



GLADSTONE
REGIONAL COUNCIL

**GENERAL MEETING NOTICE
AND AGENDA**

**TO BE HELD AT THE COUNCIL CHAMBERS – CIVIC CENTRE
101 GOONDOON STREET, GLADSTONE**

On Tuesday 7 May 2024

Commencing at 9.00am

**Leisa Dowling
CHIEF EXECUTIVE OFFICER**

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G/1. MAYORAL STATEMENT OF CURRENT ISSUES

G/2. CONFIRMATION OF MINUTES

G/2.1. CONFIRMATION OF GENERAL MEETING MINUTES FOR 23 APRIL 2024

Responsible Officer: Chief Executive Officer

Prepared By: Executive Secretary

Council Meeting Date: 7 May 2024

File Ref: CM7.2

Purpose:

Confirmation of the minutes of the General Meeting held on 23 April 2024.

Officer's Recommendation:

That the minutes of the General Meeting of Council held on 23 April 2024 be confirmed.

Attachments:

1. Minutes of the General Meeting of Council held on 23 April 2024.

G/3. DEPUTATIONS

G/4. OFFICERS' REPORTS

G/4.1. CONSIDERATION OF DEVELOPMENT APPLICATION DA/42/2023 MATERIAL CHANGE OF USE OF PREMISES FOR BULK LANDSCAPE SUPPLIES AT 2654 ROUND HILL ROAD, AGNES WATER

Responsible Officer: General Manager Customer Experience

Prepared By: Planning Officer

Council Meeting Date: 7 May 2024

File Ref: DB1.7

Development Application:

Application Number:	DA/42/2023
Applicant:	Agnes Coast Earthmoving C/- Zone Planning Group
Owner:	Stanley James Pty Ltd
Date Of Receipt:	7 August 2023
Location:	2654 Round Hill Road, Agnes Water Qld 4677
RPD:	LOT 5 RP 612151
Area:	4.89 Ha
Current Use of Land:	Vacant (unlawful Bulk Landscape Supplies)
Zoning:	Rural Residential
Proposal:	Bulk Landscape Supplies
Submissions:	15 February 2024 – 7 March 2024
Number Of Submissions:	10 – 9 properly made and 1 not properly made

Purpose:

The purpose of this report is to decide Development Application 42/2023 for Material Change of Use for a Bulk Landscape Supplies on land at 2654 Round Hill Road, Agnes Water against the *State Planning Policy July 2017*, and the *Our Place Our Plan Gladstone Regional Council Planning Scheme Version 2* under the *Planning Act 2016*.

Executive Summary:

Development Application for Material Change of Use for Bulk Landscape Supplies was lodged with Council for approval in response to the Show Cause Notice issued on 07 June 2023 for an alleged development offence, operating without the relevant development permit/s.

Development Application for Material Change of Use for Bulk Landscape Supplies was considered properly made on 14 September 2023 with a Confirmation Notice issued on 21 September 2023. The application was prepared by Zone Planning Group on behalf of Agnes Coast Earthmoving. An Information Request Notice was issued for the Development Application on 5 October 2023 and a Further Advice Notice on 5 December 2023 (attached) to which the Applicant provided a response on 19 January 2024.

The proposal was categorized as Impact Assessable within the Rural Residential Zone against the relevant provisions of *Our Place Our Plan Gladstone Regional Council Planning Scheme, Version 2* (the Planning Scheme). Assessment was also conducted against the relevant provisions of the *State Planning Policy – July 2017* (the SPP) and requirements detailed under the *Planning Act 2016* (the Act). Based on the information accompanying the application, referral was not required to the *Department of State Development*,

Infrastructure, Local Government and Planning (DSDILGP) or any other agencies. The Applicant advised that Public Notification requirements were undertaken between 15 February 2024 – 7 March 2024 with a total of ten (10) submissions (9 properly made, 1 not properly made) received during this time.

After assessment of the proposal against the Planning Scheme, it is considered that the proposal does not comply, or has not provided sufficient detail in which to assess compliance, with multiple assessment benchmarks and it is therefore recommended that the Development Application for a Material Change of Use of Premises for Bulk Landscape Supplies at 2654 Round Hill Road, Agnes Water, be refused on the grounds contained herein.

Subject Site:

The subject site is located at 2654 Round Hill Road formally known as Lot 5 RP 612151. The site is 4.89 hectares and is a stand-alone lot surrounded by multiple frontages namely Round Hill Road, two unformed roads and Corfield Drive. The site is of an irregular shape with a topography sloping from the western boundary at 32m AHD (Corfield Drive access) to the eastern boundary at 27m AHD (Round Hill Road and Corfield Drive intersection). The site is located outside of the mapped service areas for both water and sewer infrastructure. The subject site and surrounding road network can be viewed in **Figure 1**.



Figure

1 Subject Site – Aerial View Geocortex 2022

The site is located within the Rural Residential Zone. Although the site does not directly border any premises the neighbouring lots at the north, east and west are also located within the Rural Residential Zone while the neighbouring lots at the south are part of the Low Impact Industry Zone (**Figure 2**).



Figure

2 Subject Site -Zones

Background:

Development Offence

On 1 November 2022, Council was notified that Agnes Coast Earthmoving was operating from 2654 Round Hill, Agnes Water without a development permit. Consequently, a Demand Letter was issued on 3 November 2022 requesting comments from the landowner to which Agnes Coast Earthmoving requested a Pre-lodgement meeting (PL/42/2022) held on 21 February 2023.

One of the actions required (as stated within the pre-lodgement meeting minutes) was that Agnes Coast Earthmoving had three months to prepare the material to lodge the Material Change of Use for Bulk Landscape Supplies. However, by early June Council did not receive any applications while the business continued to operate. Consequently, the compliance action escalated, and a Show Cause Notice was issued on 7 June 2023. The Show Cause clearly stated that to rectify the development offence the owner was requested to cease the operations immediately and lodge an application for a Material Change of Use development permit for Bulk Landscape Supplies to Council.

