

Decision Notice
CHANGE TO A DEVELOPMENT APPROVAL
Planning Act 2016 Section 83

Chemille Pty Ltd & Sologne Pty Ltd
C/- Precinct Urban Planning
PO Box 3038
TOOWOOMBA QLD 4350

Email: Andrew@precinctplan.com.au

20 September 2017

Dear Sir

Development Approval: Request to Change Approval Section 242 Preliminary Approval to Vary the Effect of the Local Planning Instrument (*Toowoomba Regional Planning Scheme 2012 – Version 7*) Impact – Material Change of Use and Development Permit – Reconfiguring a Lot – Impact – Three (3) Lots into Forty-five (45) Lots

Location: 38-44 Rudd Street & 28-36 Rudd Street & 132-140 Cambooya Street & 2-22 Devonshire Street & 37-59 Harrow Street & 51-59 Harrow Street & 162-170 Cambooya Street, DRAYTON QLD 4350

Property Description: Lots 1 & 2 RP154215, Lot 4 RP132016, Lots 2 & 3 RP56826, Lots 2 & 4 RP118570, Lot 1 RP51147 and Lot 32 D133630

Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012 Version 7*

I refer to your application received on 24 August 2017 for a Request to Change Approval to the combined Development Approval as listed above which was decided on 14 September 2017.

All deletions are identified by **bolded** strikethrough of text and all additions are identified by **bolded** text.

Rights of Appeal

Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

Yours faithfully



Rodney O'Brien
Acting Principal Planner, Development Services



TOOWOOMBA REGIONAL COUNCIL
A.B.N. 997 8830 5360

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

APPLICATION NUMBER:	MCUI/2015/4007/A
APPLICANT:	Chemille Pty Ltd & Sologne Pty Ltd
LOCATION:	38-44 Rudd Street & 28-36 Rudd Street & 132-140 Cambooya Street & 2-22 Devonshire Street & 37-59 Harrow Street & 51-59 Harrow Street & 162-170 Cambooya Street, DRAYTON QLD 4350
PROPERTY DESCRIPTION:	Lots 1 & 2 RP154215, Lot 4 RP132016, Lots 2 & 3 RP56826, Lots 2 & 4 RP118570, Lot 1 RP51147 and Lot 32 D133630
APPROVED USE:	Section 242 Preliminary Approval to Vary the Effect of the Local Planning Instrument (<i>Toowoomba Regional Planning Scheme 2012 – Version 7</i>) – Material Change of Use in accordance with the Preliminary Approval Document for Drayton Valley Estate Preliminary Approval Area – Version 4 – May 2016)
ZONING:	Emerging Community Zone and Open Space Zone.

PART A: PRELIMINARY APPROVAL SECTION 242 SPA – MATERIAL CHANGE OF USE (TO VARY THE EFFECT OF THE TOOWOOMBA REGIONAL PLANNING SCHEME 2012 (VERSION 7) IN ACCORDANCE WITH THE PRELIMINARY APPROVAL DOCUMENT FOR THE DRAYTON VALLEY ESTATE PRELIMINARY APPROVAL AREA – VERSION 4 – MAY 2016)

A. ASSESSMENT MANAGER'S CONDITIONS:

PARAMETERS OF APPROVAL

1. All future development within the Preliminary Approval Area must be undertaken in accordance with the provisions of the attached stamped and approved Preliminary Approval Document for the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016) and the applicable Codes and Planning Scheme Policies contained in the *Toowoomba Regional Planning Scheme 2012, Version 7*.
2. Where the Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016) does not state the way in which the approval will vary the effect of the Planning Scheme, the provisions contained in the *Toowoomba Regional Planning Scheme 2012, Version 7* will take effect.

PRELIMINARY APPROVAL AREA

3. The Preliminary Approval Area is the area identified as Lots 1 and 2 on RP154215, Lot 4 on RP132016, Lots 2 and 3 on RP56826, Lots 2 and 4 on RP118570, Lot 1 on RP51147 and Lot 32 on D133630.

PRELIMINARY APPROVAL DOCUMENT

4. Where the Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016) is “silent” on a particular issue, the provisions contained in *Toowoomba Regional Planning Scheme 2012, Version 7* will take effect.
5. The Codes and Policies applicable to development within the Preliminary Approval Area are the *Toowoomba Regional Planning Scheme 2012, Version 7* Codes and Policies, unless otherwise specified in the Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016).
6. The level of assessment applicable to development within the Preliminary Approval Area is in accordance with the *Toowoomba Regional Planning Scheme 2012, Version 7*, unless otherwise specified in the Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016).
7. The Preliminary Approval Document varies the effect of the *Toowoomba Regional Planning Scheme 2012, Version 7* for the Preliminary Approval Area pursuant to Section 242 of the *Sustainable Planning Act 2009* by:
 - 7.1 Changing the level of assessment for the Preliminary Approval Area in accordance with the Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016);
 - 7.2 Identifying development as Self-Assessable, Compliance Assessable or Code Assessable where in accordance with the Level of Assessment Tables in the Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016);
 - 7.3 Identifying development as Impact Assessable if not indicated as Self Assessable, Compliance Assessable or Code Assessable within the Level of Assessment Tables in Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016); and
 - 7.4 Providing Definitions, Statements of Purpose and Intent and Overall Outcomes different from those contained within *Toowoomba Regional Planning Scheme 2012, Version 7* for the Preliminary Approval Area.
8. The level of assessment for future Development Applications for Material Change of Use, Reconfiguring a Lot, Operational Works and Building Works within the Preliminary Approval Area must be in accordance with the levels of assessment specified within the Preliminary Approval Document (the Drayton Valley Estate Preliminary Approval Area - Version 4 - May 2016).

