

17 December 2019



Nick Horton

By email [fyi-request-11700-d5cbae09@requests.fyi.org.nz](mailto:fyi-request-11700-d5cbae09@requests.fyi.org.nz)

Dear Nick

**INFORMATION REQUEST – Resource Consent for Coffee Cart Retailer**

We write in response to your email dated 22 November 2019 in which you requested the following information:

- I am writing to request a copy of the current resource consent documents pertaining to the "Bean'n'gone" drive through coffee retailer (converted shipping container) currently located behind the Gull self service petrol station located at or near 751 state highway 29, Tauriko.

We have considered your request in accordance with the Local Government Official Information and Meetings Act 1987 ("LGOIMA") and respond as follows.

Please see application for resource consent and attachments enclosed with this letter. The application was lodged on 25 November 2019 and is still going through the process of being assessed and decided on.

The financial details in the lease document are withheld in accordance with s7(2)(b)(ii) of the LGOIMA to *protect the commercial position of the person who supplied the information.*

This request took staff approximately 1 hour to complete. Please note that any further requests on the same issue may incur a charge.

If you wish to discuss this decision with us, please feel free to contact the writer.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Kath Norris".

Kath Norris  
Manager (A)  
Democracy Services



**Application Form**

for all consent application types (RMA, LGA, HASHAA)

**Site Location**

Street Address      757 5L State Highway 29  
 Suburb              Tauriko  
 Legal Description      Lot 2 DP 338615

**Applicant Details**

Applicant Name      Coffee Empire Limited trading as Bean n Gone  
 Address of Applicant      294 Sunset Road, Windsor Park  
                                     Auckland 0632.  
 Property Owner      Trig Hill Road Limited      Occupant (if applicable)      Steven Wood  
 Phone      Work.....      Home.....      Mobile 021 867287  
 Email      [steve.wood63@gmail.com](mailto:steve.wood63@gmail.com)

**Address for Service**

Agent Name .....  
 Postal Address.....  
 Phone      Work.....      Home.....      Mobile.....  
 Email .....

**Type of Application/s (tick relevant boxes)**

- |  |                 |                          |   |                                     |
|--|-----------------|--------------------------|---|-------------------------------------|
| Subdivision Consent – RMA s88  | (form 9 equiv)  | <input type="checkbox"/> | Post-Subdivision – Survey Plan – RMA s223             | <input type="checkbox"/>            |
| Land use Consent – RMA s88   | (form 9 equiv)  | <input type="checkbox"/> | Post-Subdivision – Completion Certificate - RMA s224  | <input type="checkbox"/>            |
| Consent Condition – Cancel/Vary – RMA s127                                   | (form 10 equiv) | <input type="checkbox"/> | Consent Notice – Cancel/Vary – RMA s221               | <input type="checkbox"/>            |
| Existing Use Certificate – RMA s139A & s10                                   |                 | <input type="checkbox"/> | Easement – Create/Cancel – RMA s243                   | <input type="checkbox"/>            |
| Outline Plan (for designated site) – RMA s176A                               |                 | <input type="checkbox"/> | Designation – RMA s168                                | <input type="checkbox"/>            |
| Certificate of Compliance – Permitted Activity (including Liquor) – RMA s139 |                 | <input type="checkbox"/> | Section 100(f) Sale and Supply of Alcohol Certificate | <input type="checkbox"/>            |
| Qualifying Development Consent - HASHAA                                      |                 | <input type="checkbox"/> | Other (specify)                                       | <input checked="" type="checkbox"/> |

Resource Consent For a Non Complying Activity in a Rural Zone

**Describe Proposal (in brief)**

To establish and operate a drive thru coffee container with associated signage infringements in the Rural Zone at 751 State Highway 29, Tauriko legally described as Lot ( ) DP 519923

**Supporting Information (attached)**

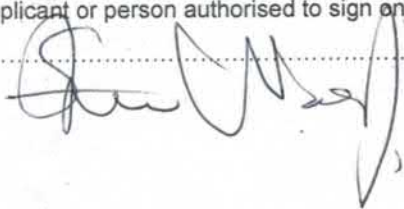
Applicant check



The information supplied with this application is true and complete to the best of my knowledge. I understand the Council is relying on this information in making its decision on this application.

Signed – by applicant or person authorised to sign on behalf of applicant

Date: 22 Nov 2010



# Environmental Planning Checklists – Applicant to Complete

## Disclaimer

This form is for guidance only. It does not comprise any type of Council approval, nor does it in any way prevent Council from making a request for additional information required to process the application.

## Supporting Information - General

	Applicant check
Description of Proposal	
- Activity Status	<input checked="" type="checkbox"/>
- Relevant Rules, Objectives and Policies of the Tauranga City Plan (incl. any Plan Changes)	
- Relevant provisions of the National Policy Statement, National Environmental Standards and Regulations, NZ Coastal Policy Statement, Regional Plan, and Strategies	
- Assessment of actual and potential effects (incl. alternative sites and monitoring requirements)	
Deposit Fee/s (incl GST) – Refer Environmental Services Group - Schedule of Fees and Charges	<input checked="" type="checkbox"/>
Record of Title (not less than 3 months old) & any restriction details – building line, covenant, consent notice, easements	
Full set of Development Plans (Scale - 1:100 or 1:200)	
Identification of Persons interested or affected by the proposal, including:	
- Written Approval of Affected Persons (unconditional, correctly completed, including signing of the AEE and plans)	<input checked="" type="checkbox"/>
- Record of Consultation with any parties (incl. with Tangata Whenua), and any response.	
<i>Note – Reference should be made to the Tauranga City Council Policy entitled: "Tangata Whenua Consultation in relation to Resource Consents" – which requires a written response from the affected Iwi or Hapu.</i>	
Specialist Assessments (Landscape, Visual, Traffic, Noise, Arborist, Geotechnical, Soil Contamination) are from appropriately qualified experts	<input type="checkbox"/>
Other Consents Required: Environment Bay of Plenty (discharge, earthworks); Heritage New Zealand (archaeological)	<input type="checkbox"/>
Earthworks and Excavation: the extent (illustrated and described), finished contours, and geotechnical detail	<input type="checkbox"/>

## IMPORTANT NOTE

For comprehensive information requires (for all application types), you are strongly advised to refer to the Fourth Schedule of the Resource Management Act 1991.

