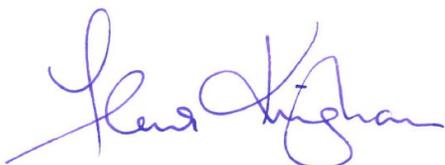


# Procedure for Mining Objection Hearings

Practice Direction 4 of 2018

A handwritten signature in blue ink, appearing to read 'Fleur Kingham', written in a cursive style.

*President Fleur Kingham*  
*Amended 7 April 2020*

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## Introduction

1. This Practice Direction is issued pursuant to s 22(2) of the *Land Court Act 2000* and repeals and replaces the Practice Directions specified in Appendix A, to the extent stated in that appendix.
2. The Practice Direction explains the procedure the Court will use to conduct a *Mining Objection Hearing* (MOH) in a way that is accessible, fair, just, economical, and expeditious.
3. Terms that appear in italics in the Practice Direction are defined in the Words and Meanings section of the document.

# OVERVIEW OF A MINING OBJECTION HEARING (MOH)

## Overview of a Mining Objection Hearing (MOH)

### WHAT IS A MOH?

4. The Court must conduct a MOH if any person objects to an application for a mining claim, a mining lease, or an *environmental authority* relating to a mining lease. If there are *objections* to both an application for a mining lease and a related environmental authority, the Court will hear the objections to both applications in a *combined MOH*.

### WHAT IS THE COURT'S ROLE?

5. A MOH is not an *appeal* against or *judicial review* of a decision on an application. It is part of the decision-making process.
6. The Court makes a recommendation to the *decision-maker*, after hearing the application and any objection and considering *statutory criteria*.
7. The Court may recommend that the decision-maker—
  - a) grants the application; or
  - b) grants the application, subject to conditions; or
  - c) refuses the application.
8. The decision-maker must take into account, but does not have to act on, the Court's recommendation.

### THE COURT'S PROCEDURE

9. The Court—
  - a) is not bound by the *rules of evidence*; and
  - b) may inform itself in the way it considers appropriate; and
  - c) must act according to the substantial merits of the application, objections, and other matters it must consider; and
  - d) acts without regard to legal forms, practices, and technicalities that apply in courts other than the Land Court.
10. The Court does not perform an investigative role and will not conduct its own inquiries. It must consider only the evidence admitted during the hearing and the submissions made by the *active parties*.

## OVERVIEW OF A MINING OBJECTION HEARING (MOH)

*Example–*

*If the impact of noise from a proposed mine on a residence is an issue in the MOH, any party can lead evidence about that issue but the Court will not engage an expert to investigate and report to the Court.*

11. No party bears the *onus of proof* on issues for the MOH. In deciding what recommendation to make, the Court must weigh the benefits and disadvantages of the application referred to the Court, if an objection raises a matter of public interest.

*Example–*

*Whether to approve a mining lease over good quality agricultural land raises a matter of public interest. The Court has to consider the public interest in making its recommendation. The applicant does not have to prove it is in the public interest to grant the mining lease and an objector does not have to prove it is not in the public interest to do so.*

12. In summary, the procedure for a MOH will include the following steps–
  - a) identifying the application and objections to the Court; and
  - b) identifying the active parties and their representatives; and
  - c) identifying the issues; and
  - d) obtaining expert evidence, where required; and
  - e) engaging in *Alternative Dispute Resolution* (ADR), if appropriate; and
  - f) making arrangements for hearing; and
  - g) conducting the hearing; and
  - h) making the recommendation.

# STARTING A MOH

## Starting a MOH

### THE REFERRAL

13. The Court starts a MOH when the *referring agency* refers the application(s) and any objection(s) to the Court for hearing.
14. The referring agency must provide the Court with a *Referral Form*, the *application material*, and the *applicant's referral statement* in electronic format.