RELEVANT PERIOD

9. This Preliminary Approval has a relevant period of five (5) years from the date this approval takes effect.

SCHEDULE 2

DEVELOPMENT PERMIT FOR RECONFIGURING A LOT - IMPACT

APPLICATION NUMBER:	RAL/2015/4008/C
APPLICANT:	Chemille Pty Ltd & Sologne Pty Ltd
LOCATION:	38-44 Rudd Street & 28-36 Rudd Street & 132-140 Cambooya Street, DRAYTON QLD 4350
PROPERTY DESCRIPTION:	Lots 51 and 2 RP154215 and Lot 4 RP132016
DECISION DATE:	11 October 2016
APPROVED USE:	Three (3) Lots into Forty-Five (45) Lots
ZONING / PRECINCT:	Emerging Community Zone

PART B: DEVELOPMENT PERMIT FOR RECONFIGURING A LOT – IMPACT – THREE (3) LOTS INTO FORTY-FIVE (45) LOTS

A. ASSESSMENT MANAGER'S CONDITIONS:

PLANNING

APPROVED DEVELOPMENT

1. This Development Approval is for Reconfiguring a Lot, being the subdivision of land for the subdivision of Three (3) Lots into Forty-Five (45) Lots.

CARRY OUT AND MAINTAIN DEVELOPMENT

2. The development must comply 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 this Development Approval.
3. Unless otherwise stated, all conditions must be complied with prior to the issue of a Compliance Certificate for the Plan of Survey.
4. The development must be maintained in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

APPROVED PLANS

5. The development must be carried out generally in accordance with the Approved Plan listed below, subject to the conditions of this Development Approval and the amendments listed below:

Plan No: ~~P01 – Issue E-F~~ C1415156 – P12 – Issue P1

Description: Preliminary Alternative Lot Layout 45 Lots prepared by Kehoe Myers and dated ~~06.02.16~~ ~~08.07.2016~~ 03.08.2017

Amendments: Amend the lot layout to:

- i) ~~Ensure that any buildings to remain have sufficient set back from boundaries to comply with the Building Act 1975 and the Queensland Development Code; and~~
- ii) ~~Redesign the configuration of lots in the vicinity of and including proposed Lot 35 to ensure that lots have no more than five adjoining lots (including lots that only share a common boundary corner).~~

Nil

6. ~~Plans to be amended must be amended to only incorporate the amendments listed within this Development Approval and resubmitted to Council for approval prior to the issue of any Operational Works approval, Building Works approval or Council's approval of plumbing and drainage works, or prior to commencement of use, whichever occurs first.~~

LOT NUMBERING

7. The numbering of all approved lots must remain as indicated on the Approved (and Amended) Plan (unless otherwise amended/approved by Council).

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (OPERATIONAL WORKS)

8. Prepare and submit applications to Council and obtain Operational Works approval for the following:
 - 8.1 Roadworks;
 - 8.2 Bulk Earthworks;
 - 8.3 Sewerage Infrastructure; and
 - 8.4 Water Infrastructure.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FOR ENDORSEMENT)

9. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:
 - 9.1 Construction Environmental Management Plan; and
 - 9.2 Traffic Control Plan.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (COMPLIANCE ASSESSMENT)

10. Prepare and submit the following documents to Council for compliance assessment in accordance with the conditions of this Development Approval:
 - 10.1 The Plan of Survey for the subdivision in accordance with Schedule 19 of the *Sustainable Planning Regulation 2009*.
 - 10.2 A Landscape Plan for assessment against the relevant standards and requirements listed in the Landscaping Code contained within the *Toowoomba Regional Planning Scheme* and the conditions of this Development Approval.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

11. A legible copy of the Approved and Amended Plans and Approved and Amended Documents bearing Council's approved stamp and this Development Approval must be available on the subject land and available for inspection at all times during subdivision construction and earthworks.

DEDICATIONS, AGREEMENT AND CONTRIBUTIONS

DEDICATION OF LAND

12. The land area as identified on the Approved Plans and/or in accordance with the conditions of the approval must be dedicated as road reserve in accordance with the requirements of the Department of Natural Resources and Mines.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

13. Meet all costs associated with the transfer of land dedicated to Council.
14. Ensure that all land dedicated for road is not encumbered by permanent structures, services such as pump stations, services easements or similar operational uses, unless otherwise approved by the conditions of this Development Approval.

