

Our ref TMR20-030814
Applicant ref
Enquiries Emma Lim



Department of
Transport and Main Roads

18 February 2021

Decision Notice – Access Prohibited **(s62(1) Transport Infrastructure Act 1994)**

Development application reference number A005505645, lodged with Brisbane City Council involves constructing or changing a vehicular access between Lot 1RP42301, 92RP213399, 96RP20444, 98RP20444, the land the subject of the application, and Macgregor Terrace (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address CB (Qld) Pty Ltd ACN 639 514 060 c/- Sinclair Planning Pty Ltd
PO Box 130
Lutwyche QLD 4030

Application Details

Address of Property 63 Macgregor Terrace, Bardon QLD 4065
Real Property Description 1RP42301, 92RP213399, 96RP20444, 98RP20444
Aspect/s of Development Development Permit for Material Change of for Shop
(Supermarket and retail tenancy)

Decision (given under section 67 of TIA)

It has been decided the following conditions must be complied with:

No.	Conditions of Approval	Condition Timing
1	Direct access is not permitted between Macgregor Terrace and the subject site.	At all times.

Reasons for the decision

The reasons for this decision are as follows:

- The access arrangement on Macgregor Terrace cannot be supported from a road safety and operational perspective, In particular:
 - The vehicle access is not designed to give sufficient priority to vehicles entering the development
 - The access arrangement would result in queuing on Macgregor Terrace associated with vehicles entering the development

- The proposed measures to restrict vehicle movements at the access would create a safety hazard for users of the state-controlled road
- The vehicle access arrangement has insufficient provision for pedestrians on the state-controlled road

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

In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) 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 information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person 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 information.

If further information about this approval or any other related query is required, Ms Emma Lim, Senior Planner, should be contacted by email at metropolitan.idas@tmr.qld.gov.au or on (07) 3066 5786.

Yours sincerely



Lesley Branch

Principal Planner (Development Compliance and Support)

Attachments: Attachment A – Decision evidence and findings
 Attachment B - Section 70 of TIA
 Attachment C - Appeal Provisions

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- The development application for a development permit for a material change of use for a shop (supermarket and retail tenancy) development and includes a total of 1,880m² (Liquor store – 155m²; and Supermarket – 1,725m²).
- A single point of vehicle access allowing for a left in / left out/ right-in access configuration is proposed at the location where the existing eastern crossover is. The western crossover would be removed. The existing eastbound bus stop on Macgregor Tce would be relocated to the west of the site.
- The development would be supported by 105 on-site car parking spaces. A loading dock is proposed in the north-western corner of the subject site, capable of accommodating a 12.5m long heavy rigid vehicle (HRV).
- The subject site comprises an area of approximately 3,600m² and is bounded by:
 - the rear boundary of residential properties fronting Bellevue Parade to the north
 - residential properties fronting Macgregor Terrace and Rockbourne Terrace to the east
 - Macgregor Terrace to the south
 - commercial properties fronting Macgregor Terrace to the west
- The site is currently occupied by two separate buildings containing a range of retail and commercial uses. It is understood that the existing buildings on the site currently accommodate in the order of 2,600m² GFA.
- In the vicinity of the subject site, Macgregor Terrace (Western Arterial Road) is undivided with one lane of traffic in the eastbound direction (and a parking lane / bus stop) and two lanes of traffic in the westbound direction. This section of Macgregor Terrace has a posted speed limit of 60km/h. To the west of the subject site, Macgregor Terrace meets Simpsons Road at a signal-controlled intersection. There is also a signalised pedestrian crossing on the site frontage to Macgregor Terrace.
- Macgregor Terrace carries around 23,000 vehicles per day and close to 2,000 vehicles per hour at peak times. Therefore, it experiences high levels of congestion during the network peaks, with limited gaps available for vehicles safely to enter and exit property access under priority-control.
- There is an eastbound (inbound) bus stop on the Macgregor Terrace frontage, immediately to the west of the eastern crossover. This is a busy bus stop servicing upwards of 10 buses per hour at peak times.
- The available sight distance at the existing eastern crossover on Macgregor Terrace is limited to around 120m in both directions.
- The assessment concludes that the proposed development will result in an unacceptable impact on the safety and operational efficiency of the state-controlled road network. The proposed vehicular access is inconsistent with the scale of the development and the function and design of the state-controlled road. The development application material does not satisfactorily demonstrate that the road access location to

the State-controlled road maintains the safety and efficiency of the State-controlled road.