### THE ACTIVE PARTIES IN A MOH

15. An active party must participate fully at all stages of a MOH and must comply with the Court's directions about procedure.
16. Any objector to a referred application is entitled to be an active party in a MOH. However, the Court recognises that not all objectors will wish to take on that role.
17. The Court must consider all objections and will provide all objectors with a copy of the Court's recommendation and reasons, whether or not an objector elects to be an active party.

#### *Example—*

*An objector who does not elect to be an active party may have objected to the application on the ground that dust from the proposed mine will be harmful. Even if no other objector who elects to be an active party objected on that ground, the Court must consider whether the dust from the proposed mine will be harmful, taking into account what the objector has said in the objection.*

18. When it receives a referral for a MOH, the Court will write to the applicant and to the objector(s), to inform them of the referral and to ask the objectors whether they want to be an active party.
19. To elect to be an active party, an objector must file a Notice of Election within the *election period*.
20. The active parties to a MOH will be—<sup>1</sup>
  - a) the applicant; and
  - b) any objector who elects to be an active party; and

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<sup>1</sup> The Land Court may decide to add a party to a MOH relating to an application for an environmental authority. See *Environmental Protection Act 1994* s 156(d). The Court would hear from the other active parties before making that decision.

## STARTING A MOH

- c) the *statutory party* if the MOH relates to an environmental authority.
21. When the election period ends, the Court will prepare and provide to all active parties a list of the names of the active parties, the names of their representatives, if any, and their *address for service*.
22. An objector may apply to be an active party after the end of the election period. However, the Court may approve the application only if satisfied it is in the interests of justice to do so, after hearing from the active parties, and having considered relevant information, including–
- a) whether there is a reasonable explanation for the objector’s failure to elect during the election period; and
  - b) whether their objection raises an issue which is not included in the issues identified for the hearing; and
  - c) what stage the case has reached; and
  - d) any prejudice to any active party if the Court gives the objector *leave* to become an active party; and
  - e) any prejudice to the objector if their application is not granted.

### HOW AN ACTIVE PARTY CAN BE REPRESENTED IN A MOH

23. Any active party can appear in person, or appoint a lawyer or an agent to represent them.
24. If an active party appears in person, the Court will assist them to understand the Court’s procedure, but cannot provide legal advice or assist them to present their case.
25. The Court expects all parties and their representatives, if any, to–
- a) act honestly, efficiently, and expeditiously in a MOH; and
  - b) be aware of and comply with this Practice Direction, any other relevant Practice Direction and the provisions regarding procedure in the *Land Court Act 2000* and the *Land Court Rules 2000*; and
  - c) observe the orders and directions of the Court; and
  - d) not *abuse the Court’s process*.

### THE STATUTORY PARTY

26. The Department of Environment and Science (DES) is the statutory party in a MOH relating to an application for an environmental authority.
27. The statutory party will–
- a) endeavour to assist the Court in making its recommendation about the draft environmental authority; and

## STARTING A MOH

- b) assist the Court to understand the assessment of the application and any draft conditions proposed by the statutory party; and
- c) when requested by the Court, provide suggested draft conditions, relevant to a ground of objection, for consideration by the Court; and
- d) based on factual or legal rulings by the Court, assist the Court to identify amendments or new conditions of the environmental authority which may address a ground of objection; and
- e) conduct itself in accordance with the *Model Litigant Principles*.

# DOCUMENTS IN A MOH

## Documents in a MOH

### APPLICATION MATERIAL

28. As soon as practicable after receiving the Referral from the referring agency, the Court must provide the applicant with access to the Referral Form and the application material.
29. The applicant must file the applicant's referral statement with the Court no later than five working days before the end of the election period.
30. No later than five working days before the end of the election period, an applicant may apply to the Court for an order restricting access to any *document* in the application material.
31. The application must include the following information—
  - a) what document(s) the applicant wants the Court to restrict access to; and
  - b) the proposed terms of the restriction order; and
  - c) the reasons for the application; and
  - d) why it is in the interests of justice for the Court to make the order.
32. The Court may make a restriction order *on the papers*, without an *oral hearing*.
33. When the election period ends, the Court will provide any objector who elects to be an active party with—
  - a) access to the Referral Form, the application material (subject to any restriction order), and the applicant's referral statement; and
  - b) a copy of any restriction order relating to the application material.

