

Contact Officer: Nick Whittle  
Our Ref: DA/4/2020

8 December 2020

Gladstone Regional Council  
C/- Kassim Mahomed  
Cardno  
Locked Bag 4006  
FORTITUDE VALLEY QLD 4006

Dear Sir

**NOTICE OF DECISION  
PLANNING ACT 2016 S63**

**DA/4/2020 - MATERIAL CHANGE OF USE - IMPACT  
PARKING STATION  
5 AGNES STREET, AGNES WATER QLD 4677  
LOT 8 CP910294**

Reference is made to the above Development Application and the Confirmation Notice dated 5 March 2020.

I wish to advise that the application was considered by Council at its 1 December 2020 General Meeting where it was resolved to approve the application. The approval is supported by a Notice of Reasons and is subject to conditions as set out in the following Notice of Decision.

Should you have any questions or require further clarification in relation to any matters raised in the Decision Notice, please do not hesitate to contact Council's Planning Officer Nick Whittle on (07) 4970 0700.

Yours faithfully



**H A ROBERTSON  
MANAGER DEVELOPMENT SERVICES**



**NOTICE OF DECISION - DA/4/2020**  
**PLANNING ACT 2016 S63**

Application:	Material Change of Use - Impact - Parking Station
Applicant Name & Address:	Gladstone Regional Council C/- Kassim Mahomed Cardno Locked Bag 4006 FORTITUDE VALLEY QLD 4006
Owner:	Gladstone Regional Council
Subject Land:	5 Agnes Street, AGNES WATER QLD 4677
Location:	Lot 8 CP 910294
Zoning:	Mixed Use Zone
Site Area:	3,581m <sup>2</sup>
Definition of Use:	Parking Station: <i>Premises used for parking vehicles where the parking is not ancillary to another use.</i>
Submissions Received:	9 Properly Made Submissions and 1 petition containing 22 signatures.
Application Received:	4 March 2020
Planning Scheme:	<i>Our Place Our Plan Gladstone Regional Council Planning Scheme V2</i>

You are advised that your application was Approved in Full. The conditions relevant to this approval are attached. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

**1. DETAILS OF THE APPROVAL**

	<b>Development Permit</b>	<b>Preliminary Approval</b>
• <b>Material change of use</b> made assessable by the planning scheme	✓	x

**2. BENCHMARKS APPLIED TO THE DEVELOPMENT**

The following is a description of the assessment benchmarks applying to the development:

<b>Benchmarks applying to the development:</b>	<b>Benchmark reference:</b>
<i>State Planning Policy July 2017</i>	<ul style="list-style-type: none"> <li>State Interest – Natural Hazards, Risk and Resilience; and</li> <li>State Interest - Biodiversity.</li> </ul>

Benchmarks applying to the development:	Benchmark reference:
<i>Our Place Our Plan Gladstone Regional Council Planning Scheme Version 2</i>	<ul style="list-style-type: none"> <li>• Strategic Framework;</li> <li>• Acid Sulfate Soils Overlay Code;</li> <li>• Coastal Hazard Overlay Code;</li> <li>• Flood Hazard Overlay Code;</li> <li>• Mixed Use Zone Code;</li> <li>• Development Design Code; and</li> <li>• Landscaping Code.</li> </ul>

### 3. CURRENCY PERIOD FOR THE APPROVAL

The currency periods stated in section 85 of the *Planning Act 2016* apply to each aspect of development in this approval, as outlined below unless otherwise conditioned within this approval:-

- ✓ Material Change of Use - 6 years

Please note due to the recent amendment to the *Planning Act 2016* and declared Applicable Event by the Minister, a provision has permitted a six-month extension to all active development approvals and compliance permits.

### 4. APPROVED PLANS

The approved plans and/or documents for this development approval are listed in the following table:

Drawing Number	Revision	Description	Author	Date
R2020043-SK-0004	1	Site Plan	Cardno	-

### 5. OTHER NECESSARY DEVELOPMENT PERMITS

Listed below are other development permits that are necessary to allow the development to be carried out:-

1. Operational Works
2. Plumbing & Drainage Works

### 6. NOTICE OF REASONS

The following provides the Notice of Reasons under section 63(5) of the *Planning Act 2016*:

#### Description of the development:

The approved development is for a Material Change of Use for a Parking Station located at 5 Agnes Street, Agnes Water.

