

November 2023

PBR Reform Program

- -PBR Program Introduction,
- -Status of PBR applications
- -Four examples (scenarios)









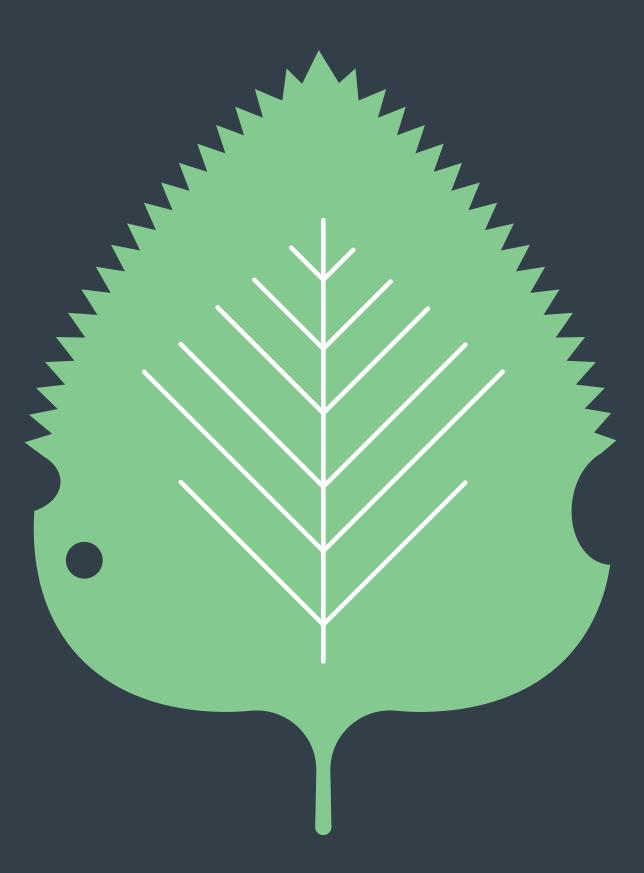


IP Australia's PBR Reform Program 2023

Program Objective

To ensure PBR system is:

- Fit for purpose
- Supporting plant breeding industries
- Connected with the government's priorities relating to agriculture and growth