### STATUTORY PARTY AFFIDAVIT

34. Unless otherwise ordered, within 14 days of the Court advising it of the active parties to the MOH, the statutory party must *file and serve* on each active party an affidavit by a relevant delegate which—
  - a) describes the assessment process; and
  - 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 application 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 environmental authority addresses that ground of objection.

## DOCUMENTS IN A MOH

### DISCLOSURE OF DOCUMENTS

35. The Court does not have the power to order *disclosure* of documents by any person, including an active party.

## DOCUMENTS IN A MOH

### FILED DOCUMENTS AND EXHIBITS

36. If any active party provides the Court with a document before the hearing, the document will be placed on the Court file.
37. Filed documents are not evidence in the hearing, unless an active party asks the Court to admit the document as an exhibit.
38. Unless subject to a restriction order, each document in the application material will be marked as a separate exhibit in the MOH.

### ACCESS TO FILED DOCUMENTS AND EXHIBITS

39. An active party to a MOH may inspect and copy any filed document or exhibit, unless subject to a restriction order, upon payment of the prescribed fee.
40. If an active party seeks access to a document which is subject to a restriction order, they may raise this at the *directions hearing* for the MOH.
41. Any other person must request permission to inspect and copy any filed document or exhibit.
42. A person making such a request must—
  - a) make a written request which states the documents the person wants to inspect and copy and why they want to do so; and
  - b) serve the request on the active parties at the address for service advised by the Registrar.
43. The Court will invite the active parties to make written submissions about the request and will take them into account in deciding whether to grant the request and, if so, on what conditions.

# PREPARING A MOH

## Preparing a MOH

### CASE MANAGEMENT

44. The Court has a wide discretion as to its procedure, but must afford the active parties *procedural fairness*. The Court will use *case management directions* to prepare a MOH for hearing, having regard to the number, nature, and complexity of the issues in dispute.
45. The Court will list a MOH for a directions hearing as soon as practicable after the election period ends, and will list further reviews to ensure the MOH progresses in a timely way.
46. At the request of any active party, or on its own initiative, the Court may list a MOH for review so it can make further or different case management directions.
47. The Court encourages the parties, as early as possible, to consider whether the MOH should be conducted as an *eTrial*.
48. The Court expects all parties to proceed in an expeditious way and to work constructively in Court processes directed by the Court, including ADR.
49. The Court will take the parties' compliance with case management directions into account in determining any application for an order that an active party pay the costs of any other active party for all or any part of a MOH.

### IDENTIFYING THE ISSUES FOR A MOH

50. During a MOH, the Court can only receive evidence relating to issues raised by a ground contained in a properly made objection.
51. Any active party can ask an objector who is an active party to provide further details of their ground(s) of objection, by making a *request for particulars*. Particulars may clarify or confine the scope of an objection but cannot add new grounds of objection.
52. At any time, an objector may abandon any ground of objection.

### EXPERT EVIDENCE

53. Expert witnesses owe a duty to the Court to give independent evidence, which prevails over the duty they owe to the party that has engaged them to give evidence. The *Guidelines for Expert Evidence in the Land Court* provide information about the Court's expectations of expert witnesses and the parties who engage them.
54. The Court will direct the process for expert evidence in a MOH on a case-by-case basis.

## PREPARING A MOH

55. The Court will choose the process for expert witness evidence taking into account the resources and preferences of the active parties and the nature, scope and complexity of the issues.
56. In a MOH that will involve evidence from experts in more than one discipline or field of expertise, the Court will consider listing the MOH for *Court Managed Expert Evidence*.

