



21 April 2022

Senior Planner: Brian Millard
Direct Phone: 4086 4657
Our Reference: RAL/21/0024
Your Reference: F21/36

Sibi Girgenti Holdings Pty Ltd
C/- Freshwater Planning Pty Ltd
17 Barronview Drive
FRESHWATER QLD 4870

Dear Applicant/s

Decision Notice

Planning Act 2016

I refer to your application and advise that on 20 April 2022, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	RAL/21/0024
Street Address:	Tilse Street and McIver Road, Mareeba
Real Property Description:	Lot 100 on SP276719
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use for a Preliminary Approval including a variation request to vary the effect of the Mareeba Shire Council Planning Scheme 2016 - Use rights in accordance with the Low Density Residential zone and a Development Permit for Reconfiguring a Lot - Subdivision (1 into 24 lots)
Date of Decision:	20 April 2022

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is listed below;

- Material Change of Use – six (6) years (starting the day the approval takes effect).
- Reconfiguring a Lot – six (6) years (starting the day the 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. **Material Change of Use for a Preliminary Approval including a variation request to vary the effect of the Mareeba Shire Council Planning Scheme 2016**

1. The assessment manager has approved a variation to an applicable local planning instrument, being the Mareeba Shire Council Planning Scheme 2016.

Under the approved variation, all development on Lot 100 on SP276719 must be carried out in accordance with the Mareeba Shire Council Planning Scheme 2016 and the Low Density Residential zone.

The Emerging Community zone will not be applicable to any development on Lot 100 on SP276719.

2. **Reconfiguring a Lot - Subdivision (1 lot into 24 lots)**

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, and subject to any alterations:

- found necessary by the 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 prior to the endorsement of the plan of survey for each stage of the development, or alternative documentation as approved by the Land Title Act, except where specified otherwise in these conditions of approval.

3. **Staging of Development**

- 3.1 The construction of this development may be staged in accordance with the stage numbering shown on Drawing No. 1470 - SK01 Amendment C dated 10.04.22 and as shown in **Table 1** below:

Table 1: Staging

Stage Number	Lots
Stage 1	Lots 17-20
Stage 2	Lots 12-16

Stage 3	Lots 21-24
Stage 4	Lots 9-12
Stage 5	Lots 1-4
Stage 6	Lots 5-8

A balance lot will be created up to the final stage.

- 3.2 Staged development may also be undertaken in any other sequence provided all infrastructure required to service the relevant stage is constructed.
- 3.3 The applicant/developer must comply with each condition of this development approval as it relates to each designated stage, unless otherwise stated in this approval.
4. General
- 4.1 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.
- 4.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval or the Adopted Infrastructure Charges Notice must be made prior to the endorsement of the plan of survey, or alternative documentation as approved by the Land Title Act and at the rate applicable at the time of payment.
- 4.3 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority, unless approved by Council's delegated officer.
- 4.4 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 4.5 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.
- 4.6 Charges
- All outstanding rates, charges, and expenses pertaining to the land are to be paid in full.
- 4.7 Bushfire Management
- A Bushfire hazard management plan for the subject land must be prepared by suitably qualified person to the satisfaction of Council's delegated officer.
- The future use of each lot must comply with the requirements of the bushfire hazard management plan at all times.

5. Infrastructure Services and Standards

5.1 Access

Access to each allotment must be constructed (from the edge of the road pavement to the property boundary of each lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The provision of roll-over kerb along the frontage of each allotment will satisfy this condition.

5.2 Stormwater Drainage

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- (b) Prior to works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.
- (c) Prior to works commencing the applicant must submit a Stormwater Quality Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Urban Stormwater Quality Planning Guideline and the Queensland Water Quality Guideline to the satisfaction of Council's delegated officer.
- (d) The Stormwater Quality Management Plan must include an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer.
- (e) The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and/or Stormwater Quality Management Plan and Report.
- (f) Temporary drainage is to be provided and maintained during the construction phase of the development, discharged to a lawful point and not onto the construction site.
- (g) All stormwater channels through private property must be registered, with the easement for drainage purposes in favour of Council. All documentation leading to the registration of the easement must be completed at no cost to Council.
- (h) All stormwater drainage collected from the site must be discharged to an approved legal point of discharge.