## Additional guidance for certain types of applications

### If for a Subdivision – Section 88

	Applicant check	Planner check
- Scheme Plan Detail: the position of all existing and new boundaries, services and easements / amalgamation; the areas of all new allotments	<input type="checkbox"/>	<input type="checkbox"/>
- Confirm compliance with the Infrastructure Development Code (IDC)	<input type="checkbox"/>	<input type="checkbox"/>

### If for a Consent Condition – Cancellation or Variation – Section 127

	Applicant check	Planner check
- Referenced the approved consent and clearly identified whether seeking cancellation or variation	<input type="checkbox"/>	<input type="checkbox"/>
- Assessment of Environmental Effects accords with RMA 4 <sup>th</sup> Schedule and corresponds with scale and significance of effects the change or cancellation may have on the environment	<input type="checkbox"/>	<input type="checkbox"/>

### If for a Permitted Activity – Section 139

	Applicant check	Planner check
- Demonstrate permitted activity status, and how all associated permitted activity conditions have	<input type="checkbox"/>	<input type="checkbox"/>

**Proposal: Establish a commercial coffee business**

**At: 757 State Highway 29, Lot 2 DP 338615**

**Tauriko**

**RESOURCE CONSENT APPLICATION AND**

**ASSESSMENT OF EFFECTS**

**ON THE ENVIRONMENT (AEE)**

November 2019

## **1.0 INTRODUCTION**

### **1.1 Overview of Proposal**

The applicant seeks resource consent to establish a commercial coffee business.

### **1.2 Application Details**

**Site Address:** 757 State Highway 29, Tauriko

**Legal Description:** Lot 2 DP 338615

**Site Area:** Approximately 857sqm

**District Plan:** Tauranga City Plan

**Zoning:** Rural Zones

**Arterial:** State Highway

## 2.0 SITE

### 2.1 Subject Site

The 857m<sup>2</sup> site is of a regular shape, located on the southern side of State Highway 29. This is one, of many adjoining lots contained within a large parcel of commercially based rural land. The site is a rear site, accessed principally via a specifically designed two-way access driveway at the eastern extent.

The adjoining lots and their associated businesses form the immediate environment. In front of the proposed container is the Gull Service Station with Canvas Repairs occupying the rear site on the opposing side of the access way. Facing the Gull petrol station from State Highway 29, on the left aspect of the entry point to Gull, Auto Driven Cars and a coffee cart are situated. Mossop's Honey borders the right hand side of Gull.

Please refer to **Appendix 1** for the Lease and **Appendix 2** for a set of site photographs



Figure 1 – Aerial photograph of 757 State Highway 29 and its surroundings

### 2.2 Surrounding Environment

The surrounding area is a combination of rural land, housing, established and establishing businesses and services. Tauriko school is located on the opposite of State Highway 29. State Highway 29 is a key arterial route that links the Bay of Plenty and Waikato regions. It services both local and regional commuters. For most of its length, SH 29 is a two-lane single carriageway with occasional passing lanes and slow vehicle bays.

## 3.0 PROPOSAL

### 3.1 Proposed Works

The applicant proposes to relocate an existing container on site and operate a coffee retail business.

#### Building and Signage

The container is purpose built with a footprint of 6.1 metres in length by 2.44 metres wide and is 2.59 metres in height.

The building has been retrofitted for the specific business, with plumbing for water. Waste will be disposed of via a 20L container. It will be internally lit.

Signage for development includes the following:

Wall-mounted on the building-

Facing Gull Petrol Station

- 1 x Large cup sign measuring 2.06m high by 1.44m wide (2.9664m<sup>2</sup>)
- 1 x Drive Thru Coffee sign 1.03m high by 3.95m wide (4.0685m<sup>2</sup>). Black background with white lettering and an Altura Company logo.
- Opening hours displayed with black lettering 0.51m high by 0.32m wide (0.163m<sup>2</sup>)

Service Delivery Window side

- 1 menu board measuring 1.18m high by 0.91m wide (1.0738m<sup>2</sup>). Black background with white and green lettering.
- 1 x small window decal measuring 0.3 m high by 1.034 wide (0.1075m<sup>2</sup>). Brown background of coffee beans with four coffee cups coloured black with the company logo.

Driveway Aspect of Container

- 1 x wide menu measuring 0.66m high by 2.08m wide (1.3728m<sup>2</sup>). Black background with white and green lettering.
- 1 x sign board measuring 0.3 high by 2.175 wide ( 0.6525m<sup>2</sup>). Black background with company logo



### Free standing signage

- 1 x flag measuring up to 0.6m wide by 1.8m high (2.4m<sup>2</sup>). Green background with white and black lettering 'Coffee Drive Thru'.
- 1 x Free standing board sign measuring 0.6m wide by 0.8 m high

The total area of signage on the container will be 10.119m<sup>2</sup>.

No earthworks are required to establish the new container. No works will be undertaken within the SEA overlay, or in the vicinity of existing underground infrastructure.

### **Operations**

The applicant proposes to sell coffee to members of the general public and those visiting the adjoining businesses. Customers will drive through to receive their coffee.

The business will operate from the building described above and will be open:

Monday to Friday, between the hours of 6am and 2pm  
Saturday, between the hours of 7:00am – 12:00pm.

It is expected, between 50-100 customers per day will patronise the business daily, and potentially increasing to 150 as the business becomes more established, with the majority of those being between 6am and 9am. As most customers will come from the existing facilities within the site, it is expected that any additional traffic movements would be very low (less than 50)

Up to two staff members will work at the coffee business at any one time, although the day to day operations will typically only be run by one staff member. Accordingly, no more than two car parking spaces are required. As the business is small in scale and products will be brought to the site by the owners, no loading facilities are necessary.

## 4.0 REASONS FOR APPLICATION

Resource consent is required for the following reason:

Tauranga City Plan

### Rules

16A.12 Non-Complying Activity The following are Non-Complying Activities:

- a) Any activity listed as a Permitted Activity that does not meet Rule 16A.8.7 – Homestay
- b) Any activity listed as a Permitted Activity that does not meet Rule 16A.8.8 – Home-based Businesses;
- c) Any activity listed as a Permitted Activity that does not meet Rule 16A.8.10 – Produce Stalls;
- d) Any activity listed as a Permitted Activity that does not meet Rule 16A.8.11 – Food Premises Associated with Garden Centres;
- e) e) Any activity that does not meet Rule 16A.11.1.1 - Packhouses and Coolstores in the Rural Zone and Future Urban Zone
- f) All activities listed in Table 16A.1: Rural, Future Urban and Greenbelt Zones Activity Status as Non Complying Activities;

### Notes

- 16A, 12(f) Activities not provided for – as a **non-complying activity**. A retail business selling beverages will be established.