## PREPARING A MOH

### ALTERNATIVE DISPUTE RESOLUTION

57. The Court encourages the early and economical resolution of issues in a MOH, including, if appropriate, through ADR.
58. The Court expects active parties to consider ADR at every stage of a MOH.
59. The Court may direct active parties to engage in—
  - a) Mediation by a Convenor from the Court's *ADR Panel*;
  - b) a *Preliminary Conference* or Court-supervised *Mediation* conducted by a Member or the Judicial Registrar; or
  - c) Mediation by a private mediator.
60. Unless the Mediator approves other arrangements, the active parties who will participate in the ADR must attend in person.
61. The Court may make directions about—
  - a) the arrangements for the ADR; and
  - b) the participants for the ADR; and
  - c) the issues for the ADR; and
  - d) the documents for the ADR.

## ENDING A MOH BEFORE THE HEARING

### Ending a MOH before the Hearing

#### WITHDRAWAL OF ALL OBJECTIONS

62. The Court will end the MOH without making any recommendation if all objections to the application are withdrawn.

#### ABUSE OF PROCESS

63. The Court has power to *strike out objections* which are–

- a) outside the jurisdiction of the Court; or
- b) *frivolous* or *vexatious*; or
- c) otherwise an *abuse of the Court's process*.

64. The Court has power to *stay* a MOH.

65. If the Court decides to stay a MOH because of delay or non-compliance by the applicant, it will provide the Minister for Natural Resources, Mines and Energy and/or the Chief Executive of DES with written reasons for the stay.

# THE HEARING

## The Hearing

### LISTING AND HEARING ARRANGEMENTS

66. The Court will set dates for the hearing as soon as practicable.
67. The Court will list a MOH for a hearing *review* at least one month prior to the first day of the hearing.
68. Five working days before the hearing review the active parties must file in the Registry—
  - a) a list of issues (Appendix A to the Model Directions); and
  - b) a list of matters not in dispute (Appendix B to the Model Directions); and
  - c) a hearing bundle (Appendix C to the Model Directions); and
  - d) a proposed hearing plan, which identifies any issues relating to a site inspection (Appendix D to the Model Directions).

### ORIENTATION

69. In the usual course, a MOH will commence with a *site inspection*.
70. As early as is convenient during a MOH, the associate to the Member conducting the hearing will present publicly available information about the relevant land using *Queensland Globe (QGlobe)*.

### EVIDENCE

71. In a combined MOH, the evidence led in relation to each application will be evidence in the other, to the extent the evidence is relevant.
72. An active party may lead evidence about the issues for the MOH. The applicant may also lead evidence about any statutory criteria not included in the issues for the hearing.
73. The Court may take evidence from expert witnesses in a *concurrent evidence* session.
74. If more than one objector wishes to *cross-examine* a witness about the same issue, the Member conducting the hearing will—
  - a) request the objectors to nominate one person to conduct the cross-examination; and
  - b) if the objectors cannot agree on who that should be, the Member will appoint one of the objectors or one of their representatives; and
  - c) in making the appointment, the Member must consider the views of the relevant objectors.

## THE HEARING

75. The Member must ensure the person nominated or appointed to conduct the cross-examination has a reasonable opportunity to obtain instructions from the relevant objectors about the topics for cross-examination.

### SUBMISSIONS

76. At the end of the hearing, the Court will make directions for *submissions* by–

- a) all active parties, about the issues for the MOH; and
- b) the applicant, about any statutory criteria not included in the issues for the hearing.

# AFTER THE HEARING

## After the Hearing

### DECISION

77. The Member conducting the MOH will provide a written decision, which includes their recommendation(s) and reasons. If the Member delivers an oral decision at the end of the hearing, the Court will publish it as a written decision as soon as possible.
78. The Court will give as much notice as possible of the date on which the decision will be delivered, to—
- a) the active parties; and
  - b) if the MOH is for an application for a mining claim or mining lease, the Departmental Officer who referred the application to the Court.
79. The Member will observe the Court's *Reserved Judgment Policy*, which sets a reporting target of 3 months from hearing or final submissions for Members to deliver their decision.
80. When the hearing ends, or at any time before the decision is delivered, if the Member has good reason to think they cannot deliver their decision in that time, they must set a date by which they expect to deliver the decision.
81. The Court will provide copies of the decision to—
- a) all active parties; and
  - b) any objector who did not elect to be an active party; and
  - c) if the MOH involves an application for a mining claim or mining lease, the Minister for Natural Resources, Mines and Energy; and
  - d) if the MOH relates to a mining lease that is included in a coordinated project, the State Development Minister.