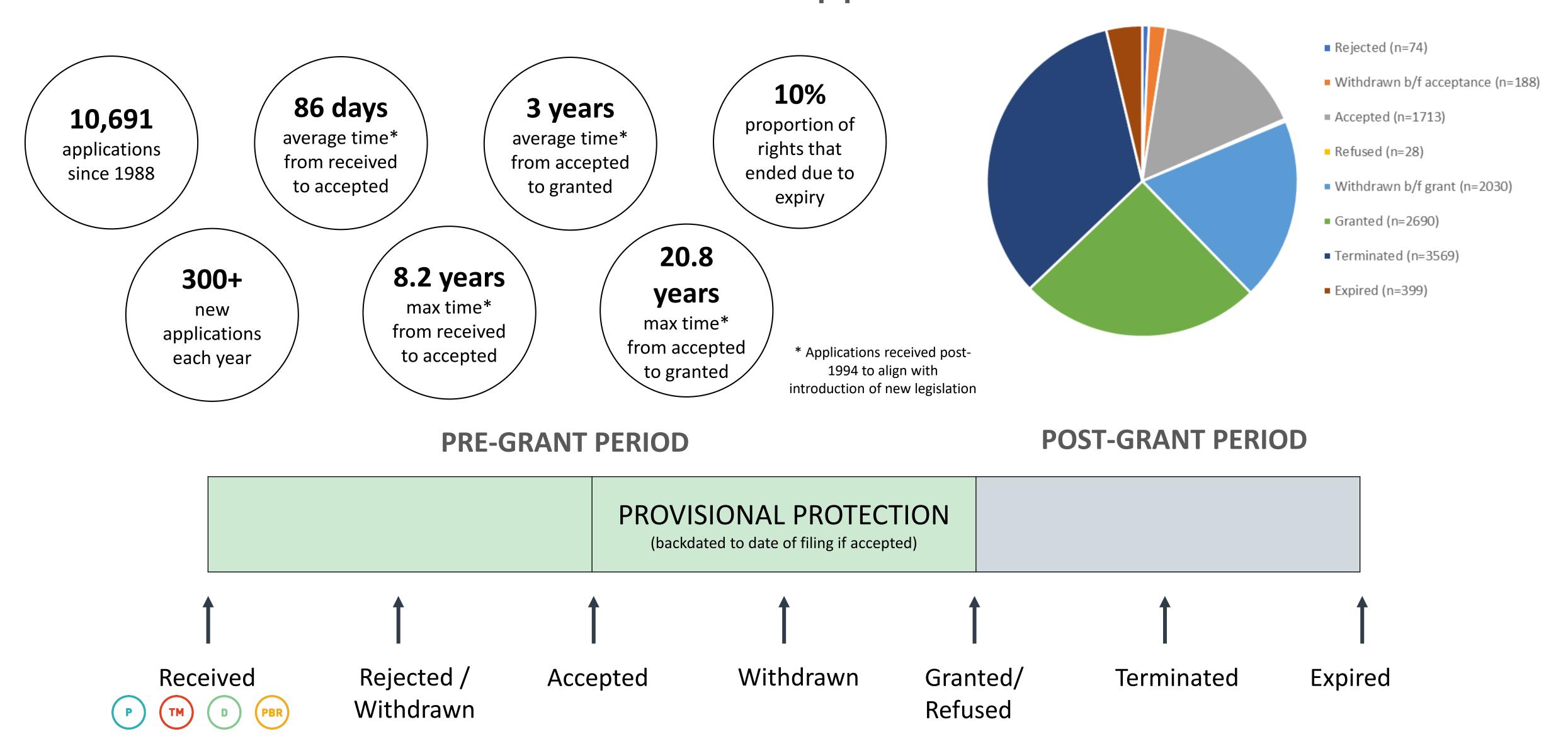








Current status of Australian PBR applications

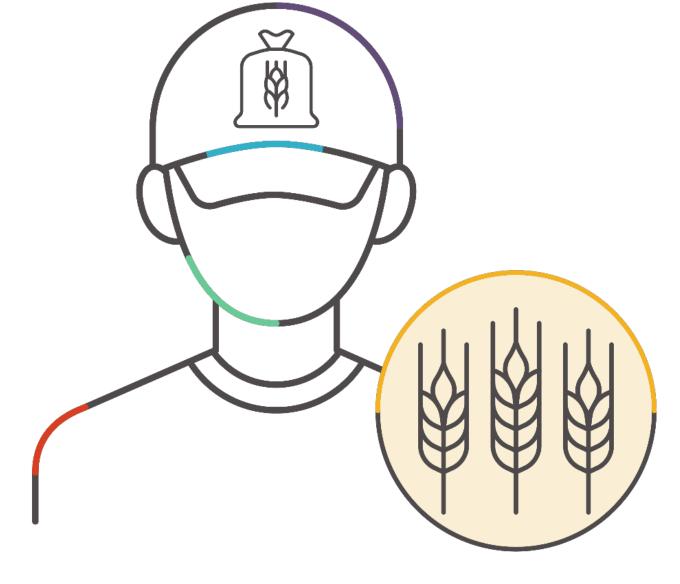


Example Scenarios

Scenario 1: Alex

Alex the Aussie plant breeder with a barley variety

- Experienced with the PBR system and aware of application requirements
- Accredited as a QP and can oversee PBR application and growing trial
- Files a PBR application with IP Australia for new barley variety
- Pays examination fee within 12 months of acceptance
- Closest comparators required for trial are from own breeding lines
- Unavoidable delays occur with the growing trial and the detailed description of the new variety can't be provided within the required period











Scenario 1: List of Issues

POST-GRANT PERIOD PRE-GRANT PERIOD PROVISIONAL PROTECTION Granted/Refused Expired (20 years) Received Accepted **ISSUE B: Document submission for grant delays ISSUE D: No grace period for renewals ISSUE A: Detailed description submission delays ISSUE C:** No general extension of time provisions in the PBR system Alex must provide a detailed description within 12 Alex has now lodged the detailed description but has Alex must pay an annual renewal fee to maintain his months of acceptance of the application or within 9 not submitted all of the additional documents (such as There are no extension of time provisions in the PBR PBR. The fee is due each year on the date the PBR was months of the proceed date nominated in the Part 1 the GRC form or certification by a QP form) required in legislation. They are in the legislation for other IP granted. Alex has 30 days from the renewal date to pay Part 2 for granting the PBR. The PBR Office contacts the fee. Under the PBR legislation, if he misses that form. Additional time is often needed to complete rights for situations where a deadline is missed growing trials. New proceed dates are often not Alex a number of times requesting these, but there are because there has been an error or omission by the deadline, Alex would be taken to have surrendered the communicated with the PBR Office, leading to many continuing delays and the application stalls at this applicant or agent; circumstances beyond their right. control; or special circumstances exist to justify the applications stalling in the system at this stage. stage. Other IP rights have a 6-month grace period within extension. which to pay a renewal fee. Additionally, if Alex is provided further time to lodge the description, details of this further time are not published for others to see or oppose like for other IP rights.