### Section 4D Signs

4D.2.3.2 – Residential Zones, Rural-Residential Zone and Rural Zone

- a) The maximum height and area of any sign shall be:
  - i) Free standing signs - Max number = 1, max height = 4m, max sign area 1m<sup>2</sup>, anywhere within the site;
  - ii) Serving a residential activity...
  - iii) Signs serving a non-residential activity and attached to a building – 1 per site and max sign area of 0.5m<sup>2</sup>
- b) Any permanent sign shall relate only to the activities located on the site;
- c) Any illuminated sign shall be designed and operated in accordance with Rule 4G.2.1...
- d) Signs animated by means of moving parts or illuminated by means of flashing, blinking or moving

## Notes

- a) The proposed free standing signage exceeds the number of signs in sub-clause (i) and the signage attached to the container exceed sub-clause (iii) in terms of number of sign area. The signage proposed thus requires consideration as a **restricted discretionary activity**
- b) All signage relates to activities on the site.
- c) There are no illuminated signs associated with the business
- d) See above

## 5.0 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Pursuant to Section 88(2) (b) of the Resource Management Act 1991, an application for resource consent shall include an assessment of any actual or potential effects that the activity may have on the environment, and the ways in which any adverse effects may be mitigated.

Section 88 of the Act specifies that an assessment of effects shall be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment and shall be prepared in accordance to the Fourth Schedule of the Act.

Matters to be considered by the Council when assessing an application for resource consent under Section 104 of the Act include, subject to Part 2, any actual or potential effects on the environment and any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan.

### 5.1 Adverse Effects Assessment

The following assessment addresses the adverse effects of the activity on the environment. Those effects relevant to this activity are considered as follows. This assessment has been separated into two parts in 5.2 (Public Notification) and 5.3 (Limited Notification).

#### 5.1.1 Effects that must be disregarded – Immediate Environment

When assessing whether an activity will have, or is likely to have adverse effects on the environment that are more than minor, Section 95D states that the consent authority must disregard effects on persons who own or occupy the land in, on or over which the activity will occur and any land adjacent to that land. In this instance, the properties identified in the 'Immediate environment' are considered to be the lots adjacent to the subject site, with any adverse effects on them to be disregarded.

### **5.1.2 Effects that must be disregarded – Existing Environment**

The site and environment have been discussed previously in this report. It must be considered a benchmark against which new adverse effects introduced by this application are to be measured. As such only those adverse effects that arise from the proposal over and above the existing environment can be assessed.

It is considered that relevant effects arising from the existing environment include the visual, character, landform, and built form effects associated with the established businesses on the site.

### **5.1.3 Effects that may be disregarded – Permitted Baseline Assessment**

The permitted baseline refers to the effects of permitted activities on the subject site. In the case of this site, while there are activities within the underlying zone that could be established as a permitted activity, the existing developments already well exceed the expected thresholds in terms of number of persons per site and staff. As such, we do not consider the permitted baseline to be particularly applicable.

## **5.2 Public Notification Assessment**

Section 95A gives the Council discretion to decide whether or not to publicly notify an application, noting that an application must be publicly notified if:

- the activity will have or is likely to have adverse effects on the environment that are more than minor;
- applicant requests public notification
- rule or national environmental standard requires public notification.
- special circumstances for this application are considered to exist.

An assessment of these matters is provided below.

### **Public Notification Assessment**

The following is an assessment of the adverse effects on the wider environment resulting from the proposal modifications and taking into account the matters outlined in sections 5.1.1 to 5.1.3.

## **Adverse Effects on the Environment**

### **5.2.1 Character and Amenity Effects**

As such the rural character which is typical of rurally zoned sites has already been compromised by the existing businesses. Further, the activity will be supplementary to the existing activities within the site,

In any case, the proposal is seeking to add a modest container to the existing development and it has been designed to maintain compliance with maximum height control and will be compatible in terms of scale, height and mixed-use character with existing building within the site.

The container is green and black and would be located at the rear of the Gull Service Station boundary; thereby ensuring its appearance is well integrated into the site and will

not detract from its surrounds. The container will not appear visually and physically dominating on the site or be visually appreciable beyond the immediate environment. The overall spacious setting of the container in conjunction with the existing petrol station within the site will not appear overcrowded.

The wall-mounted signage is fixed to the building and flat against the façade, on three of the four sides of the container. Only one façade is facing State Highway 29 or being visually appreciable from any one place. As with the overall container, any effects with respect to the surrounding environment and adjoining traffic networks would be less than minor due its size, location (below the roofline), and colour on the building. Further, the signage would not be illuminated.

The coffee business would operate in conjunction with the other non-complying rural zoned activities which have already been established within the site. The business is not a destination in itself, but secondary to the existing activities and it is not envisaged that the business will attract a particularly high number of passers-by travelling along State Highway 29 for that reason. Accordingly, there will be no appreciable increase in the number of persons within the site on a daily basis, any associated amenity effects would be absorbed by the existing on-site activities and the adjoining roading network.

Overall, the development will result in adverse amenity or character effects that are insignificant and otherwise anticipated by virtue of the existing non-complying rural activities.

### **5.2.2 Traffic**

Waiting on NZTA.

### **5.2.3 Stormwater**

The total quantum of impervious areas will continue to discharge to the reticulated network, as per the present arrangement, and there are no known capacity constraints. The development at present is only 63% imperviousness, and it is noted that a portion of the additional coverage will only be 9.8m<sup>2</sup>, which is less than the maximum 70% allowable and of a negligible scale.

### **5.2.3 Conclusion**

Overall, the adverse environmental effects of the proposed activity would be less than minor.

### **5.2.4 Adverse Effects Summary**

Based on the foregoing assessment, it is considered that any adverse heritage, character and built form related effects arising from the proposed development would be less than minor in nature.

### **5.2.5 Public Notification Request**

The applicant does not request Public Notification.

### **5.2.6 Rule Requiring Public Notification**

There are no rules or regulations that require public notification of the application.

### **5.2.7 Special Circumstances**

It is considered that there are no special circumstances that would warrant the public notification of this application as the scale, character and effects of the proposed development does not deviate from what is provided for on a site of this size within this zone and is therefore provided for and reasonably anticipated.

In addition, there are no unusual or contentious elements that would make public notification justifiable under this provision.

