



# Decision Notice Approval

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under section 282 of the Planning Act 2016 for a decision notice (approval) under section 63(2) of the Planning Act 2016

Application number:	D/105-2019	Contact:	Thomas Gardiner
Notice Date:	20 February 2020	Contact Number:	1300 22 55 77

## APPLICANT DETAILS

Name:	Sri Lankan Association Of Central Queensland		
Postal address:	C/- GSPC		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 14 November 2019 and confirm the following:

## DEVELOPMENT APPROVAL

<b>Development Permit for a Material Change of Use for a Place of Worship</b>
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## PROPERTY DESCRIPTION

Street address:	15 Jellicoe Street, Port Curtis
Real property description:	Lots 27 and 28 on RP600807, Parish of Rockhampton

## OWNER DETAILS

Name:	L Wedisinghe and P N Wedisinghe
Postal address:	
<b>Dear</b> Sri Lankan Association Of Central Queensland	
I advise that, on 18 February 2020 the above development application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> )	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

## 1. DETAILS OF THE APPROVAL

The following approvals are given:

	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED

Please be advised that the following development permits are required to be obtained before the development can be carried out:

Type of development permit required	Subject of the required development permit
Operational Works	<i>Access and Parking Works</i>
Building Works	
Plumbing and Drainage Works	

## 4. SUBMISSIONS

Properly made submissions were made in relation to the application.

There were 9 properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
1. Robyn Russell		
2. Gary Russell		
3. Rodney Dillon		
4. Laurence Dillon		
5. Shane Muirhead		
6. Dianne Crane		
7. Luke Russell		
8. John Whitehead		
9. Jeffrey Dillon		

## 5. REFERRAL AGENCIES

NIL

## 6. THE APPROVED PLANS

The approved development must be completed and maintained generally in accordance with the approved drawings and documents:

Plan/Document Name	Plan/Document Reference	Dated
Site Plan	BA02	24 October 2019
Floor Plans	BA03	24 October 2019
Typical Section	BA05	24 October 2019

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Elevation 1 / 2	BA06	24 October 2019
Elevation 2 / 2	BA07	24 October 2019

**7. CURRENCY PERIOD FOR THE APPROVAL (s.85 of the *Planning Act*)**

The standard currency periods stated in section 85 of *Planning Act 2016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

**8. STATEMENT OF REASONS**

<b>Description of the development</b>	The proposed development is for a Material Change of Use for a Place of Worship	
<b>Reasons for Decision</b>	<p>a) The proposed use will not affect the productive capacity or scenic landscape features of the surrounding rural area;</p> <p>b) The scale of the proposal is restricted to ensure that activities remain commensurate with the surrounding locality and are consistent with the surrounding rural and residential amenity;</p> <p>c) The proposed use does not compromise the strategic framework in the <i>Rockhampton Region Planning Scheme 2015</i>;</p> <p>d) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity;</p> <p>e) The proposed development does not compromise the relevant State Planning Policy; and</p> <p>f) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>	
<b>Assessment Benchmarks</b>	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Rural Zone Code;</li> <li>• Flood Hazard Overlay Code;</li> <li>• Access, Parking and Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code; and</li> <li>• Water and Sewer Code.</li> </ul>	
<b>Compliance with assessment benchmarks</b>	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception(s) listed below.	
	<b>Assessment Benchmark</b>	<b>Reasons for the approval despite non-compliance with benchmark</b>
	Rural Zone Code (PO31)	<p>The proposal includes the construction of a new concrete pagoda which will be partially visible from Jellicoe Street.</p> <p>Despite its visibility, this structure is not anticipated to detract from the existing rural and residential</p>

