



## **INFORMATION SHEET – REVIEWS AND APPEAL PROCESS**

### **Division 1 Preliminary**

#### **99BRAW Meaning of *interested person* and *original decision***

(1) An ***interested person*** for this part is an applicant under this chapter who—

- (a) has been given a decision notice; or
- (b) if the period during which the application was required to be decided under the relevant connections policy has expired—has not been given a decision notice; or
- (c) has had 1 or more of the following charges levied for a connection, other than for a standard connection—
  - (i) a connection charge;
  - (ii) a property service works charge;
  - (iii) a charge under an infrastructure charges notice; or
- (d) has been given a notice under section 99BRDG about a conversion application, or there is a deemed refusal for the application.

(2) Each of the following is an ***original decision***—

- (a) the decision or action for which a decision notice was given (an ***approval decision***);
- (b) if the period during which an application was required to be decided under the connections policy has expired—the failure to give a decision notice for the application (a ***failure to decide***);
- (c) the decision to levy a charge for a connection mentioned in subsection (1)(c)(i) or (ii) (a ***charge decision***);
- (d) the decision to give an infrastructure charges notice;
- (e) the refusal or deemed refusal of a conversion application (a ***conversion decision***).

(3) However, for an original decision under subsection (2)(a), an interested person cannot appeal a water approval condition that became a condition under section 99BRAM.

**99BRAX Other definitions for pt 4** In this part—

***charge decision*** see section 99BRAW(2)(c).

***conversion decision*** see section 99BRAW(2)(e).

***deemed refusal***, for a conversion application, means a refusal of the application that is taken to have happened if a decision is not made within the required period for the application.

***required period***, for a conversion application, see section 99BRDF(6).

***standard appeal period***, for an appeal under division 3 or 4, means—

- (a) if the notice for the review decision is given to the interested person—within 20 business days after the notice was given; and
- (b) otherwise—within 20 business days after the review decision is taken to have been made under section 99BRBC(4).

### **Division 2 Internal reviews**

#### **99BRAY Appeal process starts with internal review**

An appeal of an original decision, other than an appeal against a compliance notice, must be, in the first instance, by way of an application for internal review.

#### **99BRAZ Who may apply for review**

- (1) An interested person for an original decision may apply for an internal review of the decision (an ***internal review application***).
- (2) An internal review application may be made only to the chief executive officer of the relevant distributor-retailer (the ***reviewer***).

### **99BRBA Requirements for making internal review application**

An internal review application must be—

- (a) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and
- (b) supported by enough information to enable the reviewer to decide the application; and
- (c) made within 30 business days after the day—
  - (i) for a failure to decide or a deemed refusal of a conversion application—the relevant decision was required to be made; or
  - (ii) otherwise—the original decision is made.

### **99BRBB Review decision**

- (1) The reviewer must, within the review decision period—
  - (a) review the original decision the subject of the application; and
  - (b) make a decision (the **review decision**) to—
    - (i) confirm the original decision; or
    - (ii) amend the original decision; or
    - (iii) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
  - (a) the person who made the original decision; or
  - (b) a person in a less senior office than the person who made the original decision.
- (3) Subsection (2)—
  - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
  - (b) does not apply to an original decision made by the chief executive officer.
- (4) If the review decision confirms the original decision, for the purpose of an appeal, the original decision is taken to be the review decision.
- (5) If the review decision amends the original decision, for the purpose of an appeal, the original decision as amended is taken to be the review decision.
- (6) In this section— **review decision period** means—
  - (a) 15 business days after receiving an internal review application; or
  - (b) another period agreed to between the distributor-retailer and the applicant.

### **99BRBC Notice of review decision**

- (1) The reviewer must, within 5 business days after the review decision period ends, give the applicant notice of the review decision (a **review notice**).
- (2) The review notice must state the reasons for the review decision.
- (3) If the review decision is not the decision sought by the applicant, the notice must also state the applicant may, within 20 business days after the review notice is given—
  - (a) appeal against the decision to a building and development committee; or
  - (b) appeal against the decision to the Planning and Environment Court.
- (4) If the reviewer does not comply with subsection (1), the reviewer is taken to have made a decision confirming the original decision.

### **99BRBD Internal review stops particular actions**

- (1) If an internal review is started under this division, any work under a water approval must not be started until the review is decided or withdrawn.
- (2) Despite subsection (1), if the reviewer is satisfied the outcome of the review would not be affected if the work is started before the review is decided, the reviewer may allow the work to start before the review is decided.

## **Division 3 Appeals to a building and development committee**

### **99BRBE Appeals about applications for connections—general**

- (1) This section applies to an applicant for a connection if—
  - (a) for the application for a connection, the land to which the connection relates is subject to a development application mentioned in the Planning Act, section 519 or 522; and
  - (b) the applicant applied for internal review of an approval decision or failure to decide; and
  - (c) the review decision is not the decision sought by the applicant.

(2) The applicant may appeal to a building and development committee against any of the following—

- (a) a refusal, or an approval in part, of an application;
- (b) a water approval condition;
- (c) another matter stated in the approval.