### **5.2.8 Public Notification Conclusion**

Public notification is not required because as outlined above:

- the activity will have or is likely to have adverse effects on the environment that are less than minor;
- the applicant does not request public notification
- there are no rules or national environmental standards that require public notification.
- there are no special circumstances that warrant public notification.

## **5.3 Limited Notification Assessment**

If the application is not publicly notified the council must decide if there are any affected persons, or customary rights or title groups.

In deciding if a person is affected:

- The adverse effects on those persons who have provided their written approval must be disregarded.
- Adverse effects permitted by a rule in a plan may be disregarded.
- A person is affected if the adverse effects of the activity on them are minor or more than minor (but are not less than minor).

An assessment of these matters is provided below.

### **Limited Notification Assessment**

The following is an assessment of the adverse effects on the wider environment resulting from the proposal modifications and taking into account the matters outlined in sections 5.1.2 and 5.1.3.

#### **5.3.1 Written Approvals**

No written approvals have been sought or provided with respect to the application.

### 5.3.2 Permitted Baseline

The permitted baseline has no particular relevance in this instance given the scale and nature of the existing non-rural activities which have already been established in the site. However, it is acknowledged that the scale and intensity of development aligns with what is provided for on a site of this size on a non-notified basis.

### 5.3.3 Adverse Effects on People

There are no other persons considered to be affected persons for the purposes of Sections 95B and 95E. In particular:

Opportunities to visually appreciate the proposed container from the immediately adjoining and neighbouring sites is particularly limited as a result of the site's size, topography, and the development area's visual and physical separation from them

Where it would be visible, the proposed container would not detract from the amenity values associated with the existing character of the area. Further, the container is small in scale, low in profile, and will be coloured green and black, thereby blending in with the vegetated context. Equally, the scale, location and colour of signage on each building façade would equally be difficult to appreciate.

- The proposed level of impervious surfacing will not result in adverse stormwater runoff effects with respect to sites within the immediate environment, as the increase is within permitted levels.
- The proposed activity would be supplementary/secondary to the existing non-complying rural activities within the site, with the majority of patrons already coming to the site for the primary activities described in the preceding assessment. Further, the scale and nature of the activity is largely benign in the context, given the large size of the site which will comfortably absorb effects, and its location along a busy and noisy arterial route. In addition, we note that the proposal would also enable the existing consented operations within the site to continue to function as their resource consents allow them to, with no adverse effects arising.
- The existing vehicle access would not be altered, and the proposed activity along with the consented activities, will be provided with to accommodate actual demand. This will ensure that sites within the immediate environment would not be adversely affected in terms of matters of traffic and pedestrian safety.
- Construction nuisances would be minimal given no earthworks are required to establish the building on site.

Overall, the intensity of built form does not represent an over development of the site, and will continue to be in keeping with the character of the site surrounding rural landscape. The activities as they present to adjoining sites will be readily absorbed into the immediate environment with limited effects which would otherwise be adequately

#### **5.3.4 Limited Notification Conclusion**

For the reasons outlined above, it is considered that any adverse effects on persons in terms of earthworks, storm water, built form and construction implications would be less than minor. Accordingly, limited notification of the application is not considered necessary.

### **6.0 NOTIFICATION**

For the reasons outlined in sections 5.2 and 5.3 above, it is considered that this application may proceed without public or limited notification.

### **7.0 DETERMINATION (SECTION 104 ASSESSMENT)**

Matters to be considered by the Council when assessing an application for resource consent under s104 of the Act include (subject to Part 2) any actual and potential effects on the environment and any relevant provisions of a Plan or Proposed Plan.

#### **7.1 Actual And Potential Effects on the Environment**

The potential adverse effects of the proposal on the environment and people have been evaluated above and were found to be less than minor in nature.

#### **7.2 Tauranga City Plan**

See Appendix 3 – Rule Check Tauranga City Plan

### **8.0 PART 2 MATTERS**

Part 2 of the Act contains the Act's purpose and principles and comprises sections 5-8. Section 5 in Part 2 identifies the purpose of the RMA as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Section 6 of the Act sets out several matters of national importance which need to be recognised and provided for, and includes among other things and in no order of priority, the protection of outstanding natural features and landscapes, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the protection of historic heritage.

Section 7 identifies a number of "other matters" to be given particular regard by a council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values. Section 8 requires a council to take into account the principles of the Treaty of Waitangi. The proposal is considered to be in accord with these principles.



Overall the application is considered to meet the relevant provisions of Part 2 of the RMA as the proposal achieves the purpose of the RMA being sustainable management of natural and physical resources because the proposal allows the applicant to utilise the site in a manner that provides for the social wellbeing of the community, while ensuring that adverse environmental effects with regard to neighbouring sites and the wider environment are avoided or suitably remedied or mitigated.

## **9.0 OTHER MATTERS (SECTION 104(1)(C))**

In this case there are no other matters that are considered necessary to determine the application.

## **10.0 CONCLUSION**

In summary, the applicant seeks consent for a new container, and to operate a coffee business from it, at 7575L State Highway 29, Tauriko. The signage proposed requires consideration as a restricted discretionary activity by the council.

It is submitted that the design of the proposed container is entirely appropriate for the particular rural context, taking into account the characteristics of the site, the positioning of the container, and the requirements of the applicant. The design will not adversely affect the character of the immediate neighbourhood and will appear visually sympathetic.

The intensity of built form does not represent an over development of the site, and will continue to be in keeping with the character of the surrounding rural landscape. The container is low in profile with suitable corridors of open space extend around it. Furthermore, there are adequate separation distances between the proposed development and adjoining and neighbouring properties.

The proposed signage will be appropriately located and will not detract from the existing or proposed development within the site, nor will it have adverse effects with respect to the operations of the adjoining roading network.

The scale and nature of the business is such that any effects are able to be adequately absorbed into site alongside the existing and consented non-complying rural zoned activities, without effects to the wider and immediate environments.

Accordingly, the proposal is considered appropriate for approval subject to suitable conditions of consent. To ensure this, it is requested that draft conditions are sent to the applicant for review prior to any decision being made.



APPENDIX 1 COPY OF LEASE

SCARBOROUGH  
GROUP

DATED: 16 January 2019

BETWEEN;

Trig Hill Road Limited  
(Lessor)

AND

Coffee Empire Limited  
(t/a Bean n Gone Tauriko)  
(Lessee)

N/A  
(Guarantor)

---

**AGREEMENT TO LEASE**

---

Anthony Harper  
Alistair Law  
PH: 09 356 2648  
Email: Alistair.Law@ah.co.nz

.....  
LESSOR'S SOLICITOR

PH:  
Email:

.....  
LESSEE'S SOLICITOR

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Deposit paid to .....  
Date.....  
Lessor's copy received.....  
Date.....  
Lessor's copy received.....  
Date.....

