



*Planning and Environment Court Act 2016*

# Planning and Environment Court Rules 2010

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**Reprint note**

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Queensland

# Planning and Environment Court Rules 2010

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# Planning and Environment Court Rules 2010

## Part 1 Preliminary

### 1 Short title

These rules may be cited as the *Planning and Environment Court Rules 2010*.

### 2 Definitions

The dictionary in the schedule defines terms used in these rules.

### 3 Application of rules

- (1) These rules apply to proceedings in the court.
- (2) If these rules do not provide for a matter in relation to a proceeding, or proceedings, in the court and the rules applying in the District Court would provide for the matter in relation to a proceeding, or proceedings, in the District Court, the rules applying in the District Court apply for the matter in the court with necessary changes.

*Notes—*

- 1 Under section 445(4) of the Act, the rules may be uniform rules that apply to other courts.
- 2 See section 446(4) of the Act for when an order or direction of the court or the Chief Judge prevails over these rules.

### 4 Philosophy—overriding obligations of parties and court

- (1) The purpose of these rules is to facilitate the just and expeditious resolution of the real issues in proceedings at a minimum of expense.

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- (2) Accordingly, these rules are to be applied by the court with the objective of avoiding undue delay, expense and technicality and facilitating the purpose of these rules.
- (3) In a proceeding in the court, a party impliedly undertakes to the court and to the other parties to proceed in an expeditious way.

## **5 Compliance with rules or an order of the court**

The court may—

- (a) waive compliance with a provision of these rules if the court considers compliance would be likely to cause injustice, unreasonable expense or inconvenience or otherwise considers waiving compliance appropriate; or
- (b) excuse noncompliance with a provision of these rules; or
- (c) impose appropriate sanctions if a party does not comply with these rules or an order of the court.

*Examples for paragraph (c)—*

- 1 The court may impose a sanction as to costs if, in breach of an implied undertaking under rule 4(3), a party does not proceed in an expeditious way.
- 2 The court may dismiss a proceeding if a party fails to proceed as required by these rules or an order of the court.

# **Part 2 Conduct of proceedings**

## **Division 1 Starting proceedings**

### **6 Starting proceeding other than appeal**

A proceeding, other than an appeal, is started by filing an originating application.



*Example of a proceeding started by an originating application—*

a proceeding for a declaration under section 456 of the Act

*Note—*

An appeal to the court is started under section 481 of the Act.

## **7 Where to start proceeding**

A proceeding may be started in any registry of the court.

*Note—*

For the registries of the court, see section 453 of the Act.

## **8 Originating process—respondent**

- (1) An originating application must name as a respondent the entity directly affected by the relief sought.
- (2) A notice of appeal must name as a respondent or co-respondent the entity that is the respondent or co-respondent under an Act.

## **9 Originating process—relief**

The originating process for a proceeding must state—

- (a) the orders or other relief sought in the proceeding; and
- (b) the grounds on which the orders or other relief are sought.

## **10 Originating process—applicant’s or appellant’s contact details and address for service**

- (1) An applicant or appellant (the *person*) intending to act personally must ensure the following details are stated on the originating process before it is filed—
  - (a) the person’s residential or business address;
  - (b) if the address given under paragraph (a) is not the person’s address for service or is not a Queensland address—an address for service in Queensland

