

11 June 2024

Planning Officer: Carl Ewin  
Direct Phone: 4086 4656  
Our Reference: OPW/24/0002

D and K Graham  
C/- Applin Consulting  
19 Mullins Street  
WHITFIELD QLD 4870

Dear Applicants,

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 10 June 2024 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No:	OPW/24/0002
Street Address:	9 Kenneally Road, Mareeba
Real Property Description:	Lot 1 on RP725088
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Operational Works (Access, Drainage & Stormwater Works, Water Infrastructure and Earthworks for Stage 1 of Development Permit RAL/23/0001)
Date of Decision:	10 June 2024



**CURRENCY PERIOD OF APPROVAL**

The currency period for this development approval is two (2) 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****(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)****(a) General**

- (i) All operational works must be designed and constructed in accordance with the procedures as set out in the FNQROC Development Manual.
- (ii) This Development Permit authorises works for Stage 1 only as shown on the submitted plans.
- (iii) Development must be carried out substantially 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;
  - to ensure the works comply in all respects with the requirements and procedures of the FNQROC Development Manual, Queensland Urban Drainage Manual and good engineering practice; and
  - to ensure compliance with the following conditions of approval.
- (iv) Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Principal Consulting Engineer to resubmit amended plans to Council for approval and rectify works accordingly.
- (v) As outlined on the submitted plans, an erosion and sediment control plan must be prepared by the principal contractor and submitted to Council for review prior to pre-start occurring.



- (vi) Unless it can be demonstrated that the drainage channels provided as part of the development provide a strategic drainage function for properties/road reserve upstream of the site, all easements must be private, and Council **must not be** included as a party on any easement documents.

A notation will be placed on the rates notice for all lots stating that the upkeep and maintenance of the easements is the responsibility of individual landowners and the cost of any repairs or upkeep is the responsibility of the individual landowners.

- (vii) A notation will be placed on the rates notice for Lot 3 regarding the drainage easement/s and that a bridge style crossing will be needed across the open drain constructed within the easement in order to access the rear of Lot 3 and that the cost of the construction of this crossing is the responsibility of the future landowner of Lot 3.

- (viii) The existing access crossover servicing Lot 1 from Kenneally Road must be upgraded to FNQROC Development Manual Standards at the same time all other Stage 1 works occur in order to achieve compliance with Condition 4.1.1 of Development Permit RAL/23/0001.

**(b) Pre-start Meeting**

- (i) In addition to the requirements of Clause CP1.07 and CP1.08 of the FNQROC Development Manual; after documentation has been approved by Council, a pre-start meeting is to be held on site prior to the commencement of work. Part 1 of the **attached** pre-start meeting pro-forma is to be completed and returned prior to the meeting including clause 1.u 'Request for Meeting' together with the prescribed Construction Monitoring Fee as set out in Council's Schedule of Fees.

**(c) Inspections**

- (i) Inspections are to be carried out as detailed in the FNQROC Manual unless advised otherwise at the pre-start meeting.

**(d) Construction Security Bond and Defects Liability Bond**

- (i) In addition to Clauses CP1.06 and CP1.20 of the FNQROC Development Manual; the Construction Security Bond and Defects Liability Bond shall each be a minimum of \$1000 and Bank Guarantees shall have no termination date.
- (ii) During the Defects Liability period, it is the responsibility of the developer to rectify any works found to be defective due to design faults and or found to exhibit faults attributed to the performance of the construction activities in terms of quality and conformance with design and specifications. The bond will be returned on satisfactory correction of any defective work and after expiration of the maintenance period. Failure to comply with a Council issued instruction to correct defective work may result in the call up of the bond to have the work completed.



**(e) Hours of Work**

- (i) Work involving the operation of construction plant and equipment of any description, shall only be carried out on site during the following times:
- 7.00am to 6.00pm, Monday to Friday;
  - 7.00am to 1.00pm Saturdays;
  - No work is permitted on Sundays or Public Holidays.
- (ii) No variation to the above working hours is allowed unless otherwise agreed in writing by Council.

**(f) Transportation of Soil**

- (i) All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavement from works on the subject land, it must be removed no later than at the end of each working day. Sediment must not enter Council's stormwater drainage network.

**REFERRAL AGENCIES**

Not Applicable.

**APPROVED PLANS**

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
24001-C001 Rev A	Cover Sheet, Locality Plan and Drawing Index	Applin Consulting	3/05/2024
24001-C002 Rev A	Overall Site Plan	Applin Consulting	3/05/2024
24001-C003 Rev A	Property Access and Drainage Plan	Applin Consulting	3/05/2024
24001-C004 Rev A	Setout Plan and Type Sections	Applin Consulting	3/05/2024
24001-C005 Rev A	Longitudinal Sections	Applin Consulting	3/05/2024
24001-C006 Rev A	Water Reticulation Plan	Applin Consulting	3/05/2024



**PROPERTY NOTES**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Not Applicable.

**RIGHTS OF APPEAL**

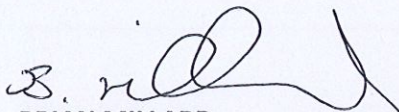
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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](http://www.msc.qld.gov.au), or at Council Offices.