---

LEASED BY  
Direct

## APPENDIX 1 COPY OF LEASE

  
SCARBOROUGH  
GROUP

### **LEASE AGREEMENT**

- BETWEEN** Trig Hill Road Limited  
("The Lessor")
- AND** Coffee Empire Limited (t/a Bean n Gone Tauriko)  
of 294 Sunset Rd Windsor Park Auckland 0632.  
("The Lessee")
- REGARDING** Rear Yard Area ("the Premises") located at 7575L State  
Highway 29, Tauriko (behind Gull NZ)
- WHEREBY** The Lessor agrees to grant, and the Lessee agrees to accept a  
Lease ("the Lease") of the Premises as described in the  
Schedule 1 to this Agreement together with the rights to use  
common areas of the building and/or land on the following  
terms and conditions:

#### **1. TERM**

- 1.1 The Lease shall be for an initial term of five (5) years commencing on 1st February 2019 ("Commencement Date").
- 1.2 The Lessee shall have one (1) right of renewal for a term of five (5) years in duration beyond the expiry of the initial term, by serving not less than 6 months' notice to the Lessor prior to the expiry of the initial term or any renewal period.

#### **2. NET RENTAL**

- 2.1 The initial annual Net Premises rent shall be [REDACTED] (plus Goods and Services Tax)
- 2.2 The rental payable pursuant to the Lease shall be paid to the Lessor without deduction or set off and if required by the Lessor shall be paid by automatic bank authority on the 1st of each calendar month.
- 2.3 The annual net rent payable shall be increased on each anniversary of the commencement date (except for a market rent review date) (each a "fixed rent increase date"). The increased annual rent for the 12 month period immediately following each fixed rent increase date will be determined by multiplying the annual rent payable immediately before each fixed rent increase date by:
- (a) 103.00% on each anniversary of the commencement date.
- 2.4 Premises rent will be reviewed to market at the date of renewal. The rental shall not fall below the annual rent payable immediately before the market review.
-

**APPENDIX 1 COPY OF LEASE**

## APPENDIX 1 COPY OF LEASE



### **3. OPERATING EXPENSES**

- 3.1 The Lessee shall pay 100%, of the lessee's pro rata share, of Operating Expenses (council rates) attributable to the tenancy in accordance with the lease. The Pro Rata share is estimated to be 42% of the overall properties amount.
- 3.2 The Lessee shall be responsible for its own utilities. For clarification, utilities include electricity, gas, power and any other expenses including the installation of any improvements onsite that relate directly to the Lessee's use of the premises and such items may be in addition to the Gross Rental payable under the lease.

### **4. USE OF PREMISES**

- 4.1 The Premises shall be used by the Lessee for the selling of coffee and refreshments from a removable improvement and parking of cars on the balance of the site.

### **5. FORM OF LEASE**

- 5.1 The Lessor and the Lessee agree to execute a formal Lease of the premises which will be the latest version of the Auckland District Law Society Incorporated deed of lease, expanded or completed as the case may be by the provisions of this agreement, including the schedules to this agreement and including the landlord's usual property rules and regulations. The Lease will be prepared by the Lessor's Solicitor and executed by the Lessee.
- 5.2 The Lessee shall execute the Lease within 30 days of it being received by the Lessee or by the Lessee's solicitors. The Lessee will not have the right to occupy the Premises prior to the Commencement Date except as agreed between the parties.
- 5.3 Notwithstanding that the Lease may not have been executed, the parties will be bound by the terms, covenants and provisions contained in this agreement and in the Lease (with effect from the Commencement Date) as if the Lease had been duly executed.

### **6. DEPOSIT**

- 6.1 Upon this agreement becoming unconditional in all respects, the Lessee shall pay a deposit equivalent to two (2) months Gross Rent (plus Goods and Services Tax) to the Lessor, which sum shall be applied by the Lessor as payment pursuant to the Lease.

### **7. GUARANTOR (if any)**

- 7.1 The Guarantor shall provide a Personal Guarantee for the Lessee's financial obligations of this Lease. The Personal Guarantee shall be limited to 12 months gross rental at the time of default.

### **8. LESSOR WORKS**

- 8.1 There are no Lessor Works required or any further capital expenditure to be spend on the property prior or during the lease unless agree upon by both parties during the term.

## APPENDIX 1 COPY OF LEASE



### **9. EARLY ACCESS**

- 9.1 The Lessee may occupy the premises from 1st January 2019 for the purpose of installation of improvements and set up of business. No rental or outgoings will be paid by the lessee during this period.
- 9.2 Early Access will be provided once the Agreement to Lease has been signed by the Lessee and the deposit has been received, in full, by the Lessor.

### **10. LESSEE'S WORKS**

- 10.1 The Lessor allows the Lessee the right to refurbish and/or install any other works and/or improvements required, to the site, for the purpose of Lessee's occupation.
- 10.2 The cost of improvements and other additional works required for the purpose of improvements (i.e installation of power, water, gas and any other required utilities) will be the sole responsibility of the Lessee.
- 10.3 The Lessee will take sole responsibility that the improvements and works completed onsite are in a professional workman like manner. Works will only commence once the Lessor or Lessor's representative has given approval.
- 10.4 The Lessee will 'make good' the improvement at the termination of lease or lease expiry. The Lessee will use best endeavours to complete these works on or before the final expiry date or termination date. The 'make good' will be the sole responsibility and cost of the Lessee and completed in a professional workman like manner unless otherwise agreed by both parties.

### **11. LESSEE'S MAINTANENCE**

- 11.1 The Lessee has full responsibility of the premises and maintenance of yard, fence along with their improvements. The Lessee will use best endeavours to keep the premises to a high standard.

### **12. REDEVELOPMENT**

- 12.1 The Lessor has the right to terminate the lease at their discretion for the purpose of redeveloping the site providing that 6 months' notice, in writing, is provided to the Lessor.
- 12.2 This notice can only be given within the 2<sup>nd</sup> term of the Agreement to Lease. (i.e from 1<sup>st</sup> Feb 2024) or unless both parties agree on a preferred date during the first term of the Agreement to Lease.
- 12.3 The Lessor will not be held accountable for any costs incurred associated with the Lessee during this period and termination.