- including, for example, an address approved by the court as the address for service;
- (c) the person's telephone number, if any;
  - (d) if the person does not have a telephone number, a way of contacting the person by telephone;
  - (e) the person's fax number, if any;
  - (f) the person's email address, if any.
- (2) A lawyer or agent acting for an applicant or appellant (the **person**) must ensure the following details are stated on the originating process before it is filed—
- (a) the person's residential or business address;
  - (b) the name of the lawyer or agent and, if the lawyer or agent practises in a firm, the name of the firm;
  - (c) the address of the lawyer's or agent's place of business;
  - (d) if the address given under paragraph (c) is not the person's address for service or is not a Queensland address—an address for service in Queensland including, for example, an address approved by the court as the address for service;
  - (e) the lawyer's or agent's telephone number;
  - (f) the lawyer's or agent's fax number, if any;
  - (g) the lawyer's or agent's email address, if any.
- (3) If the lawyer or agent, or the lawyer's or agent's firm, is a member of an approved document exchange, the lawyer or agent may include the address of the document exchange with the details required under subrule (2).
- (4) The **address for service** of the person is—
- (a) for a person acting personally—an address in Queensland stated for subrule (1)(a) or (b); and
  - (b) for a person for whom a lawyer or agent acts—
    - (i) if an address is stated for subrule (2)(d)—that address; or

(ii) otherwise—the address stated for subrule (2)(c).

(5) In this rule—

*approved document exchange* means a document exchange approved under the *Uniform Civil Procedure Rules 1999*, rule 102.

## **11 Originating process must be signed**

The applicant or appellant, or the applicant's or appellant's lawyer or agent, must sign the originating process.

## **12 Originating application must be given to other parties**

Unless the court otherwise orders under rule 18, the applicant must give a copy of the originating application to each other party to the proceeding.

*Note—*

A notice of appeal must be given to other parties under section 482, 483 or 484 of the Act.

## **Division 2 Entry of appearance or notice of election**

### **13 Entity named in originating process must file and serve entry of appearance**

(1) Subrule (2) applies to an entity—

- (a) that is named as a respondent in an originating application and wishes to be heard on the application; or
- (b) that—
  - (i) is named as a respondent or co-respondent in a notice of appeal; and
  - (ii) is entitled, under an Act, to be heard on the appeal; and

(iii) wishes to be heard on the appeal.

(2) The entity must—

- (a) within 10 business days after being served with a copy of the originating process, file an entry of appearance in the approved form (an *entry of appearance*); and
- (b) serve a copy of the entry of appearance on each other party to the proceeding.

#### **14 Entity electing to be party must file and serve notice of election**

(1) Subrule (2) applies to an entity that—

- (a) is not named as a party to a proceeding; and
- (b) is entitled, under an Act, to elect to be a party to the proceeding; and
- (c) wishes to be heard in the proceeding.

(2) The entity must—

- (a) within 10 business days after receiving the originating process, file a notice of election in the approved form (the *notice of election*); and
- (b) serve a copy of the notice of election on each other party to the proceeding.

### **Division 3 Discontinuing or withdrawing from proceedings**

#### **15 Applicant or appellant may discontinue or withdraw part of proceeding**

(1) An applicant or appellant may discontinue a proceeding started by the applicant or appellant, or withdraw part of it—

- (a) by—

- 
- (i) filing a notice of discontinuance or withdrawal in the approved form; and
  - (ii) serving a copy of the notice on each other active party to the proceeding; and
  - (iii) filing an affidavit stating the date a copy of the notice was served on each other active party; or
- (b) with the court's leave.
- (2) If an active party served with a copy of the notice wishes to make an application to the court about the proceeding after being served with the copy, the active party must make the application within 14 days after the day the active party was served under subrule (1)(a).
- (3) If an application is made under subrule (2), the discontinuance or withdrawal takes effect on the day the court decides the application or a later day decided by the court.
- (4) If no application is made under subrule (2), the discontinuance or withdrawal takes effect at the end of 14 days after the latest date on which an active party was served under subrule (1)(a).

## **16 Active party by election may withdraw**

- (1) An active party by election may withdraw (the *withdrawing party*) as an active party for a proceeding—
- (a) by—
    - (i) filing a notice of withdrawal of election to co-respond in the approved form; and
    - (ii) serving a copy of the notice on each other active party to the proceeding; and
    - (iii) filing an affidavit stating the date a copy of the notice was served on each other active party; or
  - (b) with the court's leave.
- (2) If an active party served with a copy of the notice wishes to make an application to the court about the withdrawal or the

withdrawing party, the active party must make the application within 14 days after the day the active party was served under subrule (1)(a).

