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## EXEMPTION CERTIFICATE

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*PLANNING ACT 2016, SECTION 46*

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Council wish to advise that an exemption certificate has been granted on 15 December 2020 for development comprising of the following.

### 1. DETAILS OF EXEMPTION

<b>Exemption Number:</b>	EXC003-2020
<b>Address of Premises:</b>	20 Main Street, Bluff QLD 4702
<b>Real Property Description:</b>	Lots 110 and 111 on B8782
<b>Issuing Authority:</b>	Central Highlands Regional Council
<b>Exempt Development:</b>	Material Change of Use for Service Station
<b>Description of Exempt Development:</b>	Re-establishment of former use of site as a Service Station.

### 2. DESCRIPTION OF THE DEVELOPMENT TO WHICH THIS CERTIFICATE RELATES

The following development is exempt under this certificate:

Material Change of Use for Service Station

The proposed works consist of the following aspects:-

Refurbishment and Occupation of existing buildings and site for the purpose of Service Station use.

As described above in accordance with the following plans:-

Title	Prepared by	Date
Site Plan	Murray & Associates Pty Ltd	25.11.2020

### 3. REFERRAL AGENCIES

Department of Transport and Mains Road was referred the request as the site is located within 25m of state-controlled road. DTMR as referral agency has agreed to the exemption certificate on the basis that all site access is via South Street.

#### 4. REASONS FOR GIVING EXEMPTION CERTIFICATE

The development is exempt under this certificate under section 46(3)(b) of the *Planning Act 2016* for the following reason:

- The effects of the development would be minor or inconsequential, considering the circumstances under which the development was categorised as assessable development.

Further;

- The development is consistent with the former use of the subject site as a Service Station;
- The use is the re-establishment of a former use on the site;
- The use is one expected by the community and also provides a broader community benefit and service;
- The development is utilising existing and lawfully established buildings on the property;
- The development does not propose additional or changed access to the subject site and will continue to use the existing access arrangements off South Street; and
- Adequate number of car parking spaces provided on-site.

#### 5. WHEN EXEMPTION CERTIFICATE CEASES TO HAVE EFFECT

This exemption certificate has effect for two years from the day after the day it is given, and the development must be completed within this time.

#### 6. OTHER INFORMATION

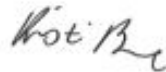
You are further advised that the truth and accuracy of the information provided in relation to the development is relied on when assessing and deciding to issue this exemption certificate. If you find an inaccuracy in any of the information provided above or have a query or need to seek clarification about any of these details, please contact Council's Development Assessment Unit on ☎ 1300 242 686.

Note: Please ensure you provide details of the application number and assessment manager when contacting council in relation to this application.

#### 7. DELEGATED PERSON

Name: **Kirstin Byrne**

Signature:



