



MODEL DIRECTIONS

Land Court of Queensland

Version 1, issued on 9 February 2018

[Overview](#)

This document sets out model directions for pre-hearing management of cases before the court. It includes directions for most pre-hearing steps, including issue identification, disclosure, ADR, and expert evidence procedures. A glossary of terms is included to assist those unfamiliar with court procedures.

The directions can be adapted for use in simple disputes and those involving multiple fields of expertise. The court expects parties to use the model directions, amended or supplemented to reflect the particular circumstances of the case, when proposing directions for their case.

The court will revise the model directions periodically.

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Case Management in the Land Court

The court manages cases through a variety of procedures, during which directions for the conduct of the case may be made.

As soon as practicable after a case is filed, the court will list it for a directions hearing or, in the case of appeals against land valuations of \$5 million or less, for a Preliminary Conference before the Judicial Registrar. After the initial Directions Hearing (or Preliminary Conference), the case will be reviewed regularly to ensure the case is progressing well.

This document sets out model directions for pre-hearing management of cases before the court. They provide options for most pre-hearing steps, including issue identification and disclosure, ADR, and expert witness procedures. They include options for simple disputes and those involving multiple fields of expertise.

The court expects parties to use the model directions, amended or supplemented to reflect the particular circumstances of the case, when proposing directions for their case.

The court's approach

The court proactively manages all active cases before the court to:

1. enhance the prospects of early resolution; and
2. promote efficient and effective preparation for a fair hearing of the real issues in dispute.

The following principles and requirements will guide the court in making directions.

The court's core values:

The court will manage its case load in a way that promotes the core values of the court: equality before the law; fairness; impartiality; independence of decision making; competence; integrity; transparency; accessibility; timeliness; and certainty.¹

Land Court Act 2000:

The court is:

1. not bound by the rules of evidence and may inform itself in the way it considers appropriate; and
2. must act according to equity, good conscience, and the substantial merits of the case without regard to legal technicalities and forms, or the practices of other courts.²

The President may issue Practice Directions of general application about the procedure of the court.³
A Member may issue directions about a particular case when constituting the court for that case.⁴

¹ The International Framework for Court Excellence, 2nd Edition - Section 2.

² *Land Court Act 2000* s 7.

³ *Land Court Act 2000* s 21(2).

⁴ *Land Court Act 2000* s 21(3).

Land Court Rules 2000 and Uniform Civil Procedure Rules 1999

The *Land Court Rules 2000* provide for some aspects of procedure. Where they do not, the *Uniform Civil Procedure Rules 1999* (UCPR) applies with necessary changes.⁵ However, the UCPR does not apply in the court's recommendatory jurisdiction, such as when the court hears objections to mining lease applications.

The court's expectations of the parties

At every stage of the case, the court expects parties to consider what directions would best progress the case. The court periodically reviews all active cases to ensure they are progressing productively and that the parties have appropriately explored options for resolving the dispute.

The court expects parties to discuss proposed directions with each other prior to any directions hearing or review.

Non-compliance with directions

Directions are procedural orders of the court. Non-compliance with directions may expose a party to procedural and other consequences, including an order to pay the costs incurred by another party because of a party's non-compliance.

If a party becomes aware of any circumstances that may prevent them from complying with a direction, they should notify the Land Court Registry and the other parties in writing as soon as practicable of the following matters:

1. the direction and the date the direction was made by the court;
2. the reason for the anticipated non-compliance; and
3. the party's proposal to remedy the non-compliance, including any proposed variation to the current directions.

If a party fails to provide notice in those terms prior to the date for compliance, the court will consider that failure on any application for costs.

Consent directions

If the parties agree, the court may issue directions by consent without requiring the parties to attend court in person. However:

1. if the proposed variation puts any court listings at risk; or
2. if the President or Member managing the case is concerned about the progress of the case;

the court will require the parties to attend a review despite their agreement.

⁵ *Land Court Rules 2000* r 4.

Identifying the issues

Notes: The Land Court does not use the system of pleadings used in the UCPR. The following directions are used to clarify the parties' cases and to identify the real issues in dispute.