- (3) If an application is made under subrule (2), the withdrawal takes effect on the day the court decides the application or a later day decided by the court.
- (4) If no application is made under subrule (2), the withdrawal takes effect at the end of 14 days after the latest date on which an active party was served under subrule (1)(a).
- (5) In this rule—

*active party by election* means an entity that has filed and served a notice of election under rule 14(2).

## **Division 4            Hearing proceedings**

### **Subdivision 1        Venue**

#### **17        Where proceeding is heard**

- (1) A proceeding must be heard in the court sitting at the place where the originating process for the proceeding is filed (the *first place*).
- (2) However, the proceeding, or part of it, may be heard in the court sitting at another place (the *other place*) if—
  - (a) the court orders the proceeding, or part of it, be heard in the court sitting at the other place; or
  - (b) an affidavit (the *affidavit of consent*) is filed at the first place evidencing the consent of all active parties to the proceeding that the proceeding, or part of it, be heard in the court sitting at the other place.
- (3) An application for an order under subrule (2)(a) must be made to the court sitting at the first place.

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- (4) The application must be heard in the court sitting at the first place unless no judge of the court is available to hear the application returnable in the court sitting at the first place on the date the applicant seeks to be heard on the application.

*Editor's notes—*

- 1 At the commencement of this section, information about return dates for hearing an application or the sitting dates available for hearing a proceeding in Brisbane, whether or not the proceeding originated in Brisbane, may be obtained by contacting the Planning and Environment Court Listing Manager in the Higher Courts registry by telephone on 3247 5407 or by emailing <DC-PEListManager@justice.qld.gov.au>.
  - 2 Information about return dates for hearing an application or the sitting dates available for hearing a proceeding in a place other than Brisbane may be obtained by contacting the registrar at the place.
- (5) If, under subrule (2), the proceeding is not to be heard in the court sitting at the first place, the registrar of the court sitting at the first place must, immediately upon the order being made or the affidavit of consent being filed—
- (a) give the registrar of the court sitting at the other place copies of all documents in the proceeding filed in the court sitting at the first place and necessary for the hearing; and
  - (b) give the parties to the proceeding written notice of the transfer to the court sitting at the other place.

## **Subdivision 2      Hearing particular proceedings                                  without notice**

### **18      Hearing proceeding started by originating application                  without notice**

If, in a proceeding started by an originating application, the court considers it appropriate, because of urgent circumstances in a particular case, the court may, without the applicant in the proceeding giving notice to any other entity—

- (a) order the proceeding be heard and decided; and

- (b) make any other order in relation to the proceeding.

## **Subdivision 3 Orders or directions**

### **19 Orders or directions**

- (1) The court may make an order or issue directions about a proceeding the court considers appropriate—
  - (a) at any time; or
  - (b) on application by a party to the proceeding.
- (2) A party to a proceeding may, at any time, apply to the court for an order or directions about the proceeding.
- (3) However, the party to a proceeding with the onus in the proceeding must, as soon as practicable but within 3 months after the applicant or appellant files the originating process for the proceeding, apply to the court for an order or directions about the proceeding.
- (4) Subrule (3) does not apply if another party to the proceeding has already applied to the court for an order or directions about the proceeding.
- (5) Without limiting subrule (1), (2) or (3), an order or directions, or an application for an order or directions, about a proceeding may be for 1 or more of the following—
  - (a) an order or directions about compliance with any requirements under chapter 6, part 4 of the Act;  
*Editor's note—*  
chapter 6 (Integrated development assessment system (IDAS)), part 4 (Notification stage) of the Act
  - (b) an order or directions to identify an issue to be decided in the proceeding at a preliminary stage of the proceeding;
  - (c) an order about the conduct of the proceeding or directions about a procedural matter, including an order or directions about 1 or more of the following—



