Mareeba
SHIRE COUNCIL

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21 June 2018

Officer: Brian Millard
Direct Telephone: 4086 4657
Our Reference: BM:nj
Your Reference: F18/12

BTM & S Stankovich Pty Ltd
C/- Freshwater Planning Pty Ltd
17 Barron View Drive
FRESHWATER QLD 4870

Dear Sir/Madam

Decision Notice
Planning Act 2016

I refer to your application and advise that on 20 June 2018, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	RAL/18/0012
Street Address:	267 Hastie Road MAREEBA QLD 4880
Real Property Description:	Lot 1 on RP735200
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Reconfiguring a Lot - Subdivision (1 into 8 lots)
Date of Decision:	20 June 2018

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is four (4) 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, 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 of the development, 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 prior to the endorsement of the plan of survey and at the rate applicable at the time of payment.

   3.3 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.

3.4 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.

3.5 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.

3.6 Charges

All outstanding rates, charges, and expenses pertaining to the land are to be paid in full.

3.7 Bushfire Management

A bushfire hazard management plan for the subject land and proposed development must be prepared by suitably qualified person, and submitted to Council prior to the endorsement of the plan of survey.

All future development on the subject land must comply with the bushfire hazard management plan.

4. Infrastructure Services and Standards

4.1 Access

(a) Access must be provided/constructed to each allotment in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The provision of layback kerb along the frontage of each allotment will satisfy this condition.

(b) An asphalt sealed or concrete driveway shall be provided within the access handle of proposed Lot 2 to the satisfaction of Councils delegated officer. The driveway will:

- have a minimum formation width of 3 metres
- be constructed for the full length of the access handle
- be formed with one-way crossfall to cater for stormwater drainage such that any stormwater runoff is contained within the access handle
- service and utility conduits are to be provided for the full length of the concrete or sealed driveway constructed within the access handle.

4.2 Earthworks

As part of a subsequent application for Operational Works, an earthworks plan (including the building pads on proposed Lot 5, 6, 7 and 8) is to be submitted, prepared by a suitably qualified RPEQ demonstrating compliance with the Works, Services and Infrastructure Code including the following detail:

- Maintenance of access roads to and from the site such that they remain free of all fill material and are cleaned as necessary
- Preservation of all drainage structures from the effects of structural loading generated by the earthworks;
- Protection of adjoining properties and roads from ponding or nuisance from stormwater.
- Prevention of the spread of weeds

All site earthworks, drainage and pavement construction are to be designed and supervised by a RPEQ. Testing is to be carried out by NATA Registered Laboratories and results submitted as part of the As Constructed information. The Supervising Engineer must submit a certificate demonstrating that all work has been satisfactorily completed to the quality control criteria for the site and in accordance with AS3798 (as amended).

4.3 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.

4.4 Roadworks – External Construction - Hastie Road Frontage of Lot 1 on RP735200

Hastie Road, for the full frontage of Lot 1 on RP735200, must be upgraded/constructed to Access Street standard in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Specifically, Hastie Road, must be widened to an overall sealed width of 6.5 metres, with layback kerb constructed on the development side. This widening must be blended into the existing seal to avoid sharp transitions in the sealed pavement.

The widening works must be bitumen or asphalt standard, and must include sufficient overlapping of the existing bitumen seal to ensure an appropriate bond of surfaces is achieved, to the satisfaction of Council's delegated officer.

Prior to works commencing, plans for the works described above must be approved as part of an Operational Works application.

4.5 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.

4.6 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).

4.7 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.

4.8 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.

4.9 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.

4.10 Building Envelopes and Required Flood Immunity

(a) The approved building envelopes for proposed Lots 5, 6, 7 and 8 are the building pads as shown on the Twine Surveys Pty Ltd drawing no. 8111-LL1 dated 27 March 2018.

(b) Prior to the endorsement of the survey plan, the building envelopes for proposed Lots 5, 6, 7 and 8 must be filled to reach a minimum height of RL395.5 metres AHD. The filling must approved as part of a subsequent development application for operational works.

(c) Prior to endorsement of the survey plan the approved building envelope areas must be defined by survey markers set at each corner, to the satisfaction of Council's delegated officer.

(d) All buildings must be located within the approved building envelopes.

(e) The floor level of all new buildings constructed on proposed Lots 1, 2, 3 and 4 must be a minimum height of RL395.5 metres AHD. Where a lot contains land below RL395.5 metres AHD, survey pegs must be placed on the subject land establishing the location of the RL395.5 metres AHD contour.

5. Additional Payment Condition/s (section 130 of the Planning Act 2016)

5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.

5.2 The developer must pay $18,000.00 per additional lot as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

5.3 The trunk infrastructure for which the payment is required is:

- The trunk transport network servicing the land ($4,500.00 per additional allotment)
- The trunk open space infrastructure servicing the land ($4,500.00)
- The trunk water supply infrastructure servicing the land ($4,500.00)
- The trunk sewer infrastructure servicing the land ($4,500.00)

5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.