### COSTS

82. The Court may order an active party to pay all or some of the costs incurred by another active party, either as fixed in the order or as assessed against a specified *Scale of Costs*.
83. The Court can award costs—
- a) against an applicant who abandons or does not pursue their application for a mining claim or mining lease at a hearing; and
  - b) against an owner or objector who withdraws or does not pursue their objection to an application for a mining claim or mining lease at a hearing; and
  - c) otherwise as it considers appropriate.

## AFTER THE HEARING

84. In deciding whether to make a costs order, the Court will take into account the following matters—

- a) whether the application or an objection was made primarily for an improper purpose;  
and
- b) whether the application or an objection was frivolous or vexatious; and
- c) whether a party has introduced, or sought to introduce, new material at the hearing;  
and
- d) whether a party has defaulted in the Court’s procedural requirements; and
- e) whether the applicant for a mining claim, mining lease, or environmental authority did not give all the information reasonably required to assess the application; and
- f) whether the applicant or an objector abandoned or did not pursue their application or objection at the hearing; and
- g) any other relevant factor.

# WORDS AND MEANINGS

## Words and Meanings

*Abuse of the Court process:* Abuse of the Court process is the misuse, or unjust or unfair use of Court process and procedure. Consistent failure to abide by Court orders and directions can constitute an abuse of process.

*Active party:* An active party for a mining objection hearing is any of the following–

- a) the applicant for the mining lease or claim and/or environmental authority
- b) the Department of Environment and Science (also the statutory party)
- c) any objector who elects to be an active party.

*Address for service:* A party's address for service is the address the Court and the parties can use to give documents to that party.

*ADR Panel:* The Court has established a panel of ADR Convenors who are accredited Mediators and have other specialist knowledge and experience.

*Affidavit:* An affidavit is a written statement, made by a person who has sworn or affirmed before a person authorised to administer the oath that the contents of the statement are true.

*Alternative Dispute Resolution:* ADR is the use of alternative methods such as preliminary conferences, mediation, or case appraisal to resolve a dispute without the need for the Court to decide the case.

*Appeal:* An appeal is an application to reconsider or rehear a decision on the ground that there has been an error in the decision.

*Applicant's referral statement:* A statement of relevant information the Court requires the applicant to file in the Court before the end of the election period.

*Application material:* Application material is the documents attached to the Referral Form.

*Case management directions:* Case management directions may provide for one or more of the following–

- a) identifying an issue to be decided in a matter at a preliminary stage
- b) identifying the issues in dispute
- c) Court supervised processes, including preliminary conferences, mediations, and Court managed expert evidence
- d) exchanging lists of witnesses, including expert witnesses
- e) meetings of experts and the production of joint reports of the experts

## WORDS AND MEANINGS

- f) exchanging statements of witnesses the parties intend to call
- g) a review by the Court of the conduct of the matter
- h) arrangements for a site inspection
- i) the dates and other arrangements for a hearing
- j) giving, for use by the Court before the hearing, a copy of–
  - i. a document identifying the issues in dispute
  - ii. a statement of evidence, including a joint report
  - iii. a book of documents to be tendered at the hearing with the consent of the parties
- k) limiting the duration of the hearing
- l) limiting the time to be taken by a party in presenting their case
- m) requiring evidence to be given by affidavit, orally or in another form
- n) requiring expert witnesses in the same field to give evidence consecutively, concurrently or in another way
- o) limiting the number of witnesses a party may call on a particular issue in dispute
- p) limiting the time to be taken in examining, cross-examining or re-examining a witness
- q) requiring an opening address or submission to be made in the way the Court directs
- r) limiting the time to be taken for an opening address or in making oral submissions
- s) limiting the length of a written submission, affidavit or statement of evidence
- t) any other matter the Court considers appropriate.