The process for starting a case in the court depends on the nature of the case and includes:

1. by a notice of appeal, filed in the court (land valuation, land categorisation and other appeals);
2. by application to a government agency for a tenure or authority, which is referred to the court (mining and environmental authorities and some associated compensation cases);
3. by application filed in the court (other claims, including for compensation for acquisition of land).

However once the case starts, the court expects the initiating document to include sufficient particulars⁶ of the appellant/applicant's case to enable any other party to understand the case they must meet. If the initiating document does not contain sufficient particulars, the court may require the appellant/applicant to deliver further and better particulars requested by another party.

Land valuation, rates categorisation and other appeals

LV1: By **[TIME & DATE]** **[respondent's name]** must file in the Land Court Registry and serve on **[appellant's name]** a statement of facts, matters and contentions in response to the grounds of appeal set out in the notice of appeal.

LVA2: By **[TIME & DATE]** **[appellant's name]** must file in the Land Court Registry and serve on the **[respondent's name]** a statement of facts, matters and contentions in reply, if any.

Claims for compensation for acquisition of land

AQL1: By **[TIME & DATE]** **[respondent's name]** must file in the Land Court Registry and serve on **[applicant's name]** a statement of facts, matters and contentions in response to the applicant's statement of position set out in the claim for compensation.

AQL2: By **[TIME & DATE]** **[applicant's name]** must file in the Land Court Registry and serve on the **[respondent's name]** a statement of facts, matters and contentions in reply, if any.

Mining tenures and environmental authorities

MOH1: By **[TIME & DATE]** **[applicant's name]** must file and serve any request for further and better particulars of the grounds of objection of any active party to the hearing.

⁶ That is, further and clearer details. Please refer to the Glossary for the definition.

- MOH2:** By **[TIME & DATE]** **[active party's name]** must file in the Land Court Registry and serve on the applicant and the Statutory Party its further and better particulars of the grounds of objection.
- MOH3:** The issues for the hearing will be those issues raised by any ground of objection, as particularised, unless all active parties advise the court that a hearing is no longer required on any issue raised by an objection. The active parties may so advise the court at any stage of the case, including after the hearing has commenced.
- MOH4:** By **[TIME & DATE]** the Statutory Party must file in the Land Court Registry and serve on the other active parties a notice specifying which conditions of the draft environmental authority are relevant to each of the issues for the hearing.

Compensation for mining leases and mining claims, disputes about conduct and compensation for land access, and applications to review compensation

- MC1:** By **[TIME & DATE]** **[resource holder/applicant's name]** must file in the Land Court Registry and serve on the **[landholder's name]** a compensation statement in accordance with *Land Court Practice Direction 1 of 2017*.
- MC2:** By **[TIME & DATE]** **[landholder's name]** must file in the Land Court Registry and serve on **[resource holder/applicant's name]** a statement of facts, matters and contentions in response to the compensation statement.
- MC3:** By **[TIME & DATE]** **[resource holder/applicant's name]** must file in the Land Court Registry and serve on **[landholder's name]** a statement of facts, matters and contentions in reply, if any.

Other applications

- OA1:** By **[TIME & DATE]** **[respondent's name]** must file in the Land Court Registry and serve on **[applicant's name]** a statement of facts, matters and contentions in response to the application.
- OA2:** By **[TIME & DATE]** **[applicant's name]** must file in the Land Court Registry and serve on the **[respondent's name]** a statement of facts, matters and contentions in reply, if any.

Disclosure of documents by a party

Notes: The provisions of the UCPR apply to disclosure of documents, except in the court's recommendatory jurisdiction, such as mining objection hearings. Until a specific power is conferred on the court to order disclosure of documents for mining objection hearings, orders for disclosure will only be made with the consent of the active parties.

To promote efficient and effective preparation for hearing and to avoid unnecessary costs, the court expects each party to be specific about the categories of documents it seeks or in relation to particular issues.

Disclosure is an ongoing obligation. In all cases, except those in the court's recommendatory jurisdiction, the court expects parties to provide a certificate of compliance with the disclosure obligations⁷ at the commencement of the hearing.

If a party seeks disclosure from someone who is not a party to the proceedings, they must make an application in accordance with the procedure in the UCPR. Again, that procedure is not available in the court's recommendatory jurisdiction.