APPENDIX 1 COPY OF LEASE



**SCHEDULE ONE**

**THE PREMISES**

**ADDRESS:** 7575L State Highway 29, Tauriko (behind Gull NZ)  
**REAR YARD:** 857sqm approximately  
**CAR PARKING:** All car parking is included within the yard rental.  
**NET PREMISES RENT:** [REDACTED]  
**REVIEWS:** Fixed Annually at 3% plus a Market Review upon Renewal.  
**OUTGOINGS:** 100% of pro rata share (equates to 42% approx.)  
**COMMENCEMENT DATE:** 1<sup>st</sup> February 2019  
**LEASE TERM:** Five (5) Years  
**RIGHTS OF RENEWAL:** One (1) rights of five (5) years each.  
**FINAL EXPIRY:** 31st January 2029  
**DEFAULT INTEREST RATE:** 14% per annum

**SIGNED by the Lessor:**  
(Trig Hill Road Limited)

**DATE:** 16/1/19

A large, stylized handwritten signature in black ink, written over a horizontal line.

**SIGNED by the Lessee:**  
(Coffee Empire Limited)

A handwritten signature in black ink, written over a horizontal line.

**DATE:** 14<sup>th</sup> JANUARY 2019

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## APPENDIX 1 COPY OF LEASE



### **SCHEDULE TWO**

#### **LANDLORDS FIXTURE AND FITTINGS**

The Landlord's Fixtures and Fittings include:

- Wooden Boundary Fence (Sth Western Boundaries)
- Wooden Garden Bed (Northern Boundary)
- Compacted Gravel Yard.

### **SCHEDULE THREE**

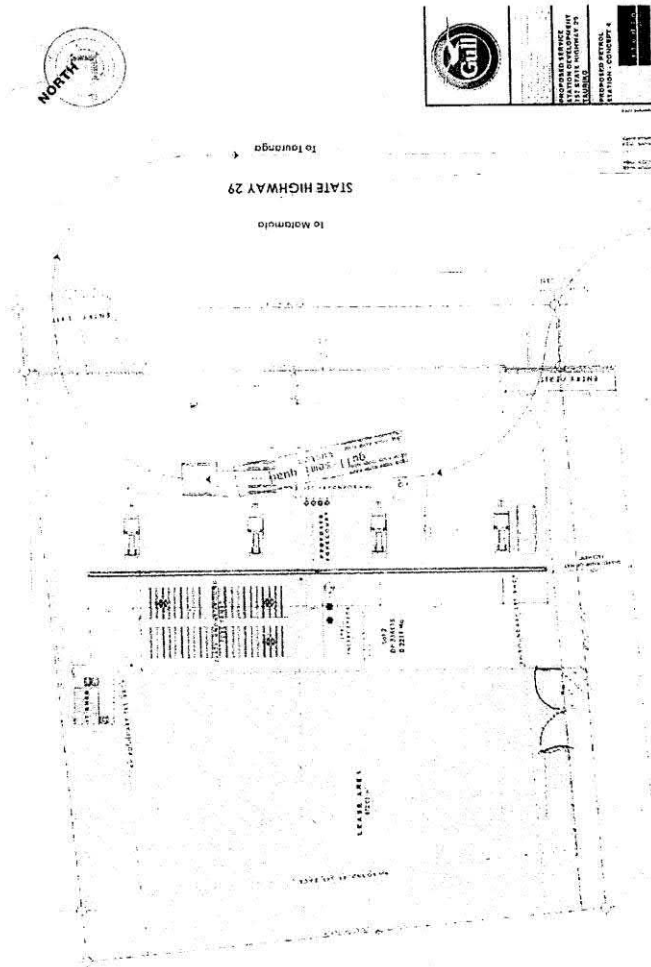
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APPENDIX 1 COPY OF LEASE



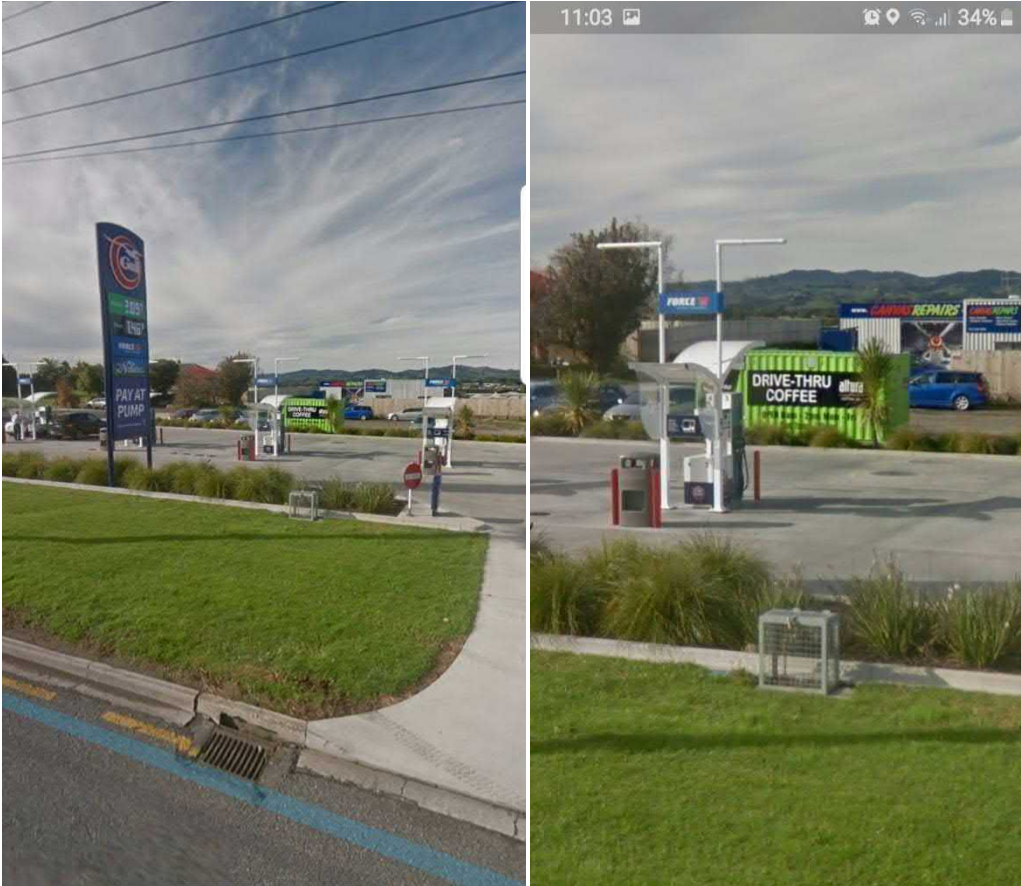
**PREMISE PLAN**

- Premise Plan: Rear vacant yard area (behind Gull NZ)



APPENDIX 2 Photographs of Site and Container.

