

25 October 2022

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Ms Anissa Levy
CEO and Commissioner
Queensland Building & Construction Commission
299 Montague Road
West End Qld 4101

VIA EMAIL: anissa.levy@qbcc.qld.gov.au

Dear Anissa,

RE: QBCC ADMINISTRATIVE PROCESSES FOR INTERNAL REVIEW

I am writing to seek your assistance to resolve an issue detrimentally impacting the effectiveness of the QBCC internal review system.

As you would be aware, the *Queensland Building and Construction Commission Act 1991* (QBCC Act) establishes an internal review process for reviewable decisions made by the QBCC. Reviewable decisions include decisions to grant, suspend, cancel, or impose conditions on a licence, decisions to give a direction to rectify work, and various decisions relevant to a claim under the Home Warranty Scheme.

Section 86C of the QBCC Act states the “required period” for an internal review decision to be made as

- “28 days after the internal review application is made” or
- “a longer period agreed to by the applicant”.

It is quite common for internal review decisions to take longer than 28 days after the internal review application is made. Master Builders appreciates there are many legitimate reasons why a longer period may be necessary, including for example the complexity of the case, delays in arranging second inspections where required and the need to obtain expert advice and reports.

The issue of concern for our members is that they are not being given the opportunity to agree to a period longer than 28 days where a decision cannot be made within that timeframe. The result is that a decision of ‘no decision’ is given (which results in reaffirmation of the original decision by default).

Affected members in these instances are being unfairly excluded from access to the internal review system. Often, applicants for internal review will have spent substantial time and cost in legal fees preparing the internal review application. To then receive notification of ‘no decision’ because the time expired without opportunity to agree to extend the time is disheartening to say the least.

Under the QBCC's existing administrative process, applicants are regularly only notified that the QBCC cannot meet the legislated 28-day time frame for making an internal review decision after the time frame expires. The applicant is not given the opportunity to agree to a longer period.

As you would appreciate, the above QBCC process undermines the intent of the QBCC Act internal review process. In addition to delaying the resolution of the disputed decision, the process imposes unnecessary costs on the applicant, the QBCC, and the court system due to the need for the review decision to now be decided by QCAT.

The administrative process also attracts substantive industry criticism of the regulator. Arguably, the QBCC is not carrying out its functions by choosing to not decide internal review applications.

Having regard to the above, Master Builders requests that the current process be amended to better align with the QBCC Act, including its intent. Specifically, Master Builders asks that it be changed so that internal review applicants are given the opportunity to agree for a longer period to make an internal review decision where QBCC has identified that the decision cannot be made in 28 days.

In addition, it might also be appropriate for QBCC to amend its internal review application form to give the applicant the upfront option of stating their agreement for the internal review decision to take longer than 28 days.

Master Builders would be happy to promote the above changes through an education article in its publications. In the meantime, Master Builders will recommend to members that they indicate when making an internal review application whether they agree for the legislated 28-day period to be extended (should it become necessary).

I would be happy to meet with you to discuss this further.

Yours sincerely



Paul Bidwell
CEO