*Combined MOH:* A combined MOH is a MOH which hears the applications for a mining lease and a related environmental authority, and the objections to those applications, at the same time.

*Concurrent evidence:* Concurrent evidence involves more than one expert witness giving evidence on the same issue in the same session. The Court's procedure for concurrent evidence is specified by Practice Direction 2 of 2017.

*Court Managed Expert Evidence (CMEE):* A CMEE is a method where the Court supervises the briefing and meeting of experts and production of their joint expert report. Practice Direction 3 of 2018 governs a CMEE.

*Cross-examine:* To ask questions of a witness called by another active party to get information on a relevant issue and/or cast doubts on the accuracy of evidence presented by that witness.

*Decision-maker:* Is–

- a) for an application for a mining claim or mining lease, the Minister for Natural Resources, Mines and Energy
- b) for an application for an environmental authority, the Chief Executive of DES.

## WORDS AND MEANINGS

*Directions hearing:* At a directions hearing, the Court will make directions about the steps the parties or their witnesses must take in preparation for the hearing.

*Disclosure:* Disclosure is the delivery or production of documents by a party to a case to the other parties in the case.

*Document:* Document includes, in addition to a document in writing—

- a) any part of a document in writing or of any other document as defined herein
- b) any book, map, plan, graph or drawing
- c) any photograph
- d) any label, marking or other writing which identifies or describes anything of which it forms part, or to which it is attached by any means whatever
- e) any disc, tape, soundtrack or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom
- f) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom
- g) any other record of information whatever.

*Election period:* Election period is the period in which an objector may elect to be an active party. It ends on the date stated in the letter to objectors. That date must be at least 15 days from the date of the letter.

*Environmental authority:* Environmental authority means an environmental authority issued under s 195 of the *Environmental Protection Act 1994* that approves an environmentally relevant activity applied for in an application.

*eTrial:* In an eTrial, the documents that may be required or referred to during the hearing are provided, stored and accessed electronically. Practice Direction 2 of 2016 governs the process for eTrials.

*File and serve:* To file and serve a document means to give the document to the Court so it can be placed on the Court file and to give a copy of that document to the other active parties at their address for service.

*Frivolous:* A claim or objection is frivolous if it has no reasonable grounds, but something more than lack of success needs to be shown.

## WORDS AND MEANINGS

*Guidelines for Expert Evidence in the Land Court:* The Guidelines for Expert Evidence explain the Court's expectations of expert witnesses and its procedures for obtaining, documenting and using their evidence.

*Issues for the MOH:* The issues for the MOH are the issues as defined by this Practice Direction at [48] - [50].

*Judicial Review:* Judicial Review is the determination by courts of the legality of exercises of power by administrators and tribunals.

*Leave:* If something can only be done with leave of the Court, it can only be done if the Court makes an order allowing it.

*Mediation:* Mediation is a form of alternative dispute resolution (ADR). An impartial person (the Mediator) assists the parties to discuss and attempt to resolve their dispute by agreement. The Mediator must keep the discussions confidential and the parties cannot use what is said or done during a mediation in a court case.

*Mining Objection Hearing:* A MOH is a hearing of an application for a mining claim, a mining lease, or an environmental authority relating to a mining lease and any objection to that application.

*Model Litigant Principles:* Model Litigant Principles are principles enacted by the Queensland Government outlining the conduct expected of the State and its agencies in legal proceedings. The principles provide that the State and all agencies, in the conduct of all litigation, must adhere to the principles of fairness and firmness, and consider alternative dispute resolution as a method of resolution before proceeding to court.