Scenario 2: Darcy

Darcy the Aussie grower of native wattle varieties

- New to the PBR system and engages a consultant QP
- Starts selling a new wattle variety to 'test the market' in Australia
- Rushes to submit PBR application within 12 months of the first sale
- Difficulties establishing the growing trial and needs further time to lodge the detailed description
- Decides to withdraw the application before the trial has been examined by PBR office



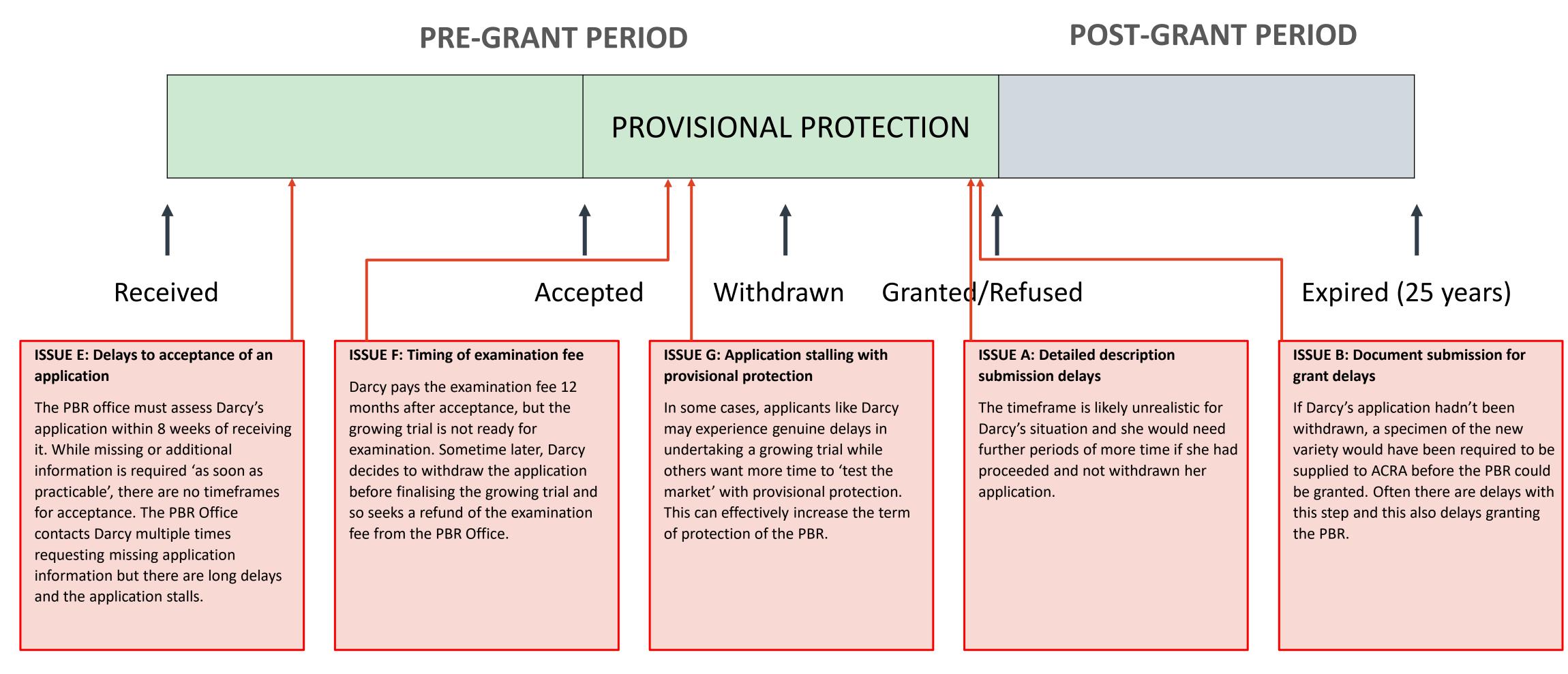








Scenario 2: List of Issues











Scenarios 3 and 4: Overseas Applicants

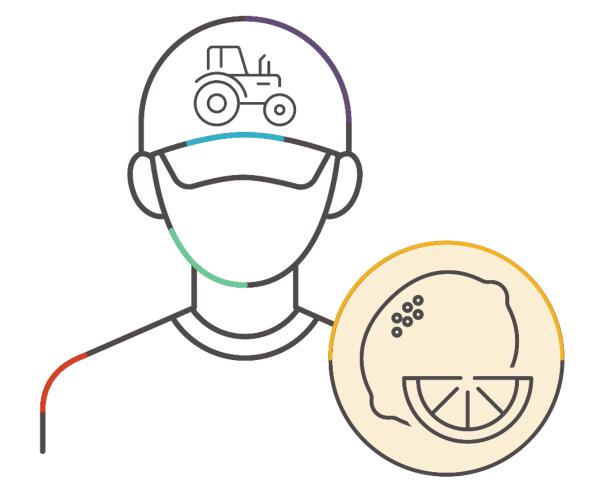
Tanya the international tulip breeder from the Netherlands

- Breeds a new ornamental tulip variety in the Netherlands
- Applies for plant variety right in the EU and growing trials are established overseas
- Engages a QP in Australia and submits application for PBR to IP Australia
- Intends to use the results from her overseas DUS trial to secure PBR in Australia, rather than conducting another growing trial in Australia

Barry the international fruit breeder with a US Plant Patent

- Applies for a US plant patent for new fruit variety
- Partners with Australian agent and submits PBR application to IP Australia and includes US plant patent data and variety description hoping this will meet application requirements
- Informed by IP Australia he can't use that data to be granted an Australian PBR
- Required to do an Australian growing trial and may need to import comparative varieties from the US, which will be subjected to Australian biosecurity conditions





