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**Sent:** Wed, 21 Aug 2024 13:54:25 +1000  
**To:** "Info" <info@msc.qld.gov.au>  
**Cc:** "peter.j.mcnamara@tmr.qld.gov.au" <peter.j.mcnamara@tmr.qld.gov.au>;  
"steven.z.zelenika@tmr.qld.gov.au" <steven.z.zelenika@tmr.qld.gov.au>;  
"Far.North.Queensland.IDAS@tmr.qld.gov.au" <Far.North.Queensland.IDAS@tmr.qld.gov.au>  
**Subject:** TMR24-043359 - TMR correspondence for 275-289 Byrnes Street, Mareeba QLD  
4880 (Reference Numbers MCU/24/0014; M23-4916)  
**Attachments:** TIA - Decision - s62\_1.pdf

Our Reference: TMR24-043359  
Application Street Address: 275-289 Byrnes Street, Mareeba QLD 4880

Please see the attached [TIA - Decision - s62\_1.pdf] from the Department of Transport and Main Roads.

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If you require any further information or clarification, please contact Cairns TMR Region on (07) 4045 7144, or via email Far.North.Queensland.IDAS@tmr.qld.gov.au who will be able to assist.

Regards,  
eDAM System | Department of Transport and Main Roads

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Our ref TMR24-043359 (500/1117)  
Your ref M23-4916  
Enquiries Steven Zelenika

Department of  
**Transport and Main Roads**

21 August 2024

Loughton Holdings Pty Ltd  
C/- Max Slade  
PO Box 834  
Tolga QLD 4883

Dear Max Slade

**Decision Notice - Permitted Road Access Location  
(section 62(1) *Transport Infrastructure Act 1994*)**

**This is not an authorisation to commence work on a state-controlled road<sup>1</sup>**

I refer to your request for a revised decision under section 62(1) of the *Transport Infrastructure Act 1994* (TIA) for access between Lot 45SP300453 and Mareeba – Dimbulah Road, (a state-controlled road) which was received by the Department of Transport and Main Roads (the department) on 12 August 2024.

**Decision (given under section 67 of TIA)**

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1.	The Two Permitted Road Access Locations between Mareeba - Dimbulah Road and Lot 45SP300453 are located approximately: (a) 29m from the northern side boundary of Lot 45, and (b) 77.50m from the northern side boundary of Lot 45, in accordance with: (i) TMR Layout Plan (664 - 1.3km & 1.29km) dated 16-08-2024 (Attachment D).	At all times.
2.	Direct access is prohibited between Mareeba - Dimbulah Road and Lot45 SP300453 at any other location other than the Permitted Road Access Locations described in Condition 1.	At all times.
3.	The use of the Permitted Road Access Locations are restricted to:	At all times.

<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	Condition Timing
	(a) Design vehicles up to a maximum size Three Axle Truck or Bus – Class 4 Medium Length Heavy Vehicle **  Note: **as described in Austroads Vehicle Classification	

### Reasons for the decision

The reasons for this decision are as follows:

- a) The existing vehicular access locations are existing and comply with DTMR access requirements and the Vehicle Access to State-controlled roads policy.
- b) The previous approved s62, dated 19 May 2017 is required to be renewed to make reference to changed vehicular access distances and confirm maximum vehicle size as described in Austroads vehicle classification system.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

### Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, you are bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for your information.

### Further information about the decision

1. This decision notice replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA is attached in **Attachment C** for your information.
3. In accordance with section 485B of the TIA and section 35 of TPCA you may appeal against a reviewed decision. You must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for your information.

### Further approvals

The department also provides the following information in relation to this approval:

1. Road Works approval required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33(1) of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application for road works approval.

If you would like to discuss this application, please contact Steven Zelenika, Senior Town Planner, Corridor Management by email at [steven.z.zelenika@tmr.qld.gov.au](mailto:steven.z.zelenika@tmr.qld.gov.au) or on (07) 4045 7063.

Yours sincerely



Peter McNamara  
Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings  
Attachment B - Section 70 of TIA  
Attachment C - Appeal Provisions  
Attachment D - Permitted Road Access Location Plan

## Attachment A

### Decision Evidence and Finding

Evidence or other material on which findings were based:

<b>Title of Evidence / Material</b>	<b>Prepared by</b>	<b>Date</b>	<b>Reference no.</b>	<b>Version / Issue</b>
TMR Layout Plan (664 - 1.3km & 1.29km)	Queensland Government Transport and Main Roads	16/08/2024	TMR24-043359 (500/1117)	A
Overall Masterplan 09 23	Max Slade Designs	18/04/2024	A100b	1
Vehicle Access to state- controlled policy	Queensland Government Transport and Main Roads	2023	-	-

## Attachment B

### Section 70 of TIA

*Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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#### **70 Offences about road access locations and road access works, relating to decisions under s 62(1)**

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
  - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or
  - (e) contravene a condition stated in the decision; or
  - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
  - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

**Attachment C**  
**Appeal Provisions**

*Transport Infrastructure Act 1994*  
Chapter 16 General provisions

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**485 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

**485B Appeals against decisions**

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the person may apply to the appeal court to have the original decision stayed.

....

- (7) In this section—

**original decision** means a decision described in schedule 3.

**reviewed decision** means the chief executive's decision on a review under section 485.



### **31 Applying for review**

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
  - (a) the notice did not state the reasons for the original decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

### **32 Stay of operation of original decision**

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the relevant entity considers appropriate; and
  - (b) operates for the period specified by the relevant entity; and
  - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

**relevant entity** means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

### **35 Time for making appeals**

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);
- the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

# Attachment D

**Permitted Road Access Location**  
 Approx. 29m from the northern side boundary of Lot 45SP300453  
 GPS location x 145.423669 y -17.001625

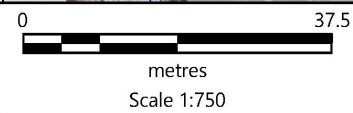
**Access Restrictions**  
 a) Design vehicles up to a maximum size three axle truck or bus - Class 4 Medium Length Heavy Vehicle \*\*

Note: \*\* as described in Austroads Vehicle Classification System

**Permitted Road Access Location**  
 Approx. 77.50m from the northern side boundary of Lot 45SP2300453  
 GPS location x 145.423793 y -17.002050

**Access Restrictions**  
 a) Design vehicles up to a maximum size three axle truck or bus - Class 4 Medium Length Heavy Vehicle \*\*

Note: \*\* as described in Austroads Vehicle Classification System



Branch/Unit : Corridor Management / Far North District	
Projection/Datum : Geocentric Datum of Australia (GDA) 2020	
State-controlled road	Subject Land
Road	State-Controlled Road Corridor

## TMR Layout Plan (664 - 1.34 & 1.29km)



Queensland Government  
 Transport and Main Roads

Plan: 1 / 1	Issue: A	Date: 16/08/2024
Drawn by: ACM	File ref: TMR24-043359 (500-1117)	

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