FEES AND CHARGES

15. All current and outstanding fees, rates, interest and other charges levied on the property, must be paid in accordance with the rate at the time of payment prior to the issuing of a Compliance Certificate for the Plan of Survey.

WORKS

STREET NAMING

16. Forward a letter of Request for Street Naming to Council providing three alternative names for each new street.

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

17. Plans and specifications for all works associated with roads, stormwater drainage, sewerage, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
18. Any works that have been certified by a RPEQ must be carried out under the supervision of a RPEQ with all executed works being detailed on a Construction Supervision Certificate. A copy of the Construction Supervision Certificate must be submitted to Council upon completion of the works.
19. A Construction Supervision Certificate must be provided by a RPEQ upon completion of the works certifying that works are in accordance with the approved plans and specifications.
20. Where any condition refers to, or requires, an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted with any Design Certificate or Construction Supervision Certificate.

STORMWATER QUALITY AND FLOW MANAGEMENT

21. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the site from adjacent areas, must be provided in accordance with an Operational Works approval.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

22. Prior to the commencement of any works on site, an Operational Works application must be submitted to and be approved by Council for the internal and any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ - Civil as follows:

22.1 A Design Certificate must be submitted with the application; and

22.2 A Construction Supervision Certificate must be submitted at the completion of the approved works.

23. As part of the Operational Works application, submit to Council for approval, a Detailed Stormwater Management Plan prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) and *State Planning Policy - July 2014* demonstrating the following:

23.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;

23.2 Appropriate inspection and maintenance of stormwater quality control infrastructure in accordance with a program; and

- 23.3 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and *State Planning Policy - July 2014*.

Note: Council will consider entering into an Infrastructure Agreement for contribution in lieu of constructing the required stormwater quality works. This will require a separate request to be made to Council. As part of a request, the current stormwater management plan will require amending to include the following;

- *The filter media depth used will need to be adjusted back to 0.6m.*
- *The input data for the rainwater tanks must be provided so that assumptions can be confirmed. Alternatively, the MUSIC model can be forwarded.*

BULK EARTHWORKS OVER 50 M³ OR OVER 1M CUT OR FILL

24. All cut, fill and associated batters must be undertaken in accordance with an Operational Works approval and contained entirely within the subject site.
25. In conjunction with an application for an Operational Works approval, submit to Council the following:
- 25.1 Details of the location of any material to be sourced for fill, including the volume of fill to be moved from any particular source site;
 - 25.2 Details of the final location for any material to be exported from the site from excavations;
 - 25.3 The haulage routes that will be used. Approval for the haulage truck sizes and the final haul routes is to be obtained prior to works commencing; and
 - 25.4 As relevant, details identifying the source and disposal sites for material imported or exported as part of the development. Source sites and receiving sites must have a current development approval enabling them to export and accept any material, respectively.

EROSION & SEDIMENT CONTROL

26. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by the action of wind or running water must be stored clear of drainage paths and not within the road reserve at any time.
27. Measures such as sediment fences, earth berms, temporary drainage, temporary sediment basins, dewatering or stormwater filtering devices to prevent eroded material, sediment or sediment laden water from being transported to adjoining properties, roads or stormwater drainage systems must be provided.
28. Where erosion and sediment control measures have been damaged, fail or are inadequate and erosion or the release of sediment or sediment laden stormwater has occurred from the site or associated works, any resultant property or environmental damage or interference caused must be repaired or cleaned up within 24 hours or upon the direction of Council, at no cost to the affected parties.
29. All disturbed areas must be mulched or turfed as soon as possible during construction.
30. Measures such as vehicle baths, wash-down and construction matting together with dust suppressants and wraps, exposed ground and stockpile sprinkling must be put in place to prevent site vehicles tracking sediment onto adjoining streets during the course of the construction period, and to prevent dust nuisance during construction and the ensuing 'on-maintenance' period where applicable.

DAMAGE TO SERVICES & ASSETS

31. Undertake all reasonable measures to protect Council and public utility services and assets during construction of the development.

32. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner in accordance with the following timing:
- 32.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 32.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development.
33. Any repair work which includes alteration to the alignment or the level of existing services and assets must first be referred to the relevant service authority for approval.

SERVICES & UTILITIES

SEWERAGE INFRASTRUCTURE (GENERAL)

34. The development must be connected to Council's existing sewerage reticulation system at no cost to Council. The connection is to be within the TOPS08 catchment at maintenance hole S2504M06 as demonstrated on Kehoe Myers plan P04 – Preliminary Services Layout as submitted to Council.
- Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.*
- Note: This applies only to the Site 1 only. Future development not associated with the subject land will require further investigation into sewer infrastructure.*
35. The design and construction of the works must be in accordance with Council's *Waste Water Infrastructure Policy 2.04*.
- Note: A separate application for Operational Works approval may be required to be lodged.*
36. Any compensation or costs associated with obtaining agreement from owners or trustees of properties affected by the construction of the works must be at no cost to Council.
37. Any connection to or modification of Council's live sewerage infrastructure must be undertaken by Council.
- Note: Please note any new connection or reconnection to a Council sewer requires a Form 1 Plumbing approval prior to house drainage being installed.*
- Note: To arrange for a private works quotation for the required works contact Council's Water & Wastewater Department on 131 872.*
38. Maintenance hole (MH) lids located in roadways must be upgraded to a heavy duty trafficable system. This may include replacement of the MH (or part of) structure and any such works be undertaken by Council at no cost to Council.