		<p>amenity of the surrounding Port Curtis area. The applicant has indicated that many of the existing trees located on Lot 27 will be retained – acting as an appropriate buffer to screen the pagoda from both Jellicoe Street and the adjoining property positioned to the east. Its height also coincides with that of the existing Dwelling House located on the site. There is also no other development occurring on the site as part of the proposal which may enhance the visibility of the proposed pagoda.</p>
	Rural Zone Code (PO33)	<p>The subject site is affected by the Fitzroy River Flood Overlay (Extreme Hazard). Given the small-scale nature of the proposal, the use is not expected to cause any unsustainable impacts on the natural functioning of the Fitzroy River floodplain. This is due to the low flow velocity, the afflux due to the obstruction causing minimal flows, and the minimal loss of flood storage volume across the Fitzroy River floodplain caused by the proposal. The only new structure proposed is a concrete pagoda which will cause a minimal loss in volume of flood storage. There is not anticipated to be any worsenment to surrounding properties as a result of the proposed development.</p>
	Flood Hazard Overlay Code (AO4.1.1)	<p>The use is not expected to cause any unsustainable impacts on the natural functioning of the Fitzroy River floodplain. This is due to the low flow velocity, the afflux due to the obstruction causing minimal flows, and the minimal loss of flood storage volume across the Fitzroy River floodplain caused by the proposal. The only new structure proposed is a concrete pagoda which will cause a minimal loss in volume of flood storage. There is not anticipated to be any worsenment to surrounding properties as a result of the proposed development.</p>
<b>Matters raised in submissions</b>	<b>Issue</b>	<b>How matter was dealt with</b>
	<p>Consistency with the Planning Scheme: Strategic Framework</p> <p><i>Submissions have stated that the proposal is not consistent with the settlement pattern for the area outlined in the Strategic Framework. The subject site is identified as being within the "Rural Area designation". This designation states that rural land is not to be used for urban development and that land must be</i></p>	<p>An assessment has been made against the Strategic Framework and it was determined that the settlement pattern of the Rural Area designation will not be affected as a result of the proposal. While the site is located in this designation, the use will not affect the productive capacity or scenic amenity of the surrounding rural area. As the immediate locality predominantly contains single-detached Dwelling Houses on small allotments, the surrounding area is largely used for urban purposes. This is with the exception of rural land located immediately south of the subject site. In this regard, the proposal for a small-scale Place of Worship on the subject site is considered to integrate appropriately with the surrounding area.</p> <p>The proposal will not affect the economic, environmental and scenic values associated with the Rural Area designation and the surrounding Port Curtis area. While the proposal constitutes "urban development", the scale and intensity of the proposal will not have any implications for the</p>

	<p><i>protected for its productive, landscape and natural resource values. Several submissions have stated that the proposal should not be supported because the use does not have a nexus to a rural use on the subject site or surrounding area.</i></p>	<p>productive or natural resource values of the surrounding rural area, nor will it compromise any future development for rural purposes.</p>
	<p>Consistency with the Planning Scheme: Rural Zone Code</p> <p><i>Submissions have stated that the proposal is not consistent with the intent of the Rural Zone. The proposal does not have a relationship with an existing or proposed rural use on the subject site or in the surrounding locality. There are also concerns about the impacts of the use on surrounding rural and residential amenity.</i></p>	<p>The proposal is not consistent with the Rural Zone. However, the subject site is located in an area which is surrounded by single-detached Dwelling Houses positioned on urban-sized allotments. The size of the subject site restricts any future usage of the premises for rural purposes. Therefore, the proposal is physically unable to have a nexus to a rural use on the subject site. While the proposal does not have any direct relationship with any rural uses in the surrounding area, it is situated in a section of Port Curtis which accommodates several non-rural uses. These include single-detached Dwelling Houses on urban sized allotments, a Transport Depot located to the north (Goss Street) and an industrial use located to the east on Jellicoe Street.</p> <p>The use is therefore considered to integrate appropriately with the immediate development pattern of the surrounding Port Curtis area and is not anticipated to detract from the scenic landscape features or impact the productive agricultural capacity of the surrounding Rural Zone. It will also have no implications for the future development of the surrounding Rural Zone from accommodating a range of existing and emerging rural uses.</p>
	<p>Relationship or nexus with a rural use</p> <p><i>Submissions have argued that the proposal does not have a relationship or nexus to a rural use – either on the site or the surrounding area. This makes the proposal inconsistent with the intent of the Rural Zone.</i></p>	<p>The proposed use will not affect the productivity of surrounding rural areas. The subject site is on an urban-sized allotment that is unable to accommodate any future rural uses. The site is also in a location where the proposal is unlikely to cause any adverse impacts to surrounding rural uses (including immediately south of the subject site). There are also several conditions that will address any potential impacts on rural and residential amenity. These include conditioning the size of the congregation; limiting the operating hours of the use to weekends; and including nuisance monitoring conditions.</p> <p>It is considered that while the proposal does not have a relationship with a rural use in the immediate locality, it is not a use that will limit the productive capacity of the surrounding land nor affect the rural and residential amenity of the Port Curtis area.</p>
	<p>Car parking</p>	<p>The car parking rates for a “Place of Worship” use</p>