- (i) identifying matters as an issue in dispute in the proceeding;
- (ii) the content and performance of a dispute resolution plan;
- (iii) exchanging lists of witnesses, including expert witnesses;
- (iv) meetings of experts and the production of joint reports of the experts;
- (v) exchanging statements of witnesses the parties to the proceeding intend to call;
- (vi) a review by the court of the conduct of the proceeding;
- (vii) giving, for use by the court before the hearing, a copy of—
  - (A) a document identifying the issues in dispute in the proceeding; or
  - (B) an extract of any planning instruments relevant to the proceeding; or
  - (C) a statement of evidence, including a joint report, for the proceeding; or
  - (D) a book of documents for the proceeding;
- (viii) limiting the duration of the hearing;
- (ix) limiting the time to be taken by a party to the proceeding in presenting the party's case;
- (x) requiring evidence be given by affidavit, orally or in another form;
- (xi) requiring expert witnesses in the same field to give evidence consecutively, concurrently or in another way;
- (xii) limiting the number of witnesses a party may call on a particular issue in dispute in the proceeding;

- (xiii) limiting the time to be taken in examining, cross-examining or re-examining a witness;
- (xiv) requiring an opening address or submission to be made in the way the court directs;
- (xv) limiting the time to be taken for an opening address or in making oral submissions;
- (xvi) limiting the length of a written submission, affidavit or statement of evidence;
- (xvii) any other matter the court considers appropriate.

(6) In this rule—

*book of documents* means the bundle of documents to be tendered at the hearing of the proceeding with the consent of the parties.

*dispute resolution plan* means a plan prepared for narrowing and, if possible, resolving by agreement issues in dispute in the proceeding.

## 20 Copies of draft orders or directions must be served

- (1) If a party to a proceeding (the *relevant party*) applies, under rule 19, for an order or directions, the relevant party must give the other parties to the application a copy of a draft of the order or directions the relevant party is seeking (the *draft order*) no later than 2 days before the day the application is to be heard.
- (2) If a party to the application receives a copy of the draft order, the party must tell the relevant party and the other parties to the application whether the draft order is accepted or rejected—
  - (a) as soon as practicable after receiving the draft order; and
  - (b) no later than 4p.m. on the day before the application is to be heard.
- (3) If the draft order is rejected by a party to the application (the *rejecting party*), the rejecting party must give the relevant

party and other parties to the application a copy of a draft of any orders or directions the rejecting party is seeking no later than 4p.m. on the day before the application is to be heard.

## **21 Effect of order or directions under r 19**

If the court makes an order or issues directions under rule 19, the court may—

- (a) decline to set a date for hearing the proceeding until the court is satisfied the parties to the application have complied with the order or directions; or
- (b) if the court considers it appropriate having regard to exceptional circumstances in relation to the proceeding—hear the proceeding without the order or directions being complied with; or
- (c) do anything else in relation to the conduct of the proceeding the court considers appropriate.

# **Part 3 Evidence**

## **Division 1 Preliminary**

### **22 Definitions for pt 3**

In this part—

*expert* means a person who would, if called as a witness in a proceeding, be qualified to give opinion evidence as an expert witness in relation to an issue in dispute in the proceeding.

*joint report* means a report—

- (a) stating the joint opinion of experts in relation to an issue in dispute in the proceeding; and

- (b) identifying the matters about which the experts agree or disagree and the reasons for any disagreement.

*meeting of experts*—

- (a) means a meeting at which experts in each area of expertise relevant to a proceeding meet—
  - (i) in the absence of the parties, to discuss and attempt to reach agreement about the experts' evidence in relation to an issue in dispute in the proceeding as it relates to the experts' area of expertise; and
  - (ii) to prepare a joint report; and
- (b) includes a resumed meeting of experts or further meeting of experts.