Rear Yard Area located at 7575L State Highway 29, Tauriko (behind Gull NZ)



Site, and container placement view from State Highway 29 Tauriko



Front View of Proposed Container and Signage



Rear View of Proposed Container and Signage

APPENDIX 3 – RULE CHECK TAURANGA CITY PLAN

BEAN N GONE STATE HIGHWAY 29, TAURIKO  
 RULE CHECK – TAURANGA CITY PLAN

Rule	Provision	Comments
Chapter 16 Rural Zone		
16A.7.1 – Activities in Rural, Future Urban and Greenbelt Zones	* Business activities not listed elsewhere in this activity table in the Rural Zone are non-complying activity	Coffee Shops are not provided for in the Rural Zone, which means the proposal defaults to being a 'business activity' and is therefore a non-complying activity.
16A.8.2 – Building height	The maximum height of any building is 9m	The proposed container is less than 9m in height.
16A.8.4 - Setbacks	All buildings shall be setback from a side or rear boundary: or rear boundary a) A minimum of 5m from a side or rear boundary; b) No dwelling...; c) All new buildings, shall be setback 60m from the Mean High Water Springs; d) All new buildings shall be setback 20m from the edge a bank of a permanently flowing river or stream or wetland; e) No activity shall result in the clearance of more than 10m <sup>2</sup> of indigenous vegetation on any site... f) Where the site adjoins an Open Space Zone or the Coastal Marine Area	The container is setback in excess of 5m from existing rear and side boundaries. The container is not a dwelling; nor located within 60m of Mean High Water Springs; is not located within 20m of a permanently flowing river or stream or wetland; no indigenous vegetation is proposed and the site does not adjoin an Open Space Zone or the Coastal Marine Area.

APPENDIX 3 – RULE CHECK TAURANGA CITY PLAN

16A.8.5 - Overshadowing	In the Rural, Greenbelt and Future Urban Zones all buildings, shall be within a building envelope calculated in accordance with Appendix 14C:  Overshadowing	The proposed container is setback well clear of site boundaries and is less than the minimum height requirements for the Rural Zone and do thus not exceed the building envelope provided for in Appendix 14C.
Chapter 4 – General Rules		
Section 4D - Signs	<p>a) The maximum height and area of any sign shall be:</p> <p>i) Free standing signs - Max number = 1, max height = 4m, max sign area 1m<sup>2</sup>, anywhere within the site;</p> <p>ii) Serving a residential activity...</p> <p>iii) Signs serving a non-residential activity and attached to a building – 1 per site and max sign area of 0.5m<sup>2</sup></p> <p>b) Any permanent sign shall relate only to the activities located on the site;</p> <p>c) Any illuminated sign shall be designed and operated in accordance with Rule 4G.2.1...</p> <p>d) Signs animated by means of moving parts or illuminated by means of flashing, blinking or moving</p>	<p>a) The proposed free standing signage exceeds the number, maximum height, maximum sign area in sub-clause (i) and the signage attached to the container exceed sub-clause (iii) in terms of number of sign area. The signage proposed thus requires consideration as a restricted discretionary activity.</p> <p>b) All signage relates to activities on the site.</p> <p>c) There is no illuminated signage</p> <p>d) See Above</p>

APPENDIX 3 – RULE CHECK TAURANGA CITY PLAN

## Emily Clarke

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**From:** Duncan Wilson  
**Sent:** Monday, 9 December 2019 10:54 AM  
**To:** Kahu Tapsell  
**Subject:** RE: RC27465 - Coffee Empire Ltd - 7575L SH29 - request for transportation comments

Hi Kahu,

On that basis of the NZTA approval I think the traffic matters are addressed.

The location of the site behind gull means it is well clear of the road and vehicle entry points and that would have been my potential concern.

Cheers

Duncan

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**From:** Kahu Tapsell <[Kahu.Tapsell@tauranga.govt.nz](mailto:Kahu.Tapsell@tauranga.govt.nz)>  
**Sent:** Monday, 9 December 2019 10:11 AM  
**To:** Duncan Wilson <[Duncan.Wilson@tauranga.govt.nz](mailto:Duncan.Wilson@tauranga.govt.nz)>  
**Subject:** RE: RC27465 - Coffee Empire Ltd - 7575L SH29 - request for transportation comments

Hi Duncan – the applicant now has written approval from NZTA

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**From:** Duncan Wilson <[Duncan.Wilson@tauranga.govt.nz](mailto:Duncan.Wilson@tauranga.govt.nz)>  
**Sent:** Wednesday, 4 December 2019 12:13 PM  
**To:** Kahu Tapsell <[Kahu.Tapsell@tauranga.govt.nz](mailto:Kahu.Tapsell@tauranga.govt.nz)>  
**Subject:** RE: RC27465 - Coffee Empire Ltd - 7575L SH29 - request for transportation comments

Hi Kahu,

As it is state highway we should be guided by NZTA on traffic matters. Either the applicant can be instructed to approach NZTA and advise us of their approval / comments or perhaps in this instance we should send the applicant to NZTA for their comment?

Maybe Amy S can advise which way to go, but either way we should have NZTA's view on the application.

Cheers

Duncan

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**From:** Kahu Tapsell <[Kahu.Tapsell@tauranga.govt.nz](mailto:Kahu.Tapsell@tauranga.govt.nz)>  
**Sent:** Tuesday, 3 December 2019 12:19 PM  
**To:** Duncan Wilson <[Duncan.Wilson@tauranga.govt.nz](mailto:Duncan.Wilson@tauranga.govt.nz)>  
**Subject:** RC27465 - Coffee Empire Ltd - 7575L SH29 - request for transportation comments

Hi Duncan

I have had this application come through for a coffee cart business. There's not really any transportation assessment with the application, or any approval from NZTA. The site is located behind Gull, about half way between the Cambridge Road intersection and Tauriko School, but on the opposite side of the road.



The access to the site is pretty good, through the Gull site, but obviously this is a very busy road. There's also numerous activities using this access aside from the Gull station and coffee cart, including a car yard and two dwellings.