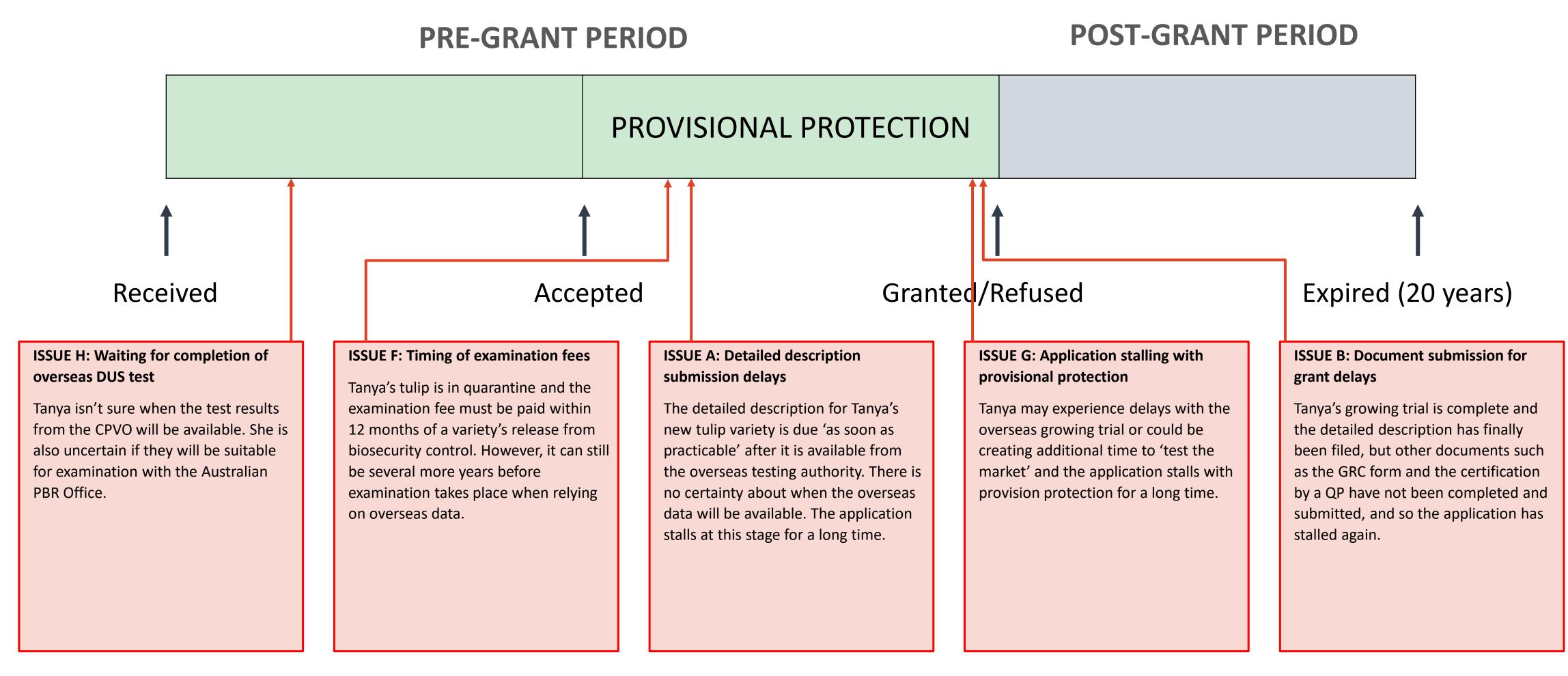








Scenario 3: List of Issues