*party*, for a proceeding, means a party to the proceeding or the party's lawyer or agent.

## Division 2                      General

### 23            Rules of evidence

- (1) The court may, at any time during a proceeding, order that the rules of evidence do not apply to proving a fact if the court considers—
  - (a) strict proof of the fact may cause unnecessary or unreasonable expense, delay or inconvenience in the proceeding; or
  - (b) the fact is not seriously in dispute.
- (2) Without limiting subrule (1), the court may order that the rules of evidence do not apply to proving handwriting or a document, authority or identity.
- (3) This rule applies regardless of the importance of the fact sought to be proved.

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## **Division 3                      Meetings of experts**

### **24            Application of div 3**

- (1) This division applies if, at any time in a proceeding—
  - (a) the court orders or directs a meeting of experts; or
  - (b) a meeting of experts is convened and chaired by an ADR registrar under rule 25.
- (2) However, if, in a proceeding, the court makes an order or gives directions inconsistent with a provision of this division (the *relevant order*), the relevant order prevails to the extent of the inconsistency.

### **25            ADR registrar may convene and chair meeting of experts**

An ADR registrar may, if directed by the court or asked by all active parties for a proceeding, convene and chair a meeting of experts for the proceeding.

### **26            Party must ensure expert ready to take part in meeting of experts**

Before a meeting of experts, a party to a proceeding must do all things reasonably necessary or expedient to ensure an expert chosen by the party is ready to take part fully, properly and promptly in the meeting, including by giving the expert—

- (a) reasonable prior notice that the court has ordered or directed a meeting of experts or that an ADR registrar has convened a meeting of experts; and
- (b) notice of the contents of any order or direction about the meeting, including the time by which the meeting must be held; and
- (c) reasonable notice of the issue in dispute in the proceeding to the extent it is relevant to the expert's expertise; and

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- (d) enough information and opportunity for the expert to adequately investigate the facts in relation to the issue in dispute in the proceeding; and
- (e) written notice that the expert has a duty to assist the court and the duty overrides any obligation the expert may have to the party or any person who is liable for the expert's fee or expenses.

## **27 Experts attending meeting must prepare joint report**

- (1) The experts attending a meeting of experts must, without further reference to or instruction from the parties, prepare a joint report in relation to the meeting.
- (2) The joint report must—
  - (a) confirm that each expert understands the expert's duty to the court and has complied with the duty; and
  - (b) be given to the parties.
- (3) Despite subrule (1), any of the experts may do any of the following—
  - (a) participate in a mediation involving the parties;
  - (b) at any time before the joint report is finished, give 1 or more of the parties a notice—
    - (i) asking the recipient to respond to a request for information or other inquiry which may assist the proper and timely conduct or conclusion of the meeting or preparation of the joint report; or
    - (ii) informing the recipient of any matter affecting the proper and timely conduct or conclusion of the meeting or preparation of the joint report.

*Example for subparagraph (ii)—*

informing parties of a delay in gathering data for use in the joint report
- (4) However, the notice may be given to a party only if—

- (a) all of the experts agree to the giving of the notice or, if the experts do not agree, the notice states the basis of the disagreement between the experts; and
  - (b) the notice is in writing; and
  - (c) a copy of the notice is given to all the experts and the other parties at the same time as the notice is given to the party.
- (5) The recipient may respond to the notice only if—
- (a) the response is made in a document not more than 10 business days after the notice is received by the recipient; and
  - (b) a copy of the response is first given to all the parties at the same time; and
  - (c) the response is made not less than 5 business days, or the shorter period agreed to by the parties, after the copy of the response is given to the parties; and
  - (d) a copy of the response is given to all experts, not given the response under paragraph (c), at the same time as the response is made.
- (6) Despite subrule (1), a party (the *requesting party*) may request the experts prepare a report (the *conduct report*) about the proper and timely conduct or conclusion of the meeting, or preparation of the joint report, if a copy of the request is given to all other parties at the same time the request is made.

