



27 April 2018

Planning Officer: Carl Ewin
Direct Phone: (07) 4086 4656
Our Ref: BM:CE:nj

Owen W Davies
PO Box 497
DIMBULAH QLD 4872

Dear Sir/Madam

Decision Notice

Planning Act 2016

I refer to your application and advise that on 27 April 2018 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:	MCU/18/0002
Street Address:	49-51 Raleigh Street DIMBULAH QLD 4872
Real Property Description:	Lot 505 on HG727 and Lots 506 - 508 on HG714
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Community Use (Museum)
Date of Decision:	27 April 2018

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 substantially 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 prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
 - 2.3 Prior to the commencement of use, the applicant must provide a letter from the State Referral Agency confirming that the Department is satisfied their conditions are complied with and/or that the department has no objections to the commencement of the use.
3. General
 - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.
 - 3.2 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.

3.3 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 Control

Refrigeration equipment, pumps, filter systems, mechanical plant, 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.

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.

3.5 Waste Management

On-site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer or 1.8m high solid fence or building.

Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council prior to the issue of a building permit which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear.

3.6 Hours of Operation

The permitted operating hours shall be between 7am and 6pm Monday to Sunday.

3.7 Signage

3.7.1 Building Signage

Any signage erected on any buildings:

- Must only contain content relating to the approved use;
- Must not exceed the height of the building they are mounted on; and
- Must not move, revolve, strobe or flash;

3.7.2 All signage must be kept clean, in good order and safe repair for the life of the development, and must be removed when no longer required, to the satisfaction of Council's delegated officer.

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

3.8 Building Height

Building height shall not exceed 5.5 metres above ground level.

4. Infrastructure Services and Standards

4.1 Access

A **commercial** access crossover (at minimum) must be constructed (from the edge of Raleigh Street to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The applicant/developer must ensure that any redundant vehicle crossovers are removed and reinstated with kerb and channel.

4.2 Stormwater Drainage/Water Quality

4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

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

4.3 Car Parking/Internal Driveways

Any on-site car parking spaces and internal driveways/vehicle manoeuvring areas (trafficable areas) must be maintained/surface treated to minimise dust nuisance to adjoining properties, to the satisfaction of Council's delegated officer.

Should Council receive a substantiated complaint regarding dust nuisance generated from the subject site as a result of the approved use, all trafficable areas associated with the approved use must be concrete, asphalt or bitumen sealed within 3 months of the complaint being received, to the satisfaction of Council's delegated officer.

4.4 Landscaping & Fencing

4.4.1 Prior to the commencement of the use, the applicant/developer is to prepare and submit a landscape plan which must include, at minimum, a 1 metre wide landscape strip along the entire Raleigh and Hyde Street frontages of the site (where no buildings/structures exist) with maximum plant spacing of 1 metre, to the satisfaction of Council's delegated officer.

Plant species used must be selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

All landscaping must be carried out in accordance with the approved landscape plan and must be mulched, irrigated and maintained for the life of the development.

4.4.2 1.8-metre-high solid screen fencing of neutral colour, is to be erected along the entire common boundary between the subject land and Lot 4 on MPH33199, to the satisfaction of Council's delegated officer.

All fencing must be kept clean, in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

Timing for Condition 4.4.2 - To be completed within three (3) months of Council receiving written notice from the existing or any subsequent owner of Lot 4 on MPH33199 that they wish for the fence to be erected.

4.5 Lighting

Where lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

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.

4.6 Water Supply

A water service connection must be provided to the subject lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council’s delegated officer.

4.7 On-Site Wastewater Management

All on site effluent disposal associated with the approved uses must be in compliance with the latest version of On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council’s delegated officer.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises near a State transport corridor or that is a future State transport corridor		
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dilgp.qld.gov.au
(a) are within 25m of a State transport corridor; or		
(b) are a future State transport corridor; or		
(c) are—		
(i) adjacent to a road that intersects with a State-controlled road; and		
(ii) within 100m of the intersection		

A copy of any referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Site Plan - Historic Museum	Applicant	18/04/2018

REFERENCED DOCUMENTS

Not Applicable.