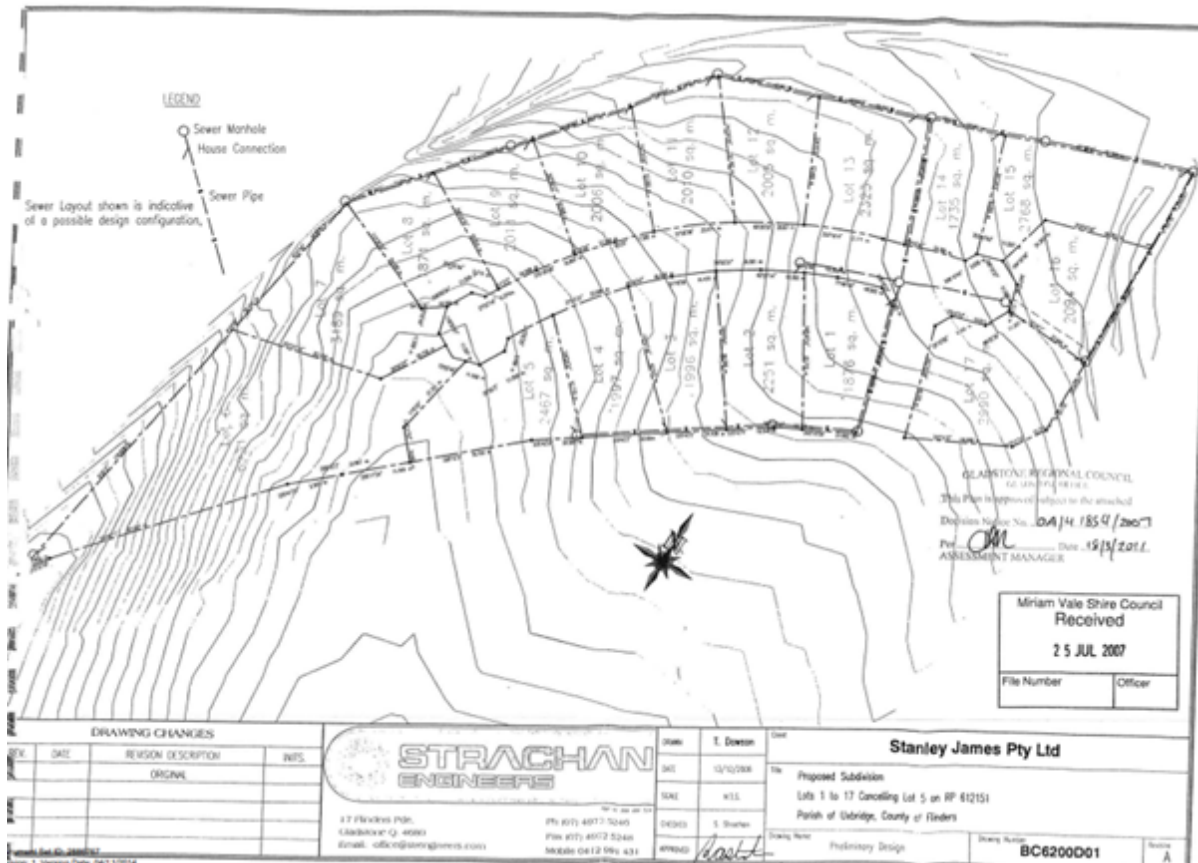
On 6 July 2023 Zone Planning Group on behalf of Agnes Coast Earthmoving stated that by 7 August 2023, the development application for a Material Change of Use development permit for Bulk Landscape Supplies was going to be lodged which indeed on 7 August 2023 Council received the development application material.

Despite Zone Planning Group on behalf of Agnes Coast Earthmoving communicating actively regarding the anticipated lodgement of the development application, no actions were taken regarding the ceasing of operations. Therefore, on 19 July 2023 Council issued an Amended Enforcement Notice requesting to cease the operations immediately and lodge an application for a Material Change of Use development permit for Bulk Landscape Supplies to Council. On 14 August 2023 Council received a Notice of Appeal (attached) filed within the Planning and Environment Court requesting the court allow the operation of Agnes Coast

Earthmoving while the present development application was under assessment. To date, the case is active and being processed by Council’s planning and legal team in accordance with the Planning and Environment Court Rules. It is noted that the operator has attempted to mitigate some of the issues raised by the community in regarding these unlawful operations (i.e. Rock crushing, manure processing/storage).

Previous Approval – DA/41854/2007

A review of Council’s records of the previous development applications for the site in question revealed that Development Application 41854/2007 for a development permit for a Reconfiguring of a Lot (1 lot into 17 lots) Negotiated Decision Notice was approved by the Planning and Environment Court on 12 October 2012 under the Integrated Planning Act 1997.



Figure

3 DA/41854/2007 - Approved Plan

PL/42/2022

On 21 February 2023, a pre-lodgement meeting was held to discuss the assertions made in the Council’s demand letter.

At the meeting, The Applicant sought from Council clarification on the following matters:

- Zoning - Bulk Landscape Supplies use within the Rural Residential Zone.
- Built form - current layout and treatment of the area.
- Access - current access track and applicable standard for the proposed use.

Council officers stated that although the Bulk Landscape Supplies may have merit in being located within the subject site, the proposed use must respond to the day-to-day needs of the area and the overall purpose of the Rural Residential Zone Code. With regard to feedback on the built form, Council advised that the proposal must comply with the relevant codes (rural residential zone, landscape, bushfire hazard, and development design) which stated a range of specialised reports such as traffic, stormwater, noise, odour and bushfire were required to be lodged as part of the development application material.

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The Applicant was advised that due to the subject site's current access being located at the intersection of an unformed road reserve and Corfield Drive and given the limited likelihood that Council would change the alignment of Round Hill Road, the new road formation would need to be constructed to an Urban Industrial road under the CMDG. Consequently, Council advised access to the development must be via an appropriately designed cul-de-sac head at the end of Corfield Drive to provide vehicle turnaround facilities. The Pre-Lodgement Minutes are attached.

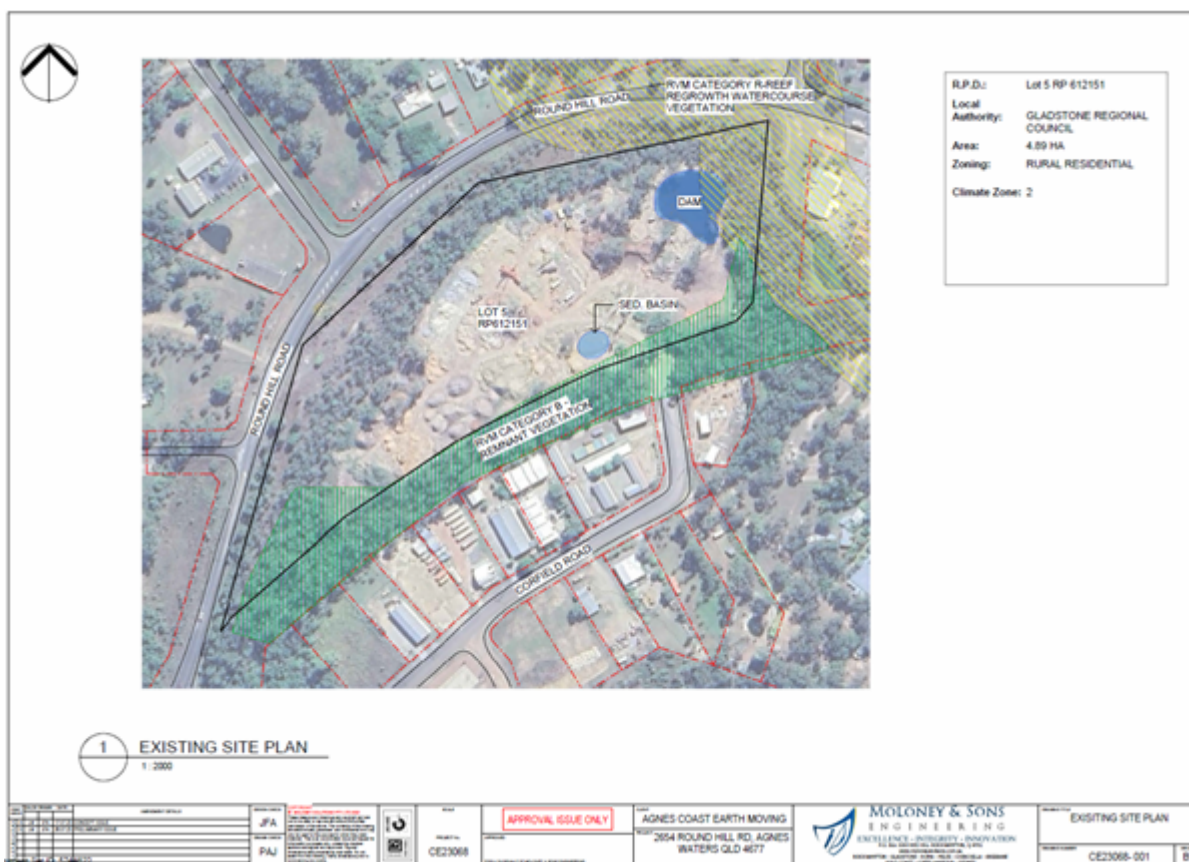
Proposal:

The proposal seeks approval for Material Change of Use of Premises for the unlawful Bulk Landscape Supplies development operating from the subject site. Under the Planning Scheme, Bulk Landscape Supplies is defined as:

Premises used for bulk storage and sale of landscaping and gardening supplies, which may include soil, gravel, potting mix and mulch, where the majority of materials sold from the premises are not in pre-packaged form.