D1: By **[TIME & DATE]** **[party's name]** must deliver to **[party's name]**:

1. a list of all documents in their possession or control in the following categories or which are directly relevant to the following issues (specify here the documents sought by category and/or issue);
2. a separate list of any of the documents for which they claim privilege from disclosure, and the basis for that claim.

D2: By **[TIME & DATE]** **[party's name]** must produce the listed documents for inspection or deliver copies of the listed documents as requested by any other party.

Expert witness procedures

Notes: The following directions support the court's Guidelines for Expert Evidence and should be read in conjunction with those guidelines. The court's objective is to reinforce the independence of expert witnesses and to make the most timely, efficient, and effective use of expert evidence. To retain flexibility, the court will direct the process for expert evidence on a case-by-case basis. The court's choice of process will respond to the nature, scope and complexity of the issues, resources and preferences of the parties.

Nomination of experts

Ex1: By **[TIME & DATE]** each party must file in the Land Court Registry and serve on any other party a written notice of the expert witnesses they intend to engage for the hearing. The notice must deliver the following details with respect to each expert witness nominated:

1. the name of the expert witness;
2. their discipline or area of expertise; and
3. a short statement of each specific issue or assertion the expert witness will address.

⁷ In compliance with rule 226 of the UCPR.

Single expert witness in a field or area of expertise

Notes: This direction applies where only one party is calling an expert in a particular discipline or area of expertise.

Ex2: By **[TIME & DATE]** **[party's name]** must file in the Land Court Registry and serve on any other party a statement of evidence sworn or affirmed by **[expert's name]** **[expert's discipline or field of expertise]**.

Ex3: The filed statement of evidence sworn or affirmed by **[expert's name]** will be their evidence in chief at the hearing, unless the court orders otherwise. More than one expert witness

Notes: Where more than one party is calling an expert in a particular discipline or area of expertise, or where more than one expert will give evidence about the same issue or assertion, there are two types of expert evidence procedures that the court will consider: namely, party managed expert evidence (PMEE) and court managed expert evidence (CMEE).

Party Managed Expert Evidence (PMEE)

Notes: In simple cases, the court will direct the parties to manage the expert evidence procedure. This is suitable where the parties have engaged an expert in only one discipline or area of expertise or where the issues are clearly defined.

The PMEE directions provide for a consolidated brief to each expert prepared by all parties which identifies any issue a party considers the expert should address and includes any document or information a party considers is relevant. The parties do not need to agree about the issues or documents. The directions reserve the parties' rights to object to admission of irrelevant or otherwise inadmissible evidence. Disputes about relevance and admissibility can be ruled on at the hearing or, if it is necessary for efficient case management, prior to the hearing.

The directions also provide for the experts to confer and deliver a joint report to the court. The joint report specifies those matters upon which they agree and disagree and the reasons for any disagreement. The court expects the experts to address any factual scenario or methodology advanced by another expert, even if they do not agree with the scenario or methodology.

Where the evidence of experts in one discipline could affect the evidence given by experts in another discipline, the parties must take that into account in proposing a schedule for the conferences. The court expects the parties to consult with each other and with the expert witnesses to develop a sensible schedule, with realistic deadlines that allow the expert witnesses adequate time to confer and prepare their reports.

Consolidated brief of instructions to the experts

Ex4: By **[TIME & DATE]** the parties must prepare and deliver to the **[discipline or area of expertise]** expert witnesses a single brief of instructions which:

1. identifies any issue any party considers the experts need to address; and
2. includes any information or documents any party considers relevant to those issues.

Ex5: Including information or a document in the brief of instructions is without prejudice to the parties' rights to object at the hearing to the admission into evidence of all or part of any information or document included in the brief of instructions, and to object to any evidence relating to the disputed information or document.

Conference and joint report

Ex6: By **[TIME & DATE]** the **[discipline or area of expertise]** expert witnesses must participate in a *meeting of experts*.⁸

Ex7: By **[TIME & DATE]** the **[discipline or area of expertise]** expert witnesses must produce a *joint report*⁹ and deliver a copy to each party.

Ex8: **[appellant/applicant name]** must file a copy of the joint report in the Land Court Registry within two (2) business days of its receipt.

