



26 July 2021

Michael Dowling
57 Douglas Track
SPEEWAH QLD 4881

Planning Officer: Carl Ewin
Direct Phone: 4086 4656
Our Reference: MCU/21/0004

Dear Sir,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 21 July 2021, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/21/0004
Street Address:	57 Douglas Track, Speewah
Real Property Description:	Lot 56 on RP732900
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Shop (General Store), Garden Centre (Nursery) & Low Impact Industry (Small Engine Repairs & Servicing)
Date of Decision:	21 July 2021

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "**necessary infrastructure condition**" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS**(A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer **within 3 months of this approval taking effect**, except where specified otherwise in these conditions of approval.
 - 2.2 The applicant must demonstrate to Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made within the timeframes specified in Condition 2.1 and at the rate applicable at the time of payment.
 - 3.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.
 - 3.4 Noise Nuisance
 - 3.4.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.
 - 3.4.2 The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to

- be no individual external unscreened air conditioning units attached to the exterior building facade.
- 3.4.3 The use of any sound projecting devices are not permitted on-site. The reversing beeper on any forklift or similar machinery used on-site must be sufficiently muted so as to not be audible beyond site boundaries.
- 3.4.4 All small engine mechanical work and servicing must be carried out in the designated workshop area and with the shed predominantly closed or managed in such a way so as to not cause nuisance at any nearby residence. Any air compressor/s should be sited within an insulated containment device so as to not cause nuisance at any nearby residence. Any running of small engines should be done in such a way as to minimise risk of nuisance.
- 3.5 All waste oils, solvents, fuels and cleaning/degreasing waste must be collected and disposed of off-site at an approved disposal facility. These materials must not be disposed of or stockpiled on-site and must not be stored in view of neighbouring dwellings or Douglas Track users.
- 3.6 The mechanical repair or servicing of anything other than small engines and lawn /garden maintenance equipment is not permitted on-site, in particular cars and trucks.
- 3.7 Delivery vehicles associated with the business are limited to 4.5 Tonne Gross Vehicle Mass and must enter and exit the site in a forward gear.
- 3.8 Waste Management
- Any on site refuse storage areas must be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.
- Any commercial waste collection vehicles servicing the site must enter and exit the site in a forward gear.
- 3.9 Operating Hours
- The approved operating hours are between 8am and 6pm Monday to Saturday, Closed on Sunday's and Public Holidays.
- 3.10 Bushfire Management
- 3.10.1 The development must be provided with a minimum 5,000 litres of water storage for firefighting purposes via any the following:
- a water tank separate to any domestic water supply tank/s; or
 - a reserve section in the bottom part of a main water supply tank; or
 - a dam; or
 - a swimming pool.
- Where a tank is provided, the tank outlet must be fitted with standard rural fire brigade fittings and be positioned to be easily accessible to firefighting appliances.
- 3.10.2 A bushfire hazard management plan must be prepared and submitted to Council. The approved use must comply with the requirements of the bushfire hazard management plan at all times.

3.11 Signage

Any advertising devices, must be wholly sited on the subject site or the south-west wall of the shed only (facing the carpark) and be limited to a cumulative sign face area of 4m² and must:

- (i) Not resemble a traffic control device or give instructions to traffic;
- (ii) Not incorporate highly reflective materials or finishes;
- (iii) Not be illuminated, move, revolve, strobe or flash; and
- (iv) Be kept clean, in good order and safe repair for the life of the development.

The erection of any signage must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions.

4. Infrastructure Services and Standards

4.1 Access

4.1.1 The existing access crossover servicing the customer car park must be maintained (from the edge of the road pavement to the property boundary of the subject land) in accordance with the standards set out in the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.1.2 The existing unsealed access crossover servicing the laydown area/workshop/stock storage area must be upgraded/constructed (from the edge of the road pavement to the property boundary) in accordance with the standards set out in the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage/Water Quality

4.2.1 The applicant/developer must ensure a non-worsening effect on surrounding land and downstream properties as a consequence of the development, and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.2.2 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

4.3 Car Parking/Internal Driveways

The existing internal car parking area must be maintained to include 5 parking spaces which are available solely for the parking of vehicles associated with the use of the premises.

All car parking spaces and internal driveways/vehicle manoeuvring areas (as shown on the approved plans) must remain sealed and line marked where necessary, and appropriately drained, to the satisfaction of Council's delegated officer.

4.4 Landscaping

The existing landscaping on-site must be mulched, irrigated and maintained for the life of the development, to the satisfaction of Council's delegated officer.

4.5 Lighting

Any outdoor lighting must be designed and installed to prevent the potential for light spillage to cause nuisance to neighbours and road users.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Site Plan	M Dowling	22/3/2021
-	Internal Building Layout	M Dowling	22/3/2021
-	Shed Elevations	M Dowling	22/3/2021

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(A) ASSESSMENT MANAGER'S ADVICE

(a) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(b) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(c) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance.