Yours faithfully

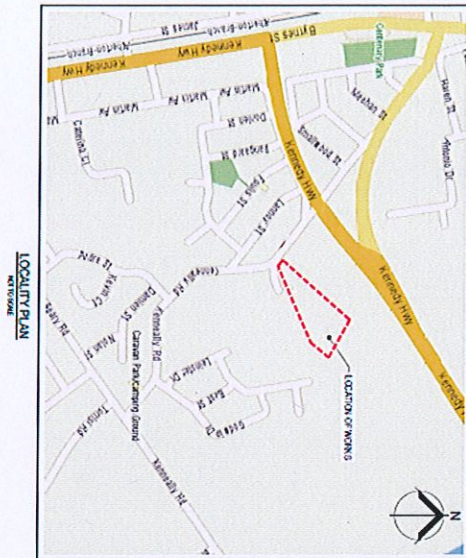


**BRIAN MILLARD**  
**COORDINATOR PLANNING SERVICES**

Enc: Approved Plans/Documents  
Appeal Rights



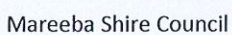
**RESIDENTIAL SUBDIVISION**  
**9 KENNEALLY ROAD (LOT 1 RP725088), MAREEBA**  
**STAGE 1**



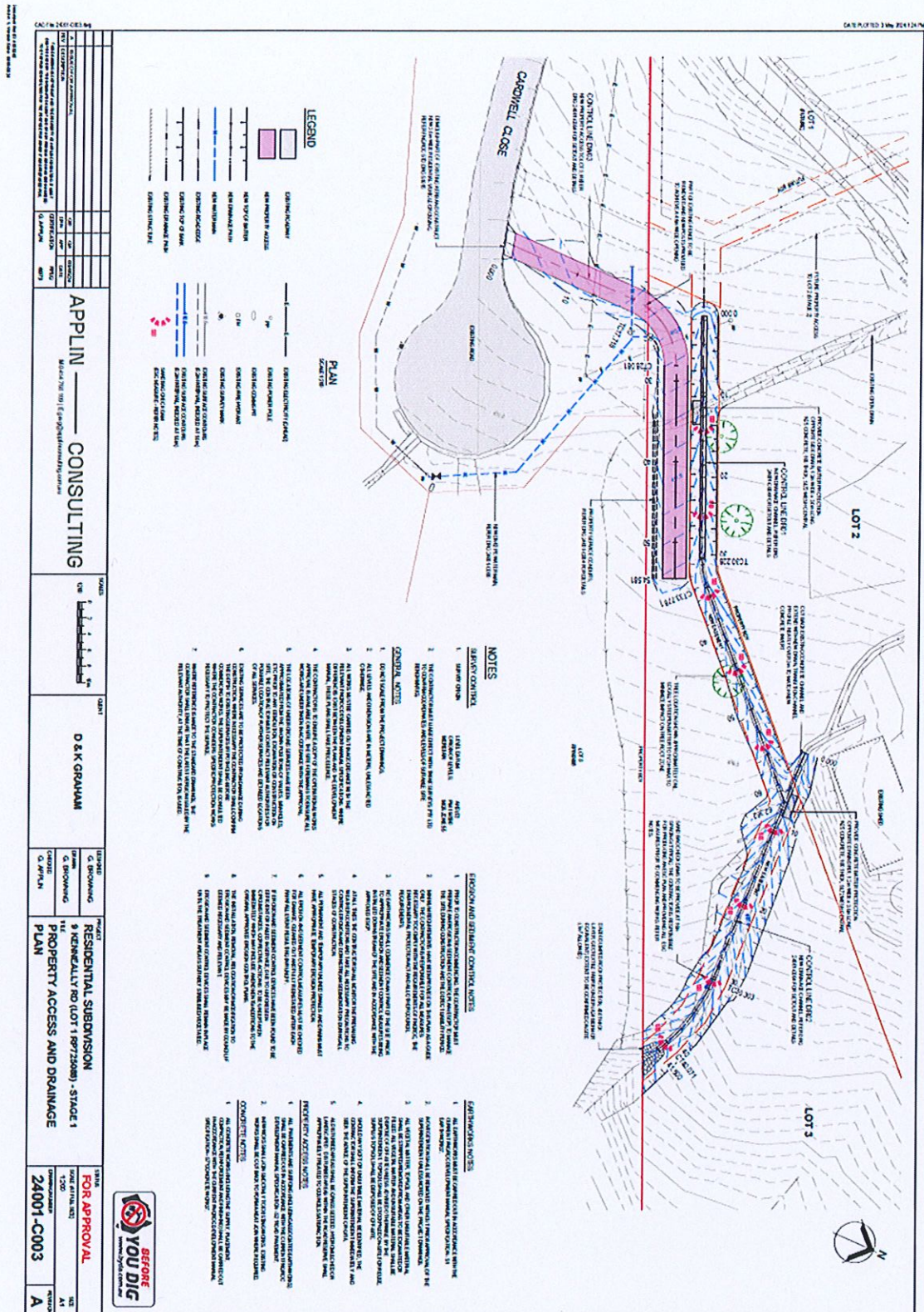
DRAWING LIST	
DWG. NO.	DRAWING TITLE
2001-0001	CONCRETE FOUNDATION AND RETAINING WALL
2001-0002	FOUNDATION PLAN
2001-0003	FOUNDATION AND RETAINING WALL
2001-0004	FOUNDATION AND RETAINING WALL
2001-0005	FOUNDATION AND RETAINING WALL
2001-0006	FOUNDATION AND RETAINING WALL