Ex9: Unless otherwise ordered, the expert witnesses may not file any statement of evidence other than their joint report.

Court Managed Expert Evidence (CMEE)

Notes: The court will manage the expert witness procedure in complex cases, including:

1. where the parties have nominated experts in more than two disciplines or areas of expertise;
2. where the issues for the experts to address are complex, interdependent or lack clarity; or
3. where court supervision would enhance a fair, efficient and effective procedure.

The powers of the CMEE convenor are set out in the Guidelines for Expert Evidence. The directions provide for appointing a person to act as CMEE convenor. Thereafter, their powers are defined by the Guidelines. The CMEE process will respond to the circumstances of the particular case, but will involve a similar process of consolidated briefing, conferencing and joint reporting as the model directions provide for PMEE. The CMEE convenor will manage communications between the experts, the parties and their representatives and the court. The CMEE procedure is conducted on a without prejudice basis. In consultation with the parties, the CMEE convenor will deliver the court with progress reports on process issues, while preserving the confidentiality of the procedure.

Ex9: This case is subject to the Court Managed Expert Evidence (CMEE) procedure.¹⁰

Ex10: By **[TIME & DATE]** the CMEE convenor will convene a Preliminary Conference of the parties.

⁸ As that term is defined in the *Land Court Rules 2000*.

⁹ As that term is defined in the *Land Court Rules 2000*.

¹⁰ As defined in the *Guidelines for Expert Evidence in the Land Court*.

Ex11: The CMEE Convenor has the functions and may exercise the powers specified in the *Guidelines for Expert Evidence in the Land Court*.

Concurrent evidence

Notes: These directions should be read in conjunction with *Land Court Practice Direction 2 of 2017*. The Member allocated to hear the case will decide whether to take evidence from expert witnesses in a concurrent evidence session, after consultation with the parties. If that is not settled beforehand, it will be determined at the hearing review. If a party seeks clarity about the mode of expert evidence for the hearing before the hearing review, they should raise this at another review, or by correspondence with the Land Court Registry. The question will then be referred to the Member allocated to hear the case.

An agenda for the concurrent evidence session assists all participants to prepare. The directions provide for the parties to agree upon an agenda for the court's consideration. The purpose of the agenda is to prepare the parties and the witnesses and to help the Member guide the concurrent evidence session. Requiring the parties to contribute to the agenda ensures those with an intimate knowledge of the case can identify key issues for the court to consider. A proposed agenda:

1. should identify any matters on which the experts agree (so they can be confirmed at the commencement of the session);
2. should organise the matters on which they disagree under broad topics, arranged in a logical order; and
3. may identify particular passages of the joint reports or statements of evidence, or documents in evidence, that are relevant to those topics.

The Member will settle the agenda in consultation with the parties. The parties must deliver the settled agenda to the expert witnesses as soon as practicable before the session commences.

Ex14: The evidence of **[names of expert witness] [expert's discipline or area of expertise]** will be taken concurrently.

Ex15: By **[TIME & DATE]** the parties must file in the Land Court Registry an agreed proposed agenda for the concurrent evidence session(s) for the court's consideration.

Ex16: By **[TIME & DATE]** the parties must deliver each of their nominated expert witnesses:

3. a copy of *Land Court Practice Direction 2 of 2017*;
4. a copy of the agenda/proposed agenda for their concurrent evidence session.

Lay witnesses

E1: By **[TIME & DATE]** each party must file in the Land Court Registry and serve on any other party statements of evidence sworn or affirmed by any lay witness they intend to rely upon at the hearing.

E2: The filed statement of evidence sworn or affirmed by a lay witness will be their evidence in chief at the hearing, unless the court orders otherwise.

Alternative Dispute Resolution (ADR)

Notes: The court is committed to resolving disputes fairly, cost-effectively and efficiently. Alternative Dispute Resolution makes an important contribution to the court achieving that goal. In all cases, the court encourages parties to reach agreement without the need for a hearing. It offers ADR processes to assist the parties to do so, including:

- Preliminary Conference (PC)
- Court Managed Expert Evidence (CMEE)
- Mediation
- Case Appraisal¹¹

Some of those processes may be convened by the judicial registrar or a member of the court. They may also be convened by a convenor from the court's ADR Panel. The court may refer a matter for mediation by a private mediator, but would not refer a case for PC or CMEE by a private mediator.