WATER SUPPLY

39. The development must be connected to Council's reticulated water supply in accordance with Council's *Water Infrastructure Policy 2.03* and at no cost to Council.
- Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.*
40. Unless able to be used as part of the development, any existing connection must be disconnected at no cost to Council.
41. Certification must be provided to Council by a Licensed Plumber that the disconnection has been carried out.

42. ~~The proposed water main at Lot 36 is required to terminate with standard cul-de-sac treatment.~~

~~**Note:** The servicing arrangement for Lots 34 and 35 is not acceptable. It may be possible to have this come off the cul-de-sac treatment. This will be determined further at Operational Works Stage.~~

43. Any concrete footpath construction in this development must be located clear of the proposed water mains.
44. Water service enveloping conduits are to be installed under the roadway.

Note: The installation of tapping bands and water service pipes must be undertaken by Council.

TELECOMMUNICATION

45. Install telecommunications infrastructure to service the premises which complies with the following:
- 45.1 The requirements of the *Telecommunications Act 1997* (Cth);
 - 45.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - 45.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
46. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
47. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with the conditions of this Development Approval and all applicable legislation at the time of construction.

Note: The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

Note: For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra or a "Notice of Practical Completion" where such services are provided by NBN Co.

ELECTRICITY

48. An electricity supply must be made available to service each approved lot within the subdivision. This supply must be in accordance with the relevant standards of the electricity distributor.
49. Written evidence must be submitted to Council from the electricity distributor advising that provision has been made for connection of reticulated electricity service for each approved lot in accordance with all applicable legislation at the time of construction.

Note: In relation to reticulated electricity, written evidence must be in the form of a "Certificate of Supply" or "Supply is Available" supplied by the relevant service provider.

TRANSPORT & ACCESS

ROADWORKS (EXTERNAL TO SUBDIVISION)

50. Existing roads must be constructed as follows:

Street: Cambooya Street
Classification: Collector Road
Construction: Collector road standard for the full length of the site frontage. This is to include kerb & channel on the development frontage only and sealed pavement not less than 7.0m wide. The alignment of the works is to be consistent with the ultimate alignment for a 23m wide collector road.

Street: Rudd Street
Classification: Collector Road
Construction: Collector road standard for the full length of the site frontage. This is to include kerb & channel on the development frontage only and sealed pavement not less than 7.0m wide. The alignment of the works is to be consistent with the ultimate alignment for a 23m wide collector road.

Street: Glennie Street
Classification: Local Access (75-175 lots)
Construction: Local Access standard for the full length of the site frontage. This is to include kerb & channel on the development frontage only and sealed pavement not less than 7.0m wide. The alignment of the works is to be consistent with the ultimate alignment for a 19m wide Local Access road.

Street: Devonshire Street
Classification: Local Access (75-175 lots)
Construction: Local Access (75-175 lots) road standard for the full length of the site frontage. This is to include kerb & channel on the development frontage only and sealed pavement not less than 7.0m wide. The alignment of the works is to be consistent with the ultimate alignment for a 19m wide Local Access (75-175 lots) road. A temporary sealed turn-a-round area is to be provided at the eastern end of Devonshire Street.

~~Intersection: Cambooya/Devonshire Street Intersection.
Classification: Roundabout
Construction: To be constructed to the ultimate standard for a collector road. The design vehicle to be not less than a Heavy Rigid vehicle.~~

~~Intersection: Glennie Street/Devonshire Street Intersection.
Classification: Roundabout
Construction: To be constructed to the ultimate standard for a collector road. The design vehicle to be not less than a Heavy Rigid vehicle.~~

~~Intersection: Cambooya/Rudd Street Intersection.
Classification: Roundabout
Construction: To be constructed to the ultimate standard for a collector road. The design vehicle to be not less than a Heavy Rigid vehicle.~~

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

51. The design and construction of road works must comply with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:

51.1 Concrete kerbing and channelling;

51.2 Temporary asphalt kerbing to tapers;

51.3 Underground stormwater drainage;

- 51.4 Table drain works;
 - 51.5 Relocation of utility and Council services; and
 - 51.6 Street lighting.
52. Any pavement widening must join neatly to the existing pavement so that there are no specific irregularities in line or level resulting at or adjacent to the join for the length of the construction. Where necessary the existing pavement must be brought to a satisfactory standard in accordance with PSP No. 2 to allow for the above.
53. All street surfacing must be in accordance with the pavement construction standards in PSP No. 2.
54. Verge widths, street reserve widths, intersection treatment, provision of parking and speed control devices must comply with Council's requirements in PSP No. 2.
55. An Operational Works approval for the road works must be submitted to and approved by Council prior to the commencement of the works or as otherwise indicated. All approved road works must be completed and accepted on-maintenance prior to the commencement of the use.
56. The design and construction of the works must be certified by a Registered Professional Engineer Queensland (RPEQ) – Civil as follows:
- 56.1 A Design Certificate must be submitted with the application; and
 - 56.2 A Construction Supervision Certificate must be submitted at the completion of the approved works.

