



## Prince Edward Island

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## Île-du-Prince-Édouard

Justice et  
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May 14, 2026

**VIA EMAIL – [mwalshdoucette@irac.pe.ca](mailto:mwalshdoucette@irac.pe.ca)**

Michelle Walsh-Doucette  
Commission Clerk  
Island Regulatory and Appeals Commission  
National Bank Tower, Suite 501  
134 Kent Street, Charlottetown PE C1A 7L1

**Re: Appeal Docket #LA25017  
Lorna and Gerald Stewart v. Minister of Land and Environment  
Our File: LS 27875**

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1. We represent the Minister of Land and Environment, formerly the Minister of Housing, Land and Communities (the “Minister”), in relation to the above noted appeal filed by Lorna and Gerald Stewart (the “Appellants”) on September 26, 2025 (the “Appeal”).
2. The Appeal arises from the Minister’s September 12, 2025, approval of an application of Alex and Ashley Davidson (the “Developers”) to locate an Industrial (equipment repair and storage) Home-Based Business structure on an existing Residential (Single Unit Dwelling) use lot, being PID# 280370, located at 893 Darlington Road, Brookfield, Queens County (the “Subject Property”) (the “Decision”).
3. The Minister’s preliminary submission in response to the Appeal was filed on November 7, 2025 (the “Minister’s Preliminary Submissions”).
4. The Minister’s Record of Decision was also filed on November 7, 2025 (the “Record”). A full copy of the Developers’ original development permit application was filed on November 27, 2025, and supplemental site visit photos taken by Property Liaison Officer, Bradford Wonnacott, were filed on March 20, 2026.
5. This brief supplemental submission is provided on behalf of the Minister in response to the submissions filed by the Appellants on November 27, 2025 (the “Appellants’ Preliminary Submissions”).

## **Minister's Position**

6. The Minister provides this response to the Appellants' Preliminary Submissions insofar as they address the issue of jurisdiction and alleged detrimental impact. This response is intended to supplement the Minister's Preliminary Submissions. In doing so, the Minister adopts and relies on the Minister's Preliminary Submissions.

### *Jurisdiction*

7. The Minister understands that the preliminary issue of the Commission's jurisdiction remains a live issue to be determined at the hearing of the Appeal.
8. The Minister therefore requests that the Commission determine, as a preliminary legal issue at the hearing of the Appeal, whether the Commission has the jurisdiction to hear and determine the issues raised by the Appellants, as well as grant the requested relief.
9. The Minister maintains that the true essence of the Appeal and the issues advanced by the Appellants are properly characterized as matters of nuisance and, with respect, fall outside the statutory jurisdiction of the Commission.
10. In support of the Minister's position, the Minister relies on Order LA22-09 and Order LA22-03.<sup>1</sup>
11. Should the Commission determine that the Appeal falls with the Commission's jurisdiction, the Minister submits that the Commission's jurisdiction is limited to the September 12, 2025, issuance of the development permit by the Minister for a home-based business on the Subject Property. The issue of enforcement of all land matters is at the discretion of the Minister.<sup>2</sup>
12. Further, paragraphs 25 and 26 of Order LA14-01 state:

*[25] In the present appeal, the Respondent had received an application for a "storage building". The Respondent was also in receipt of concerns from some area residents that the building might be used for commercial purposes. The Respondent on August 12, 2013 issued a development permit that was very clearly specified to be for a non-commercial storage building. The Commission can find no evidence of any error or omission in the Respondent's decision. The Commission is of the view that the Respondent's decision was made in full compliance with the requirements of, and said decision also made pursuant to the authority granted under, the Planning Act and the Regulations.*

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<sup>1</sup> See: *Brian R MacKay v Minister of Agriculture and Land*, Order LA22-03, at paras 11 to 16 ("*MacKay*"); *Clare Fagan v City of Summerside*, Order LA22-09, at paras 10, 30 and 31.

<sup>2</sup> *MacKay* at para 12.

[26] The Commission wishes to make it clear that it is only the Respondent's decision which may be appealed to the Commission. A breach of the terms and conditions of the development permit would need to be dealt with in a forum with the jurisdiction to do so.<sup>3</sup>

[Emphasis Added]

### *Detrimental Impact*

13. In the event the Commission determines that the Appeal falls within the Commission's jurisdiction, it is the Minister's position that the Decision to approve the subject application is in accordance with the *Planning Act*, RSPEI 1988, Cap P-8 (the "Act") and the *Planning Act Subdivision and Development Regulations*, PEI Reg EC693/00 (as amended) (the "Regulations").

14. The Appellants submit that the Minister failed to consider whether the home-based business would have a detrimental impact on the Appellants.<sup>4</sup>

15. Further, at page 3 of the Appellants' Preliminary Submissions, the Appellants assert that:

*The Minister has provided no evidence to support its contention that no detrimental impact would result from the development. One of the purposes of the Planning Act is to "ensure compatibility between land uses". The approved development is not compatible and results in a detrimental impact. Thus, the approval was contrary to the Regulations.*

16. The Minister rejects this assertion. The evidentiary record, together with the submissions advanced in the Minister's Preliminary Submissions and the oral evidence to be presented by the Minister's witnesses at the hearing, if necessary, demonstrate that the Minister considered whether the proposed home-based business would result in a detrimental impact, as required by the Regulations. Ultimately, the Minister determined that no detrimental impact would result.

17. Rather, the Appellants have failed to put forward more than subjective concerns that the development may result in a detrimental impact. The Commission has held that, where sound planning principles are at issue, the Appellants must adduce objective and reliable evidence from a planning expert to show that the Decision was incorrect.

18. For example, at paragraph 61 of Order LA24-03, the Commission found:

*[61] As a final comment, the Commission notes that, importantly, the Appellant did not provide expert planning advice to demonstrate to the Commission that the Minister made the wrong decision. The best (and only)*

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<sup>3</sup> *Ray Schill et al v Minister of Finance, Energy and Municipal Affairs*, Order LA14-01, at paras 25 to 26.

<sup>4</sup> Appellants' Preliminary Submissions, page 2.

planning-related evidence before the Commission was provided by the Minister's witnesses, Dean Lewis and Eugene Lloyd. The Commission accepts their evidence as credible on the issues testified to. The Commission has previously commented in in Order LA18-02 (Queens County Condominium Corporation No. 40 v, City of Charlottetown) that where sound planning principles are at issue, it is incumbent upon an appellant to bring forward objective and reliable evidence from a planning professional or a person with experience in making planning-related decisions, and that more than the subjective concerns are required.<sup>5</sup>

[Emphasis Added]

19. At page 2 of the Appellants' Preliminary Submissions, the Appellants rely on the letter dated September 5, 2025, from their counsel in support of their position that the development will result in a detrimental impact.<sup>6</sup>
20. Although this letter does not relate directly to development permit subject to the Appeal, the concerns identified therein are, in any event, subjective and grounded in nuisance, rather than constituting evidence of detrimental impact.

### **Conclusion**

21. For the reasons outlined above and set forth in the Minister's Preliminary Submissions, the Minister submits that the Appeal must be dismissed.
22. Trusting the foregoing is satisfactory; however, if you have questions about these supplementary submissions, please do not hesitate to contact us.

### **ALL OF WHICH IS RESPECTFULLY SUBMITTED**

Yours truly,



Christiana Tweedy  
Lawyer for the Minister of Land and Environment

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<sup>5</sup> *ECO PEI v Minister of Housing, Land and Communities*, Order LA24-03, at para 61.

<sup>6</sup> Record at TAB 7D.