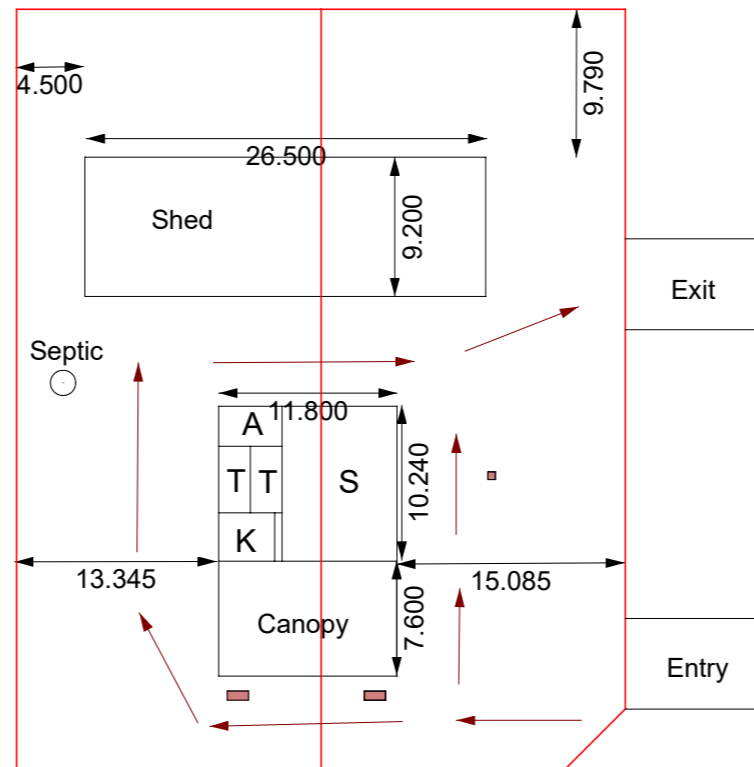
Date: 15 December 2020

**Manager Planning and Environment**

Enc: Referenced Plans

Cc: Department of State Development, Infrastructure, Local Government and Planning

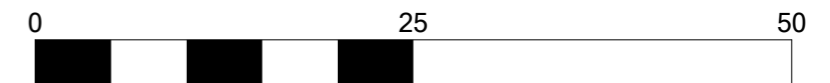




South Street

Main Street

- K - Kitchen
- T - Toilets
- A - Awning
- S - Shop
- Fuel Pump
- Vehicle Direction of Traffic



**MURRAY & ASSOCIATES**  
SURVEYORS & TOWN PLANNERS



ACN 075 543 154

Murray Building, 15-17 Currie St. Nambour Ph. (07) 5441 2188 P.O. Box 246  
Branch Offices at Maroochydore Caboolture Chinchilla Roma Gympie & Emerald

**PROJECT**

**Site Plan**  
**Lot 110 and 111 on B8782**  
**Bluff QLD**  
**Central Highlands Regional Council**

**CLIENT**

**Singh Bros**

Datum	B8782	Scale	A3 1:500	F.W.	Date	25/11/20
		Drawn	ARB	F.Bk		
Notes				Level Bk	File	400133
				Acc. Bk		
Licensed Surveyor					Job & Plan No.	400133



Queensland  
Government

Our ref TMR20-031651  
Your ref  
Enquiries Jason Giddy

Department of  
**Transport and Main Roads**

3 December 2020

J & P McKee  
17 Bredhauer Street  
Blackwater QLD 4717

Dear Jodie

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

I refer to a request for an exemption certificate received by the department on 11 November 2020. The exemption certificate relates to a Material Change of Use for a refurbished service station over Lots 110 & 111 on B8782. TMR was advised that the historical access onto Main Street (16B Capricorn Highway) is not being used as part of the use and all access will be obtained off South Street.

TMR has no objection to the exemption certificate being issued by Council, subject to the Main Street access being closed. TMR has issued the below decision under section 62 of the *Transport Infrastructure Act 1994* to formally refuse any direct access between the subject site and the state-controlled road.

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

It has been decided that all access between the state-controlled road and Lot 110B8782, 111B8782 is prohibited.

### **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**

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.

Program Delivery and Operations  
Fitzroy District  
31 Knight Street North Rockhampton QLD 4701  
PO Box 5096 Red Hill Rockhampton QLD 4701

**Telephone** +61 7 (07) 4931 1686  
**Website** [www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)  
**Email** [Central.Queensland.IDAS@tmr.qld.gov.au](mailto:Central.Queensland.IDAS@tmr.qld.gov.au)  
ABN: 39 407 690 291

### **Further information about the decision**

1. This decision replaces any earlier decision made under section 62(1) of the TIA 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.

If you require further information about your application, I encourage you to contact Jason Giddy, Town Planner by email at [CorridorManagement@tmr.qld.gov.au](mailto:CorridorManagement@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 A**

### **Decision Evidence and Findings**

Findings on material questions of fact:

- TMR received a request from Central Highlands Regional Council to consider permitting an exemption certificate to be issued for a service station.
- This service station had been previously lawfully established, however the use ceased approximately ten years ago.
- Generally abandoning the use for such a period of time would require a new material change of use application to be submitted.
- The site has been refurbished into a new service station. TMR has no objection to the issuing of an exemption certificate subject to the direct access to the state-controlled road being closed. Council have indicated there is no objection to the proposal as all access is to be obtained off the local road, South Street.

Evidence or other material on which findings were based:

- Email correspondence from Central Highlands Regional Council dated 11 November 2020 and 1 December 2020

## 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.