ROADWORKS (INTERNAL TO SUBDIVISION)

57. Internal roads must generally be as shown on Kehoe Myers drawing titled **Preliminary Alternative Lot Layout 45 Lots, drawing number P01, Issue E, dated 06.02.16 (as amended to comply with Condition 5) C1415156 – P12 – Issue P1, dated 03.08.17.**
58. The internal roads must be constructed to a sealed standard, including kerb and channel on both sides of the road. Such kerb and channeling must be an approved residential kerb and channel. The internal roads must be as follows:
- 58.1 The road must have an 18.0m road reserve width with 7.0m carriageway width measured between channel inverts.
- Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.*
59. All street surfacing must consist of an approved asphaltic concrete. Segmental clay/concrete pavers or patterned reinforced concrete, only to be used on feature areas of internal streets.
60. Verge widths, street reserve widths, intersection treatment, provision of parking and speed control devices must comply with Council's requirements, as set out in *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure (PSP No.2)*.
61. The design and the construction of the works must be certified by a RPEQ – Civil as follows:
- 61.1 A Design Certificate must be submitted prior to commencement of construction; and
 - 61.2 A Construction Supervision Certificate must be submitted at the completion of the approved works on the site.
62. Provide a temporary turn around ~~where noted on the Approved Plans~~ **Devonshire Street** with a temporary gravel surfaced turnaround area constructed to the geometry of Council's standard cul-de-sac turning areas.

EXTERNAL PEDESTRIAN & CYCLE PATHS

63. The following works must be constructed in accordance with *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)* and any current pedestrian and cycleway plans:

- 63.1 A 1.5m wide concrete pedestrian path for the full length of each road frontage;
- 63.2 Provision must be made for wheelchair and pram access at all kerb crossings associated with pathways, in accordance with *IPWEA Standard Drawing RS-090 – Ramped Pedestrian Crossings*;
- 63.3 The required work includes any surface earthworks, grinding or saw cutting to ensure the footpath finishes flush with all existing service covers and the like, or alternatively these services are raised or altered, so as not to create a pedestrian safety hazard; and
- 63.4 Any concrete footpath or cycleway must comply with *IPWEA Standard Drawing RS-065 – Concrete Pathway*. Where necessary, reprofiling of the verge area must be undertaken to enable the construction of concrete pathways with a maximum cross fall of 2.5%.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

64. An Operational Works approval must be submitted to and be approved by Council for the construction of the concrete footpaths. The design and the construction of the works must be certified by a RPEQ - Civil as follows:

- 64.1 A Design Certificate must be submitted with the application; and
- 64.2 A Construction Supervision Certificate must be submitted at the completion of the approved works.

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

65. All works carried out on or near roadways must be adequately signed in accordance with the *Manual for Uniform Traffic Control Devices – Part 3, Works on Roads*.

Note: Road or lane closures require approval from Council's Principal Engineer Road Operations, and all conditions of that approval complied with during construction of the works.

66. Safe pedestrian access along Council's footpaths must be maintained at all times.

Note: Should access to footpaths need to be restricted, a separate Hoarding Permit must be obtained from Council's Principal Engineer Road Operations, prior to the commencement of the works.

STREET LIGHTING

67. Provide street lighting in accordance with *PSP No. 2 - Engineering Standards – Roads and Drainage Infrastructure* and *Australian Standard AS/NZS 1158 - Lighting for roads and public spaces*.

REMOVAL OF UNNECESSARY PROPERTY ACCESS(ES)

68. Remove any existing redundant property accesses adjacent to the site. The footpath must be reinstated to match the required footpath profile and turfed.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

REMOVAL OF BUILDINGS AND STRUCTURES

69. Remove all existing buildings and structures that traverse proposed boundaries or cannot be demonstrated to comply with the boundary set-back requirements of the *Building Act 1975* and the *Queensland Development Code*.

PREMISES IDENTIFICATION

70. Prior to off maintenance, reflective street numbers must be affixed to the kerb in front of each lot.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

71. Prior to the issue of any Operational Works approval, submit to Council for endorsement a Construction Environmental Management Plan prepared by a qualified person that at a minimum includes the following:
- 71.1 Hours of operational work activity;
 - 71.2 Air quality management – emission monitoring;
 - 71.3 Noise and vibration management;
 - 71.4 Construction site lighting (where night works are proposed to occur);
 - 71.5 Stormwater quality management;
 - 71.6 Erosion and sediment control management;
 - 71.7 Waste management;
 - 71.8 Complaint management;
 - 71.9 Community awareness; and
 - 71.10 Preparation of site work plans.
72. The Construction Environmental Management Plan must address both the internal works for the development and any associated external works.
73. The Construction Environmental Management Plan must receive endorsement by Council prior to commencement of any site works.
74. The endorsed Construction Environmental Management Plan must be implemented, maintained and modified where necessary to maintain compliance with the requirements of this Development Approval at all times during site works.