#### Assessment Benchmarks:

Benchmarks applying to the development:	Benchmark reference:
<i>State Planning Policy July 2017</i>	<ul style="list-style-type: none"> <li>• State Interest – Natural Hazards, Risk and Resilience; and</li> <li>• State Interest - Biodiversity.</li> </ul>

<b>Benchmarks applying to the development:</b>	<b>Benchmark reference:</b>
<i>Our Place Our Plan Gladstone Regional Council Planning Scheme Version 2</i>	<ul style="list-style-type: none"> <li>• Strategic Framework;</li> <li>• Acid Sulphate Soils Overlay Code;</li> <li>• Coastal Hazard Overlay Code;</li> <li>• Flood Hazard Overlay Code;</li> <li>• Mixed Use Zone Code;</li> <li>• Development Design Code; and</li> <li>• Landscaping Code.</li> </ul>

**Reasons for the Assessment Managers Decision:**

1. The Application was properly made in accordance with the *Planning Act 2016* and the Development Assessment Rules; and
2. The Application is generally compliant with the relevant benchmarks of the *State Planning Policy July 2017* and the *Our Place Our Plan Gladstone Regional Council Planning Scheme Version 2*.

**Reasons for Approval despite any Non-compliance with certain Benchmarks:**

<b>Benchmark reference:</b>	<b>Reasons for the approval despite non-compliance with benchmark:</b>
Mixed Use Zone Code – Table 6.2.21.3.1 – Performance Outcome 27.	Compliance with Mixed Use Zone Code – Table 6.2.21.3.1 – Performance Outcome 27 via a condition.
Mixed Use Zone Code – Table 6.2.21.3.1 – Acceptable Outcome 29.1	Compliance with Mixed Use Zone Code – Table 6.2.21.3.1 – Performance Outcome 29 via a condition.
Mixed Use Zone Code – Table 6.2.21.3.1 – Acceptable Outcome 32.	Compliance with Mixed Use Zone Code – Table 6.2.21.3.1 – Performance Outcome 32 via a condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 1.1	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 1.1 via a condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 8.1	Compliance with Development Design Code – Table 9.3.2.3.1 – Performance Outcome 8.
Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 2.2.	Compliance with Landscaping Code – Table 9.3.5.3.1 – Performance Outcome 2.2 via a condition.
Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 5.1.	Compliance with Landscaping Code – Table 9.3.5.3.1 – Performance Outcome 5 via a condition
Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 7.1.	Compliance with Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 7.1 via a condition.

**Relevant Matters under Section 45(5)(b) of the Act that the Development was Assessed Against:**

N/A

**Matters raised in Submissions and Councils response in dealing with these matters:**

<b>Submission</b>	<b>Officer's Response</b>
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<b>Environmental</b>	
The proposed development impacts on the wetland area which is home to a number of native animals and flora.	The subject site and adjacent pond is not mapped within the Biodiversity Overlay. As part of the revised plan, the Parking Station is reduced in scale and retains further trees and other vegetation. A condition is recommended for the Applicant to undertake an environmental management assessment that identifies flora and fauna within the pond area and their management during construction.
<b>Noise and Lighting</b>	
The site is currently used as a car park and we are constantly impacted by noise and lighting from the site.	The subject site is located in proximity to a residential area. The revised proposal plan has decreased the scale of the Parking Station, increased the separation distance between rear adjoining residential use and retains further vegetation. Furthermore, a condition is recommended to include signage stating overnight camping is illegal.
<b>Visual amenity</b>	
The proposed plan removes all screening trees and the car park will be visible for my property and all other Beach Houses residents.	The revised plan considered these submissions and increased the setback distance from residences and retained existing vegetation. Furthermore, additional landscaping will be required to be demonstrated as part of Landscaping Plan condition requirements. A condition is recommended to include a landscape plan to provide adequate screening to the adjoining residential lot.
<b>Engineering</b>	
Draining the pond during construction is detrimental to native birdlife.	A condition is recommended for the Applicant to undertake an environmental management assessment that identifies flora and fauna within the pond area and their management during construction. The revised plan has reduced the overall footprint and setback from the boundary with the Beachhouses Estate land to ensure no works, including footings, or dewatering are required within the Beachhouses Estate easement area or adjacent pond.
<b>Flooding</b>	
Reducing the current volume of the wetland and pond area will add to flooding events.	A Site Based Stormwater Management Plan has been undertaken which shows the proposed development will not result in an increase in flood level. The proposed development utilises underground detention tanks to provide compensation flood storage. A condition has been recommended to amend the Site Based Stormwater Management Plan to reflect the revised proposed plan.
<b>Other</b>	

Larger parking bays to cater for 4WD's will improve safety.	The revised proposal plan did not alter the size of the parking bays, however, the parking bays have been designed in accordance with Australian Standard guidelines.
The use of the parking area by overnight campers will create amenity and environmental issues.	A condition is recommended to limit access to the parking area.
Impacts of waste and pollution spreading to neighboring properties and waterway.	A condition is recommended for the Applicant to undertake an environmental management assessment that identifies flora and fauna within the pond area and their management during construction. The Parking Station will be a Council asset and therefore have a scheduled maintenance regime.
Lack of community consultation.	The Applicant undertook public notification in accordance with the Act. Further community consultation was also facilitated through community meetings. This included a number of "pop-up" information sessions and a community workshop.
Alter design to sealed asphalt will mitigate impacts of stormwater.	Drainage has been designed to effectively manage stormwater.