(3) The appeal must be started within the standard appeal period.

#### **99BRBF Appeals about applications for connections—particular charges**

(1) This section applies to an applicant for a connection if—

- (a) the applicant applied for internal review of a charge decision or a decision to give an infrastructure charges notice; and
- (b) the review decision is not the decision sought by the applicant.

(2) The applicant may appeal to a building and development committee about the review decision.

(3) The appeal may be made only on 1 or more of the following grounds—

- (a) the decision involved an error relating to the application of the relevant charge;
- (b) if the decision is the giving of an infrastructure charges notice—
  - (i) the decision involved an error relating to—
    - (A) the working out, for section 99BRCJ, of additional demand; or
    - (B) an offset or refund; or
  - (ii) there was no decision about an offset or refund; or
  - (iii) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.

(4) To remove any doubt, it is declared that the appeal must not be about—

- (a) the relevant charge itself; or
- (b) for a decision about an offset or refund for an infrastructure charges notice—
  - (i) the establishment cost of infrastructure identified in the distributor-retailer's water netserv plan; or
  - (ii) the cost of infrastructure decided using the method included in the distributor-retailer's infrastructure charges schedule.

(5) The appeal must be started within the standard appeal period.

#### **99BRBFA Appeals against refusal of conversion application**

(1) This section applies to an applicant for a conversion application if—

- (a) the applicant applied for internal review of the conversion decision; and
- (b) the review decision is not the decision sought by the applicant.

(2) The applicant may appeal to a building and development committee against the review decision.

(3) The appeal must be started within the standard appeal period.

#### **99BRBG Application of relevant committee appeal provisions**

(1) The relevant committee appeal provisions apply, with any necessary changes, to an appeal under this division as if a reference in the provisions to—

- (a) an assessment manager were a reference to the distributor-retailer; and
- (b) a development application were a reference to the application for the water approval; and
- (c) a development approval were a reference to a water approval; and
- (d) an appeal under the Planning Act were an appeal under this Act; and
- (e) an infrastructure charges notice under the Planning Act were an infrastructure charges notice under this Act; and
- (f) the period required under the Planning Act for lodging a document to start proceedings were a reference to the period required under this Act for lodging a document to start proceedings.

(2) In this section— **relevant committee appeal provisions** means—

- (a) the Planning Act, sections 536 to 537, 554 to 563, 564 (other than section 564(2)(d) and (e), 567, 569 and 569A; and
- (b) any definitions under that Act relevant to the sections mentioned in paragraph (a).

### **99BRBH Notice of appeal**

- (1) This section applies to an appeal under this division.
- (2) The registrar of building and development committees must, within 10 business days after the day the appeal is started, give written notice of an appeal under this division to the distributor-retailer.
- (3) The notice must state the grounds of the appeal.

### **99BRBI Respondent for appeals**

- (1) This section applies to an appeal under this division.
- (2) The distributor-retailer is the respondent for the appeal and may be heard in the appeal as a party to the appeal.

### **99BRBJ Who must prove case for appeals**

In an appeal by the applicant under this division, it is for the applicant to establish that the appeal should be upheld.

### **99BRBK Registrar must ask distributor-retailer for material in particular proceedings**

- (1) This section applies to an appeal under—
  - (a) section 99BRBE if the applicant applied for internal review of a failure to decide; or
  - (b) section 99BRBFA if the applicant applied for internal review of a deemed refusal of a conversion application.
- (2) The registrar of building and development committees must ask the distributor-retailer to give the registrar—
  - (a) all material, including plans and specifications, relevant to the application; and
  - (b) a statement of the reasons the distributor-retailer had not decided the application during the period for deciding the application; and
  - (c) any other information the registrar requires.
- (3) The distributor-retailer must give the material mentioned in subsection (2) within 10 business days after the day the registrar asks for the material.

### **99BRBL Lodging appeal stops particular actions**

- (1) If an appeal is started under this division, any work under a water approval must not be started until the appeal is decided or withdrawn.
- (2) Despite subsection (1), if the building and development committee is satisfied the outcome of the appeal would not be affected if the work is started before the appeal is decided, the committee may allow the work to start before the appeal is decided.

### **99BRBM Appeals may be combined with appeals under the Planning Act**

- (1) This section applies if—
  - (a) an appeal is started under this division; and
  - (b) an appeal is started under the Planning Act for a development application mentioned in section 99BRBE.
- (2) The appeal under this division may be combined and heard with the appeal under the Planning Act.

## **Division 4 Appeals to the Planning and Environment Court**

### **99BRBN Appeals about applications for connections—general**

- (1) This section applies to an applicant for a connection if—
  - (a) the applicant applied for internal review of an approval decision or failure to decide; and
  - (b) the review decision is not the decision sought by the applicant.
- (2) The applicant may appeal against the review decision to the Planning and Environment Court.
- (3) The appeal must be started within the standard appeal period.