*Objection:* An objection is a ground relied upon by a person objecting to the grant of a mining lease, mining claim, or environmental authority.

*Onus of Proof:* Onus of proof is the obligation of a party in a hearing to produce the evidence that will prove the case it has made against the other party.

*On the papers:* On the papers is where a matter is determined on written submissions only and the parties will not have the opportunity to make oral submissions.

*Oral hearing:* An oral hearing is where the Court will make a determination based on written and oral submissions.

*Preliminary Conference:* A preliminary conference is a form of ADR in which the Judicial Registrar or a Member convenes an informal meeting between the parties to identify the

## WORDS AND MEANINGS

issues in dispute, discuss those issues and try to find a mutually acceptable outcome, without a court hearing.

*Procedural fairness:* Procedural fairness means to act fairly in administrative decision-making by–

- a) providing a fair opportunity for a party to present their case
- b) giving impartial consideration to the merits of the case
- c) acting on logically probative evidence.

*Queensland Globe (QGlobe):* QGlobe is an online interactive tool that presents physical, geographical, and spatial data about a particular location in a map format.

*Referral Form:* The Referral Form is the approved form for referring the application for a MOH.

*Referring agency:* The referring agency is the Department of Natural Resources, Mines and Energy except where the only application objected to is an application for an environmental authority. In that case, the referring agency is the Department of Environment and Science.

*Request for particulars:* A request for particulars is a request for details of the claim in an action before the Court which are necessary in order for the other party to know what case they must meet.

*Reserved Judgment Policy:* Reserved Judgment Policy.

*Review:* A review is a procedural hearing (after an initial directions hearing) where the President or a Member reviews the progress of the case and makes procedural directions regarding the future management of the case.

*Rules of evidence:* Rules of evidence comprise a body of legal principles that govern whether evidence can be admitted during a court proceeding.

*Scale of Costs:* The scale of costs is a published schedule that is used to determine the amount payable where one party must pay the legal costs of another party to a proceeding.

*Site inspection:* A site inspection involves the Court party visiting an area of land that is relevant to the case. The Court will conduct a site inspection in accordance with Practice Direction 2 of 2018.

*Statutory Criteria:* Statutory criteria are matters or factors the Court must consider during a MOH. They are specified–

## WORDS AND MEANINGS

- a) for a mining lease, in s 269(4) of the *Mineral Resources Act 1989*;
- b) for a mining claim, in s 78(a) of the *Mineral Resources Act 1989*; and
- c) for an environmental authority, in s 191 of the *Environmental Protection Act 1994*.

*Statutory party*: The statutory party for a MOH involving an objection to an environmental authority is the Department of Environment and Science.

*Stay*: A stay is an order by the Court suspending a case or a part of a case until further order.

*Strike out objections*: If the Court strikes out an objection, it will not receive evidence about that objection. If the Court strikes out all objections to an application, the MOH for that application will end.

*Submissions*: Submissions are the arguments put forward (either orally or in writing) by a party in a hearing.

*Vexatious proceedings*: Vexatious proceedings include those that are an abuse of the process of the Court, designed to harass or annoy, to cause delay or detriment, or for any other wrongful purpose, instituted without fair or reasonable grounds.

## APPENDIX A – PRACTICE DIRECTIONS REPEALED (IN WHOLE OR PART) BY THIS PRACTICE DIRECTION

### Appendix A – Practice Directions repealed (in whole or part) by this Practice Direction

| PD NO     | SHORT TITLE   | EXTENT TO WHICH PD REPEALED BY THIS PD |
|-----------|---|--|
| 6 of 2013 | Additional Applicant Information and Statutory Declaration  | In whole                               |
| 1 of 2015 | Procedures Applicable to Matters Referred to the Land Court | In whole                               |
| 3 of 2015 | Objectors Participation in Objections Hearings              | In whole                               |
| 4 of 2015 | Approval of Forms   | In whole                               |
| 5 of 2015 | Approved Forms for Referrals                                | In part: paragraphs 5 to 18            |