A party may request a case is referred for case appraisal by a convenor from the court's ADR Panel or by a private case appraiser.

Preliminary Conference (PC)

Notes: A preliminary conference is an informal meeting, supervised by the court, which brings the parties together to discuss the case and try to settle it at an early stage. The conference is usually convened by the Judicial Registrar, but may be convened by a Member of the court. The parties, and their advisers, attend in person. The convenor will assist the parties to identify and discuss the issues in dispute and to explore options to settle the case, without the need for a court hearing. The conference is 'without prejudice'. This means it is confidential. If the case does not settle, a party cannot rely on anything said at the conference as evidence in the hearing.

ADR1: The parties must attend, participate in and act reasonably and genuinely in a Preliminary Conference before a Member/the Judicial Registrar at **[TIME & DATE & LOCATION]**. This direction is a referring order for the purposes of the *Civil Proceedings Act 2011*.

Court supervised mediation – Member or Judicial Registrar

Notes: A court supervised mediation may be conducted by a Member of the court or a Judicial Registrar.

Mediation by a Member or Judicial Registrar will be in accordance with *Land Court Practice Direction 3 of 2017*.

¹¹ Case appraisal is not currently available for matters filed in the Land Court. See section 37(5) of the *Land Court Act 2000*.

They directions include an option for mediator access to an eCourtbook where an order has been made or it is anticipated that the hearing will proceed as an eTrial. (ADR5)

ADR2: The parties, including their representatives and nominated experts, must attend, participate in, and act reasonably and genuinely in a court supervised mediation before **[name of Member/the Judicial Registrar]** for **[#]** days commencing at **[TIME & DATE & LOCATION]**.

This direction is a referring order for the purposes of the *Civil Proceedings Act 2011*.

ADR3: By **[TIME & DATE]** each party must:

1. deliver to any other party a brief mediation statement which:
 - a. sets out the issues they say arise in the case;
 - b. states how they would like the case resolved;
 - c. lists any documents they intend to specifically refer to in the mediation; and
 - d. if those documents are not included in the Land Court's file, deliver copies of those documents.
2. deliver a copy of the statement and attachments to the Land Court Registry in a sealed envelope or by email marked "Confidential to be opened only by Mediator, Land Court".

ADR4: Providing a document by attaching it to a mediation statement is without prejudice to a parties' right to object at the hearing to the admission into evidence of all or part of the document.

ADR5: The parties must comply with *Land Court Practice Direction 2 of 2016*, with the following changes:

5. the Registrar will deliver the mediator with read only access to the eCourtbook for the purpose of the mediation; and
6. paragraphs 7 to 10 of *Land Court Practice Direction 2 of 2016* apply as if the words "the hearing" were replaced by the words "the mediation".

ADR6: If the mediation is adjourned, and when the mediation ends, the Mediator must deliver a certificate in the approved form to the Land Court Registry.

ADR7: Unless all parties deliver prior written notice to the Land Court Registry that the case has resolved without the need for court orders, the case is listed for review at **[TIME & DATE]**.

Court supervised mediation – Land Court ADR Panel Convenor

Notes: The court has established an ADR panel to help parties find a suitably qualified mediator. To be accepted for the panel, a mediator must be accredited under National Mediation Accreditation Standards. Importantly, they must also possess qualifications or experience that is relevant to the types of cases filed in the court. Their additional qualifications and experience mean the mediators will have a better understanding of:

- the circumstances of the parties and the issues likely to arise in their disputes;

- the options to resolve the disputes; and
- the court's processes, if the case must be heard by the court.

Mediation by a convenor from the court's ADR panel will be conducted in accordance with *Land Court Practice Direction 1 of 2018*.¹² The mediation procedure is the same as applies to mediation by a Member or Judicial Registrar except for the following:

- the parties must bear the costs of the mediation, such as the mediator's fees and the cost of the venue; and
 - if the case does not settle, a convenor from the ADR panel cannot hear and determine the case with the parties' consent.
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ADR8: The parties, including their representatives and nominated experts, must attend, participate in and act reasonably and genuinely in a court supervised mediation before a convenor from the Land Court ADR Panel agreed to by the parties or, if the parties cannot agree, nominated by the Land Court Registrar, at a time, date and location to be confirmed by the mediator, but no later than **[DATE]**.

