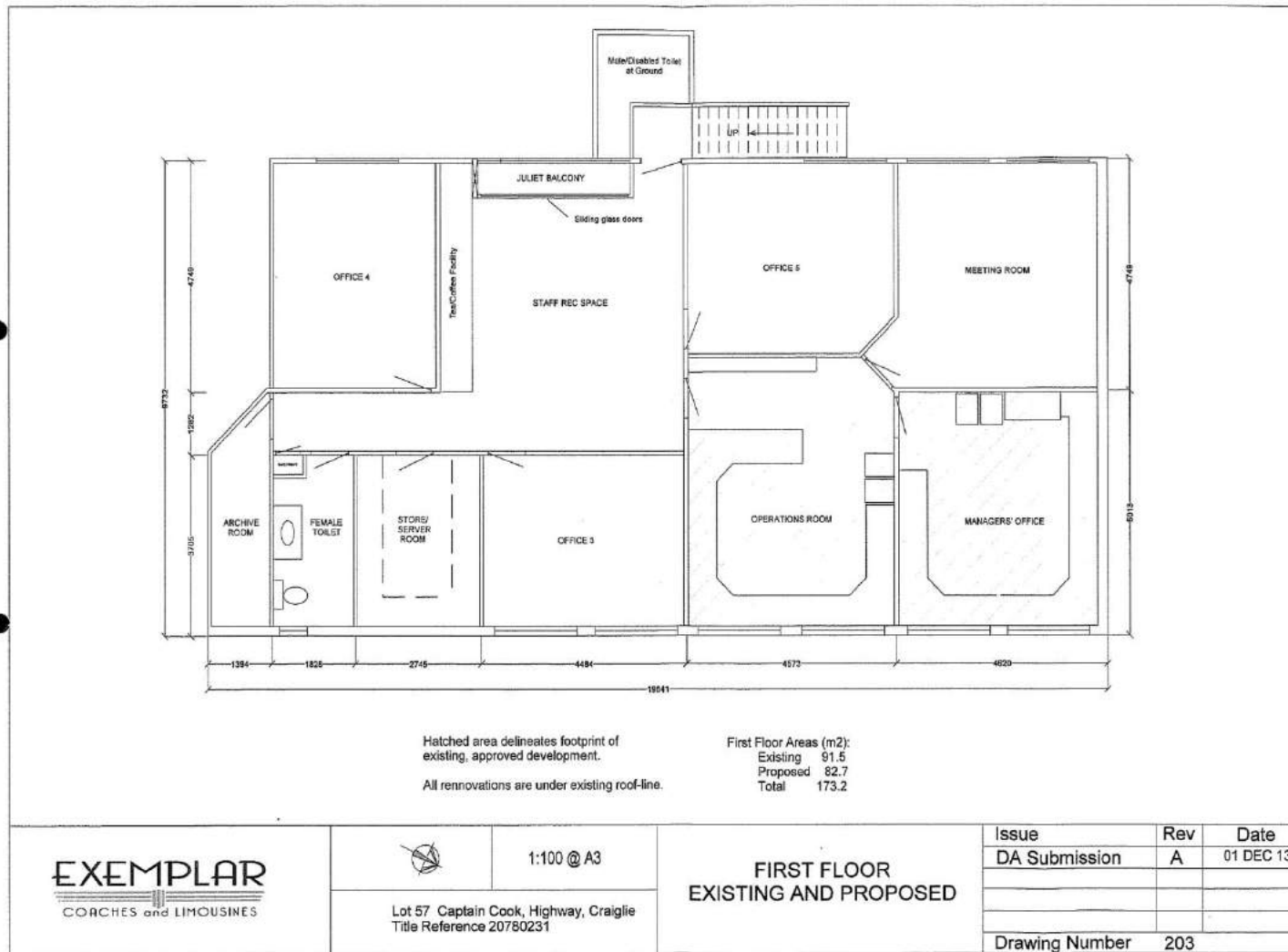


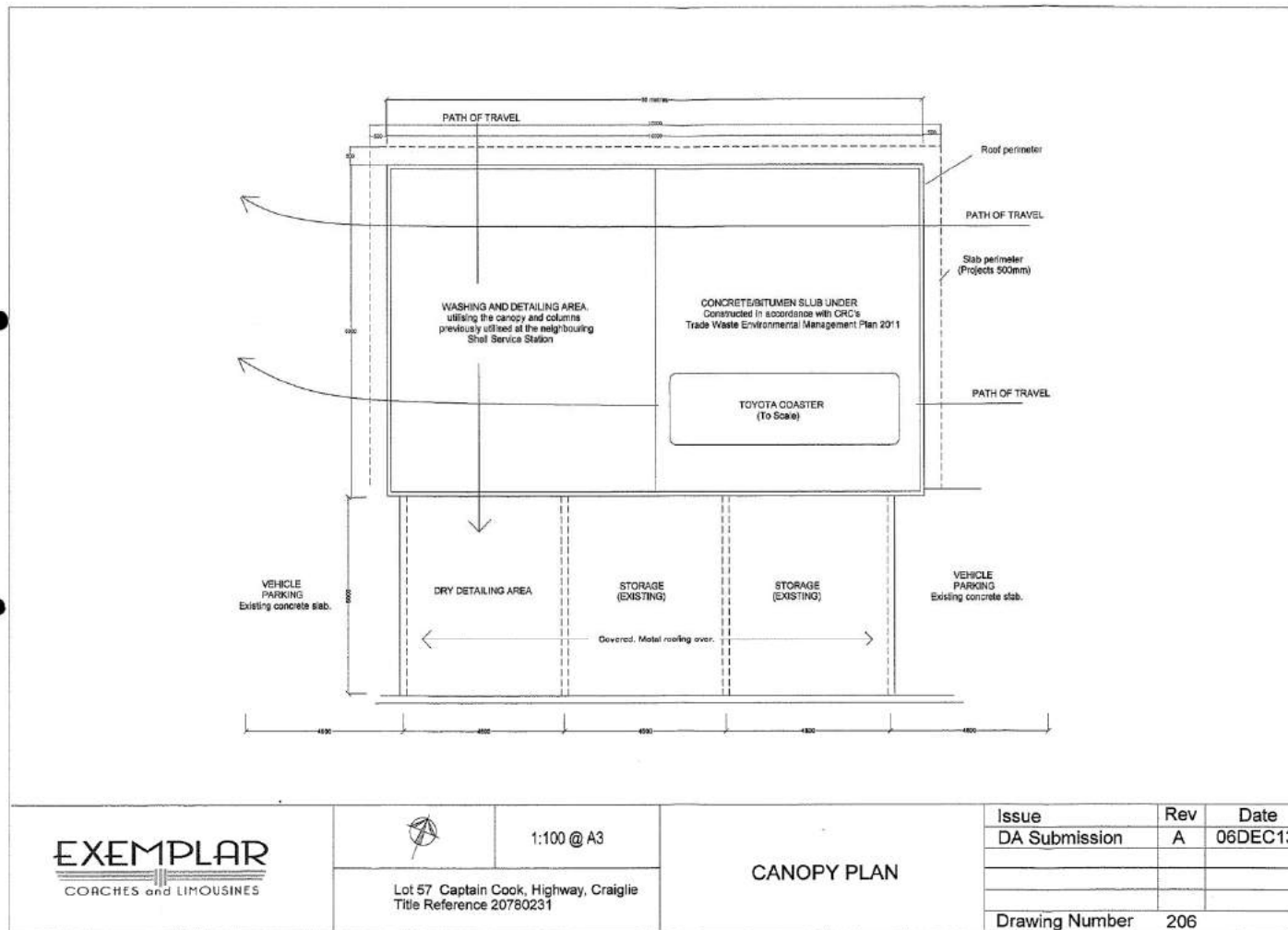


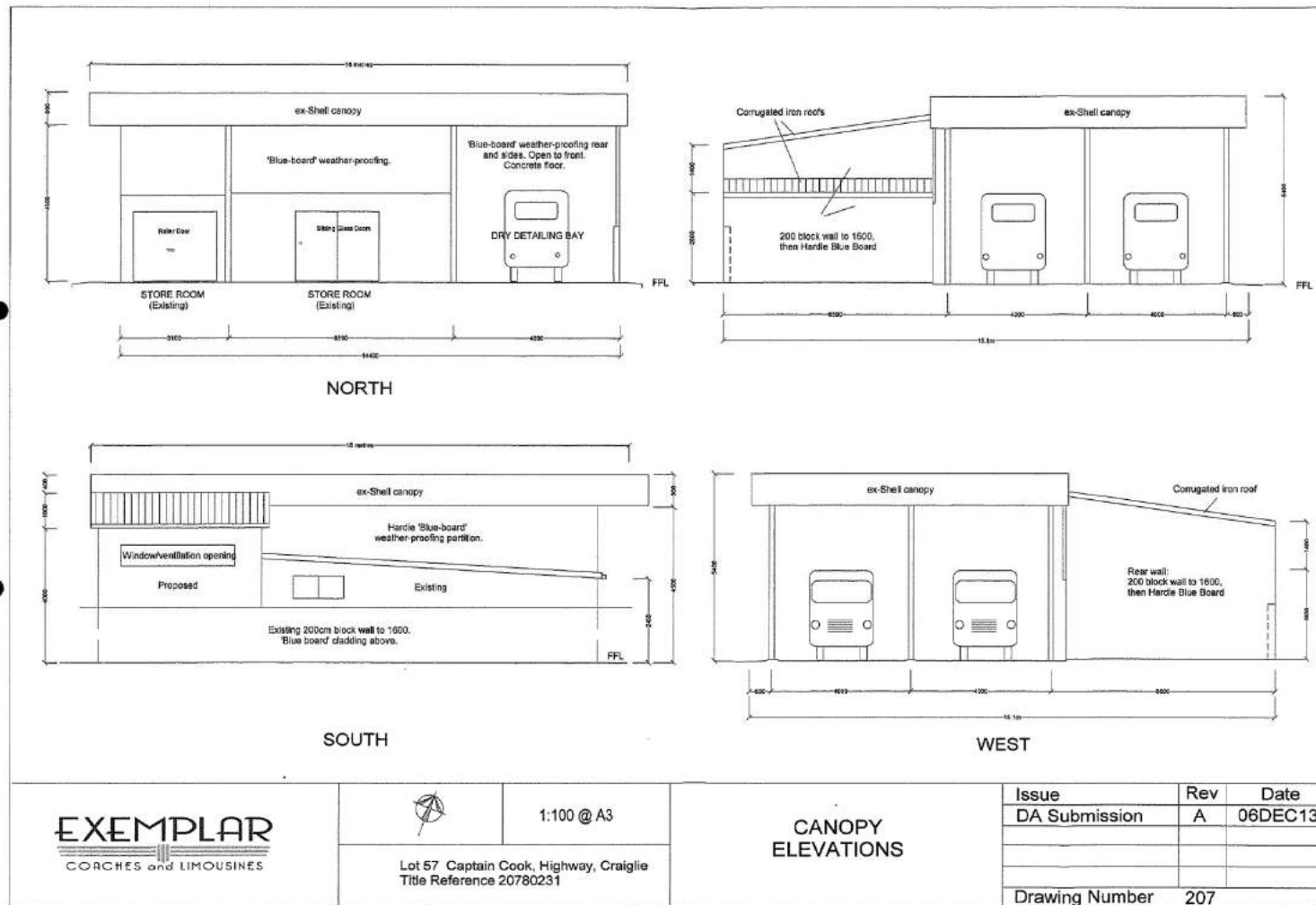