*Example—*

A party may request an update on when the joint report will be completed.

- (7) The conduct report may be given to the requesting party only if—
- (a) the conduct report is given not more than 2 business days after the request is received by the experts; and
  - (b) all of the experts agree to the giving of the conduct report or, if the experts do not agree, the conduct report

states the basis of the disagreement between the experts;  
and

- (c) the conduct report is in writing; and
- (d) a copy of the conduct report is given to all the other parties at the same time as the conduct report is given to the requesting party.

## **28 Admissions made at meeting of experts**

- (1) Subrule (2) does not apply to a joint report prepared in relation to a meeting of experts.
- (2) Evidence of anything done or said, or an admission made, at a meeting of experts is admissible at the hearing of the proceeding or at the hearing of another proceeding in the court or in another civil proceeding only if all parties to the proceeding agree.
- (3) In this rule—  
*civil proceeding* does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the meeting.

## **Division 4 Other provisions**

### **29 Giving or accepting instructions to adopt or reject a particular opinion prohibited**

A person must not give, and an expert must not accept, instructions to adopt or reject a particular opinion in relation to an issue in dispute in a proceeding.

### **30 Expert must prepare statement of evidence**

- (1) An expert must prepare a written statement of the expert's evidence (a *statement of evidence*) for the hearing of a proceeding.



- (2) If the expert has taken part in a meeting of experts—
  - (a) a joint report prepared in relation to the meeting is taken to be the expert's statement of evidence in the proceeding; and
  - (b) a further statement of evidence in relation to any issue of disagreement recorded in the joint report may be prepared by the expert.
- (3) However, the further statement of evidence must not, without the court's leave—
  - (a) contradict, depart from or qualify an opinion in relation to an issue the subject of agreement in the joint report; or
  - (b) raise a new matter not already mentioned in the joint report.

### **31 Requirements for statement of evidence other than joint report**

- (1) The *Uniform Civil Procedure Rules 1999*, rule 428 applies to a statement of evidence, other than a joint report, as if a reference to a report is a reference to the statement of evidence.
- (2) However, the statement of evidence must include the information required under the *Uniform Civil Procedure Rules 1999*, rule 428(2) only to the extent the information is not already contained in any joint report prepared.
- (3) Also, a statement of evidence must include a statement verifying that the expert has not received or accepted instructions to adopt or reject a particular opinion in relation to an issue in dispute in the proceeding.

### **32 Serving statement of evidence other than joint report**

- (1) This rule applies to a statement of evidence other than a joint report.

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- (2) A party to a proceeding intending to call evidence by an expert in the proceeding must, as directed by the court, serve on each other active party to the proceeding a copy of the expert's statement of evidence.

**33 Matters contained in statement of evidence not to be repeated**

An expert, in examination in chief, must not, without the court's leave, repeat or expand on matters contained in the expert's statement of evidence or introduce new material.

**34 Evidence from only 1 expert may be called**

Other than with the court's leave, a party to a proceeding, at any hearing of the proceeding, may call evidence from only 1 expert for each area of expertise dealt with in the hearing.

## **Part 4 Applications in pending proceedings**

**35 Content of application in a proceeding**

An application in a proceeding must—

- (a) be made in an approved form (an *application in pending proceedings*); and
- (b) state all of the following—
  - (i) the date the application is to be heard;
  - (ii) an estimate of time for the hearing of the application;
  - (iii) the relief sought in the application;
  - (iv) if the application is made by an entity who is not a party to the proceeding in which the application is

made, the details required under rule 10 to be stated on an originating process unless the details have already been supplied on a document filed in the proceeding; and

- (c) name as respondent any party to the proceeding whose interests may be affected by the granting of the relief sought in the application.