REMOVAL OF EXISTING STREET TREES

75. The removal or modification (including any disturbance of the root system within the drip line) of a street tree must not be undertaken unless otherwise approved in writing by Council and in accordance with any conditions associated with the granted approval.

Note: Compensation Evaluation of Street Trees - The 2015/2016 Environmental and Community Services Group Register of Cost Recovery Fees and Charges (which took effect on 1 July 2015) outlines the compensation required for any approval to remove a street or park tree. The compensation is valued at \$20.00 per evaluation point with a maximum evaluation points per tree of 81,920. Evaluation of street trees is authorised under Subordinate Local Law No. 1.15 (Carrying Out Works on a Road or its Operation) 2011 and includes inspection and calculation of tree evaluation points by Council's qualified arborist.

PROTECTION OF STREET TREES

76. Street trees affected by works within the 'Precautionary Area', must be protected for the duration of construction. All works must be carried out in accordance with the relevant standards in *Planning Scheme Policy No.8 - Street Trees* and must include in particular:

- 76.1 Establishment of a work exclusion area around the street tree to be retained prior to commencement of construction to avoid damage and soil compaction from plant and machinery;
- 76.2 Providing Council with one weeks' notice of any excavation works affecting the 'Precautionary Area' of a street tree so that a Council Arborist may be present during excavation works;
- 76.3 During excavation works, where roots greater than 50mm diameter are uncovered that need to be severed, obtain approval from a Council Arborist to sever the root, and if granted, do so with a cutting device and not a ripping device; and
- 76.4 Street tree protection is to be maintained until works are completed or accepted on-maintenance.

LANDSCAPING – STREET TREES

- 77. Submit to Council for compliance assessment, a Landscape Plan prepared by a qualified person that details in particular:
 - 77.1 The street tree species to be planted and their location;
 - 77.2 The number and container size of plants;
 - 77.3 The typical planting detail including preparation, backfill, staking and mulching; and
 - 77.4 North point, scale and drawing number.

LANDSCAPING WORKS (PROVISION OF STREET TREES)

- 78. Unless otherwise agreed by Council, plant and maintain for a period of 12 months, one (1) street tree within the road reserve per lot frontage, capable of reaching eight (8) metres in height at maturity.
- 79. The selection and planting of any street tree, including any street tree required to replace a removed street tree must be in accordance with the requirements of *Planning Scheme Policy No.8 - Street Trees*, the *Toowoomba Regional Council Street Tree Master Plan*, and the approved Landscape Plan.
- 80. All landscape works must be established by a qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be refurbished when its life expectancy is reached.

REMOVAL OF EXISTING TREES AND VEGETATION

- 81. Clearing, including felling, pushing, lopping and grubbing of existing trees and vegetation not identified for retention must be undertaken by a suitably qualified person and must include:
 - 81.1 Stump grinding to below finished surface level;
 - 81.2 Rectification to the finished surface levels and materials;
 - 81.3 No damage to other vegetation to be retained; and
 - 81.4 No burning of removed vegetation and debris; and
 - 81.5 Conclude with the area being stabilised against erosion.
- 82. Any processing of trees or vegetation must be carried out in a safe manner and without exceeding the noise and air emission levels listed or prescribed in this Development Approval.

FAUNA MANAGEMENT DURING REMOVAL OF EXISTING TREES AND VEGETATION

83. Prior to clearing all trees to be removed are to be inspected for wildlife (i.e. koalas, possums, birds nests etc.). If wildlife is present, the tree must not be felled or pruned until the wildlife has left the tree or has been removed by a legislative compliant Fauna Spotter Catcher.

B. ADVICES:

RESUBMISSION OF PLANS REQUIRING AMENDMENT

- 1) The conditions of this Development Approval require resubmission of plans to Council with amendments. Please address the amended plans to Council's Development Assessment Branch.

INFRASTRUCTURE CHARGES

- 2) Infrastructure charges are now levied by way of an Infrastructure Charges Notice, issued pursuant to Section 635 of the *Sustainable Planning Act 2009*.

OTHER LAWS & REQUIREMENTS

- 3) This approval relates to development requiring approval under the *Sustainable Planning Act 2009* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.

WHEN APPROVAL TAKES EFFECT

- 4) This approval takes effect in accordance with the provisions of Section 339 of the *Sustainable Planning Act 2009*.

WHEN APPROVAL LAPSES

- 5) This approval will lapse in accordance with the provisions contained in Sections 341 and 342 of the *Sustainable Planning Act 2009*, unless otherwise stated elsewhere within this Development Approval.