	<p>requirements</p> <p><i>Submissions have raised concerns regarding car parking requirements. The concerns discuss the number of on-site car parks in relation to the number of people attending the premises for educational activities. There were also matters regarding on-street car parking (Lee and Jellicoe Streets), and the proposed material used to seal the car park.</i></p>	<p>is one (1) space per fifteen (15) square metres or part thereof of gross floor area (GFA). The GFA proposed for the land use is approximately 57 square metres. The applicant is only required to provide four (4) on-site car parks using these rates. The proposed plan of development includes five (5) on-site car parking spaces, including one (1) disability space. Therefore, the proposal complies with the car parking requirements under the <i>Rockhampton Region Planning Scheme 2015</i>.</p> <p>While there may be some on-street car parking as a consequence of the development, it is not anticipated to adversely affect the safety or capacity of the road network – in particular Lee and Jellicoe Streets. Condition 3.11 outlines that there is to be no on-street car parking on Jellicoe Street. It is therefore considered that the function and safety of the road network will not be compromised as a consequence of the proposed development.</p>
	<p>Number of persons attending (potential growth and expansion)</p> <p><i>Several submissions expressed concerns that the size of the congregation and number of persons using the site will increase over time. This would have implications on the surrounding rural and residential amenity of the surrounding Port Curtis area.</i></p>	<p>Council has conditioned the maximum number of persons who can attend the site. This is considered necessary to limit the scale and intensity of the proposed Place of Worship. If the congregation increases in size the applicant would need to apply for another development permit or find an alternative site.</p>
	<p>Noise generated from the use</p> <p><i>Several submissions expressed concern regarding the potential noise impacts emanating from the proposed use. The subject site is surrounded by several existing Dwelling Houses and there are concerns that the existing residential amenity will be affected from the proposed activities.</i></p>	<p>The proposal is for a small-scale Place of Worship which accommodates a small congregation, both adults and children. The activities proposed are associated with mindfulness and meditation which are not expected to create any noise. These classes will only occur for short periods on the weekends for a maximum of three (3) hours. There are no formal operations occurring during the week. The number of people attending the site has also been conditioned to ensure that the congregation using the site does not expand. A nuisance monitoring condition has also been included by Council to investigate any genuine complaint of noise which is made as a result of the activity.</p>
	<p>Dust generation from the use and car park</p> <p><i>Several submissions</i></p>	<p>The proposed car park has been conditioned to be constructed to an unbound material. Council considered that this material was appropriate for the use given its limited operations and small</p>