**Matters prescribed by a Regulation:**

1. The *State Planning Policy – July 2017 – Part E*;
2. The *Central Queensland Regional Plan*; and
3. The *Our Place Our Plan Gladstone Regional Council Planning Scheme Version 2*.

**7. SUBMISSIONS**

There were nine (9) properly made submissions, including one (1) petition containing twenty-two (22) signatures about the application. The name and address of the principal submitter for each properly made submission are as follows:-

Name of principal submitter	Address
Tony and Carol McGruther	7 Jeffrey Court AGNES WATER QLD 4677
Bryan Pugsley	38 Beachouses Estate Road AGNES WATER QLD 4677
Brynden Russell	29 Beachouses Estate Road AGNES WATER QLD 4677
Peter Robinson	PO Box 402 AGNES WATER QLD 4677
Michael Dietrich	46 Grahame Colyer Drive AGNES WATER QLD 4677
Paul Shubert	44 Beach Houses Estate Road AGNES WATER QLD 4677
David and Nicole Long	15 Mallard Court SOUTH GLADSTONE QLD 4680
Ms Jane Gray	PO Box 353 AGNES WATER QLD 4677
Beachouses Estate Body Corporate C/- Chairman, Mr Tony Baldwin	tbaldwin@mccoskers.com.au

## 8. APPEAL RIGHTS

Schedule 1 of the *Planning Act 2016* details your appeal rights and the appeal rights of any submitters regarding this decision.

## 9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:-

- From the time the decision notice is given, if there is no submitter and the applicant does not appeal the decision to the court.

**OR**

- If there is a submitter and the applicant does not appeal the decision, the earlier date of either:
  - When the submitter's appeal ends; or
  - The day the last submitter gives the assessment manager written notice that the submitter will not be appealing the decision.

**OR**

- Subject to the decision of the court, when the appeal is finally decided, if an appeal is made to the court.

This approval will lapse if:-

- for a material change of use, the first change of use under the approval does not start within the relevant period stated in section 3 of this Notice of Decision;
- for a reconfiguration, a plan for the reconfiguration is not given to the local government within the relevant period stated in section 3 of this Notice of Decision;

- for a development approval other than a material change of use or reconfiguration, the development does not substantially start within the relevant period stated in section 3 of this Notice of Decision.

Should you wish to discuss this matter further, please contact Council's Planning Officer Nick Whittle on (07) 4970 0700.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'H A Robertson'.

H A ROBERTSON  
**MANAGER DEVELOPMENT SERVICES**

**Attached:**      **Conditions**  
                     **Appeal Rights**  
                     **Approved Plans**



### **ASSESSMENT MANAGER CONDITIONS - DA/4/2020**

#### **Approved Documentation**

1. Development is to be carried out generally in accordance with the submitted application including the following plans and supporting documentation except where amendments are required to satisfy the conditions of this approval:

Drawing Number	Revision	Description	Author	Date
R2020043-SK-0004	1	Site Plan	Cardno	-

#### **Special Conditions**

2. Prior to the commencement of the use, the Applicant is to install signage which states that overnight parking is not permitted and the site is within a flood area.
3. As part of the lodgement for the first application for Operational Works, the Applicant is to provide an Environmental Management Plan to Council for approval. The Environmental Management Plan shall describe the natural environmental values of the rear pond area, how the development may impact on the environment, and any actions required to avoid, minimise or manage impacts.

#### **Operational Works**

4. A Development Permit for Operational Works must be obtained from Council prior to the commencement of construction. The Development Application for Operational Works is to include the following:
  - a. Earthworks (including retaining walls);
  - b. Road works (including driveway, signage and footpaths);
  - c. Stormwater Management (quantity, quality, flood and drainage control);
  - d. Landscaping, environmental protection and lighting and security measures.
5. Development Applications for Operational Works shall be designed and constructed in accordance with Australian Standards, the Engineering Design Planning Scheme Policy under the *Our Place Our Plan Gladstone Regional Council Planning Scheme* or any other applicable standards at the time of lodgement. Prior to the commencement of the use, all Operational Works conditioned by this approval must be accepted "on maintenance" by Council.

*Advisory Note: The Capricorn Municipal Development Guidelines within the Engineering Design Planning Scheme Policy is the current document for preparing any Development Application for Operational Works which is found at <http://www.cmdg.com.au/index.htm>.*

## **Water Infrastructure**

6. Prior to the commencement of the use, a water service connection is to be provided from Council's water supply infrastructure to the front property boundary. The location and size of the water service (and any associated fire service) is to be determined in consultation with Council.
7. Prior to the commencement of the use, connections to Council's live water reticulation network must be carried out by Council. The cost of these works is to be borne by the Applicant.