- In particular,
 - the vehicle access is not designed to give sufficient priority to all expected vehicle types entering the development, the access arrangement would result in queuing on Macgregor Terrace associated with vehicles entering the development and the proposed measures to restrict vehicle movements at the access would create a safety hazard for users of the state-controlled road.
 - The swept paths show the wheels of the HRV travelling over the property boundary and across the frontage of the adjacent residential property to the east and conflicting with the proposed raised median.
 - The driveway design is deficient with respect to the BCC Standard Drawing for a Type C2 crossover, which would be warranted based on the frontage road, design vehicle (LRV / MRV), the number of car parking spaces and turnover rate of the parking area.
 - The kerb tapers for the driveway extend across the eastern property boundary.
 - In addition, the design of the vehicle access provides insufficient provision for pedestrians as the centre island would be over-runnable for vehicles and does not allow pedestrians on Macgregor Terrace to undertake a staged crossing of the driveway.
- The proposed access as currently proposed has the potential to have a significant adverse impact on the safety and operational efficiency of the state-controlled road given the:
 - the traffic volumes on this section of Macgregor Terrace, which are about 2,000vph during the network peak hours
 - the expected traffic generation of the proposed development (ie approximately 250 - 300 vehicles per hour based on industry standard rates for supermarket use)
 - the crash history on this section of Macgregor Terrace, with a significant number of crashes in close proximity to the subject site with a number related to the operation of the existing access driveways
 - the limited sight distance available at the site access in both directions
 - the lack of any existing (or currently proposed) turn treatments at the site access , particularly for vehicles turning right into the subject site (given the high number of vehicles predicated to turn right into the site and the opposing east bound traffic flow on Macgregor Terrace.
 - the potential for right-angle and rear-end crashes associated with vehicles turning into and out of the subject development.
 - The increase in the number of lane changes required by vehicles wishing to by-pass a vehicle that has stopped to turn right into the site has potential to increase the risk of rear-end in the centre lane.
- The proposed development is expected to worsen operating conditions on the state-controlled road network given the projected traffic volume increases on Macgregor Terrace and the left-in/right-in/left-out configuration of the vehicular access.
- The additional traffic generated by the development would result in a significant increase (ie greater than 5%) in total aggregate delay across the study network as per the methodology detailed in the GTIA. This would significantly worsen the safety and efficiency of the road network.

- The development application material does not satisfactorily demonstrate that the additional traffic generated by the development will not result in a worsening of operating conditions on the state-controlled road network.
- No mitigation measures have been proposed to address these traffic impacts.
- The development is expected to result in a significant increase in traffic volumes on the state-controlled road network over existing pre-development conditions.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Traffic Impact Assessment	Cardno	9 June 2020	QTT20017	02
Town Planning Report	Sinclair Planning	21 July 2020	SP20011	
RESPONSE TO ADVICE NOTICE ISSUED UNDER SECTION 35 OF THE DEVELOPMENT ASSESSMENT RULES V1.3	Sinclair Planning Pty Ltd	23 October 2020	SP20011.L06.001.docx	
RESPONSE TO ADVICE NOTICE ISSUED UNDER SECTION 35 OF THE DEVELOPMENT ASSESSMENT RULES V1.3	Sinclair Planning Pty Ltd	1 December 2020	SP20011.L07.001.docx	
63 MACGREGOR TCE BARDON QLD 4065 TRAFFIC ENGINEERING RESPONSE TO SARA INFORMATION REQUEST	Cardno	30 November 2020	QTT20017	
Supermarket Macgregor Terrace Access Review Driveway Concept	Cardno	27/11/2020	SK16	B
Supermarket Macgregor Terrace Access Review Driveway Concept	Cardno	30/11/2020	SK16	C
Supermarket Macgregor Terrace Swept path - HRV Concept Driveway - Exit	Cardno	30/11/2020	SK18	E
Supermarket Macgregor Terrace Swept path - RCV Concept Driveway - Entry	Cardno	30/11/2020	SK22	C
Supermarket Macgregor Terrace Swept path - RCV Concept Driveway - Exit	Cardno	30/11/2020	SK24	B
Supermarket Macgregor Terrace Swept path - MRV Concept Driveway - Entry	Cardno	30/11/2020	SK26	C
Supermarket Macgregor Terrace Swept path - MRV Concept Driveway - Exit	Cardno	30/11/2020	SK28	C
Supermarket Macgregor Terrace Swept path - HRV Concept Driveway - Entry	Cardno	30/11/2020	SK29	B

63 Macgregor Tce Bardon QLD 4065 Traffic Engineering Response to SARA Information Request	Cardno	10 February 2021	QTT20017	
Bardon Development Set of Plans	Thomson Adsett	21/10/2020	A0.00-A3.08	7
Site Plan	Thomson Adsett	13/10/2020	A1.00	26
Excel Spreadsheet – Table 1	Cardno		Attached in their response to SARA dated 11 February 2021	

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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

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.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(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.