	<p><i>have expressed concern that excessive vehicle movements in and out of the proposed car park will cause a dust nuisance to surrounding residences. The proposed car park will be constructed of a Type 2 unbound material, Subtype 2.5, with minimum California Bearing Ratio (soaked) of 15.</i></p>	<p>congregation using the site. Condition 3.4 requires that this surface treatment must be maintained in a manner that no significant impact on the amenity of adjoining premises is compromised. Condition 3.5 also requires the applicant to pave or seal the car parking area to the satisfaction of Council to avoid dust dispersing to adjoining premises if a genuine complaint of dust is received.</p>
	<p>Hours of operation</p> <p><i>Several submissions are concerned with the proposed operating hours for the use. The applicant has applied for operating hours from 6:00am until 6:00pm on Saturdays and Sundays with no operations during the week. The primary concern is the impact of the operating hours on the residential amenity which may restrict surrounding residents from carrying out residential activities on weekends.</i></p>	<p>The intent of the proposed operating hours (0600 to 1800 on Saturdays and Sundays) is to facilitate classes for children and adults on Saturdays and Sundays. Classes are not anticipated to last more than three (3) hours in duration and occur primarily in the morning. Outside of formal classes, session organisers may meet either side of classes to discuss matters relating to the educational sessions. Further, meetings for the congregation will be held monthly on a Saturday afternoon. It is not expected that the proposal will be fully operational across the extent of the proposed operating hours every weekend.</p> <p>The proposal is also designed and sited in a manner that it integrates with the existing Dwelling House on the site and does not adversely affect the safety and private recreation needs of adjoining premises. All activities associated with the use will be wholly contained within the subject site and primarily on the ground floor of the existing Dwelling House. Council has also included several conditions to mitigate the risk associated with the operation of the use. These include limiting the size of the congregation; and nuisance monitoring to ensure that impacts from noise and dust are managed appropriately.</p>
	<p>Flood impacts</p> <p><i>Several submissions opposed the construction of the concrete pagoda in the garden. The objections focussed on the approval of a new structure in flood affected areas. Several objections also referred to instances where submitters have been unable to obtain approval for new structures in this area due to the severity of</i></p>	<p>The concrete pagoda will have a maximum width of 3.5 metres. It was determined that the concrete pagoda would cause insignificant impacts to surrounding properties due to:</p> <ul style="list-style-type: none"> <li>• the low flow velocity;</li> <li>• the afflux due to the obstruction in the flow will be minimal (i.e. 10mm);</li> <li>• the loss in flood storage will be approximately 13m<sup>3</sup> which is considered minimal; and</li> <li>• the distribution of loss of flood storage volume across the Fitzroy River floodplain will be insignificant as a consequence of the development.</li> </ul> <p>There are no extensions proposed to the existing</p>

	<i>the flood.</i>	Dwelling House which would exacerbate any flood impacts to surrounding properties or infrastructure. The development (including the construction of the concrete pagoda) is considered to be compatible with the level of risk associated with the flood hazard.
	Amenity of the proposed built form <i>Several submissions expressed concern about the visual impact of the proposed concrete pagoda which will be located in the garden of the subject site. Specifically, concerns focussed on the height of the proposed structure which will be approximately five (5) metres in height.</i>	The concrete pagoda complies with the height requirements for new buildings and structures in the Rural Zone. <i>Table 6.7.4.3.1</i> in the Rural Zone Code stipulates that the height of new buildings and structures does not exceed two (2) storeys and ten (10) metres above ground level. The height of the concrete pagoda will not be taller than the current Dwelling House. There are no other additional structures proposed as a consequence of the Place of Worship.
<b>Matters prescribed by regulation</b>	<ul style="list-style-type: none"> <li>• <i>The State Planning Policy – Part E;</i></li> <li>• <i>The Central Queensland Regional Plan;</i></li> <li>• <i>The Rockhampton Region Planning Scheme 2015;</i></li> <li>• Surrounding use of adjacent premises in terms of commensurate and consistent development form; and</li> <li>• The common material, being the material submitted with the application.</li> </ul>	

## 9. APPEAL RIGHTS

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. There may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

### Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

### Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

- any part of the development application that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.



**Attachment 2** is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights and the appeal rights of a submitter.

#### **10. 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

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.

Or

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

#### **11. ASSESSMENT MANAGER**

Name: <b>Tarnya Fitzgibbon</b> <b><u>COORDINATOR</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Signature:	Date: 20 February 2020
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#### **Attachment 1 – Conditions of the approval**

**Part 1 – Conditions imposed by the assessment manager** [Note: where a condition is imposed about infrastructure under Chapter 4 of the *Planning Act 2016*, the relevant provision of the Act under which this condition was imposed must be specified.]