Based on the proposal plans submitted, the proposed development consists of an office building measuring 72m² and an 18m² toilet block located at the southern boundary. According to the lodged material, the site will accommodate two (2) stockpile areas located at the east (adjacent to the dam) and western sides of the lot with an area of 4,810 m² and 2,960m² respectively. The stockpile areas, the sandstone pallets area, the bay areas, and the circulation areas equate to a useable area of 22,790m². The remaining area is proposed to retain the existing vegetation for amenity buffer purposes.

Figures 4 to 6 illustrate the proposed development.



Figure

4 Existing Site Plan

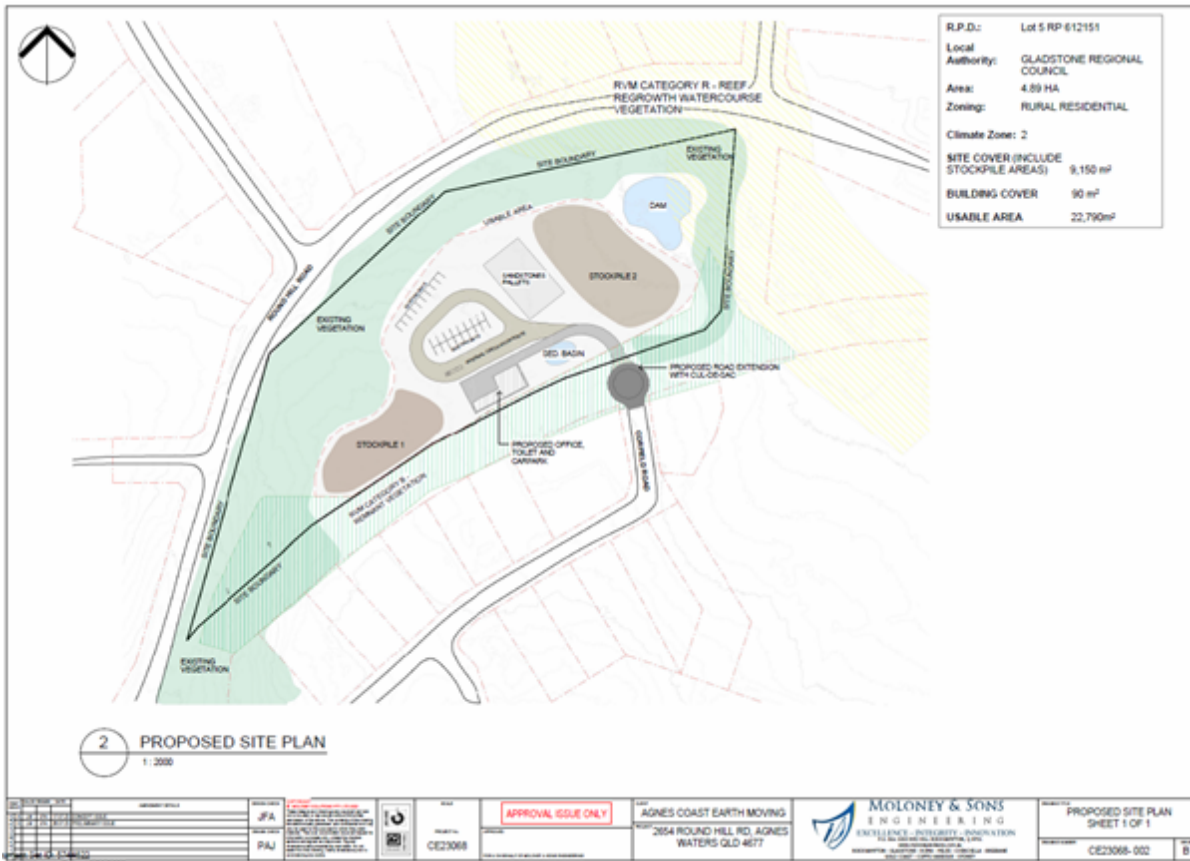


Figure 5

5 Proposed Site Plan

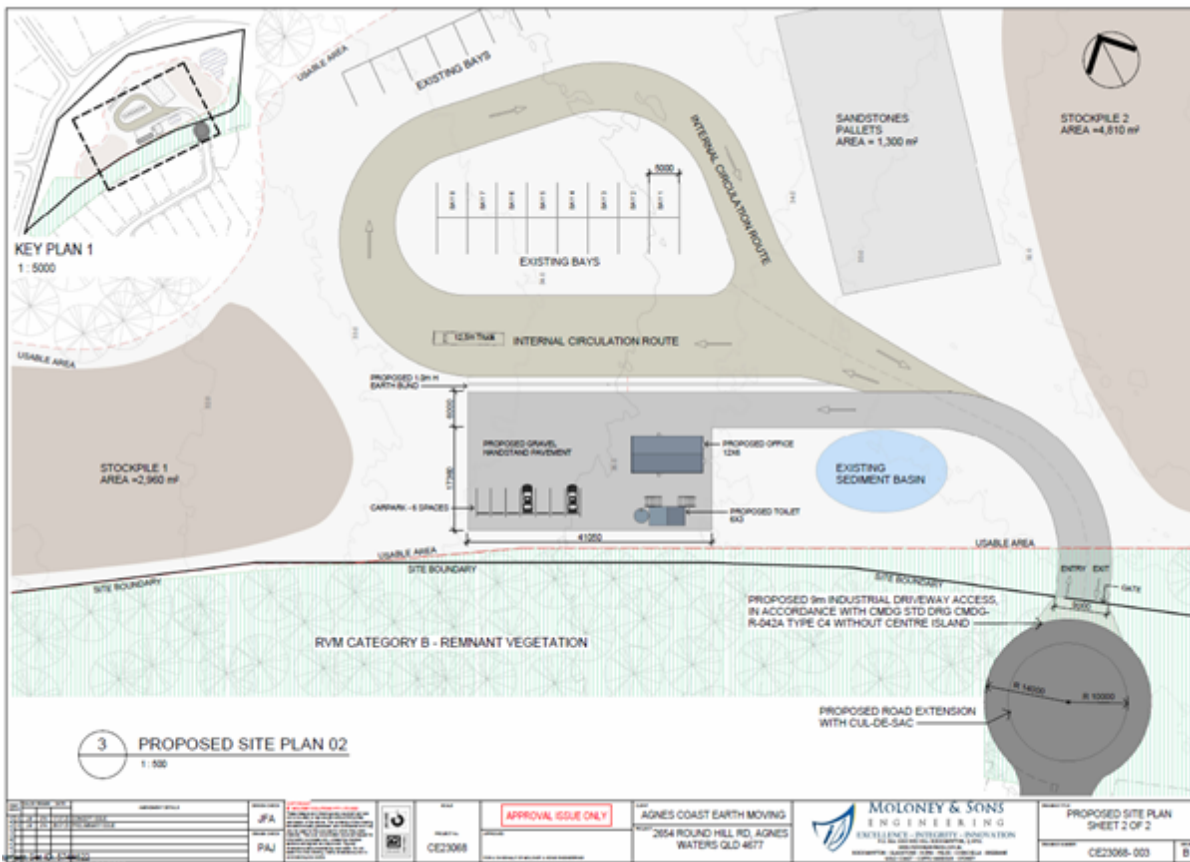


Figure 6 Proposed Site Plan 02

Information Request

Following formal lodgement of the application, a request for further information was sent to the applicant on 5 October 2023 along with a further issues letter which was sent to the applicant on 5 December 2023 (prior to the applicant providing a response). The two letters identified that the application was lacking in information that is reasonably expected in order for Council to carry out an assessment. The main issues identified in the letters were:

- The application did not provide a description of the activities proposed to be carried out on site
- Lack of information to demonstrate how the proposed use is required to provide for the day to day needs of the area or that the proposal has a direct relationship to the land
- The application did not provide a capacity analysis of Round Hill and Corfield Drive intersection and to demonstrate safe turning movements for vehicles (including the largest size) accessing the site.
- An acoustic report demonstrating that the operational activities, including but not limited to, the operation of mechanical plant and equipment, must not cause an 'environmental nuisance'.
- An air quality report demonstrating that the proposed development operates within the acceptable air quality standards specified in the Environmental Protection (Air) Policy 2019
- Lack of information to demonstrate a potable water supply can be provided for the proposed water demands in accordance with the CMDG
- Lack of information to demonstrate appropriate on-site firefighting infrastructure in accordance with the Gladstone Planning Scheme and CMDG
- Lack of information to demonstrate the proposed onsite sewer infrastructure is appropriate for the anticipated sewer demands in accordance with the CMDG.
- Lack of information on how the development wastewater is proposed to be treated
- Additional information to support the stormwater management plan
- Provision of proposed Earthworks plans, quantities, and sections to demonstrate compliance with the Gladstone Planning Scheme
- Provision of vehicle turning path plans to demonstrate the access driveway allows simultaneous entry and exit to the site of the B-double truck design vehicle to the site
- Provision of landscape plan demonstrating compliance with the landscaping code

A response to the Information Request and Further Advice Notice was received on 19 January 2024. This was a partial response only as the applicant did not provide all the information requested, which is further considered within the assessment section of this report. It is noted that officers advised the applicant that the response was deficient.

Other matters

During the course of the assessment Council continued to receive complaints from the public regarding the noise being generated by the development. On 1 November Council received correspondence from Gannt Legal that stated

".. the client removed the large screening machine from the site, which was previously used to screen landscape materials on site, including rock. No screening has been undertaken on site for the last three months. The smaller screening machine located on site has not been used in over 12 months as it is broken, and is not intended to be used until such time as a development permit for a material change of use for bulk landscape supplies is in place".

In response to this, Council sought additional information from the applicant as part of the further issues letter as follows:

1. Issue - Description of activities occurring on site.

Information Requested:

It has been brought to Council's attention that screening/mulching/processing of material has been occurring on site as part of the current business operations. An accurate description of the business and activities proposed is required (including but not limited to):

a) Description of products that are currently offered by the proponent

b) Description of any processing that occurs onsite

c) Number of Vehicles / machinery stored onsite (including overnight)

d) Frequency of vehicle movements and their type that are associated with the business.

This information is required to ensure that Council understands the scale of operations proposed as part of this development, in addition Council seeks to ensure that the proposed operations fit within the definition of Bulk Landscape Supplies which is limited to storage and sales of gardening and landscaping supplies.

The applicant has not provided a response to this request for additional information. Whilst it is clear that the applicant has previously been mulching/screening / and processing material onsite it is unclear as to whether this aspect of operations is intended to continue onsite. The application for Bulk Landscape Supplies is limited to storage and sales of landscaping/gardening supplies and therefore there is inconsistency between the application material and the business operations. Notwithstanding, the proposal, whilst not detailed in its description of activities occurring onsite, must be assessed based on the application material provided.

Referral agency:

Referral was not required for the proposal given the location of the development.

Public notification and submissions:

The proposed development is impact assessable against the Planning Scheme. The applicant provided a notice of intention to commence public notification to the assessment manager on 14 February 2024. Public notification was carried out from 15 February to 7 March 2024 for 15 business days. On 20 March 2024, the applicant provided a notice of compliance confirming public notification was carried out and included:

- Notice was published in the CQ Today on 14 February 2024
- Placement of signs on the property on 9 February 2024; and

The public notification was also published on the Council website. Nine properly made submissions and one not properly made submission were received during the public notification period. Council provided the submissions to the applicant to allow opportunity to provide a response to the issues raised. No response has been received at the time of writing.

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The following table provides a summary of the matters raised across all the submissions received about the application. The full submissions package is attached to this report. It is noted that this is a summary of the submitter issues and commentary, in no particular order.

Issue	Submitter commentary
Acoustic and noise impacts	<ul style="list-style-type: none"> • Current operations are significantly impacting on residents and the community. • No acoustic assessment or recommended treatments as part of the application material.
Air quality and dust impacts	<ul style="list-style-type: none"> • Current operations impacting on residents and the community. • No air quality assessment or recommended treatments as part of the application material. • Currently no sealed internal roads. • Current end of Corfield Drive is unsealed and causes dust and run off issues.
Landscaping buffers	<ul style="list-style-type: none"> • Additional buffering through vegetation and landscaping is not proposed. • Visual amenity impacts to Round Hill Road and Corfield Drive
Operational use vs use applied for	<ul style="list-style-type: none"> • Nature and scale of the unlawful operations are not consistent with the Bulk Landscape Supplies use applied for under this application. • Operational use has included mulching, processing/breaking/crushing of rocks, fertilizer/manure storage and processing to create garden blends. • Tyres stored/stockpiled on site.
Commencement of use unlawfully	<ul style="list-style-type: none"> • General commentary on the establishment of the operations prior to a development permit being sought/issued.
Traffic	<ul style="list-style-type: none"> • Observed operations have a high number of heavy vehicle movements such as b doubles, earthmoving machinery and fuel tankers rather than lighter 'local' traffic. • Concerns the road capacity is insufficient to cater for the types and numbers of vehicles. • Safety concerns with the size and frequency of traffic movements due to this use. • Pavement impacts on Corfield Drive and Round Hill Road from the heavy vehicle movements.
Zoning conflicts	<ul style="list-style-type: none"> • Inconsistent use with the Rural Residential Zone. • Proximity to residential properties and the associated amenity impacts. • Use does not only service the immediate community but instead services further reaching areas of the region. • Current operations being done in an unsightly and uncontrolled manner impacting on amenity of the area.
Stormwater	<ul style="list-style-type: none"> • Dam has been constructed as part of the commencement of operations. • No erosion or sediment control measures are apparent and the property directly adjoins a watercourse. • During rain events runoff is uncontrolled. • Management of run off from chemical storage, diesel tanks and machinery work areas. • No hardstand so all run off has sediment.
Vegetation and biodiversity	<ul style="list-style-type: none"> • Site was previously entirely vegetated and has been largely cleared for the purpose of this use, prior to any development permits. • Proposed use does not include any plans to revegetate or landscape. • Use is in proximity and within SPP mapped areas and watercourse. • Evidence of noxious weeds that are not being controlled on site and are potentially being spread by frequency of vehicle movements.

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Quality of application material	<ul style="list-style-type: none"> • Inconsistent material and plans provided by the applicant. • Incorrect material provided by the applicant. • Application does not comply with Planning Scheme, Australian Standards or National Construction Code, CQ Regional Plan or State Planning Policy.
Carparking	<ul style="list-style-type: none"> • Insufficient car parking has been proposed as the 6 spaces are not adequate to cater for the number of staff/contractors likely to utilise the site. • Carparking does not appear to comply with disability parking requirements.
Bushfire	<ul style="list-style-type: none"> • Bushfire Report does not address the actual use of the site and the risk of the material and machinery as both a fire risk in themselves as well as being at risk from a fire. • No reference to the storage of fuel, chemicals and tyres on site and the risk impacts.
Water/Sewer servicing	<ul style="list-style-type: none"> • Insufficient detail on how the site will be serviced by potable water (and for fire fighting). • Site should extend the current water network to this site.
Caretakers Residence	<ul style="list-style-type: none"> • Caretaker on site appears to be 'living' in an unapproved shipping container.
Economic	<ul style="list-style-type: none"> • Provides an employment opportunity for the community. • Supports local construction.