If you're able to take a look at this and let me know if there are any further information requirements that would be great.

Cheers

Kahu

6<sup>th</sup> December 2019

Steve Wood

Via Email: [steve.wood63@gmail.com](mailto:steve.wood63@gmail.com)

Dear Steve,

### **APPLICATION FOR COFFEE CART- 757 STATE HIGHWAY 29, TAURIKO**

Thank you for providing the NZ Transport Agency (Transport Agency) with details of the proposal to park a coffee cart on leased land at 757 State Highway 29, Tauriko.

Our primary concern is to ensure that State Highway 29, in the vicinity of the proposal operates in an integrated, safe and sustainable manner. Accordingly, an evaluation of the proposal has been conducted to determine the likely adverse effects on the State Highway and the following comments are made in light of that evaluation.

State Highway 29 in this location is declared a limited access road under the Government Roading Powers Act 1989 (GRPA). Section 91 of the GRPA enables the Transport Agency to authorise the use of a crossing place on a limited access road, impose conditions on its usage, specify the location of a crossing place or cancel the right to use any crossing place if legal access is available from another road. In accordance with Section 92 of the GRPA, no person may drive or move any vehicle or animal, or permit any vehicle or animal to be driven or moved, on to or from any limited access road except at any crossing place authorised by the Transport Agency.

The Transport Agency understands that access to the proposed coffee cart will be via the existing vehicle entrance off State Highway 29 (CP 4-13A). Crossing Place 4-13A is currently utilised by the Gull Petrol station.

On the basis of the information provided, the Transport Agency provides affected persons approval pursuant to Section 95E of the Resource Management Act 1991.

This response is the Transport Agency's current view of the proposal. Please note that if this proposal is put on hold for an extended period of time or resubmitted at a later date, the Transport Agency may need to review its comments in light of any traffic, safety or policy change.

Thank you for undertaking consultation with us. Please call me on (07) 958 9614 or email [consentsandapprovals@nzta.govt.nz](mailto:consentsandapprovals@nzta.govt.nz) if you wish to discuss any aspect of this letter in more detail.

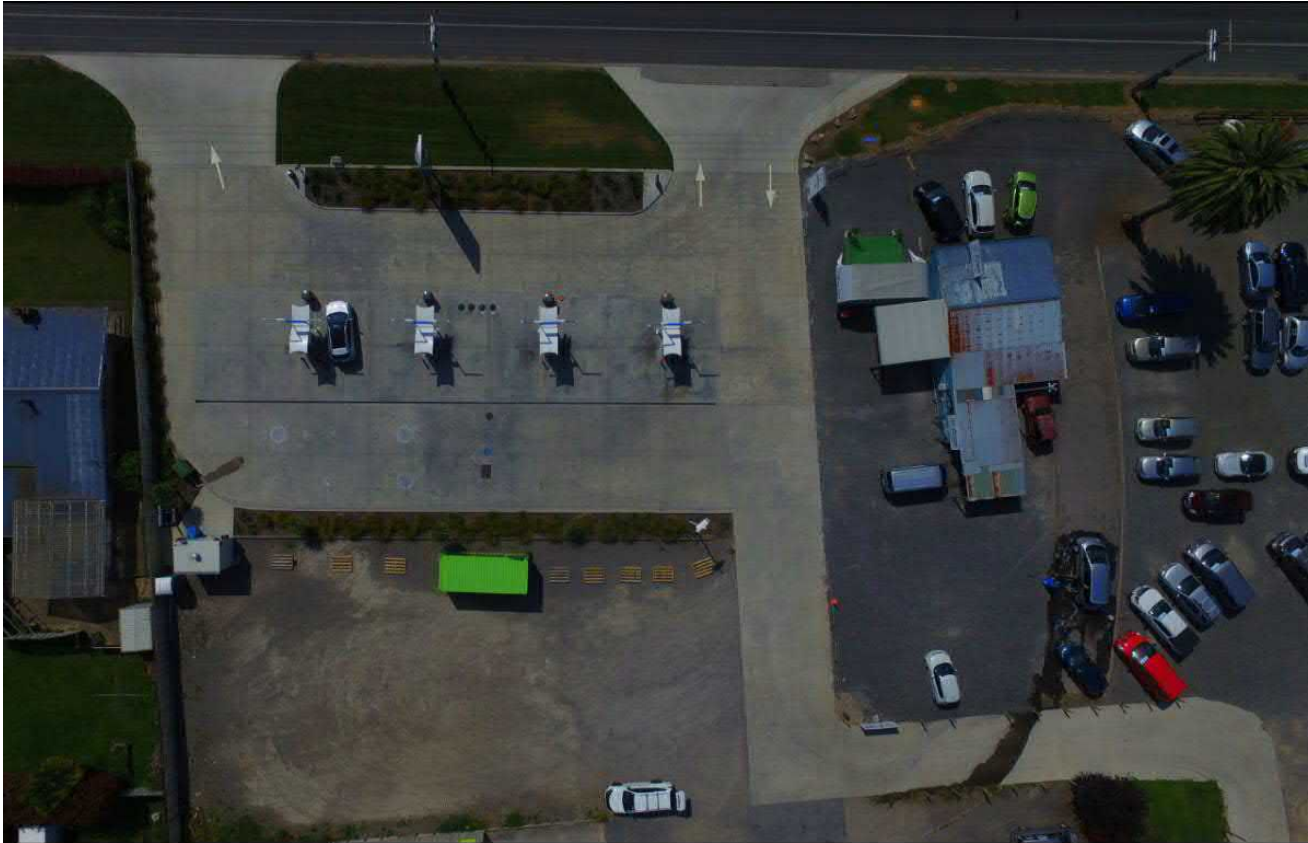
Yours sincerely

A handwritten signature in black ink, appearing to read 'Jones', written over a vertical line that extends above and below the text.

**Claudia Jones**

Consultant Planning Advisor- NZ Transport Agency

Appendix One: Proposed coffee cart location



# Site Visit Photos

## 30 November 2019



beanigone espresso allura

LOCK

espresso allura

FORCE 90

FORCE 90

PAY AT PUMP

MONEY



FORCE

FORCE

ACMIS  
AIR CONDITIONING  
ON SITE

WARNING HOT  
DO NOT TOUCH OR  
REMOVE COVER

Technical panel with various labels and numbers.

Auto Sales







FORCE 10

PRIVATE CARPARK  
No unauthorised parking

Driven  
Auto Sales

Coffee Cart  
Parking

Driven  
Auto Sales