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) Water Meters/Water Service Connection

Prior to the water service connection works commencing and the installation of the meters by Council, an application for a Plumbing Compliance Permit is required to be submitted with detailed hydraulic drawings. The cost of the required water connection and meter (capping of any existing meter may be required) will be determined based upon the approved hydraulic drawings at the time of lodgement of a Water Quotation Request.

(b) 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.

(c) 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.

(d) 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

(e) 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

(B) CONCURRENCE AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 8 March 2018.

PROPERTY NOTES

Not Applicable.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Compliance Permit for Plumbing and Drainage Work
- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

SUBMISSIONS

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, or at Council Offices.

Yours faithfully



BRIAN MILLARD
SENIOR PLANNER

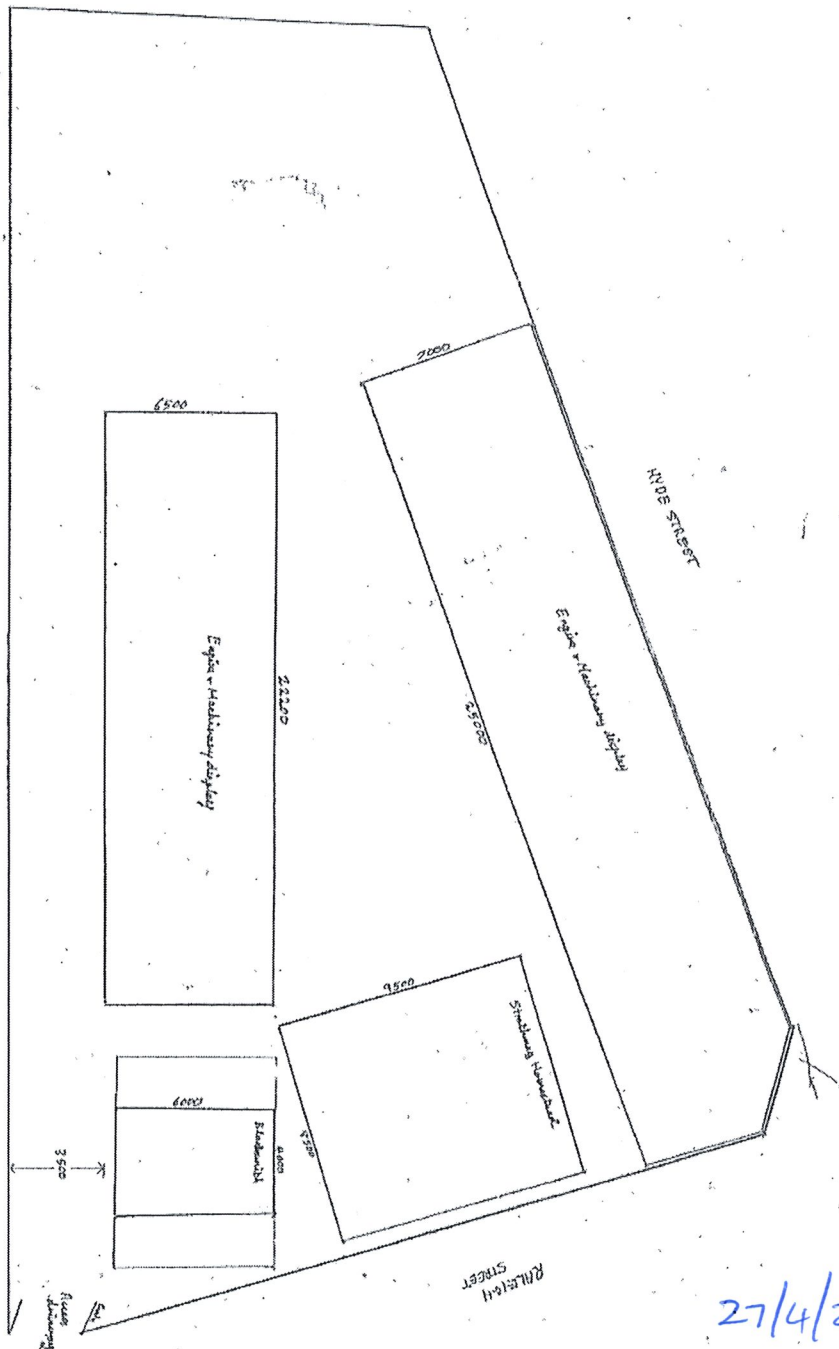
Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights

Copy: Department of State Development, Manufacturing, Infrastructure and Planning
CairnsSARA@dsdmip.qld.gov.au

Approved Plans/Documents

Site Plan - Historic Museum

18/04/2018



27/4/2018
E.2.2

Referral Agency Response

RA6-N



Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

Our reference: 1801-3555 SRA
Your reference: MCU/18/002
Applicant reference: museum

8 March 2018

Chief Executive Officer
Mareeba Shire Council
PO Box 154
MAREEBA QLD 4880
planning@msc.qld.gov.au

Attention: Carl Ewin

Dear Sir / Madam

Referral agency response—with conditions
(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 18 January 2018.

Applicant details

Applicant name:	Owen Wilson Davies
Applicant contact details:	45-47 Raleigh Street Dimbulah davies.freepirit@gmail.com

Location details

Street address:	45-51 Raleigh Street Dimbulah
Real property description:	Lot 505 on HG727 Lot 506 on HG714 Lot 507 on HG714 Lot 508 on HG714
Local government area:	Mareeba Shire Council

Application details

Development permit	Development Permit for Material Change of Use Community use (museum)
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Far North Queensland regional office
Ground Floor
Corner Grafton and Hartley Streets
PO Box 2358, Cairns QLD 4870

1801-3555 SRA

Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Advice to the assessment manager

Under section 56(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version / issue
Aspect of development: Material change of use				
Permitted road access location	Department of State Development, Manufacturing, Infrastructure and Planning	05 March 2018	1801-3555 SRA	A

A copy of this response has been sent to the applicant for their information.

For further information please contact Michele Creecy, Senior Planning Officer, on 4037 3206 or via email CairnsSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc davies.freespirit@gmail.com

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Advice to the assessment manager
Approved plans and specifications

Department of State Development, Manufacturing, Infrastructure and Planning

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Document Set ID: 3350750
Version: 1, Version Date: 12/03/2018

1801-3555 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Aspect of development – Material change of use – Community use (museum)		
<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 –State-controlled road—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):</p>		
1.	<p>The permitted road access locations between Lots 506 and 507 on HG714 and the state-controlled road (Raleigh Street, also known as Mareeba-Dimbulah Road), is to be located, in accordance with the TMR Layout Plan (664 – 47.84 km), prepared by Queensland Government Transport and Main Roads, dated 05/03/2018, Reference TMR18-23673 (500-1000), Issue B.</p>	At all times.
2.	<p>Direct access is not permitted between Lot 508 on HG714 and the state-controlled road (Raleigh Street, also known as Mareeba-Dimbulah Road).</p>	At all times

1801-3555 SRA

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure that the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.

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Attachment 3—Advice to the assessment manager

General advice	
Ref.	Advertising Device
1.	<p>A local government should obtain advice from the Department of Transport and Main Roads (TMR) if it intends to approve the erection, alteration or operation of an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: TMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and / or a device which is deemed that it creates a danger to traffic.</p>
Ref.	Road access approval
2.	<p>The applicant is required to seek a section 62 approval for Lot 506 on HG714. Under section 62 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads (DTMR) to lawfully operate, construct, maintain and carry out road access works (including driveways) on a state-controlled road. Please contact the Department of Transport and Main Roads on 4045 7144 at the Cairns district office to make an application for approval under section 62.</p> <p>The road access approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining an access approval is not delayed.</p>

1801-3555 SRA

Approved plans and specifications

1801-3555 SRA



Queensland Corridor Management/Far North Region Project/Activity: Registered Corridor of Australia (COA) 1008 PROPERTY BOUNDARY SUBJECT LANDS		TMR Layout Plan (664 - 47.84km)	 Project No: 111 Drawn By: RPK Date: 05/03/2018 Scale: 1:500 Drawing No: TMR18-22673 (664-1000)
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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.
- (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.