

Protocol: Statutory Party and Objections Hearings

Parties:

Land Court of Queensland

and

Chief Executive, administering the *Environmental Protection Act 1994*

Recital

Recognising the role, functions, responsibilities and powers of the Land Court ("the Court") in hearing objections, determining disputed facts and making recommendations to the Chief Executive ("CE") administering the *Environmental Protection Act 1994* ("EP Act").

Recognising the role, functions, responsibilities and powers of the CE administering the EP Act in receiving applications, assessing environmental authorities and imposing conditions on environmental authorities, as well as acting as the Statutory Party to Land Court proceedings (under s 186 EP Act).

Recognising that the CE (or delegate) of the Statutory Party is the administrative decision maker for the draft environmental authority ("EA") and is not a technical expert; and that the CE (or delegate) may draw upon the technical advice of others such as officers from government departments.

Recognising the role, functions, responsibilities and powers of other government entities in the assessment, approval and imposition of conditions process under the EP Act.

Recognising that the EA application process is applicant driven.

Recognising that the role of the Statutory Party in an objections hearing under the EP Act is to:

- a) Be a party to and endeavour to assist the Court in making its recommendation in respect of the draft EA;
- b) Assist the Court to understand the assessment of the EA application and any draft EA conditions proposed by the Statutory Party;
- c) When requested by the Court, provide suggested draft conditions, relevant to a ground of objection, for consideration by the Court;
- d) Based on factual or legal rulings by the Court, assist the Court to identify amendments or new conditions to the draft EA which may address a ground of objection; and
- e) Conduct itself in accordance with the Model Litigant Principles.

Protocol

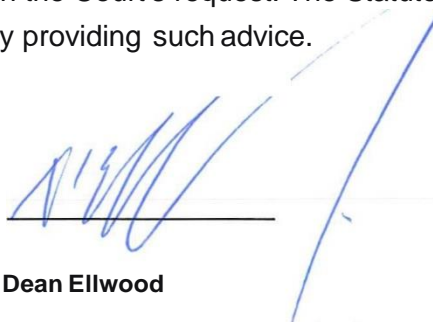
1. EP Act referral of objections and related material to the Court will be in accordance with the EP Act and any Practice Direction.
2. Unless otherwise ordered, within 14 days of the Court notifying who the active parties to the objections hearing are, the Statutory Party will file and serve on each active party an affidavit by a relevant delegate which:
 - a) Describes the assessment process;
 - b) Attaches or refers to any other documents or information {for example advice received or reports by other government departments) which is relevant and which is not otherwise contained in the referral material, and, where applicable, gives reasons why it has not been provided (for example commercial-in-confidence); and
 - c) Explains by reference to each ground in each objection notice where and how the draft EA addresses that ground of objection.
3. The Statutory Party (represented by its legal representative(s) and a relevant delegate) will attend and participate in any case management conference, without prejudice discussion or mediation between the parties as directed by the Court.
4. The Statutory Party (represented by its legal representative(s) and, to the extent practicable, the relevant delegate) will attend the objections hearing
5. It is not the role of the Statutory Party to resolve any conflict in the expert evidence or legal dispute that arises in an objections hearing.
6. The Court may request the Statutory Party to advise how a condition of the EA could be drafted or varied in response to stated factual or legal assumptions or rulings. The Statutory Party may seek further directions from the Court if it perceives an ambiguity or conflict in the Court's request. The Statutory Party must assist the Court, where possible, by providing such advice.



Darren Campbell

Registrar, Land Court Queensland

Dated: 15/3/2018



Dean Ellwood

Deputy Director-General, Environmental Services
and Regulation, Department of Environment and
Science

Dated: 15/3/2018.