*Advisory Note: Council's Application for Water Service is found at <http://www.gladstone.qld.gov.au/forms>.*

## **Stormwater Infrastructure**

8. As part of the first Development Application for Operational Works, the Applicant is to submit for approval by Council an amended Site Based Stormwater Management Plan. The Site Based Stormwater Management Plan must address both stormwater quantity and quality and be in accordance with the Engineering Design Planning Scheme Policy under the *Our Place Our Plan Gladstone Regional Council Planning Scheme* and the *State Planning Policy – July 2017*. The Site Based Stormwater Management Plan must be certified by a Registered Professional Engineer of Queensland experienced in this type of work.
9. As part of the first Development Application for Operational Works, the Applicant is to provide amended stormwater modelling that identifies all required upgrades upstream of the proposed development. The amended stormwater modelling should demonstrate that the proposed stormwater infrastructure through the development is compatible with any potential future upgrades required upstream of the development.

## **Acid Sulfate Soils**

10. As part of any Development Application for Operational Works, the Applicant must submit an Acid Sulfate Soils Investigation and Management Report to Council for approval. The Management Report is to:
  - a. Be prepared by a suitably qualified person experienced in the area of Acid Sulfate Soils
  - b. Determine whether the proposed works will expose/disturb Acid Sulfate Soils;
  - c. Detail the measure to be undertaken to reduce the risk of Acid Sulfate Soils during construction and operation; and
  - d. Be in accordance with the Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland 1998 as per the Queensland Acid Sulfate Soil Technical Manual.

## **Transportation Services**

11. Prior to the commencement of the use, a total of 73 car parking spaces are to be constructed on site generally in accordance with the approved plans and include the provision of parking for people with a disability. These spaces and all vehicle movement areas are to be constructed, sealed, line marked, provided with wheel stops and maintained in accordance with the Engineering Design Planning Scheme Policy under the *Our Place Our Plan Gladstone Regional Council Planning Scheme* and AS2890.

12. Prior to the commencement of the use, line marking is to be provided within the carpark to delineate one-way traffic flow (clockwise) through the carpark.
13. Prior to the commencement of the use, any damage to the concrete footpath, and kerb and channel shall be repaired at the owner's expense and to Council's Standard Drawing Urban Commercial/Industrial Driveway.

*Advisory Note: Council's standard drawing is located within the Capricorn Municipal Development Guidelines - Drawings and Specifications at <http://www.cmdg.com.au/index.htm>.*

14. Prior to the commencement of use, a 2m wide concrete footpath the full extent of the frontage of the site is to be constructed in accordance with Council's Standard Drawing Concrete Pathway/Bikeway Details.

*Advisory Note: Council's standard drawing is located within Capricorn Municipal Development Guidelines at <http://www.cmdg.com.au/index.htm>.*

15. Prior to the commencement of the use, all grassed footpath areas disturbed by the development are to be top dressed and turfed following completion of construction activity.
16. Prior to the commencement of the use, any manholes located on the proposed driveway are to be covered with Class D Covers to AS 3996, and are to be maintained at finished surface levels and remain accessible at all times.
17. Prior to the commencement of the use, a minimum 8m wide Type C1 Commercial Driveway is to be constructed in accordance with Council's Standard Drawing Urban Commercial/Industrial Driveway (CMDG-R-042A).

*Advisory Note: Council's standard drawing is located within the Capricorn Municipal Development Guidelines - Drawings and Specifications at <http://www.cmdg.com.au/index.htm>.*

## **Landscaping**

18. Prior to commencement of the use, a revised Landscaping Plan is to be submitted and approved by Council detailing the existing vegetation to be retained, location of shade trees at the rate of 1 tree per 6 car spaces, and screening trees located at the rear of the site. The landscaping species are to be in accordance with Table 9.3.5.3.2 – Plant Species List of the Landscaping Code of the *Our Place Our Plan Gladstone Regional Council Planning Scheme* and the Capricorn Municipal Development Guidelines – Landscaping C273 Construction Specification.
19. Prior to commencement of the use, all landscaping areas are to be constructed with an appropriate irrigation system.

## **Lawful Commencement**

20. Prior to the commencement of this use, the Applicant is to request a Compliance Inspection be undertaken by Council to confirm that all conditions of this Development Permit are considered compliant.

21. Upon receipt of confirmation from Council that all conditions of this Development Permit are considered compliant, the Applicant is to notify Council within 20 business days that this approved use has lawfully commenced.

#### **END OF CONDITIONS**

#### **Advice to Applicant:**

An Adopted Infrastructure Charge Notice in relation to the infrastructure charges applicable to this development has been provided separately. Council's Infrastructure Charges Incentive Policy may be applicable to this development. Please see the full Policy on Council's website.