#### **Attachment 2—Extract on appeal rights**

## ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
  - 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
  - 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
    - 1.3.1 to Council’s satisfaction;
    - 1.3.2 at no cost to Council; and
    - 1.3.3 prior to the commencement of the use,  
unless otherwise stated.
  - 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
  - 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
    - 1.5.1 Operational Works:
      - (i) Access and Parking Works;
    - 1.5.2 Plumbing and Drainage Works; and
    - 1.5.3 Building Works.
  - 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
  - 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
  - 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
  - 1.9 Lot 27 and Lot 28 on RP600807 must be amalgamated and registered as one lot prior to the commencement of the use.
- ## 2.0 APPROVED PLANS AND DOCUMENTS
- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by any condition of this development approval:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Site Plan	BA02	24 October 2019
Floor Plans	BA03	24 October 2019
Typical Section	BA05	24 October 2019
Elevation 1 / 2	BA06	24 October 2019
Elevation 2 / 2	BA07	24 October 2019

2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.

2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Operational Works.

### 3.0 ACCESS AND PARKING WORKS

3.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.

Note: In lieu of the Operational Works (access works) as described above, a Works in Road Reserve Permit (including a fee for the vehicle crossover and compliant with *Capricorn Municipal Development Guideline*) may be approved.

3.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).

3.3 The existing access from Lee Street to the development must be upgraded to comply with the requirements of the *Capricorn Municipal Development Guidelines*.

3.4 All parking area must be constructed of Type 2 unbound material, Subtype 2.5, with minimum California Bearing Ratio (soaked) of 15. All surface treatments must be constructed, operated and maintained in a manner that no significant impact on the amenity of adjoining premises or the surrounding area is caused due to the emission of dust or results in sediment laden water.

3.5 When Council receives dust complaints, Council will conduct nuisance monitoring, to investigate any genuine complaint of nuisance caused by dust. If the complaints are genuine, the proposed gravel surface treated parking area must be paved or sealed to the satisfaction of Council for prevention of dust generation.

3.6 All vehicular access to and from the development must be via Lee Street only.

3.7 All vehicles must ingress and egress the development in a forward gear.

3.8 A minimum of six (6) parking spaces must be provided on-site, including one (1) universal access parking space.

3.9 Universal access parking spaces must be provided on-site in accordance with *Australian Standard AS2890.6 "Parking facilities - Off-street parking for people with disabilities"*.

3.10 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).

3.11 There must be no on-street car parking on Jellicoe Street.

#### 4.0 PLUMBING AND DRAINAGE WORKS

- 4.1 Any proposed internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 4.2 The development must remain connected to Council's reticulated water networks.
- 4.3 The existing water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 4.4 Water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 4.5 Alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act 2018* and Council's Plumbing and Drainage Policies.
- 4.6 All sanitary drainage works, if required, must comply with *Australian Plumbing and Drainage Standard AS3500* Part 2 section 3 and 4 for flood affected areas.
- 4.7 The existing on-site sewerage facilities must be adequate for the proposed development. Should the existing on-site sewerage facilities not be adequate, upgrade of the system must be required in accordance with the *Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies.

#### 5.0 SITE WORKS

- 5.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 5.2 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 5.3 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.

#### 6.0 BUILDING WORKS

- 6.1 Structures must not be located within the on-site sewerage treatment and disposal area or conflict with the separation distances, in accordance with the *Queensland Plumbing and Wastewater Code*.
- 6.2 All new electrical outlets (if required), must be designed and installed at such a height that they are a minimum of 500 millimetres above a one per cent (1%) Annual exceedance probability flood level.

Note: Downstairs of the existing highset dwelling is surrounded by a slatted timber screen. Under no circumstances can these existing walls be fully enclosed. The downstairs area will be inundated in times of flood. Storage should be limited to items that have a low damage potential or can be easily moved to the upstairs portion of the building in times of flood.

#### 7.0 ASSET MANAGEMENT

- 7.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.
- 7.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the

reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.

## 8.0 ENVIRONMENTAL HEALTH

- 8.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.
- 8.2 Noise emitted from the activity must not cause an environmental nuisance.
- 8.3 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.
- 8.4 When requested by Council, nuisance monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise, light or dust. An analysis of the monitoring data and a report, including nuisance mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation

## 9.0 ENVIRONMENTAL

- 9.1 The Erosion Control and Stormwater Control Management Plan prepared in accordance with the *Capricorn Municipal Design Guidelines*, must be:
- 9.1.1 implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped); and
- 9.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.