- (i) The applicant (at their cost) must video all stormwater lines and submit the video for inspection by Council's delegated officer prior to the development being taken "off maintenance" to ensure that no defects have occurred during the 12 month maintenance period.
- (j) All drainage easements must be constructed to prevent erosion. Construction may be in the form of a concrete invert, with outlet protection.
- (k) To complete the subject site's Tilse Street frontage to a reasonable standard to service the stormwater catchment, Council will credit the cost difference for the additional design and construction of the following required works against infrastructure charges associated with the proposed development:
 - (i) Fill the existing open drain with approved material, including compaction and testing, reprofiling and vegetation with suitable grass species
 - (ii) Provide underground drainage in Tilse Street connecting the existing Council infrastructure in McIver Road to an outlet in Tilse Street generally in accordance with layout shown on Drawing No. 1470 - SK03 Amendment B dated 10.04.22. The works shall include manholes, kerb inlet pits, headwall and wingwalls at outlet, outlet protection and any excavation required for any outlet drain together with revegetation of this drain.
 - (iii) The design drawings for the above must be lodged with Council for approval, and once approved, included in the tender documentation under a separate scheduled item for cost identification purposes.

5.3 Earthworks

All earthworks must be carried out in accordance with the requirements of the FNQROC Development Manual (as amended) to the satisfaction of Council's delegated officer.

All formed batters must be located outside the road reserves.

5.4 Roadworks - Internal

- (a) The new internal road is to be constructed to Access Street standard in accordance with the FNQROC Development Manual (as amended) to the satisfaction of Council's delegated officer.
- (b) A two (2) metre wide concrete footpath must be installed on at least one (1) side of the internal road. The horizontal alignment of the footpath is to be determined at operational works stage.

5.5 Roadworks - External

McIver Road and Tilse Street must be upgraded for the full frontage of Lot 100 on SP276719 to the general extent shown on Drawing No. 1470 - SK01 Amendment C dated 10.04.22.

These works should generally include the following:

- The widening of the development side of McIver Road and Tilse Street;
- the installation of kerb and channel on the development side of McIver Road and Tilse Street for the full frontage of Lot 100 on SP276719; and
- All required underground stormwater infrastructure.

Plans for the abovementioned works must be submitted to Council as part of a subsequent application for operational works.

5.6 Water Supply

- (a) Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).
- (b) A water service connection must be provided to each proposed lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

5.7 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

5.8 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of underground power reticulation.

5.9 Telecommunications

The applicant/developer must enter into an agreement with a telecommunication carrier to provide telecommunication services to each allotment and arrange provision of necessary conduits and enveloping pipes.

5.10 Lighting

Street lighting must be provided to all roads in accordance with FNQROC Development requirements (as amended) and to the satisfaction of Council's delegated officer.

5.11 Street Trees

One (1) street tree must be at the planted at centre of each lot's road frontage. Corner allotments must have a street tree planted on each frontage.

All street trees must be provided in accordance with the FNQROC Development Manual - Design Manual D9 Landscaping.

5.12 Agricultural Buffering

5.12.1 As part of Stage 1, a 10 metre wide vegetation buffer is to be planted within the proposed residential allotments along the alignment of McIver Road generally indicated on Drawing No. 1470 - SK01 Amendment C dated 10.04.22. The vegetation must have a minimum height at maturity of 4 metres. The plan depicting species and areas to be planted must be submitted to Council's delegated officer for approval prior to the issue of a development permit for operational works. The buffer must be planted in accordance with the approved plan.

5.12.2 As part of Stage 1, a colourbond fence of 1.8 metres in height shall be erected along the entire McIver Road frontage on the southern side of the vegetation buffer required by Condition 5.12.1.

5.12.3 The vegetation buffer and fence must be maintained by the applicant and any subsequent owner of any part of the land affected by this condition. Statutory covenant/s must be created over vegetation buffer to ensure it is maintained by the applicant and any subsequent owner of respective allotment.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
1470 - SK01 Amdt C	General Arrangements and Lot Dimensions	Jim Papas Civil Engineering Designer Pty Ltd	10.04.22
1470 - SK03 Amdt B	Probable Earthworks, Roadworks and Stormwater Drainage Layout	Jim Papas Civil Engineering Designer Pty Ltd	10.04.22

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) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

(b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(c) Easement Documents

Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Planning Section for more information regarding the drafting of easement documents for Council easements.

(d) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(e) 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.

(f) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- a registered covenant
- conditions regarding bushfire management
- an approved bushfire management plan
- a registered easement over the subject site

(g) 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.