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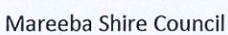




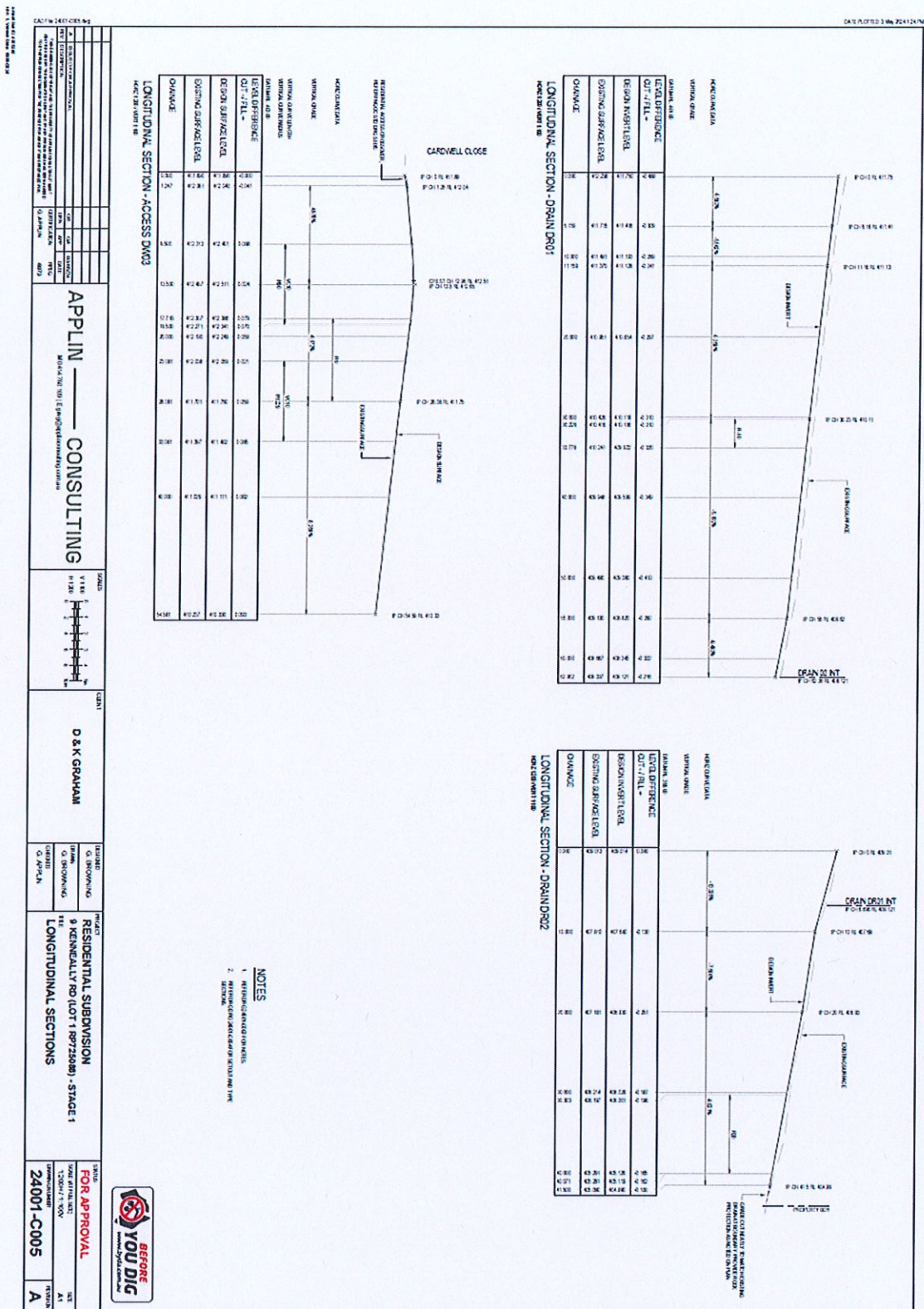




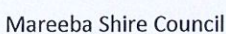














## Appeal Rights

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.



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- (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 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.