

SARA reference: 1909-13173 SRA
Council reference: D/83-2019
Applicant reference: 18054

28 November 2019

Chief Executive Officer
Rockhampton Regional Council
PO Box 1860
Rockhampton Qld 4700
enquiries@rrc.qld.gov.au

Attention: Brandon Diplock

Dear Sir/Madam

SARA response—59793 Bruce Highway, Midgee

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 25 October 2019.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	28 November 2019
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material Change of Use for a High Impact Industry and Environmentally Relevant Activity (Asphalt Plant)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, div 4, sub 1, table 1 (Planning Regulation 2017)— Development application for a material change of use for an aspect of development stated in Schedule 20: Development impacting	

on State transport infrastructure and thresholds

Schedule 10, Part 9, div 4, sub 2, table 4 (Planning Regulation 2017)—Development application for a material change of use of premises within 25m of a State transport corridor

SARA reference: 1909-13173 SRA

Assessment Manager: Rockhampton Regional Council

Street address: 59793 Bruce Highway, Midgee

Real property description: 2RP888747

Applicant name: COLAS Queensland Pty Ltd

Applicant contact details: P O Box 232
Hervey Bay QLD 4655
ward@urbanplanet.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR19-028672
- Date: 27 November 2019

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at fitzroydistrict@tmr.qld.gov.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Carl Porter, Principal Planning Officer, on 07 4924 2918 or via email RockhamptonSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh
Manager Planning

cc COLAS Queensland Pty Ltd, ward@urbanplanet.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, div 4, sub 1, table 1 & Schedule 10, Part 9, div 4, sub 2, table 4 (Planning Regulation 2017)—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. (b) Any works on the land must not: (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; (iv) reduce the quality of stormwater discharge onto the state-controlled road. (c) RPEQ certification with supporting documentation must be provided to the Manager of Project Planning and Corridor Management at CorridorManagement@tmr.qld.gov.au within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) and (b) of this condition.	(a) and (b) At all times. (c) Prior to the commencement of use.
2.	(a) The road access location is to be located at the existing access to the state-controlled road (Bruce Highway) at Latitude: - 23.48816; Longitude: 150.54108; Datum: GDA94. (b) Road access works comprising a short Auxiliary Left turn (AUL(S)) must be provided at the road access location. (c) The road access works must be designed and constructed in accordance with the following: • Road Planning and Design Manual, prepared by Department of Transport and Main Roads (2nd Edition); and • Manual of Uniform Traffic Control Devices (Queensland), prepared by Department of Transport and Main Roads.	(a) At all times (b) and (c) Prior to when the quantity of hauled material leaving the site via the Bruce Highway exceeds 700,000 tonnes in any twelve month period.
3.	Provide annual haulage documents detailing the quantity of material leaving the site and submit to the Manager (Project Planning and Corridor Management) at CorridorManagement@tmr.qld.gov.au within the Department of Transport and Main Roads.	Within 30 days of the end of June each year until the transportation of material hauled from the site by road under this approval ceases

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.5]. If a word remains undefined it has its ordinary meaning.
2.	Please note the 700,000 tonne per annum limit imposed under condition 2 applies to the cumulative total of all material leaving the site, this includes both quarried material and asphalt material.

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- the development is for an asphalt production facility
- the development provides a suitable access to the state-controlled road with the application of conditions
- the development can be conditioned to mitigate stormwater impacts to the state-controlled road
- the development does not compromise the safety and efficiency of the state-controlled road
- the development complies with State codes 1 & 6 with conditions applied.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.5]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

(page left intentionally blank)

Attachment 5—Approved plans and specifications

(page left intentionally blank)

Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Our ref TMR19-028672
Your ref
Enquiries Jason Giddy



Department of
Transport and Main Roads

27 November 2019

COLAS Queensland Pty Ltd
c/- Urban Plant Town Planning Consultants
PO Box 232
Hervey Bay QLD 4655

Decision Notice – Permitted Road Access Location **(s62(1) Transport Infrastructure Act 1994)**

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number D/83-2019, lodged with Rockhampton Regional Council involves constructing or changing a vehicular access between Lot 2RP888747, the land the subject of the application, and 10E Bruce Highway (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.

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 permitted road access location is to be located at approximate chainage 107.349km (lat: -23.48816; long: 150.54108) generally in accordance Permitted Access Location Plan, prepared by TMR, dated 25 November 2019, ref. TMR19-028672.	At all times.
2	Vehicle movements at the permitted access location for trucks are restricted to 700,000 tonne of total material leaving the site per annum and seven (7) vehicles per hour using the access.	At all times.
3	The maximum permitted vehicle configuration to use the access is a 25m B-double.	At all times.
4	Use of the access is restricted to daylight hours only.	At all times.
5	Direct access is prohibited between (Road 10E) Bruce Highway (Hanson Road) and Lot 2 RP888747 at any other location other than the permitted road access location described in Condition 1.	At all times.
6	The road access is to be constructed and maintained at no cost to the department in accordance with section 64(1) of the <i>Transport Infrastructure Act 1994</i> .	At all times.
7	The landowner is to take reasonable steps to ensure the permitted	At all times.

¹ Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	Condition Timing
	road access location is used by other in accordance with these conditions.	

Reasons for the decision

The reasons for this decision are as follows:

- a) To maintain the safety and efficiency of 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

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, 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 are 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.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access 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 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.
2. General advice:
 - a) In accordance with condition 2 of this decision, the current access configuration is suitable for a maximum of 700,000 tonnes of total haulage leaving the site per annum (combined for all uses). Haulage beyond this value is not permitted until the AUL(S) into the site is constructed in accordance with the concurrence response issued under the *Planning Act 2016*.

If further information about this approval or any other related query is required, Mr Jason Giddy, Town Planner should be contacted by email at Jason.B.Giddy@tmr.qld.gov.au or on (07) 4931 1686.

Yours sincerely



Anton DeKlerk
Principal Town Planner

Attachments: Attachment A - Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan, prepared by TMR, dated 25 November 2019, ref. TMR19-028672.

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- Rockhampton Regional Council issued a Confirmation Notice (D/83-2019) on 11 September 2019 for a proposed material change of use application (High Impact Industry and ERA – asphalt manufacturing).
- The State Assessment and Referral Agency (SARA) referred the application to TMR for assessment on 1 November 2019.
- The site contains a previously approved quarrying operation (ref. SDA-0917-041388). This approval includes a condition on the SARA concurrence response requiring the existing intersection to be upgraded if haulage over 700,000 tonnes per annum occurs.
- The department assessed the development application against the State Development Assessment Provisions and the Transport Infrastructure Act 1994.
- The department has reviewed the application for the additional use of an asphalt manufacturing plant on the site and is satisfied that subject to the same condition being imposed on this application and covering all haulage leaving the site, the application can be supported. This section 62 decision has been issued restricting use of the access to haulage not exceeding 700,000 tonnes per annum until such time as the access is further upgraded, in accordance with the recommendations of the submitted Traffic Impact Assessment and previous quarrying approval over the site.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Confirmation Notice	Rockhampton Regional Council	11 September 2019	D/83-2019	-
Planning Report	Urban Planet Town Planning Consultants	March 2019	18054	-
Traffic Impact Assessment	Access Traffic Consulting	27 May 2019	ENG0118-001	A
Concurrence Agency Response	SARA	9 October 2019	SDA-0917-041388	-

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.

Permitted Access Location Plan

TMR ref: TMR19-028672

Road: 10E Bruce Highway

Chainage: 107.349km

Access coordinates: lat: -23.48816; long: 150.54108

Date: 25 November 2019

Permitted Access Location