## 10.0 OPERATING PROCEDURES

- 10.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Lee Street and Jellicoe Street.
- 10.2 The hours of operations for the development site (place of worship) must be limited to:
- 10.2.1 0600 hours to 1800 hours on Saturday and Sunday,  
with no operations on week days or Public Holidays.
- 10.3 All waste storage areas must be:
- 10.3.1 kept in a clean and tidy condition; and
- 10.3.2 maintained in accordance with *Environmental Protection Regulation 2008*.
- 10.4 The number of persons attending the premises must not exceed the following:
- 10.4.1 A maximum of fifteen (15) children plus two (2) educators for mindfulness and Buddhist education programs; and
- 10.4.2 A maximum of twenty (20) adults for mindfulness classes every third and fourth Saturday of the month.

## ADVISORY NOTES

### NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage

duty of care”). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander and Partnerships website [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and *Public Health Act 2005*.

NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

NOTE 4. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 5. Colorbond Fence

The proposed removable Colorbond fence must be removed completely during flooding to allow flood waters to evenly disperse.

The following is an extract from the *Planning Act 2016* (Chapter 6)

### Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
    - (a) matters that may be appealed to—
      - (i) either a tribunal or the P&E Court; or
      - (ii) only a tribunal; or
      - (iii) only the P&E Court; and
    - (b) the person—
      - (i) who may appeal a matter (the **appellant**); and
      - (ii) who is a respondent in an appeal of the matter; and
      - (iii) who is a co-respondent in an appeal of the matter; and
      - (iv) who may elect to be a co-respondent in an appeal of the matter.
  - (2) An appellant may start an appeal within the appeal period.
  - (3) The **appeal period** is—
    - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
    - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
    - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
    - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
    - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
    - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—  
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
  - (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
  - (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
    - (a) the adopted charge itself; or
    - (b) for a decision about an offset or refund—
      - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
      - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
    - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
    - (b) otherwise—10 business days after the appeal is started.
  - (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection
  - (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

#### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section— **decision** includes—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

- non-appealable**, for a decision or matter, means the decision or matter—
- (a) is final and conclusive; and
  - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

#### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

**Schedule 1**

**Appeals section 229**

**1 Appeal rights and parties to appeals**

- (1) Table 1 states the matters that may be appealed to—(a) the P&E court; or (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to—
    - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
    - (ii) the Plumbing and Drainage Act, part 4 or 5; or
  - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
  - (i) a decision to give an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter that, under another Act, may be appealed to the tribunal; or
  - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
  - (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

**Table 1  
Appeals to the P&E Court and, for certain matters, to a tribunal**

1. Development applications An appeal may be made against— <ol style="list-style-type: none"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ol>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence	1 A concurrence agency that is not a co-respondent



<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<b>2. Change applications</b> An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<b>3. Extension applications</b> An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager

**Table 1  
Appeals to the P&E Court and, for certain matters, to a tribunal**

<p><b>4. Infrastructure charges notices</b> An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) The was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p><b>5. Conversion applications</b> An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
<p><b>6. Enforcement notices</b> An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

**Table 2  
Appeals to the P&E Court only**

<p><b>1. Appeals from tribunal</b> An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-

**Table 2  
Appeals to the P&E Court only**

<p>2. Eligible submitter appeals An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager 2 For a change application—the responsible entity</p>	<p>1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>3. Eligible submitter and eligible advice agency appeals An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager 2 For a change application—the responsible entity</p>	<p>1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>4. Compensation claims An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>A person dissatisfied with the decision</p>	<p>The local government to which the claim was made</p>	<p>-</p>	<p>-</p>
<p>5. Registered premises</p>			

**Table 2  
Appeals to the P&E Court only**

An appeal may be made against a decision of the Minister under chapter 7, part 4.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises
6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

**Table 3  
Appeals to the tribunal only**

1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

**Table 3  
Appeals to the tribunal only**

A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act  An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-