### **99BRBO Appeals about applications for connections—particular charges**

- (1) This section applies to an applicant for a connection if—
  - (a) the applicant applied for internal review of a charge decision or a decision to give an infrastructure charges notice; and
  - (b) the review decision is not the decision sought by the applicant.
- (2) The applicant may appeal against the review decision to the Planning and Environment Court.
- (3) An appeal under this section may be made only on 1 or more of the following grounds—
  - (a) the charge imposed by the distributor-retailer is so unreasonable that no reasonable distributor-retailer could have imposed it;

- (b) the decision involved an error relating to the application of the relevant charge;
- (c) if the decision is the giving of an infrastructure charges notice—
  - (i) the decision involved an error relating to—
    - (A) the working out, for section 99BRCJ, of additional demand; or
    - (B) an offset or refund; or
  - (ii) there was no decision about an offset or refund; or
  - (iii) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.

(4) To remove any doubt, it is declared that the appeal must not be about—

- (a) the relevant charge itself; or
- (b) for a decision about an offset or refund for an infrastructure charges notice—
  - (i) the establishment cost of infrastructure identified in the distributor-retailer's water netserv plan; or
  - (ii) the cost of infrastructure decided using the method included in the distributor-retailer's infrastructure charges schedule.

(5) The appeal must be started within the standard appeal period.

#### **99BRBOA Appeals against refusal of conversion application**

- (1) This section applies to an applicant for a conversion application if—
  - (a) the applicant applied for internal review of the conversion decision; and
  - (b) the review decision is not the decision sought by the applicant.
- (2) The applicant may appeal to the Planning and Environment Court against the review decision.
- (3) The appeal must be started within the standard appeal period.

#### **99BRBP Appeals about water connection compliance notices**

- (1) This section applies if a person is given a compliance notice.
- (2) The person may appeal against the decision to the Planning and Environment Court.
- (3) The appeal must be started within 20 business days after the water connection compliance notice is given to the person.

#### **99BRBQ Application of relevant court provisions**

- (1) The relevant court appeal provisions apply, with any necessary changes, to an appeal under this division as if a reference in the provisions to—
  - (a) an appellant were a reference to the applicant; and
  - (b) a respondent were a reference to the distributor-retailer; and
  - (c) a development application were a reference to the application for the water approval; and
  - (d) a development approval were a reference to the water approval; and
  - (e) an appeal under the Planning Act were an appeal under this Act; and
  - (f) an enforcement notice were a water connection compliance notice.

(2) In this section— **relevant court appeal provisions** means—

- (a) the Planning Act, chapter 7, part 1, divisions 11 to 13 other than sections 482 to 490, 493 and 495 (3) to (5); and
- (b) any definitions under that Act relevant to the provisions mentioned in paragraph (a).

#### **99BRBR Notice of appeal to other parties**

- (1) The applicant must give notice of the appeal to the distributor-retailer.
- (2) The notice must be given within 10 business days after the appeal is started.
- (3) The notice must state the grounds of the appeal.

#### **99BRBS Stay of operation of water connection compliance notice**

- (1) If the applicant gives a notice of appeal about a water connection compliance notice, the operation of the compliance notice is stayed until the earliest of the following to happen—
  - (a) the Planning and Environment Court, on the application of the distributor-retailer, decides otherwise;
  - (b) the appeal is withdrawn;
  - (c) the appeal is dismissed.
- (2) However, subsection (1) does not apply if the compliance notice is about—
  - (a) a work, if the water connection compliance notice states the entity believes the work is a danger to persons or a risk to public health; or
  - (b) stopping the demolition of a work; or

- (c) clearing vegetation on freehold land; or
- (d) the removal of quarry material allocated under the *Water Act 2000*; or
- (e) extracting clay, gravel, rock, sand or soil, not mentioned in paragraph (d), from Queensland waters; or
- (f) works the assessing authority reasonably believes is causing erosion or sedimentation; or
- (g) works the assessing authority reasonably believes is causing an environmental nuisance; or
- (h) action required to stop damage or further damage to the distributor-retailer's water infrastructure.

#### **99BRBT Respondent for appeals**

The distributor-retailer is the respondent for the appeal and may be heard in the appeal as a party to the appeal.

#### **99BRBU Who must prove case for appeals**

In an appeal by the applicant under this division, it is for the applicant to establish that the appeal should be upheld.

#### **99BRBV Lodging appeal stops particular actions**

- (1) If an appeal, other than an appeal under section 99BRBP, is started under this division, any work under a water approval must not be started until the appeal is decided or withdrawn.
- (2) Despite subsection (1), if the Planning and Environment Court is satisfied the outcome of the appeal would not be affected if the work is started before the appeal is decided, the court may allow the work to start before the appeal is decided.

#### **99BRBW Appeals may be combined with appeals under the Planning Act**

- (1) This section applies if—
  - (a) an appeal is started under this division; and
  - (b) an appeal is started under the Planning Act for a development application which relates to land the subject of the application of a water approval.
- (2) The appeal under this division may be combined and heard with the appeal under the Planning Act.

#### **FOR MORE INFORMATION OR THE LATEST VERSION PLEASE REFER TO:**

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/S/SouthEQWDisA09.pdf>  
<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-046>