CLEARING OF PROTECTED PLANTS

- 6) In accordance with *Nature Conservation (Wildlife Management) Regulation 2006* you must check the flora survey trigger map, prior to the clearing of any native plants found on the development site to determine if a flora survey must be undertaken and if a clearing permit for clearing endangered, vulnerable and near threatened plants ('EVNT plants') and their supporting habitat is required.

Under the Regulation, if a flora survey identifies that EVNT plants are not present or can be avoided by 100m, the clearing activity may be exempt from a permit, however an exempt clearing notification form must be submitted to the Department of Environment and Heritage Protection. In an area other than a high risk area, a clearing permit is only required where a person is, or becomes, aware that EVNT plants are present, though a range of exemptions do apply. Clearing of least concern plants is generally exempt from requiring a clearing permit. For further information associated with the clearing of protected plants and to obtain flora survey trigger map for your site please refer to the Departmental website.

EXCAVATION & FILLING

- 7) The planning scheme declares excavation and filling activity involving less than 50m³ of material and excavation and filling activity to a depth or height lower than 1m to be exempt development. Any combination of excavation or filling where 50m³ or more of fill is deposited on, or 50m³ or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Sustainable Planning Act 2009*, must obtain an Operational Works approval from Council before commencing site works.

DEMOLITION OF BUILDINGS

- 8) Any structures located on the subject land that are to be removed require the obtaining of any necessary building approvals, and certification by a Building Certifier that the resulting setbacks and/or fire rating of any remaining buildings comply with the Standard Building Regulations.

ENVIRONMENTAL HARM

- 9) The *Environmental Protection Act 1994* states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the Act as any adverse affect, or potential adverse affect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

ENVIRONMENT PROTECTION & BIODIVERSITY CONSERVATION ACT 1999

- 10) An additional approval from the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* may be required in relation to the approved development. The *Environment Protection and Biodiversity Conservation Act 1999* relates to actions that may have a significant impact on matters of national environmental significance (NES) or the environment generally if on Commonwealth land. These matters of NES include nationally listed threatened and migratory species, Ramsar wetlands, World Heritage, Commonwealth marine and nuclear actions.

The Act provides that a person must not take an action that has, will have or is likely to have a significant impact on matters of NES, without the approval of the Commonwealth Environment Minister. Such actions should be referred to the Minister for a decision on whether or not approval is required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Contact the Community Information Unit at the Commonwealth Department of Environment and Heritage on 1800 803 772 to discuss any obligations under the Act.

STREET TREE DISTURBANCE & REMOVAL APPROVAL

- 11) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to disturb or remove street trees. A separate Street Tree Disturbance or Removal Approval is required where a street tree is expected to be disturbed or removed. Please contact Council's Parks and Recreation Branch via Council's Customer Service Centre for further information in respect of street trees.

WATER POLLUTION

- 12) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction and demolition, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

WORKS WITHIN A WATERCOURSE

- 13) The approved development proposal may involve works within a watercourse which will require referral to the Department of Natural Resources & Mines under the *Water Act 2000* and *Sustainable Planning Act 2009* at the time of making an application for Operational Works.

ABORIGINAL CULTURAL HERITAGE ACT 2003

- 14) There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the *Aboriginal Cultural Heritage Act 2003* ("ACH Act").

The ACH Act establishes a cultural heritage duty of care which provides that: "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." It is an offence to fail to comply with the duty of care. Substantial monetary penalties may apply to individuals or corporations breaching this duty of care. Injunctions may also be issued by the Land Court, and the Minister administering the Act may also issue stop orders for an activity that is harming or is likely to harm Aboriginal cultural heritage or the cultural heritage value of Aboriginal cultural heritage.

You should contact the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (DATSIMA) Cultural Heritage Unit on (07) 3247 6212 to discuss any obligations under the ACH Act.

FIRE ANTS

- 15) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Plant Protection Act 1989* apply, compliance with statutory provisions must be achieved.

STORMWATER DISCHARGE TO PARKLAND

- 16) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to discharge stormwater to Council's parkland. Separate, written approval is required where stormwater is expected to be discharged to Council parkland. Please contact Council's Parks and Recreation Branch via the Customer Service Centre for further information in respect of approval for stormwater discharge to parkland.

QUALIFIED PERSON

- 17) For the purpose of preparing a Landscape Plan, a qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of 3 years current experience in the field of landscape design.
- 18) For the purpose of preparing an Arborist Report, a qualified person is considered to be a person with either:
- 18.1 ISA certification; or
 - 18.2 A Diploma of Arboriculture in addition to a minimum of 3 years current experience in the field of arboriculture.