### **36 Serving application in pending proceedings and supporting affidavit**

- (1) An entity making an application in a proceeding must—
  - (a) file an application in pending proceedings and any affidavit to be relied on by the applicant at the hearing of the application (the *supporting affidavit*); and
  - (b) serve a copy of the application and any supporting affidavit on each respondent named in the application at least 2 business days before the day the application is to be heard.
- (2) However, if the court considers it appropriate having regard to the circumstances in a particular case, the court may order that subrule (1) does not apply.

### **37 Hearing application in a proceeding**

Except with the court's leave, an application in a proceeding must be heard and decided on affidavit evidence.

## **Part 5 Matters that may be dealt with by ADR registrar**

### **38 Definitions for pt 5**

In this part—

*active party*, for a proceeding, means an active party to the proceeding or the active party's lawyer or agent.

*case management conference* means a conference at which the active parties for a proceeding confer about the way to conduct the proceeding to ensure the resolution of the issues in dispute in the proceeding is just, expeditious and conducted at a minimum of expense.

*without prejudice conference* means a conference at which the active parties for a proceeding confer to narrow and resolve the issues in dispute in the proceeding.

### **39 Case management conference**

- (1) An ADR registrar may, if directed by the court or asked by all active parties for a proceeding, convene and chair a case management conference.
- (2) If a case management conference is convened, each active party must attend.

### **40 Listing proceedings for review**

An ADR registrar may, at any time and on the ADR registrar's own initiative, list a proceeding for review or further review by a judge at a time the judge directs.

### **41 Without prejudice conference**

- (1) An ADR registrar may, if directed by the court or at the request of all active parties for a proceeding, convene and chair a without prejudice conference for the proceeding.

*Note—*

Section 491 of the Act also provides for an alternative dispute resolution process.

- (2) If a without prejudice conference is convened—
  - (a) each active party must attend the conference; and

- (b) any other person directed by the court must attend the conference; and
- (c) any other person may attend the conference if all active parties for the proceeding agree.

*Example for paragraph (c)—*

An expert may attend if all active parties for the proceeding agree.

- (3) In this rule—

***active party*** includes a person familiar with the substance of the issues in dispute in the proceeding and who—

- (a) is authorised by the party to settle the issues; or
- (b) if attendance by a person with authority to settle is impractical—is authorised to make a recommendation to the active party about settling the issues.

## **42 Admissions at conference**

- (1) Subrule (2) does not apply to evidence of an agreement reached at a conference.
- (2) Evidence of anything done or said, or an admission made, at a conference about a proceeding is inadmissible at the hearing of the proceeding or at the hearing of another proceeding in the court or in another civil proceeding.
- (3) In this rule—

***civil proceeding*** does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the conference.

***conference*** means a case management conference or without prejudice conference.

## **43 Delegation**

With the approval of the Chief Judge, the principal registrar of the court may delegate a function or power of an ADR

registrar under these rules to another registrar or officer of the court.

*Note—*

The registry of the court at Brisbane is the principal registry of the court. See section 453(2) of the Act.

## **Part 6 Appeals to Court of Appeal**

### **44 Documents to be given to principal registrar**

- (1) A party to a proceeding who applies, under section 499 of the Act, for leave to appeal to the Court of Appeal against a decision of the court must give the principal registrar a copy of the following documents—
  - (a) the application for leave to appeal;
  - (b) the Court of Appeal's decision on the application for leave;
  - (c) if the leave is granted and the appeal is started—
    - (i) the notice of appeal; and
    - (ii) the Court of Appeal's decision on the appeal.
- (2) The principal registrar must keep the copies with the documents kept by the principal registrar for the proceeding in the court.

## **Part 7 Miscellaneous**

### **45 Judges may approve forms**

Two or more District Court judges, of whom the Chief Judge is to be 1, may approve forms for use under these rules.

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## **46 Where documents to be filed**

- (1) An entry of appearance or notice of election may be filed—
  - (a) at the place where the originating process to which the entry of appearance or notice of election relates was filed; or

*Note—*  
See also rule 7.