Assessment:

Instruments for statutory assessment

Under the Planning Act 2016 the application must be assessed against each of the following statutory planning instruments to the extent they are relevant to the development:

- *State Planning Policy 2017 (SPP)*
- *Planning Regulation 2017*
- *Our Place Our Plan, The Gladstone Regional Planning Scheme, Version 2 (the Planning Scheme)*

State Planning Policy 2017

The Planning Scheme, version 2, dated 3 July 2017 has integrated 16 out of the 17 state interests in Part E, with the exception of infrastructure integration. The proposal does not compromise existing infrastructure. Consequently, the proposed development is consistent with State interest – infrastructure integration.

A review of the SPP mapping for the subject site confirms that the current Planning Scheme overlay mapping for MSES Vegetation is not consistent with the Biodiversity Overlay Mapping. See Figure 7 below where the site has been identified with MSES regulated Vegetation. Whilst the state interests have been adequately integrated within the codes of the planning scheme, updated versions of MSES vegetation mapping have not yet been integrated into the planning scheme. On this basis, and as the application is impact assessable and assessable against the entire planning scheme, further assessment of the development against the Biodiversity Overlay Code benchmarks is required.



Figure 7– SPP mapping – Vegetation

Gladstone Regional Planning Scheme

Strategic Framework

The Strategic Framework sets the policy direction for the Planning Scheme and forms the basis for ensuring appropriate development occurs within the Planning Scheme area for the life of the Planning Scheme. The Strategic Framework is an Assessment Benchmark for Impact Assessable applications and the relevant elements are assessed as follows:

- Gateway to the World
 - Industrial development occurs in a range of small and large lots that reflect site area requirements for a range of industrial activities. It must also be well serviced, connected to major transport links, transport routes and other key infrastructure and avoids adverse impacts on sensitive uses.
- Community Living
- Connecting Our Places
- Building it Better – Our Urban Areas
- Our Environment and Heritage
- Our Rural and Coastal Townships and Places
 - The individual character and unique identity of rural and coastal communities is retained and their roles clearly defined.

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- No further expansion of Rural residential areas is supported beyond areas identified in the Rural residential zone.
- Non-residential development in rural and coastal townships supports local level service needs with the exception of small scale tourism activities. Development supporting urban scale needs is not supported.

The subject site is zoned Rural Residential within the Agnes Water township which is largely characterised by rural residential zoned properties surrounding the township. The proposed Bulk Landscape Supplies likely serves the local area needs and is proposed on a larger Rural Residential zoned property capable of accommodating its industrial activities. However, the proposed development is not consistent with the existing identity and rural residential character, as rural residential zone land is to provide for housing and lifestyle choices on the fringe of Agnes Water township.

Planning Scheme Codes

The application has been found to conflict with one or more elements of the applicable codes of the planning scheme. The pertinent issues arising out of the assessment are discussed below.

Rural Residential Zone Code

The purpose of the Rural Residential Zone Code is to provide for:

- a) Limited housing and lifestyle choices generally on the fringe of existing urban areas.
- b) Development of large lots for residential development at a very low density.
- c) A limited level of servicing that is less than that provided in urban areas.

The code includes several performance outcomes and acceptable solutions relative to the purpose of the code. The applicable outcomes are provided below with an assessment provided for each benchmark as follows:

Benchmark -Land Use -PO7

Non-residential uses and are limited to those which:

- a) are subordinate to the primary residential use (where not in the Bicentennial Drive Enterprise precinct) and support the day to day needs of residents.*
- b) do not impact on residential amenity*
- c) are compatible with neighbouring rural uses*
- d) are complementary to local character and amenity; and*
- e) are home businesses, small scale tourist uses, low impact creative enterprises or small scale horticulture.*

Assessment:

The proposed use of Bulk Landscape Supplies at the subject site is not a use listed within e) above. The subject site does not include a residential use and the scale of the bulk landscape supplies operations is beyond what could be classified as subordinate to residential use in any case. The applicant was requested to provide additional information that demonstrates the non residential use supports the day to day needs of residents, however this was not provided in response to the request for further information. The applicant was also requested to provide an acoustic report and air quality report to demonstrate that the operational activities do not impact on residential amenity. However, the applicant has also not provided these reports, and therefore there is insufficient information to undertake an assessment against the benchmarks with respect to amenity and compatibility of the use as required by items b), c) and d). As there is no clarity on impacts of the proposed development, whether the use is needed to serve the day to day needs of residents and the development is not of a subordinate scale or a use listed within e) the development does not demonstrate compliance with PO7.

Without this justification provided by the applicant, it is considered that the use is of a significant scale that would service a much larger catchment than the day to day needs of the residents. This is evidenced by the proportion of commercial and industrial users/clients of the operations. The facility is being used to service construction developments and commercial operators at a larger scale, rather than a smaller operation in which domestic users are utilising the site for their own residential purposes (ie. Gardening).

Benchmark -Effects of Development PO10

PO10

Development responds sensitively to on-site and surrounding topography, drainage patterns, foreshore areas, utility services, access, vegetation and adjoining land uses, such that:

- a) any hazards to people or property are avoided*
- b) any earthworks are minimised*
- c) the retention of natural drainage lines is maximised*
- d) the retention of existing vegetation is maximised*
- e) damage or disruption to sewerage, stormwater and water infrastructure is avoided, and*
- f) there is adequate buffering, screening or separation to adjoining development.*

Assessment:

The subject site was previously vegetated with mature regrowth as demonstrated in the Aerial Photo taken in 2020 below.



Figure 8 – 2020 Aerial Photo of subject site – vegetated.

The proposed development has involved extensive clearing of the site as demonstrated in figure 1. The most sensitive vegetation on the site is that contained close to the drainage corridor within proximity to the eastern side boundary as demonstrated in Figure 7 this vegetation is mapped as MSES Category R and MSES regulated vegetation intersecting a watercourse. It is therefore considered that the development has not responded sensitively to onsite drainage patterns and vegetation such that the retention of natural drainage lines is maximised and the retention of existing vegetation is maximised therefore the development has not demonstrated compliance with c) and d) above.

The sites natural topography includes a sloping site from a high point of 39m AHD at the western extent of the development footprint down to 29m AHD at the eastern side boundary, as depicted in Figure 9. below.



Figure 9 – Site contours

Based on Aerial photography, it appears that almost 3HA of the site (the majority) has been subject to some level of earthworks where the top level of the ground has been disturbed. Therefore, it is considered that the development has not responded sensitively to the topography by means of minimising earthworks, therefore non-complaint with b) above.

With respect to items a) avoiding hazards and e) avoiding damage to infrastructure the development could be managed via conditions to ensure compliance.

With respect to item f) adequate buffering and screening a landscaping plan can be managed via conditions to ensure the development achieves this requirement, based on aerial and street views the site remains largely screened in its current form. The site does not adjoin any other uses as it is surrounded by road reserve, therefore the development is capable of complying f) subject to conditions ensuring landscaping is provided/maintained.

Overall, the application has not demonstrated compliance with PO10 b) c) and d).

Benchmark -Land Use -PO11

All uses:

- a) minimise noise, dust, odour or other nuisance from existing lawful uses including rural and industrial uses
- b) minimise nuisance caused by noise, vibration and dust emissions generated by the state-controlled road and rail network in the vicinity of land in the rural residential zone.

Assessment:

As previously advised, requests for noise, and air quality reports were not forthcoming. Therefore there is insufficient information to undertake an assessment against this benchmark. In the absence of qualified data that demonstrates the land use will not cause a nuisance from existing lawful uses, it remains that the application has not demonstrated compliance with PO7.