5.5 If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;
- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;

- Take out joint insurance in the name of the Council and the developer in the sum of $20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to endorsement of the plan of subdivision.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
8111-LL1 Rev A	Development Plan	Twine Surveys Pty Ltd	2018.3.27

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) 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.

(b) 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.

(c) 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.

(d) 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.

(e) Notation on Rates Record

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

- an approved building pad for Lots 5, 6, 7, 8
- conditions regarding bushfire management
- defined flood immunity building floor level height RL395.5 metres AHD

(f) Transportation of Soil

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 pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(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.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Operational Work

SUBMISSIONS

There were no submissions received.

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

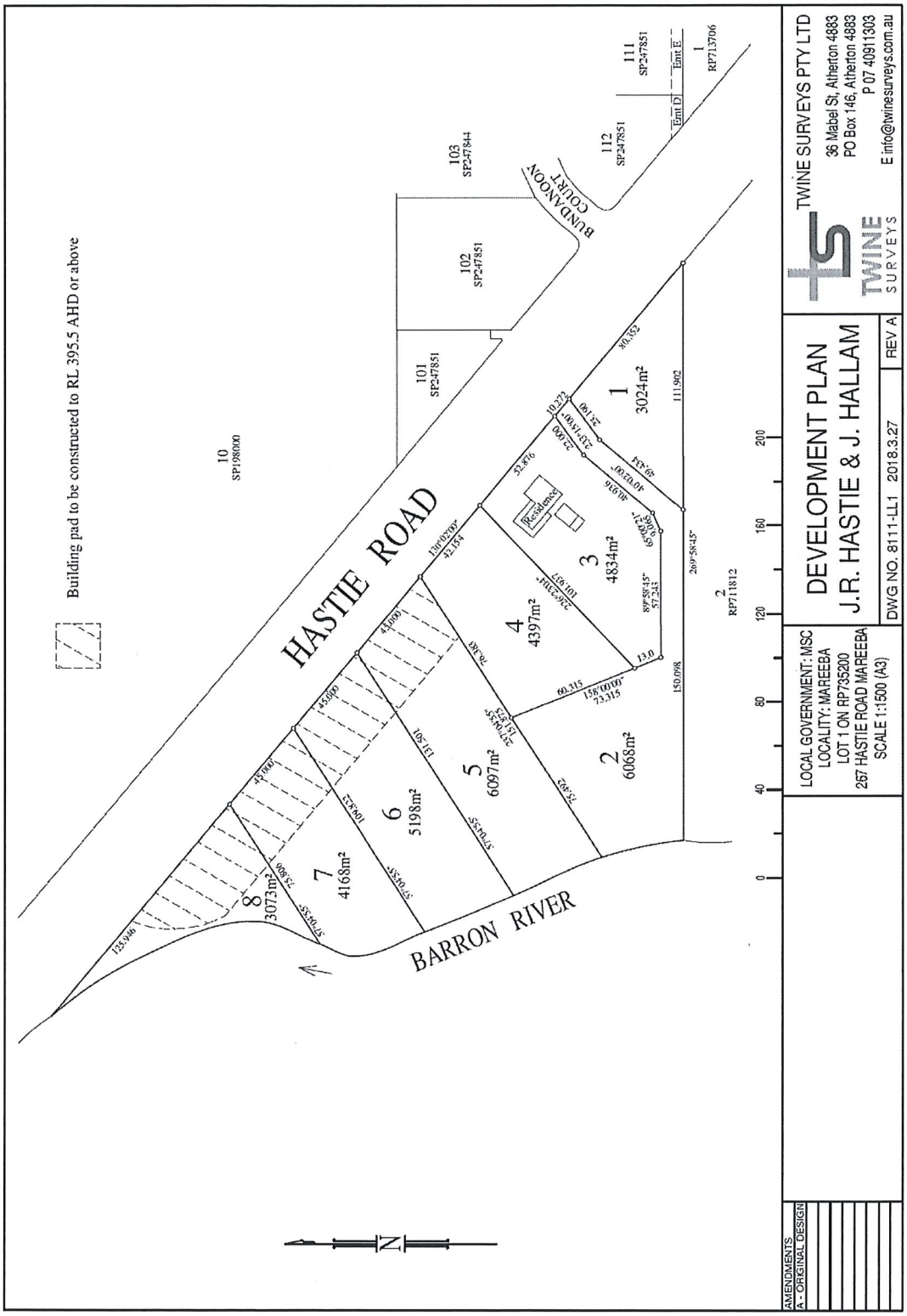
If you wish to obtain more information about Council's decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

Yours faithfully

BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Appeal Rights

Approved Plans/Documents



21/6/2018.

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.