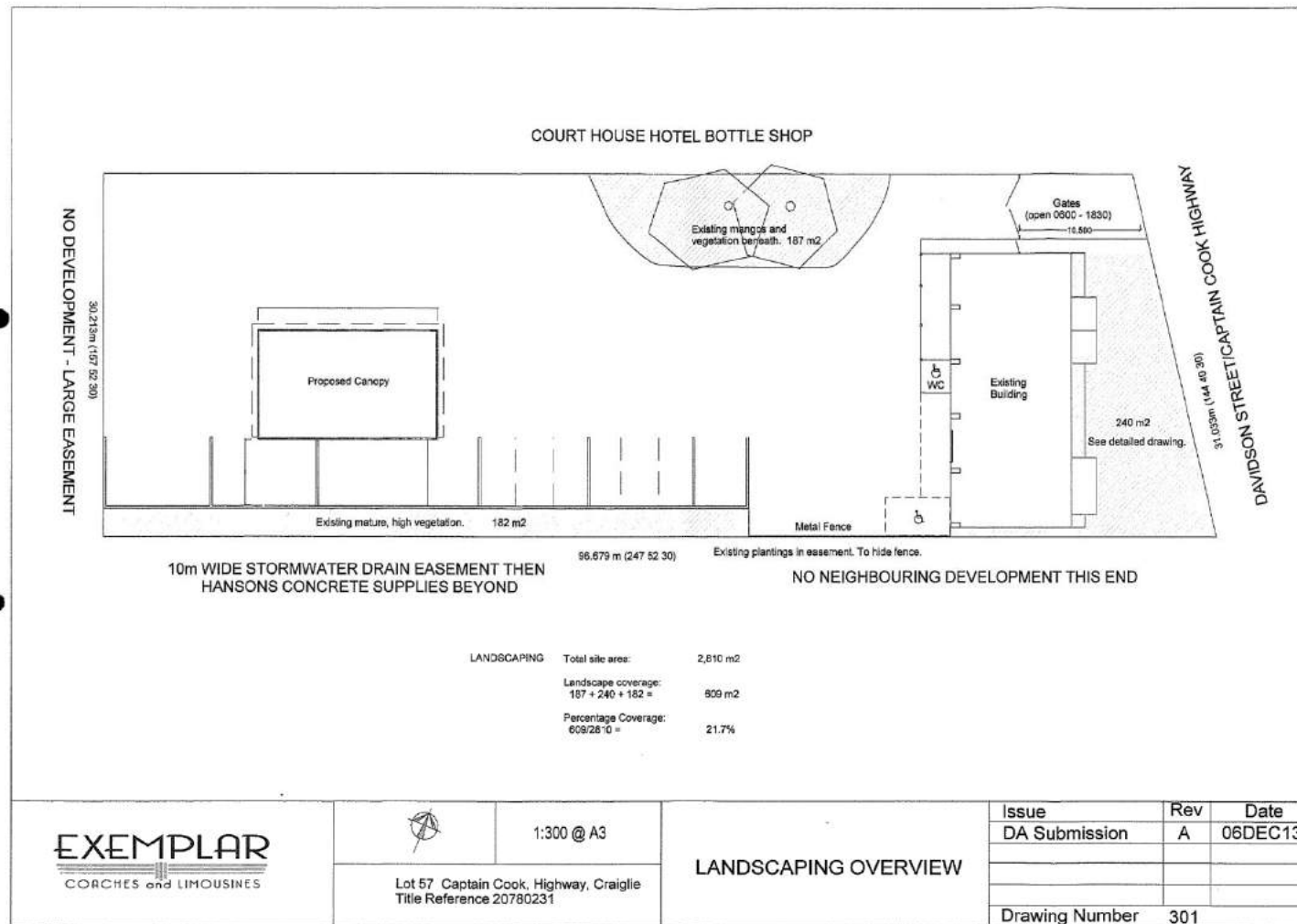


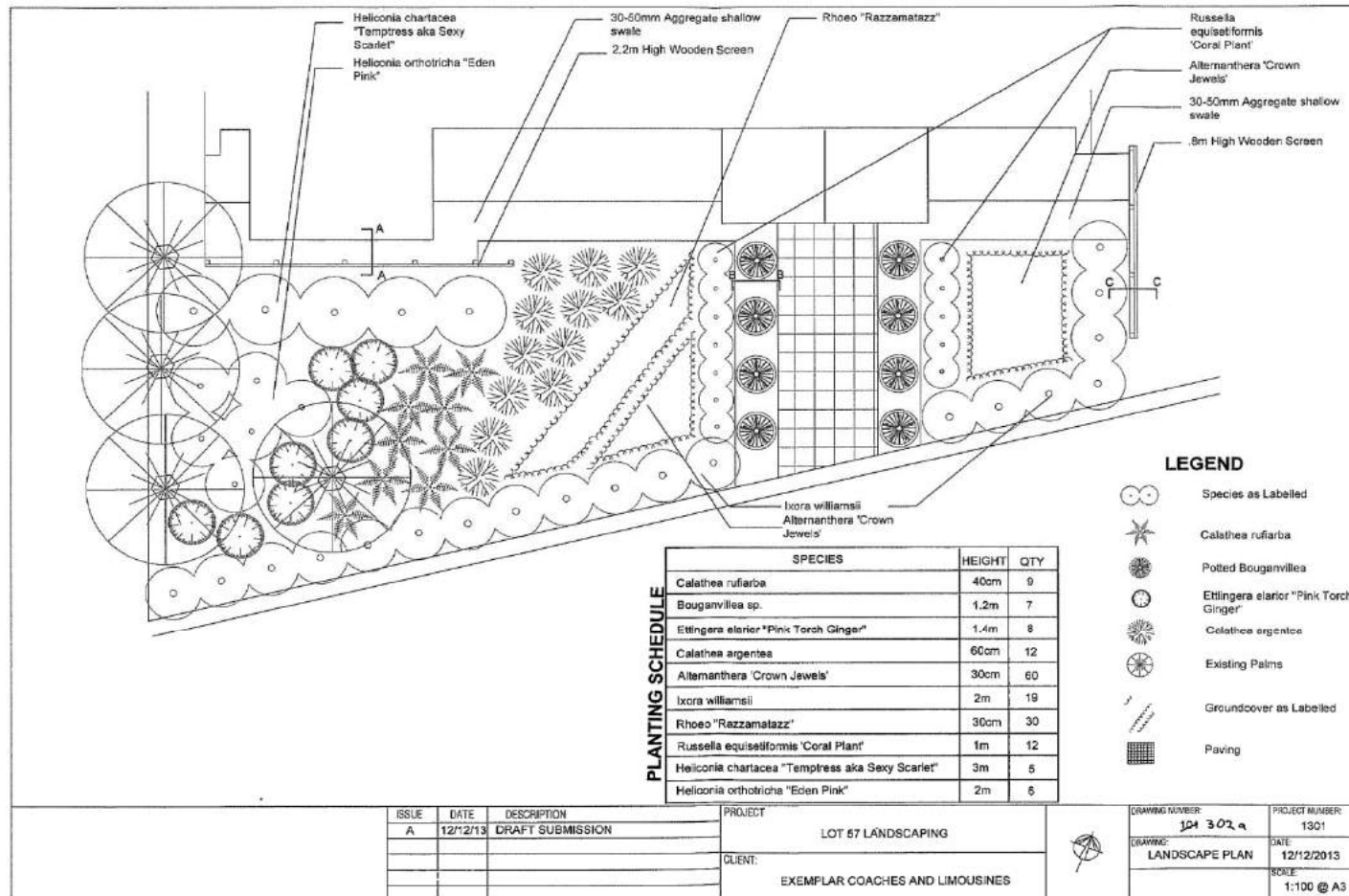


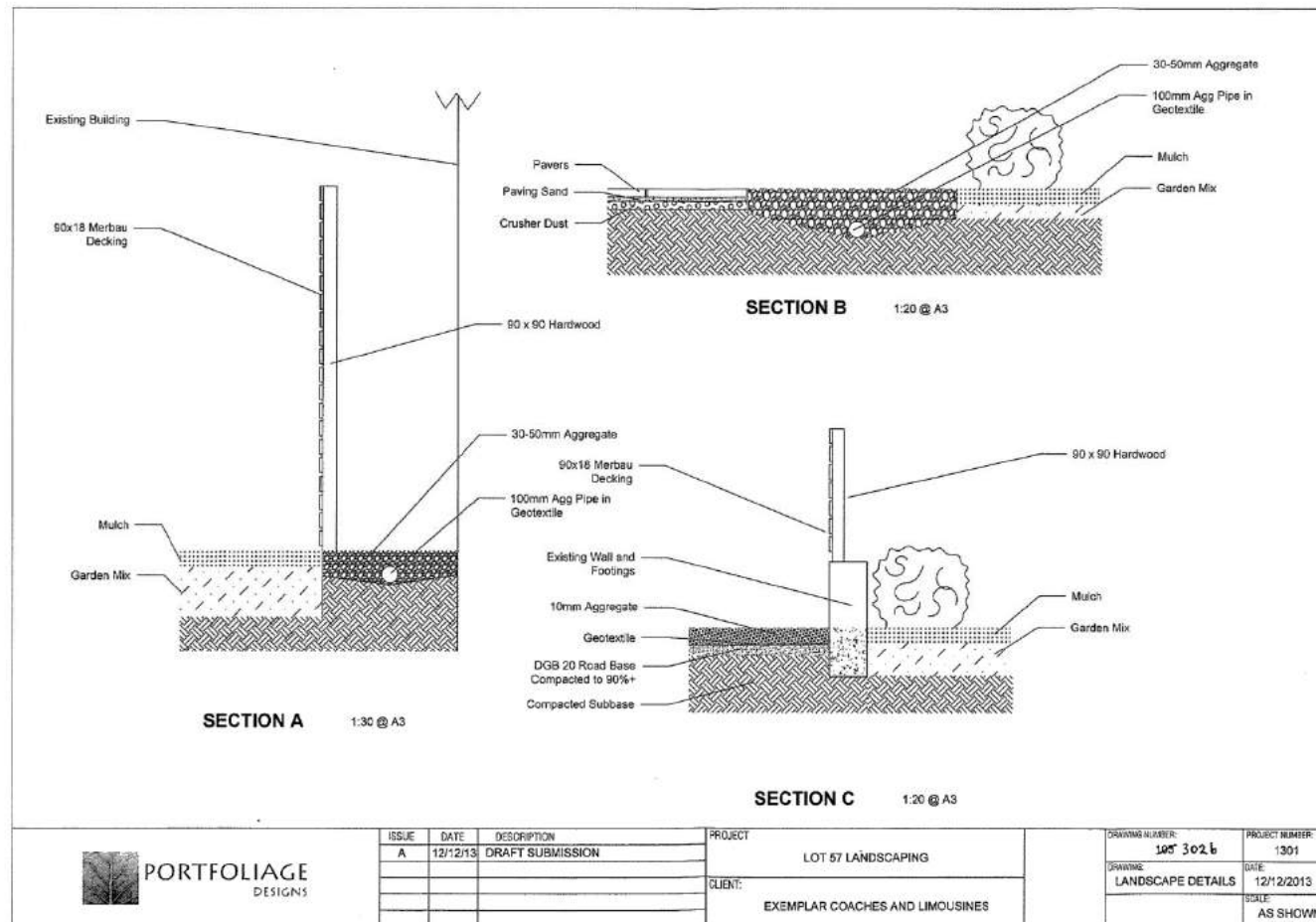