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It is evident from the above assessments of the Performance Outcomes that the development is not compatible with the purpose of the Rural Residential zone. This is further supported by an assessment of the proposal against the following relevant Overall Outcomes for the zone code which specify:

2. The purpose of the zone will be achieved through the following overall outcomes:

c) Development provides a high level of residential amenity appropriate to the character of the particular rural residential zone.

Assessment:

The development has not demonstrated it provides a high level of residential amenity. In fact, the observed impacts of the existing operations have demonstrated a detrimental impact to the amenity of the rural residential character, further supported by multiple compliance complaints and evident within several submissions.

d) Natural features such as creeks, gullies, waterways, wetlands and vegetation and bushland are retained, enhanced and buffered from the impacts of development. Any unavoidable impacts are minimised through location, design operation and management requirements.

Assessment:

The development has not minimised these impacts through location, design operation and management requirements that natural features are retained, enhanced or buffered from the impacts of the development, but rather the development has extensively cleared land including areas mapped as MSES under the State Planning Policy. There is evidence that further clearing continued to occur subsequent to the Show Cause Notice being issued.

e) Non-residential uses maybe appropriate where such uses provide for the day-to-day needs of the area or have a direct relationship to the land.

Assessment:

As previously stated the application has not included information (despite information request) that demonstrates there is a need for the development to provide for day to day needs of the area, nor does the development have a direct relationship with the land as the nature of the use relies on sales of landscaping goods brought onto the site from elsewhere.

It is considered that the use is of a significant scale that services a much larger catchment than the day to day needs of residents. This is evidenced by the proportion of commercial and industrial users/clients of the operations. The facility is being used to service construction developments and commercial operators at a larger scale, rather than a smaller operation in which domestic users are utilising the site for their own residential purposes (ie. Gardening).

f) Development responds to land constraints, including but not limited to topography, bushfire and flooding.

Assessment:

The development has not responded to land constraints as it has involved extensive earthworks and clearing the existing topography without the relevant approvals.

The above assessment of the Rural Residential Zone code demonstrates that the proposal does not comply with PO7, PO10 b) c) and d), PO11, Overall Outcomes 2 c) d) e) and f). Whilst the proposal is capable of complying with limited performance outcomes, subject to conditions, overall, there is no sufficient grounds to consider the development compliant with the Rural Residential Zone code.

Bushfire hazard overlay code

The subject site is subject to Medium Potential Bushfire Intensity and Potential Impact Buffer mapping under the Bushfire Hazard Overlay Code. The development application was originally received without any supporting information addressing the Bushfire Hazard Overlay Code. In response to the action notice that applicant included a Build on Certification Bushfire Dwelling Assessment Report, which explores the built form requirements in relation to bushfire hazard onsite. Further information was requested with respect to onsite firefighting requirements and water supply, however the response to utilise the existing dam and water tanks still doesn't provide the specific evidence required by the planning scheme to determine onsite fire-fighting capabilities.

Overall, the development has failed to address the Bushfire Hazard Overlay Code. A bushfire Mangement Plan that determines the level of risk to people and property along with addressing the code is required. Notwithstanding, there remains insufficient information to undertake an assessment against this benchmark and, therefore the proposal is considered to not comply with the Bushfire Overlay Code.

Biodiversity Overlay Code

As previously outlined the subject site is mapped as containing MSES Category R vegetation and is adjacent to a waterway containing MSES vegetation see figure 7. The proposed development has involved clearing and earthworks (to construct a dam) within the area of the site that is mapped with MSES vegetation. The development has not demonstrated compliance with the Biodiversity Overlay Code which aims to ensure development is avoids impacts, is adequately setback/buffered, protects water quality conditions and enhances riparian vegetation along watercourses and drainage corridors. Overall, based on the information within the application, it is considered that the development does not have regard to the MSES mapped areas onsite and ultimately has not sought to comply, nor is capable of complying with the Biodiversity Overlay Code in particular provisions PO1, PO2, PO5, PO6, and PO7.

Landscaping Code

The applicant was requested to provide a Landscaping Plan as part of a request for further information. The applicant chose not to provide a landscaping plan and requested that a plan be submitted as part of a future operational works application. The proposal includes indicative areas for landscaping within the submitted plans and it is considered that the development is capable of providing areas for landscaping. However, as a landscaping plan has not been provided there is insufficient information in order to undertake an assessment against this benchmark. Therefore, whilst it is possible to condition a landscaping plan be provided as part of future works, the application as it stands has not demonstrated compliance with the Landscaping Code.

Development Design Code

The purpose of the development design code is to:

- a. *Ensure all development is provided with appropriate infrastructure, services and parking provisions.*
- b. *Ensure development manages stormwater and wastewater as part of the integrated total water cycle and in ways that help protect the environmental water values specified in the [Environmental Protection \(Water\) Policy 2009](#).*
- c. *Protect surface water and ground water.*
- d. *Ensure adverse impacts of development on the environment and the amenity of the locality are avoided.*

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The development has not adequately demonstrated that it can ensure adverse impacts on the environment and the amenity of the locality are avoided. The development has also been determined (as previously discussed in this report) to be non compliant with the Acoustic and Air Quality Performance Outcomes of this code which requires the development to minimise potential conflicts with, or impacts on, other uses having regard to odour, dust or other emissions, and prevent or minimise the generation of any noise or vibration. Therefore, the development does not comply with Purpose statement 1d and PO15 and PO16 of the development design code.

Otherwise the development has demonstrated that it is capable of complying with (including via conditions) the remaining elements of the code which are summarised as follows:

- The site is capable of providing water onsite for the intended operations (not including firefighting purposes which has not been demonstrated) and purchase potable water when required
- The proposed office and amenities block is proposed be connected to an onsite wastewater system to be assessed as part of Plumbing works approval
- The submitted Site Based Stormwater Management Plan, prepared by Moloney & Sons will retain all external catchments which will continue to be received by the development site. The submitted cross sections and drainage channels provided in response to the Information Request and revised plans and drawings confirm that the velocity in the channels will not exceed 1.14m/s. The associated depth velocity product will also not exceed 0.26m/s for the adopted minor 39% AEP event.
- Preliminary earthworks drawings have been submitted which provide proposed Earthworks plans, quantities, sections and batter slopes to demonstrate compliance with the code and the CMDG. An Operational Works application could further address these details and requirements.
- Traffic Assessment Report submitted within the lodged common material demonstrates how the proposed driveway access provides convenient access to the site and maintains the safety and efficiency of the proposed cul-de-sac, including drawings that demonstrate adequate turning paths

Adopted infrastructure charges notice calculation:

Existing Lawful Use			Proposed Use			
Planning Scheme Definition	GFA	AIC	Planning Scheme Definition	GFA	AIC	
Rural Residential	Vacant Lot	\$17,800	Bulk Landscape Supplies	120	\$89 per m2	\$10,680

As the existing lot has a credit (rural residential vacant lot), the calculation is as follows:

- \$17,800 (credit) – \$10,680 (charge amount) = **\$7,120 (credit)**

An Adopted Infrastructure Charges Notice could be issued in accordance with the *Planning Act 2016* as part of any approval with the decision notice.

Summary

The proposed Material Change of Use for Bulk Landscape Supplies at the subject site has not adequately demonstrated compliance with the Rural Residential Zone Code, the Bushfire Hazard Overlay Code, the Biodiversity Overlay Code, the Landscaping Code and Overall Outcome n) and PO11 and PO12 of the development design code. Whilst some matters such as the submission of a landscaping plan to comply with landscaping code could address compliance via conditions, the remaining deficiencies in the application are not points suitable to condition, as there is a high level of uncertainty as to whether compliance with the planning scheme can be achieved.

