

PRACTICE DIRECTION NUMBER 8 OF 2023

PLANNING AND ENVIRONMENT COURT

REVIEWS, APPLICATIONS AND ORDERS ON THE PAPERS

Purpose

1. The purpose of this Practice Direction is to set out procedures for the efficient conduct of a review and applications. The Practice Direction also makes provision for the making of orders on the papers.

Application

2. The Practice Direction applies to all proceedings, new and existing, in the Brisbane registry of the Court.

Reviews and applications for interlocutory or final relief

3. The following reviews and applications for interlocutory or final relief will be heard in a P&E Applications week only, namely:
 - (a) the First return date for a proceeding;
 - (b) a hearing of a review, or interlocutory application, that exceeds 10 minutes;
 - (c) an application to make a minor change to a development application;
 - (d) an application to make a minor change to a development approval;
 - (e) where relief is sought that requires the exercise of a discretion by the Court.
4. Reviews and applications that are not captured by paragraph 3 may be listed in a week that is not a P&E Applications week.
5. Time estimates given by Practitioners for all reviews and applications for interlocutory or final relief must be made responsibly and allow time for the Judge to read material during the hearing and hear submissions from all parties to the review or application. If Counsel is retained to appear at the review or application, the estimate of time is to be that of Counsel.

Appearance on reviews and applications for interlocutory or final relief

6. An appearance in Court on behalf of each party is ordinarily required on a review or on the return date for an application, with the following exceptions:
 - (a) where the Judge who is to hear the application or conduct the review permits an appearance otherwise than in person. Requests for leave to appear otherwise than in person (e.g., by telephone) may be made before 12 p.m. on the preceding business day by contact and arrangement with the Associate to the Judge who is to hear the application or conduct the review; or

- (b) where a consent order has been made on the papers by the ADR Registrar or a Judge in advance of the return date.

Consent orders on the papers

- 7. Subject to paragraph 3 of Practice Direction No. 9 of 2023, where a draft order is agreed among the parties (and is not a final order), it should be submitted, in advance of the review date, to the ADR Registrar, for an order to be made on the papers if appropriate pursuant to Practice Direction 9 of 2023, without the need for any attendance at Court. If the ADR Registrar considers it appropriate, the ADR Registrar may refer the matter for consideration of a Judge, who may make the orders on the papers if appropriate.
- 8. Where a draft order is agreed among the parties (and is not a final order or an order requiring the exercise of a discretion), it may be submitted to the P&E List Manager in advance of the review date for an order to be made on the papers by a Judge, if appropriate, without the need for any attendance at Court. A request for an order under this paragraph must include the information required for a request to which Practice Direction No. 9 of 2023 applies.

Special reviews

- 9. Where a proceeding is listed for review:
 - (a) on the Court’s own initiative because of a non-compliance with paragraph 7 of Practice Direction No. 3 of 2023; or
 - (b) by the ADR Registrar because of a non-compliance with paragraph 4 of Practice Direction No. 2 of 2023,

it is expected the parties will explain the reason for non-compliance in affidavit material.



Brian Devereaux
Chief Judge
7 December 2023