This direction is a referring order for the purposes of the *Civil Proceedings Act 2011*.

ADR9: By **[TIME & DATE]** each party must:

1. deliver to any other party a brief mediation statement which:
 - a. sets out the issues they say arise in the case;
 - b. states how they would like the case resolved;
 - c. lists any documents they intend to specifically refer to in the mediation; and
 - d. if those documents referred to in (c) are not included in the Land Court's file, deliver copies of those documents.
2. deliver a copy of the statement and attachments to the Land Court Registry in a sealed envelope or by email marked "Confidential to be opened only by Mediator, Land Court".

ADR10: Providing a document by attaching it to a mediation statement is without prejudice to a parties' right to object at the hearing to the admission into evidence of all or part of the document.

ADR11: The parties must comply with *Land Court Practice Direction No 2 of 2016*, with the following changes:

1. the Registrar will deliver the mediator with read only access to the eCourtbook for the purpose of the mediation; and
2. paragraphs 7 to 10 of *Land Court Practice Direction 2 of 2016* apply as if the words "the hearing" were replaced by the words "the mediation".

ADR12: Unless otherwise agreed between the parties and the mediator, the parties must share the costs of the mediation equally.¹³

¹² To be issued shortly.

¹³ Another costs order may be made by the court after hearing from the parties.

ADR13: If the mediation is adjourned, and when the mediation ends, the mediator must deliver a certificate in the approved form to the Land Court Registry.

ADR14: Unless all parties deliver prior written notice to the Land Court Registry that the case has resolved without the need for court orders, the case is listed for review at **[TIME & DATE]**.

Private mediation

Notes: Parties may wish to make private arrangements for mediation. These directions apply to mediation by a person who is not a Member or Judicial Registrar of the court or appointed in their capacity as a convenor on the court's ADR panel.

ADR15: By **[TIME & DATE]** the parties, their representatives and nominated experts must attend, participate in and act reasonably and genuinely in a mediation conducted by a mediator agreed to be the parties at a date, time and location to be confirmed by the mediator, but no later than **[DATE]**.

This direction is a referring order for the purposes of the *Civil Proceedings Act 2011*.

ADR16: Unless the mediator and all parties agree otherwise, the parties must attend the mediation in person or be represented by a person who has the authority to deliver instructions and to execute terms of settlement.

ADR17: Unless otherwise agreed between the parties and the mediator, the parties must share the costs of the mediation equally.¹⁴

ADR18: If the mediation is adjourned, and when the mediation ends, the mediator must deliver a certificate in the approved form to the Land Court Registry.

ADR19: Unless all parties deliver prior written notice to the Land Court Registry that the case has resolved without the need for court orders, the case is listed for review at **[TIME & DATE]**.

Case appraisal

Notes: A party may request a case is referred for case appraisal by a convenor from the court's ADR Panel or by a private case appraiser. Case appraisal is governed by the *Civil Proceedings Act 2011* and the *Uniform Civil Proceedings Rules 1999* and these directions should be read in conjunction with those provisions. The case appraiser's decision is only final and binding if a party does not elect to continue to hearing after the decision is delivered.

ADR20: By **[TIME & DATE]** [The case/the following issues (*here specify the issues to be decided by the case appraiser*) is/are] referred for case appraisal by a [convenor from the Land Court ADR Panel agreed to by the parties or, if the parties cannot agree, nominated by the Land

¹⁴ Another costs order may be made by the court after hearing from the parties.

Court Registrar/ a case appraiser agreed to by the parties] at a date, time and location to be confirmed by the case appraiser, but no later than **[DATE]**.

This direction is a referring order for the purposes of the *Civil Proceedings Act 2011*.