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In advancing the purpose of the Planning Act 2016 (s5) an entity that performs a function under this Act must perform the function in a way that includes:

(a) following ethical decision-making processes that—

(i) take account of short and long-term environmental effects of development at local, regional, State and wider levels; and

(ii) apply the precautionary principle, namely that the lack of full scientific certainty is not a reason for delaying taking a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage; and

(iii) seek to provide for equity between present and future generations; and

(b) providing opportunities for the community to be involved in making decisions

(i) applying amenity, conservation, energy use, health and safety in the built environment in ways that are cost-effective and of public benefit; and

(j) avoiding, if practicable, or otherwise minimising the adverse environmental effects of development (climate change, urban congestion or declining human health, for example) are key

In light of the above, it is considered that there are unknown environmental effects and impacts that the development may have at a local level. In applying the precautionary principle, there is a lack of certainty (where information and detail has not been provided) that this application will not detrimentally impact on amenity, provide safety in the built environment with respect to bushfire hazard and avoid or minimize environmental effects.

Taking into account the public submissions that consider the development is largely detrimental in its current form, the application has failed on numerous occasions to demonstrate the outcomes that that planning scheme and thereby that the community's interests sought to achieve.

On this basis, the application cannot be supported and is recommended for refusal for the reasons set out below.

Anticipated Completion Date:

A Decision Notice will be issued within 5 business days of the resolution being made.

Officer's Recommendation:

Development application DA/42/2023 for Material Change of Use – Bulk Landscape Supplies located at 2654 Round Hill Road, Agnes Water (Lot 5 RP612151) is recommended for **refusal**, on the following grounds.

1. The proposed development does not, satisfy the planning scheme requirements for a non residential use seeking to locate in the Rural Residential zone as required by PO7 of the Rural residential zone code where:
 - a. The nature and scale of the proposed use is not consistent with a use that is subordinate to a residential use as required by PO7 a) of the Rural Residential Zone Code

- b. The proposed use substantially exceeds the scale and intensity of the non residential uses anticipated for the zone as listed within PO7 e) of the Rural Residential Zone Code
 - c. It has not been demonstrated that the proposed development will not give rise to unacceptable residential amenity impacts or that the use is complementary to local character and amenity as required by PO7 b) and d)
 - d. It is not considered, nor has it been demonstrated, that the proposed the use is of a nature that is needed to serve the day to day needs of residents of the Agnes Water community as required by PO7 a)
2. The proposed development does not satisfy, or has not been demonstrated to comply, with Overall Outcome 2 e) as the use does not have a direct relationship with the land and the use does not provide for the day-to-day needs of the area.
3. It has not been demonstrated that the proposed development will not give rise to unacceptable impacts on residential amenity and therefore has not been demonstrated to comply with the following provisions of the planning scheme:
 - a. Overall Outcome 2c of the Rural Residential zone code requires a high level of residential amenity appropriate to the character of the rural residential zone.
 - b. PO11 of the Rural Residential zone code which requires uses minimise noise, dust, odour or other nuisance from existing lawful uses including rural and industrial uses
 - c. Purpose statement 1d, PO15 and PO16 of the Development Design Code which requires the development to minimise potential conflicts with, or impacts on, other uses having regard to odour, dust or other emissions, and prevent or minimise the generation of any noise or vibration
4. It has not been demonstrated that the proposed development will not give rise to unacceptable impacts on natural features and therefore has not been demonstrated to comply with the following provisions of the planning scheme:
 - a. Overall Outcome 2 d) and f) of the Rural Residential Zone Code – as the development has not responded to land constraints or minimised through location, design operation and management requirements that natural features are retained, enhanced or buffered from the impacts of the development
 - b. Performance Outcome PO10 b) c) and d) of the Rural Residential Zone Code, the development has not responded sensitively to on-site and surrounding topography, drainage patterns, and vegetation by minimising earthworks, retaining natural draining lines, and maximising retention of existing vegetation
 - c. Purpose Statement 1d) of the Development Design Code – requiring that adverse impacts on the environment are avoided
 - d. Biodiversity Overlay Code PO1, PO2, PO5, PO6, and PO7 as the development has not demonstrated that it avoids potential impacts on MSES mapped vegetation, that it has considered adequate setbacks and buffer areas, that it avoid alteration to landforms and drainage patterns, and how it enhances riparian vegetation along watercourses and drainage corridors.
5. The proposed development does not, or has not been demonstrated to, comply with the Bushfire Overlay Code.
6. There is insufficient detail as to the nature and scope of the proposal as presented as part of the application material and known conflict with the current operations of the business on site which creates uncertainty given:
 - a. The nature and scope of the proposed development has not been clearly defined by the applicant, where screening/mulching/processing of material has been occurring on site as

part of the current business operations which does not comply with the definition of Bulk Landscape Supplies.

- b. The uncertainty referred to above is material to delivery, nature and scope of the proposed development.

Statement of Reasons:

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

Assessment benchmarks:

Benchmarks applying to the development:	Benchmark reference:
<i>State Planning Policy</i>	
<i>Planning Regulation 2017</i>	
<i>Our Place Our Plan, The Gladstone Regional Planning Scheme, Version 2 (the Planning Scheme)</i>	<i>Strategic Framework Rural Residential Zone Code Development Design Code Landscaping Code Bushfire Hazard Overlay Code Biodiversity Overlay Code</i>

Reasons for the assessment managers decision:

The application was **refused**, on the following grounds.

1. The proposed development does not, satisfy the planning scheme requirements for a non residential use seeking to locate in the Rural Residential zone as required by PO7 of the Rural residential zone code where:
 - a. The nature and scale of the proposed use is not akin with a use that is subordinate to a residential use as required by PO7 a) of the Rural Residential Zone Code
 - b. The proposed use substantially exceeds the scale and intensity of the non residential uses anticipated for the zone as listed within PO7 e) of the Rural Residential Zone Code
 - c. It has not been demonstrated that the proposed development will not give rise to unacceptable residential amenity impacts or that the use is complementary to local character and amenity as required by PO& b) and d)
 - d. It is not considered nor has it been demonstrated that the proposed the use is of a nature that is needed to serve the day to day needs of residents as required by PO7 a)
2. The proposed development does not satisfy, or has not been demonstrated to comply, with Overall Outcome 2 e) as the use does not have a direct relationship with the land and the use does not provide for the day-to-day needs of the area.
3. It has not been demonstrated that the proposed development will not give rise to unacceptable impacts on residential amenity and therefore has not been demonstrated to comply with the following provisions of the planning scheme:
 - a. Overall Outcome 2c of the Rural Residential zone code requires a high level of residential amenity appropriate to the character of the particular rural residential zone.
 - b. PO11 of the Rural Residential zone code which requires uses minimise noise, dust, odour or other nuisance from existing lawful uses including rural and industrial uses
 - c. Purpose statement 1d, PO15 and PO16 of the Development Design Code which requires the development to minimise potential conflicts with, or impacts on, other uses having

regard to odour, dust or other emissions, and prevent or minimise the generation of any noise or vibration

4. It has not been demonstrated that the proposed development will not give rise to unacceptable impacts on natural features and therefore has not been demonstrated to comply with the following provisions of the planning scheme:
 - a. Overall Outcome 2 d) and f) of the Rural Residential Zone Code – as the development has not responded to land constraints or minimised through location, design operation and management requirements that natural features are retained, enhanced or buffered from the impacts of the development
 - b. Performance Outcome PO10 b) c) and d) of the Rural Residential Zone Code, the development has not responded sensitively to on-site and surrounding topography, drainage patterns, and vegetation by minimising earthworks, retaining natural draining lines, and maximising retention of existing vegetation
 - c. Purpose Statement 1d) of the Development Design Code – requiring that adverse impacts on the environment are avoided
 - d. Biodiversity Overlay Code PO1, PO2, PO5, PO6, and PO7 as the development has not demonstrated that it avoids potential impacts on MSES mapped vegetation, that it has considered adequate setbacks and buffer areas, that it avoid alteration to landforms and drainage patterns, and how it enhances riparian vegetation along watercourses and drainage corridors.