C. ATTACHMENTS:

- Concurrence Agency Conditions Schedule 3
- Amended Survey Plan
- Appeal provisions pursuant to the *Planning Act 2016*

List of Submitters:-

Rachel Leigh Doljanin
116 Cambooya Street
DRAYTON QLD 4350

SCHEDULE 3

CONCURRENCE AGENCY CONDITIONS

STATE ASSESSMENT AND REFERRAL AGENCY (SARA)

Our reference: SDA-0815-022984

Your reference: MCUI/2015/4007

16 March 2016

The Chief Executive Officer
Toowoomba Regional Council
PO Box 3021
Toowoomba QLD 4350

Attention: Mr Rodney O'Brien

Dear Mr O'Brien

Concurrence Agency Response—with conditions— Section 242 Preliminary Approval to Vary the Effect of the Local Planning Instrument (Material Change of Use in accordance with the Preliminary Approval Document for the Drayton Valley Estate) and Reconfiguring a Lot (3 Lots into 43 Lots)

38-44 & 28-36 Rudd Street; 132-140 & 162-170 Cambooya Street; 2-22 Devonshire Street;
51-59 & 37-59 Harrow Street DRAYTON QLD 4350

(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of Infrastructure, Local Government and Planning (DILGP) under section 272 of the *Sustainable Planning Act 2009* on 5 August 2015.

Applicant details

Applicant name: Chemille Pty Ltd & Sologne Pty Ltd

Applicant contact details: C/- Precinct Urban Planning
PO Box 3038
TOOWOOMBA QLD 4350

Site details

Street address: 38-44 & 28-36 Rudd Street; 132-140 & 162-170 Cambooya Street; 2-22 Devonshire Street; 51-59 & 37-59 Harrow Street Drayton QLD 4350

Lot on plan: Lots 1 and 2 on RP154215; Lot 4 on RP132016; Lots 2 & 3 on RP56826; Lots 2 & 4 on RP118570; Lot 1 on RP51147; Lot 32 on D133630

Local government area: Toowoomba Regional Council

Application details

Proposed development: Development Permit for Section 242 Preliminary Approval to Vary the Effect of the Local Planning Instrument (Material Change of Use in accordance with the Preliminary Approval Document for the Drayton Valley Estate) and Reconfiguring a Lot (3 Lots into 43 Lots)

Referral triggers

The development application was referred to DILGP under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger 7.3.2 An aspect of development identified in schedule 9 that –

- (a) is for a purpose mentioned in schedule 9, column 1 and
- (b) meets or exceeds the threshold –
 - (i) for development in LGA population 1 - mentioned in schedule 9, column 2 for the purpose or
 - (ii) for development in LGA population 2 - mentioned in schedule 9, column 3 for the purpose.

However, if the development is for a combination of purposes mentioned in the same item of schedule 9, the threshold is for the combination of purposes and not for each purpose individually.

Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, DILGP must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

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

For further information, please contact Ms Charmaine Aldridge, Principal Planning Officer, on 4616 7305, or email charmaine.aldridge@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Ian McHugh
A/Manager Planning

cc: Chemille Pty Ltd & Sologne Pty Ltd, andrew@precinctplan.com.au
 enc: Attachment 1—Conditions to be imposed
 Attachment 2—Reasons for decision to impose conditions

Our reference: SDA-0815-022984

Your reference: MCUI/2015/4007

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Development Permit for Reconfiguring a Lot (3 Lots into 43 Lots)		
Schedule 7, Table 3, Item 2 Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads (DTMR) to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	The development must be carried out generally in accordance with the following plans: <i>“Preliminary Lot Layout Plan”</i> , prepared by Kehoe Myers, Project Number C1415156, Drawing Number P01 dated 5 February 2016.	At all times
Stormwater Management		
2.	<ul style="list-style-type: none"> (a) Stormwater management of the development must ensure no worsening or actionable nuisance to the State-controlled road network; (b) Any works on the land must not: <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the State-controlled road network; (ii) interfere with and/or cause damage to the existing stormwater drainage on the State-controlled road network; (iii) surcharge any existing culvert or drain on the State-controlled road network; (iv) reduce the quality of stormwater discharge onto the State-controlled road network. (c) RPEQ certification must be provided to the DTMR, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition. 	<ul style="list-style-type: none"> (a) and (b) At all times (c) Prior to Submitting the Plan of Survey to the local government for approval

Our reference: SDA-0815-022984

Your reference: MCU/2015/4007

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application; and
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the State-transport corridor.

Chapter 6, Part 1 of the Planning Act 2016 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
- (a) matters that may be appealed to—
- either a tribunal or the P&E Court; or
 - only a tribunal; or
 - only the P&E Court; and
- (b) the person—
- who may appeal a matter (the appellant); and
 - who is a respondent in an appeal of the matter; and
 - who is a co-respondent in an appeal of the matter; and
 - who may elect to be a co-respondent in an appeal of the matter.
- (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—
- the adopted charge itself; or
 - for a decision about an offset or refund—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - 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—
- is in the approved form; and
 - 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—
- the respondent for the appeal; and
 - each co-respondent for the appeal; and
 - for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - 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
 - for an appeal to the P&E Court—the chief executive; and
 - for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The service period is—

- if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
- 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—
- conduct engaged in for the purpose of making a decision; and
 - other conduct that relates to the making of a decision; and
 - the making of a decision or the failure to make a decision; and
 - a purported decision; and
 - a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- is final and conclusive; and
- 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
- 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 rules of the P&E Court.