Further information on these matters can be obtained from www.environment.gov.au

(d) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Building Works (Shipping Containers)
- Access approval arising from condition number 4.1.2 (Please contact Planning Section to obtain application form and applicable fee)

SUBMISSIONS

There were ten (10) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below:

Name of Principal submitter		Address
1. Nadine O'Brien	Objection	345 Fantin Road, Koah
2. Kylie Moore	Support	21 Lotus Lane, Kuranda
3. Deb Curry	Support	debcurry1982@outlook.com
4. Nikki Sporri	Support	myriadreams@gmail.com
5. Mathew Hancock	Support	154 Veivers Drive, Speewah
6. Kristen Kolijn	Support	60 Speewah Road, Speewah
7. Suzy Grinter	Support	70 Veivers Drive, Speewah
8. Michelle MacLean	Support	9 Pioneer Close, Speewah
9. Helena Burcher & Chris Kemp	Support	111 Douglas Track, Speewah
10. Barb Patmore	Support	barbpatmore1@gmail.com

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

OTHER DETAILS

If you wish to obtain more information about Council's decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

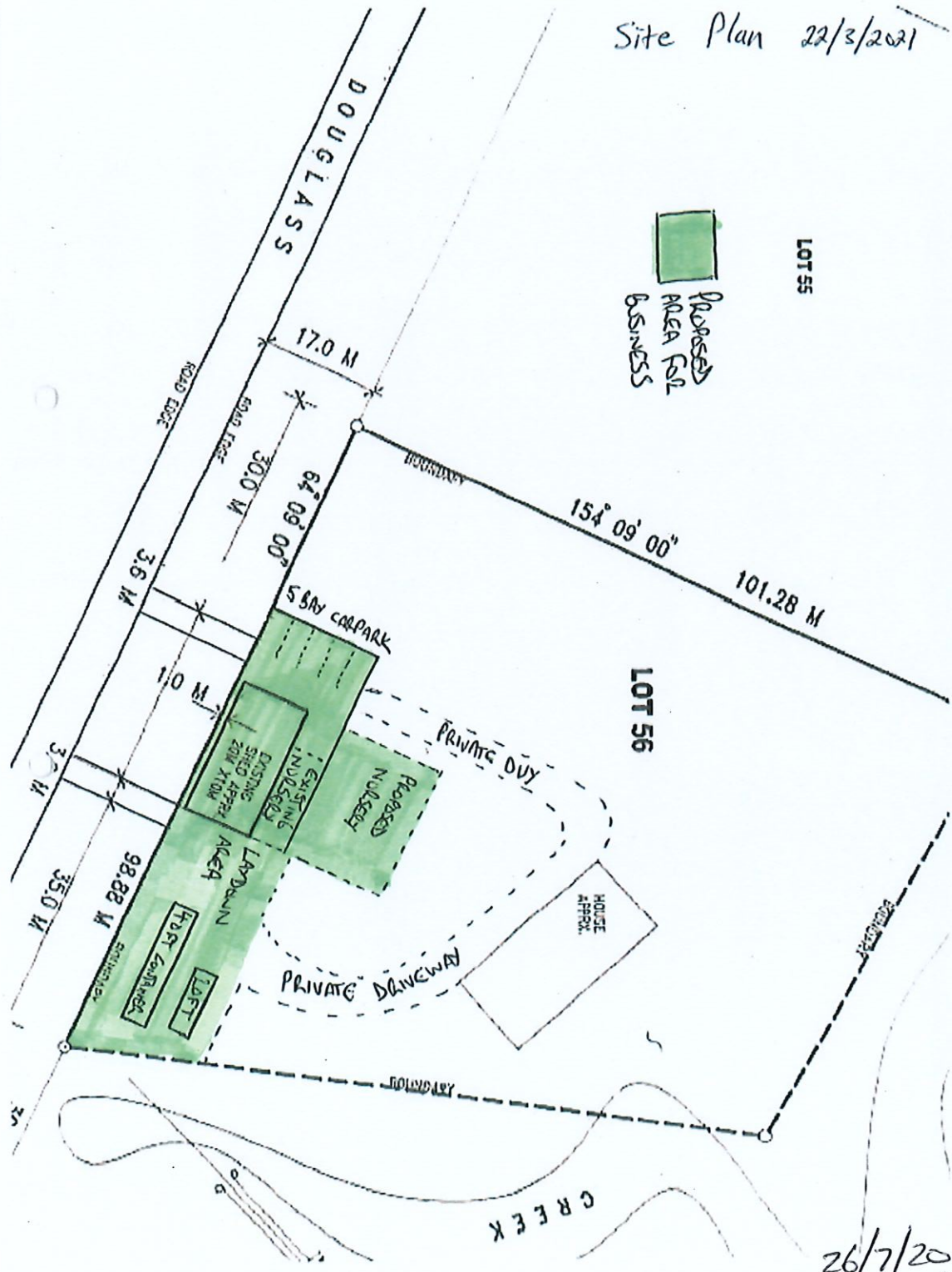
Yours faithfully



BRIAN MILLARD
SENIOR PLANNER

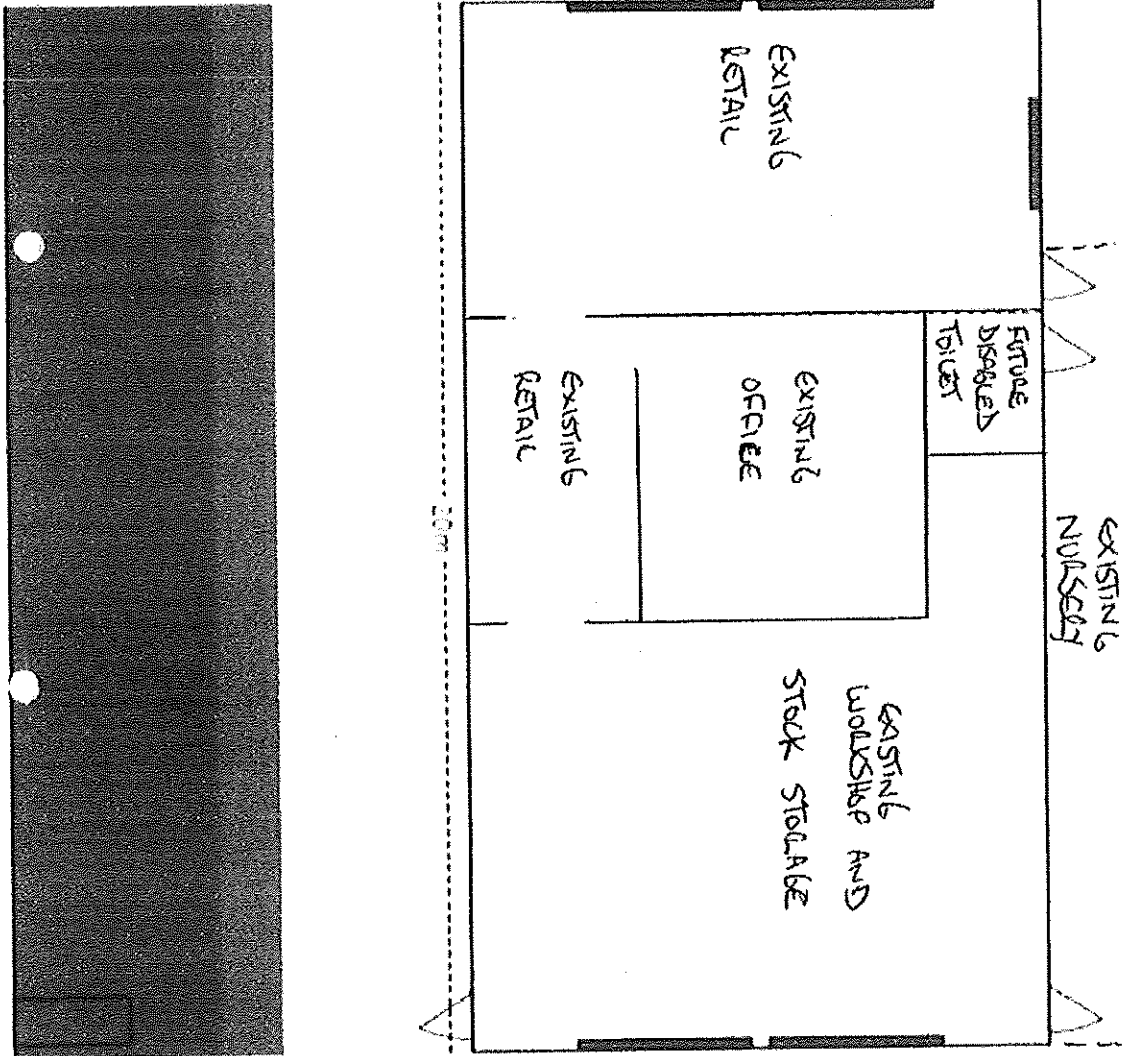
Enc: Approved Plans/Documents
Appeal Rights

Approved Plans/Documents



26/7/2021
B. n. [Signature]

Internal Building Layout 22/3/2021



26/7/2021
B. Will

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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 us 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 and 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 has 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).
- (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 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 the rules of the P&E Court.