5. The proposed development does not, or has not been demonstrated to, comply with the Bushfire Overlay Code

6. There is insufficient detail as to the nature and scope of the proposed presented as part of the application material and known conflict with the current operations of the business on site which creates uncertainty including because:
 - a. The nature and scope of the proposed development has not been clearly defined by the applicant, where screening/mulching/processing of material has been occurring on site as part of the current business operations which does not comply with the definition of Bulk Landscape Supplies.
 - b. The uncertainty referred to above is material to delivery, nature and scope of the proposed development

Other Relevant matters for impact assessable development:

1. The relevance of the known circumstances resulting from the use currently operating onsite.

Matters raised in submissions for impact assessable development:

Matters raised in submissions:	How matter was dealt with:
Acoustic and noise impacts	Considered as part of officers assessment. Contributes to refusal matters.
Air quality and dust impacts	Considered as part of officers assessment. Contributes to refusal matters.
Landscaping buffers	Considered as part of officers assessment. Able to be managed via conditions.
Operational use vs use applied for	Considered as part of officers assessment. Contributes to refusal matters.
Commencement of use unlawfully	Considered as part of officers assessment. Separate compliance action is ongoing.

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Traffic Impacts	Considered as part of officers assessment.
Non Compliance with Rural Residential Zone Code	Considered as part of officers assessment. Contributes to refusal matters.
Stormwater Management	Considered as part of officers assessment. Able to be managed via conditions.
Vegetation and biodiversity impacts	Considered as part of officers assessment. Contributes to refusal matters.
Quality of application material	Not a Planning Scheme benchmark.
Carparking provisions	Considered as part of officers assessment. Able to be managed via conditions.
Bushfire Hazard and Risk	Considered as part of officers assessment. Contributes to refusal matters.
Water/Sewer servicing	Considered as part of officers assessment. Able to be managed via conditions.
Caretakers Residence	Considered as part of officers assessment. Able to be managed via conditions.
Supporting the local economy and business	Considered as part of officers assessment.

Attachments:

1. Information Request DA.42.2023
2. Further Advice Notice DA.42.2023
3. Combined Submissions DA.42.2023
4. Notice of Appeal (Enforcement Notice) DA.42.2023
5. Prelodgement Minutes PL/42/2022

G/4.2. COUNCILLOR ATTENDANCE AT THE 2024 DEVELOPING NORTHERN AUSTRALIA CONFERENCE

Responsible Officer: General Manager People and Strategy

Prepared By: Economic Development Lead

Council Meeting Date: 7 May 2024

File Ref: CM6.1

Purpose:

To seek approval for Councillor representation at the 2024 Developing Northern Australia Conference.

Officer's Recommendation:

That Council approve Councillor Glenn Churchill to attend and represent Gladstone Regional Council at the 2024 Developing Northern Australia Conference on 26-28 August, located in Karratha, Western Australia.

Summary:

The annual Developing Northern Australia Conference continues to be a key opportunity driver for focus on the Northern Australia development agenda.

Attendance at the 2024 conference is a strategic opportunity for Council to continue to engage in the Northern Australia discourse to ensure the region is informed and considered actively engaged as the Northern Australia agenda and economy transitions. It is also a key forum to showcase Council's 10-year economic transition roadmap, the plan to develop a renewables circular economy ecosystem in the Gladstone Region and progress further towards green energy industries.

Link to Corporate Plan:

- Resilient Economy - We play our part in supporting the success of our region.

Background:

The 2024 Developing Northern Australia Conference will be held on 26-28 August in Karratha, Western Australia. This year's conference program will focus on new opportunities including the refreshing of the Northern Australian Whitepaper enabling further investment pipeline, local health capacity building, through to securing the closure and delivery of quality investments.

Key topics covered at the conference include but are not limited to:

- *Net Zero Horizons: Navigating Climate Risk and Decarbonisation*
- *Knowledge, Skills and Migration for Tomorrow's Success*
- *Mining and Beyond*
- *Northern Investment Pipelines: Building our Prosperity through strategic investments*

Attendees typically include representatives from all levels of government, small business, large industry, research, investment, infrastructure and service delivery with a focus on working together for a stronger, healthier, more cohesive Northern Australia.

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The conference will offer attendees opportunities to enhance knowledge, learn about new practices, network with regional, interstate and global colleagues, and to represent the interests of and seek opportunities for the Gladstone Region.

Risk Management Summary:

Council has previously sent representatives to this conference each year to ensure the Gladstone Region is participating in the ongoing development and policy agenda of Northern Australia. Not doing so may forfeit opportunities to influence and learn of the emerging economic opportunities across developments in critical minerals processing and manufacturing, renewable energy and the management and development of world class natural and cultural assets. Not attending this conference may also symbolise disengagement from the broader Northern Australia agenda and collaborative approach for progress across this region.

Attendance at this conference aligns with Council's strategic and reputational objectives to showcase its leadership in the economic transition towards a green energy ecosystem and the decarbonisation of existing industries. The conference presents no reputational risks outside of the Council's current risk appetite.

Options and Opportunity Analysis:

The Gladstone Region is a southern outpost of Northern Australia but a critical gateway for trade and industrial development. It is imperative that the Gladstone Region continues to engage in the Northern Australia discourse to ensure the region is informed and considered as the Northern Australia agenda and economy transitions.

The conference offers Council the opportunity to present its Gladstone Region Economic Transition Roadmap and how this strategic plan guides Council on what is required to adapt to a rapidly changing energy sector and support a positive economic transition for its community over the next 10 years.

The business has submitted an application to present on the transition road map and update on progress at this year's conference under the program theme of *Net Zero Horizons: Navigating Climate Risk and Decarbonisation*. If our proposal to present is accepted, the attending Councillor will make the presentation.

Option 1 (Recommended)

It is the officer's recommendation that Council approve Councillor Churchill's attendance at the 2024 Developing Northern Australia Conference.

Council may choose to nominate an additional Councillor to attend the conference, however the Officer's Recommendation is consistent with the 2024/25 Operating Budget as forecast by Council.

Option 2

Council may decide to nominate an alternate Councillor or resolve that a Councillor should not attend the Developing Northern Australia Conference on behalf of Council.

Legal and Regulatory Implications:

In accordance with Council's *Councillor Expenses Reimbursement and Provision of Facilities Policy P-2021-18*, where a Councillor seeks reimbursement for attendance at a conference that was held outside of Queensland, the attendance must be supported by a resolution of Council.

Section 6.1.2 of Council's *Council Meetings Procedures Policy P-2020-19* provides that a leave of absence is automatically granted to a Councillor where Council passes a formal resolution for a Councillor to attend a conference or the Councillor is nominated to represent Council at another event.

Financial and Resource Implications:

The table below is a summary of the estimated cost associated with the proposed attendance. There are sufficient funds available within the Elected Members 2024/2025 draft Operating Budget for a Councillor's attendance.

Expense Item(s)	Associated Cost
Registration	\$1,399.00
Flights	\$2,800.00
Accommodation (4 nights Karratha)	\$2,600.00
Accommodation (layover contingency if required)	\$1,000.00
Meals	\$780.00
Incidentals	\$138.00
TOTAL	\$8,717.00

Anticipated Resolution Completion Date:

August 2024.

Attachments:

Nil

G/5. COUNCILLORS REPORT

G/6. URGENT BUSINESS

G/7. NOTICE OF MOTION

G/8. CONFIDENTIAL ITEMS