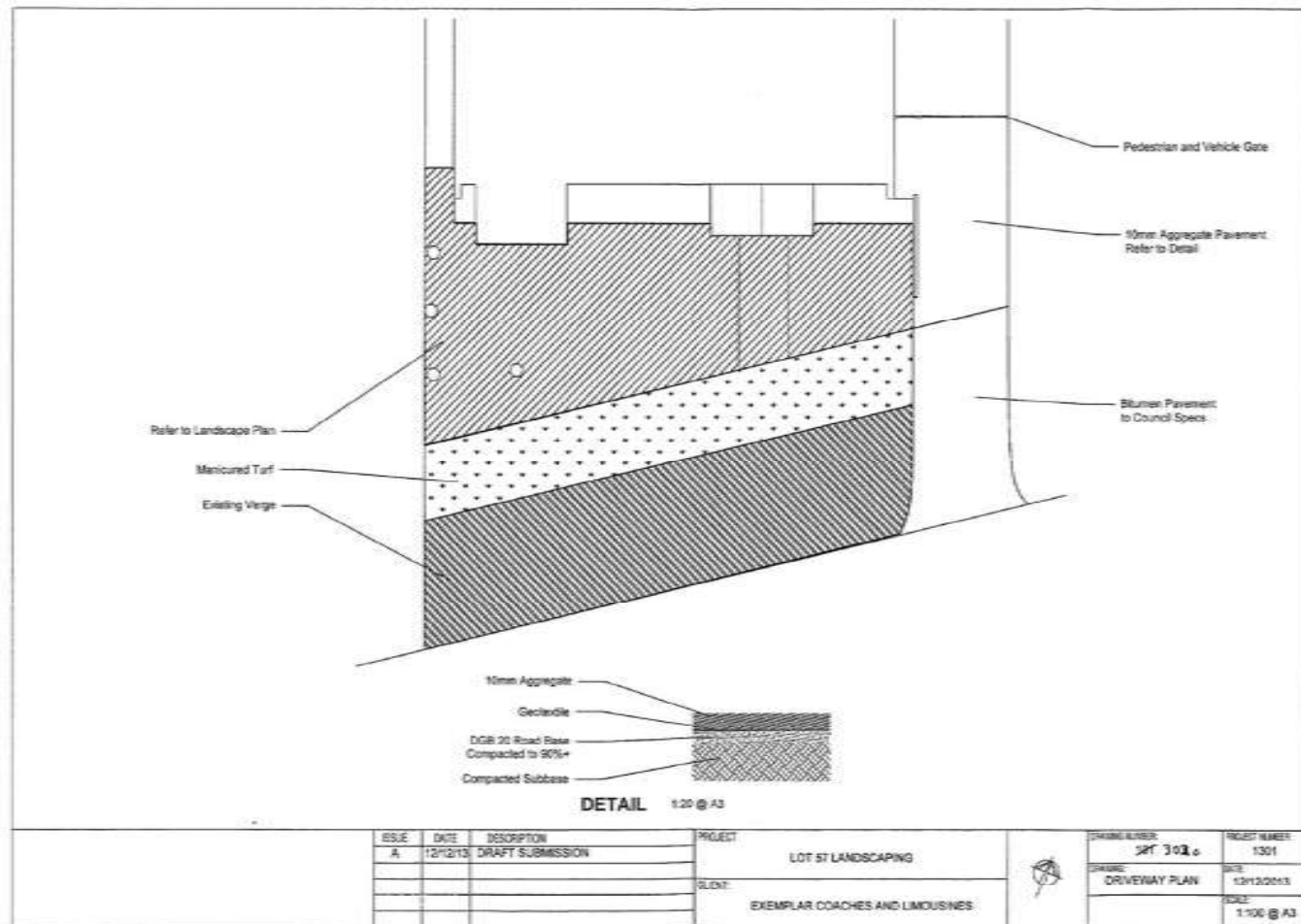


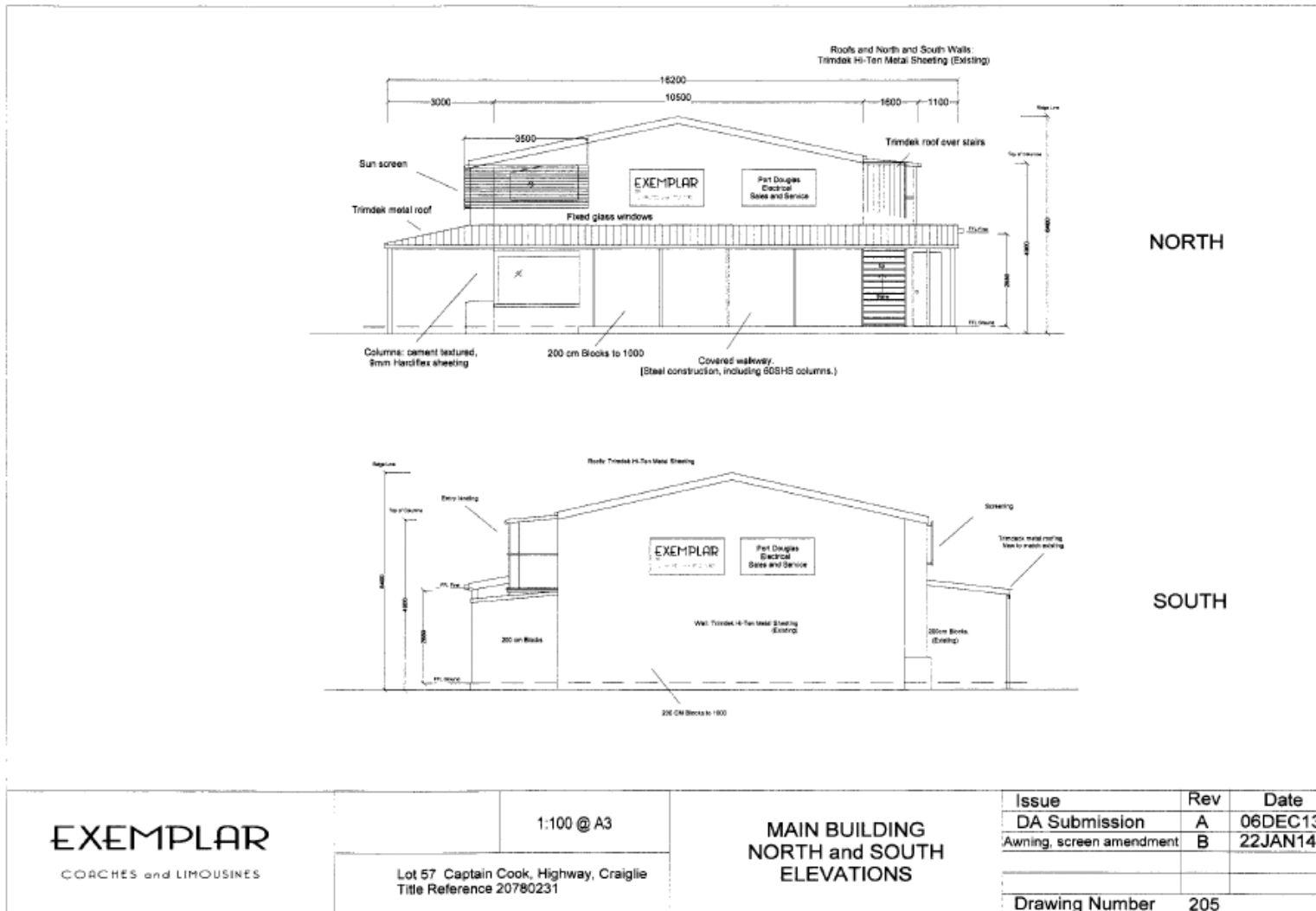














**EXEMPLAR**  
CORCHES and LIMOUSINES

Lot 57 Captain Cook, Highway, Craiglie  
Title Reference 20780231

### SCHEMATICS

Issue	Rev	Date
Awning, screen amendment	B	22JAN14
Drawing Number	500	

## 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

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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.