(h) 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 Operational Works

SUBMISSIONS

There were four (4) properly made submissions received about the application. In accordance with the *Planning Act 2016*, the name and residential or business address of the principal submitter for each properly made submission is provided below:

Name of Principal submitter	Address
1. BTM&S Stankovich	PO Box 1732, Mareeba QLD 4880
2. S Murat, P Murat & Stelbay Pty Ltd	PO Box 258, Mareeba QLD 4880
3. V & L Schwerdtfeger	PO Box 91, Mareeba QLD 4880
4. D Saul	davesaul35@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



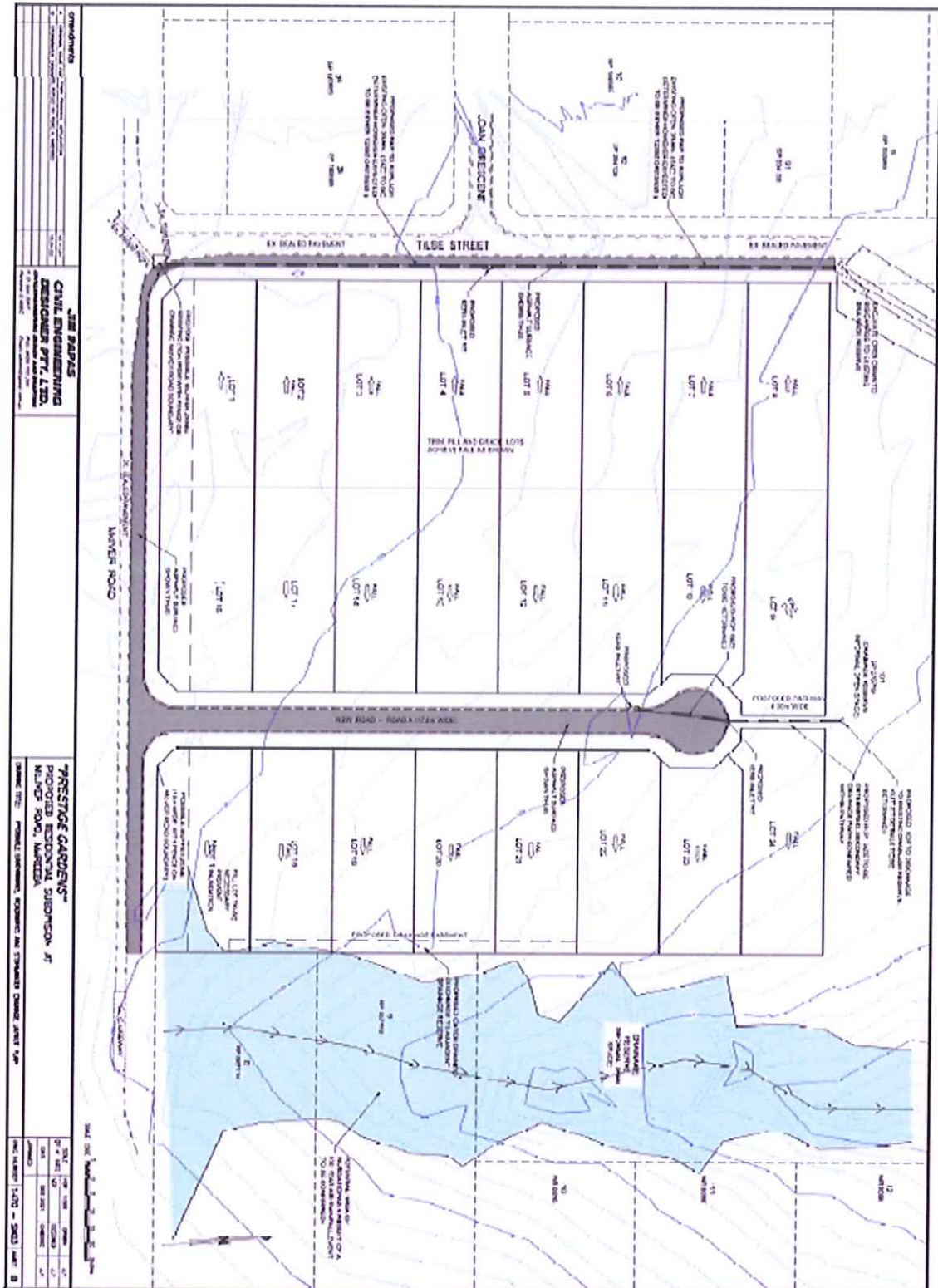
**BRIAN MILLARD
SENIOR PLANNER**

Enc: Approved Plans/Documents
 Appeal Rights
 Adopted Infrastructure Charge Notice

Approved Plans/Documents



21/4/2022
B. n. [Signature]



21/4/2022
B. McCall

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 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 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.