  - (b) otherwise—at the place where the court file for the proceeding is kept.
- (2) All other documents for a proceeding must be filed at the place where the court file for the proceeding is kept.

## **47 Document format**

Documents to be filed in proceedings must be—

- (a) consecutively numbered on each page; and
- (b) divided into consecutively numbered paragraphs, each containing, as far as reasonably practicable, a separate allegation or topic about the proceeding.

## **48 Fees**

- (1) A document may be filed only if any fee prescribed under a regulation for filing it is paid when the document is given to the registrar.
- (2) Also, if a document is sent by post and the registrar refuses to file it, a fee payable for dealing with the document is not refundable.
- (3) An individual may apply to the registrar for an order exempting the individual from payment of a fee on the ground that, having regard to the individual's financial position, it is clearly in the interests of justice to make the order.
- (4) The registrar may, by order, exempt an individual from payment of a fee if the registrar considers that, having regard

to the individual's financial position, it is clearly in the interests of justice to make the order.

- (5) The registrar may decide the application summarily and without extensive investigation.
- (6) In having regard to the individual's financial position, the registrar must have regard to the following matters—
  - (a) if the individual receives an income-tested pension under the *Social Security Act 1991* (Cwlth), the type and amount of the pension;
  - (b) how much the individual is paying as rent for his or her accommodation;
  - (c) whether a spouse or close relative may be willing to give the individual financial help;
  - (d) any other matter the registrar considers relevant.
- (7) The individual, if dissatisfied with a registrar's decision on the individual's application, may apply to a judge for a review of the decision.
- (8) On an application for a review of the registrar's decision, the judge conducting the review may—
  - (a) consider the application with or without a hearing; and
  - (b) consider anything the registrar considered under subrule (6); and
  - (c) make the order the judge considers appropriate.

#### **49 Court fees if state-related party**

- (1) In a proceeding to which a state-related person is a party—
  - (a) despite rule 48, the state-related person may file a document without paying a fee; and
  - (b) the state-related person is not required to prepay any other fees of court.



(2) However, if judgment is given against another party in the proceeding, the state-related person may recover fees of court with costs from the other party.

(3) In this rule—

*state-related person* means the Sovereign, the State, a person acting for the State, an entity whose expenditure is payable, in whole or part, out of amounts from the consolidated fund or a person acting for the entity.

## Part 8 Repeal

### 50 Repeal

The Planning and Environment Court Rules 2008, SL No. 410 are repealed.

## Schedule Dictionary

rule 2

***active party***, for a proceeding—

- (a) for part 5, see rule 38; or
- (b) otherwise, means—
  - (i) the applicant or appellant for the proceeding; and
  - (ii) each other party to the proceeding who has filed an entry of appearance or notice of election for the proceeding.

***ADR registrar*** means a registrar or court officer of the District Court appointed as an ADR registrar of the court by the principal registrar of the court, in consultation with the Chief Judge.

***application in a proceeding*** means an application about a proceeding made after the proceeding is started and before it is decided.

***application in pending proceedings*** see rule 35(a).

***approved form*** means a form approved under rule 45.

***case management conference***, for part 5, see rule 38.

***entry of appearance*** see rule 13(2)(a).

***expert***, for part 3, see rule 22.

***file*** means file in a registry of the court.

***joint report***, for part 3, see rule 22.

***meeting of experts***, for part 3, see rule 22.

***notice of appeal*** means the notice of the appeal mentioned in section 481 of the Act.

***notice of election*** see rule 14(2)(a).

***originating application*** means an application in the approved form that starts a proceeding other than an appeal.

***originating process*** means an originating application or a notice of appeal.

***party***, for a proceeding, for part 3, see rule 22.

***proceeding*** means a proceeding started by originating application or an appeal.

***statement of evidence*** see rule 30(1).

***without prejudice conference***, for part 5, see rule 38.