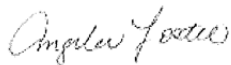
#### Further advice

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

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.

Our reference: SDA-0114-007493

Your reference: MCUC01/2013

### **Attachment 2—Reasons for decision to impose conditions**

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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*.

- # 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.

SDA-0114-007493

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

**Attachment 3—Further advice**

<b>General advice</b>	
<b>Advertising devices</b>	
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.
<b>Further permits, compliance permits or compliance certificates</b>	
<b>Road Access Works</b>	
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).

### APPENDIX 3: NEGOTIATED INFRASTRUCTURE CHARGES NOTICE COUNCIL'S POLICY CHARGES:

<b>DOUGLAS</b> SHIRE COUNCIL		<b>2006 &amp; 2008 Douglas Shire Planning Schemes Applications</b>	
<b>NEGOTIATED INFRASTRUCTURE CHARGES NOTICE</b>			
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		
<b>WATER</b>			
Existing	11	6,641.15 X	0.46 0.00 \$3,054.93
Proposed	11	656.83 X	0.46 0.00 \$302.14
<b>Water sub - total</b>		<b>\$3,357.07</b>	
<b>SEWERAGE</b>			
Existing	6	2,534.49 X	0.46 0.00 \$1,165.87
Proposed	6	1,101.80 X	0.46 0.00 \$506.83
<b>Sewerage sub - total</b>		<b>\$1,672.69</b>	
<b>OPEN SPACE</b>			
DSC Area			\$0.00
<b>Off-Site Car Parking</b>	None		\$0.00
<b>TOTAL</b>		<b>\$5,029.76</b>	
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.

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](mailto:enquiries@douglas.qld.gov.au)



## APPENDIX 4: APPLICANT'S REPRESENTATIONS

3 Captain Cook Highway  
Port Douglas  
Queensland 4877

16<sup>th</sup> April 2014

Ms Donna Graham  
Manager Development and Environment  
Douglas Shire Council  
PO Box 723, Mossman Q 4873

Attention  
Ms Jenny Elphinstone

DOUGLAS SHIRE COUNCIL	
Received	
File Name	MLC 09/1/2013
Document No	419608
16 APR 2014	
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Information	

### 5957R DAVIDSON STREET CRAIGLIE – APPEAL REPRESENTATION

On the 24<sup>th</sup> February Douglas Shire Council issued a Decision Notice in respect of a Development Application for 5957R Davidson Street Craiglie.

I request that consideration be given to amending three of the conditions imposed by council

- The requirement for a two-metre wide footpath across the front of the property.
- The requirement for No Standing Signs at the front of the property.
- The quantum of the Adopted Infrastructure Charge.

A summary of my concerns follows:

#### FOOTPATH

Condition 3a: "Provide a two (2) metre wide concrete footpath to the full width of the property frontage external to the land ...."

It is a \$6,000 undertaking that provides no utility, will not be as attractive as soft landscaping, and has every prospect of being a safety hazard.

#### Aesthetics

The presence of a 64 square metre slab of concrete is not in keeping with DSC's stated objective: "Development on lots adjacent to the Captain Cook Highway is sited, designed and landscaped to provides an attractive visual approach to Port Douglas with all buildings, structures and car parking areas setback a sufficient distance from the Frontage to enable landscaping to screen or soften the appearance of the development." (Ref: Douglas Shire Planning Scheme. Page 79. Item A29.1)

Instead, the proposed soft landscaping would better achieve the objective.

#### Utility

Currently there is no passing foot-traffic and this is expected to be the continued case. Essentially, there is nowhere to go.

The primary and secondary accesses to our building are from the yard at the rear. We will have very little pedestrian traffic along the front of the premises.

Our neighbour immediately to the north is the Court House Bottle Shop. They have ample off street parking and all clients access the building from the front and side parking bays. They do have a footpath, but no one has a need to use it, nor continue past our frontage.

We do not have, nor are we likely to get, a neighbour to the south. Therefore continuity of flow past our property will not be required.

- To the immediate south we have a small parcel of land (part of much larger lot, owned by Town and Country). Highway-access to this area is prohibited by council covenant. Access may only be achieved via Teamster Close.
- There is also a sewerage pumping station not far from our southern boundary in line with where a footpath would go.
- Beyond that is 10 meter-wide stormwater drain that runs parallel to the highway. Without covering the drain, there is no way that a footpath could be installed here
- Beyond that again, and all the way to Beor Street are a couple of established businesses at Lots 1, 5-7 and 9-11. They too are prohibited from establishing access to the highway, and have no footpath along their highway boundary.

#### Alternative Flow

There is adequate footpath provision on the eastern side of the highway from Plantation Resort all the way into Port Douglas. Pedestrian and cycle movement is already well catered for.

