


Procedure for Nomination of ADR Convenor or Process

Practice Direction 4 of 2020

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

President FY Kingham
Issued 19th November 2020

Procedure for Nomination of ADR Convenor or Process

1. This Practice Direction is issued pursuant to s 22(2) of the *Land Court Act 2000*. It details the procedure for the Judicial Registrar to nominate the *ADR Convenor* or process when the parties cannot agree.
2. The Practice Direction applies to statutory pre-filing ADR and ADR of matters filed in the Court.
3. The Court is committed to resolving disputes in a way that is accessible, fair, just, economical and efficient and aims to finalise requests and nominations promptly to enable the *ADR process* to commence without delay.
4. Where the parties cannot agree upon an ADR Convenor or Process, a party may request the Judicial Registrar to make the nomination.
5. The request must be:
 - a. In the prescribed form¹
 - b. Emailed to ADRPANEL.Landcourt@justice.qld.gov.au and
 - c. Provided to each other party at the same time.
6. Any party wishing to respond to the request, must:
 - a. Use the prescribed form²
 - b. Email the form to ADRPANEL.Landcourt@justice.qld.gov.au and
 - c. Provide a copy to each other party at the same time.
7. The Judicial Registrar may request further information or submissions from the parties before making the nomination.

¹ ADR Form 01 – Request for ADR Convenor / ADR Process

² ADR Form 01A – Response to Request for ADR Convenor / ADR Process

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Nomination of ADR Convenor and/or ADR Process by Judicial Registrar

8. The Judicial Registrar will aim to provide the written nomination within 7 days of receiving the last material from the parties.
9. In making the nomination, the Judicial Registrar will take into account and consider the following:
 - a) the nature of the dispute
 - b) the type and complexity of the issues in dispute
 - c) the location of the parties and the subject land
 - d) the financial circumstances of the parties
 - e) any actual or perceived conflicts of interest
 - f) the availability and expertise of convenor's on the ADR panel
 - g) any other relevant matters raised by the parties.

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Words and meanings

ADR Convenor: A convenor is a member of the Land Court's ADR Panel.

ADR Process: Means a process of mediation or case appraisal.

Case Appraisal: Case appraisal is a form of ADR. An impartial person (the Case Appraiser) assists the parties to discuss and attempt to resolve their dispute by agreement. If the parties cannot agree, the Case Appraiser will make a non-binding decision. The parties may agree to abide by the decision or bring their dispute to the court. The Case Appraiser must keep the discussions confidential and the parties cannot use what is said or done during a case appraisal in a court case.

Case Appraiser: The person undertaking a case appraisal.

Mediation: Mediation is a form of 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.

Mediator: the person who undertakes a mediation is known as the Mediator.

Statutory Pre-Filing ADR: is ADR conducted in accordance with a statutory requirement that ADR be undertaken by the parties as a pre-condition to the commencement of litigation in respect of the dispute.