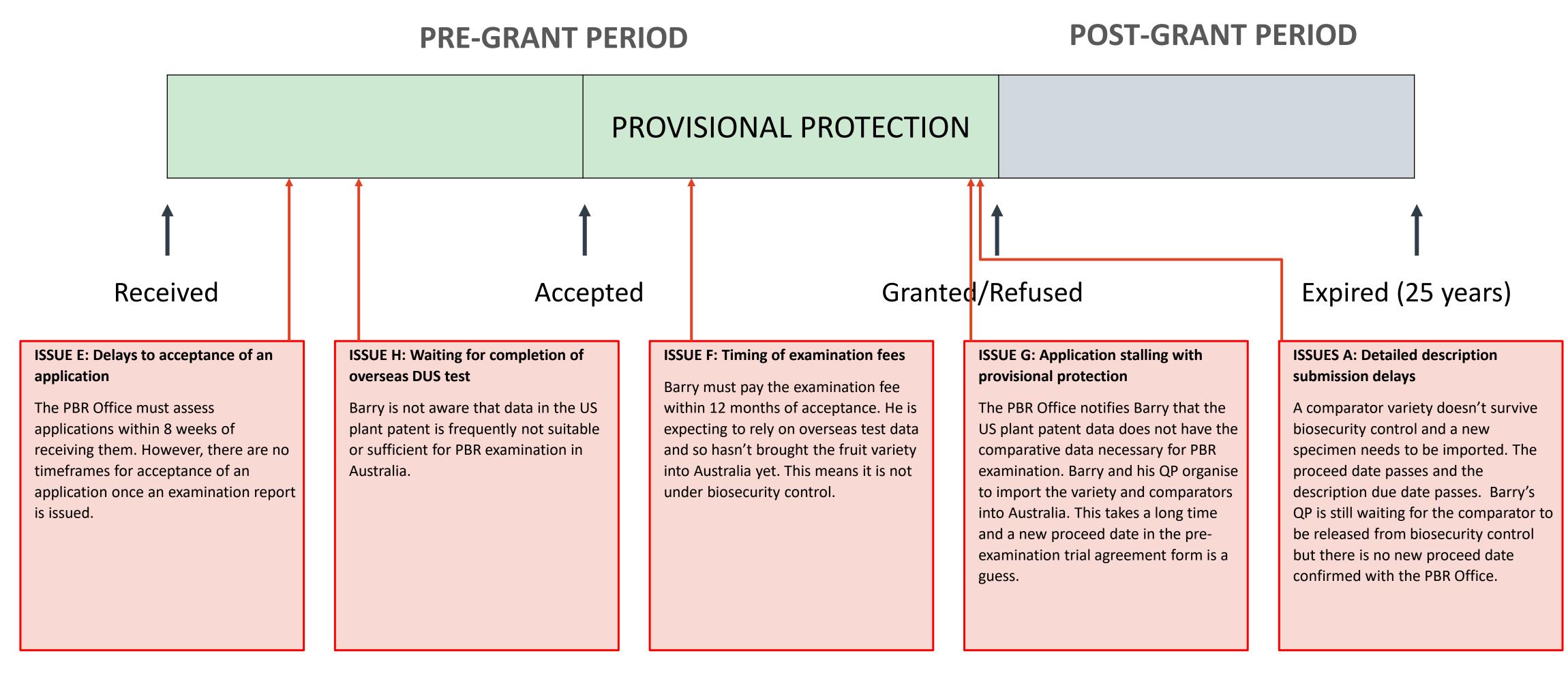








Scenario 4: List of Issues













Thank you