#### Safety

If a path were to be installed, it would come to a 'dead-end'. That raises a safety concern. Across the road at our existing premises we witness much traffic along the footpath. This includes (often fast-moving) bicycles, postie-bikes, ride-on mowers, and motorised wheel chairs. Someone not knowing that the path in front of Lot 57 comes to an end could end up in the drain beyond. The danger would be significant at night. On the other hand, if they run off the end of the footpath in front of the Bottle Shop, they would end up on grass.

#### Environmental

As the proposed path is a non-permeable surface all water will run-off the site and not into the ground which is environmentally beneficial and eases the burden on the surrounding drainage systems.

#### Photographs

*Photos commence out the front of the Bottle Shop and look and transition south ..*









#### **ADOPTED INFRASTRUCTURE CHARGE.**

As part of my approval process I was advised that I have been levied a charge of \$16,230. I would like to appeal this on the grounds that this quantum is unreasonable. (ref Sustainability Planning Act 2009 478 (4) (a))

I am a small business person, trying to expand, employ locals and generally add to the commercial viability of the region. In doing so I am attempting to make an old eyesore on the doorstep of Port Douglas as attractive as possible. But I am finding the fees crippling. I originally budgeted \$75,000 for the renovation. Compliance costs are in the order of \$35,000. This money can't be spent on providing utility or enhancing the building and site's attractiveness. Fees and imposts to date are:

Lodgement of DA with DSC	\$2,700
DCS providing previous engineering drawings	\$56
DCS providing plumbing drawing	\$41
Certifier lodging docs with DSC	\$400
Certification task	\$1,900
Building Industry Qleave	\$4,000+
Bitumen as specified by DSDIP	\$4,000
Concrete footpath	\$6,000

Infrastructure charge	\$16,000
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<b>TOTAL</b>	<b>\$35,000</b>
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\$35,000 is committed even before an architect or engineer is engaged, or a nail is hammered in. And, no doubt, there will be more surprises around the corner.

In respect of the charge is there any way that council can use discretionary powers to waive the charge or reduce the quantum?

## **NO STANDING SIGNS**

Condition 3 (f): "Include 'No Standing' signage adjacent to the road frontage for the full width of the property frontage to Davidson Street."

Over the last year a considerable number of vehicles have been parked for long periods outside Lot 57 and directly across the road. Although the parking of vehicles in this manner is legal, it is not ideal. It is unattractive, and the movement of vehicles to and from their parking spaces has safety implications. These vehicles belong to Exemplar employees.

The reason my employees park on the street is because there is no longer space inside our Lot 3 depot. Some years ago when we first outgrew Lot 3 we paid to cover the drain that ran along the highway perimeter of Lot 3. That was fully approved by DSC and on-street parking was endorsed. The newly created space served as overflow parking for a number of years.

We have since outgrown even that space and that is the reason why we purchased the much larger premises across the road at Lot 57. That will easily accommodate not only Exemplar vehicles but also those of all of our staff, and the clients and staff of our intended, downstairs tenant, Port Douglas Electrical Services (PDES). Staff are keen to have their vehicles safely locked away behind the building. And they will be instructed to do so.

I contend that, although long-term parking will not be required out the front, there is a well defined requirement for short-term access to both Exemplar and Port Douglas Electrical Services:

- Exemplar has vehicles that have to briefly stop at the office for reasons such as to pick up a baby seat, to collect a revised manifest etc. Usually passengers are on board and drivers keep the stop as short as possible.
- PDES has a similar 'pop-in' requirement. The bulk of their custom is with trades people who have large orders. These will be serviced through the rear/main entrance to the shop. However, there will be the requirement for quick pickups, best utilised by parking out the front and going through the front door.

I think it is unreasonable for council to completely ban vehicles stopping out the front. If that were to be the case, alternative could be for vehicles to:

- park out the front of the Bottle Shop or Shell Service Station; the aim would not be achieved, or to
- park at the rear of our building. However, we are restricted (by TMR) to having only one driveway access to the highway. It is existing, can't be widened and is only wide enough for one vehicle (6m). If vehicles that could otherwise stop briefly out the front



have to queue for the single-lane access there could very well be encroachment onto the highway; a major safety concern, especially if larger coaches are involved. Further, it would "not be a good look" if one of my vehicles loaded with passengers had to travel right into the yard to park, when a brief stop outside would seem to them to be the more viable option.

I can find no mandated requirement for "No Standing" signs in the Douglas Shire Planning Scheme, or its referenced documents. Indeed, there are no such signs along the Captain Cook Highway through Craiglie or for a long way either side.

Further, I feel that I am also being commercially penalised. I paid a premium to purchase highway frontage that would capture passing trade. Clients not being able to stop outside has every prospect of reducing land value, especially when no such restriction has been placed on any neighbouring property.

I therefore request that the requirement for No Standing signs be rescinded.

### **CONCLUSION**

I am trying to be a good corporate citizen and work within both the spirit and the words of the law and council requirements. I think however that my requests above are not unreasonable. I would welcome the opportunity for a sit-down chat to work out if and how we may find a mutually acceptable compromise.

Yours sincerely



Gordon Wellham AM

Principal, Exemplar Coaches and Limousines