



2011 CHAPTER 25

PART 4

ADDITIONAL PLANNING CONTROL

CHAPTER 2

HAZARDOUS SUBSTANCES

**Appeals**

**115.**—(1) Where an application for hazardous substances consent is made to a council, then if that consent is refused or is granted subject to conditions the applicant may by notice in writing under this section appeal to the planning appeals commission.

(2) Subsection (1) does not apply to any application referred to the Department under section 114.

(3) Any notice under this section must be served on the planning appeals commission within 4 months from the date of notification of the decision to which it relates or such other period as may be prescribed.

(4) Where an appeal is brought under this section the planning appeals commission—

- (a) must publish notice of the appeal in at least one newspaper circulating in the locality in which the land to which the appeal relates is situated; and
- (b) must not determine the appeal before the expiration of 14 days from the date on which notice of the appeal is first published in a newspaper in pursuance of paragraph (a).

(5) Where an appeal is brought under this section from a decision of a council, the planning appeals commission, subject to subsection (6), may allow

or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part of the decision or not, and may deal with the application as if it had been made to it in the first instance.

(6) Before determining an appeal under this section, the planning appeals commission must, if either the applicant or the council so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(7) Where an application for hazardous substances consent is made to a council then unless within the prescribed period, or within such extended period as may be agreed upon in writing between the applicant and the council, the council either—

- (a) gives notice to the applicant of its decision on the application; or
- (b) gives notice to the applicant that the application has been referred to the Department under section 114,

subsections (1) to (6) shall apply in relation to the application—

- (i) as if the consent to which it relates had been refused by the council; and
- (ii) as if notification of the council's decision had been received by the applicant at the end of the prescribed period, or at the end of the extended period, as the case may be.