- ADR21:** The powers and jurisdiction of the case appraiser are those specified in the *Uniform Civil Proceedings Rules 1999*.
- ADR22:** The case appraiser may make directions about the procedure for the case appraisal.
- ADR23:** Unless otherwise agreed between the parties and the case appraiser, the parties must share the costs of the case appraisal equally.¹⁵
- ADR24:** The Registrar must provide the case appraiser with access to the filed documents.
- ADR25:** When the case appraisal ends, the case appraiser must file in the Land Court Registry and deliver to the parties:
1. a case appraisal certificate; and
 2. the decision, if one is made, which must be placed in a sealed envelope marked with the court file number and marked “Not to be opened without an order of the court”.
- ADR26:** A party who is dissatisfied with the case appraiser’s decision may elect to have the case proceed to hearing by filing a notice of election in the Land Court Registry and serving it on any other party within 28 days of the date the case appraisal certificate was filed.
- ADR27:** If a party files a notice of election, the case will be listed for review on a date to be advised by the Registrar in consultation with the parties.

Review

- R1:** The case is listed for review at **[TIME, DATE & PLACE]**.
- R2:** Any party may apply for further review by giving at least two (2) business days’ written notice to the Land Court Registry and to the other parties of:
1. the proposed date for review; and
 2. the reasons for the request; and
 3. the proposed directions.

eTrial

- ET1:** The hearing will proceed by eTrial and the parties must comply with *Land Court Practice Direction No 2 of 2016*.

¹⁵ Another costs order may be made by the court after hearing from the parties.

Listing for hearing

Notes: Listings for hearings will be arranged by the President or the Member managing a particular list, in consultation with the parties. The parties may be given an indication of the Member allocated to hear the matter at the time it is listed. However, that may change without reference to the parties depending on the circumstances of the court and its case load.

The court will list matters as soon as the parties confirm they are ready to proceed to hearing. The court may also set tentative dates in the court calendar, before the parties confirm they are ready to proceed to hearing. The court will only make a tentative listing in consultation with the parties, and to ensure dates are reserved in the calendar. When the parties confirm they are ready to proceed, the tentative listing will become a listing for hearing. A party is not exposed to an order for costs if a tentative listing, which has not been confirmed by all parties, needs to be amended.

Hearing order at request of parties

H1: The case is set down for hearing for **[X Days]** commencing at **[TIME & DATE & LOCATION]**.

Tentative hearing order at court's direction

H2: The court will reserve **[X Days]** commencing at **[TIME & DATE & LOCATION]** as tentative hearing dates for this case.

Hearing on the papers

H3: Unless the parties otherwise request in writing, the case will be determined on the filed material, without an oral hearing.

Hearing arrangements

Notes: Directions for some hearing arrangements (such as whether cases should be consolidated or heard together) may be made by the President or Member managing the list. Other hearing arrangements will be addressed at the hearing review, which will usually be conducted by the Member allocated to hear the case, a month before the date the hearing is listed to start.

Generally, hearings will commence with a site inspection and orientation session in accordance with Land Court Practice Direction 2 of 2018. The purpose of the site inspection and orientation session is to provide context for the Member, the parties and, where relevant, the witnesses.

The purpose of the hearing review is to ensure the parties are ready for hearing and have provided the member with the necessary information to prepare for the hearing. At the hearing review, the Member will settle arrangements for the hearing including the hearing plan, the orientation session,

the site visit (if necessary) and, if not already settled, whether expert evidence will be heard concurrently.

Cases heard together

H4: The cases [file number] and [file number] will remain as separate cases but will be heard and decided together and the evidence in one case will be the evidence in all cases, to the extent that it is relevant.

Cases consolidated

H5: The cases [file number] and [file number] are consolidated and will proceed under case file number [file number]. All material filed in either case is taken to be filed in case file number [consolidated file number].

Hearing review

H6: The case is set down for a hearing review at **[TIME, DATE & PLACE]**.

Hearing materials

H7: **By [TIME & DATE]** (*Note: 5 working days before the date of the hearing review*) the parties must file in the Land Court Registry:

1. a list of issues (see Attachment A);
2. a list of matters not in dispute (see Attachment B);
3. a hearing bundle (see Attachment C); and
4. a proposed hearing plan, which identifies the issues relating to a site inspection and orientation session, if applicable, in accordance with Land Court Practice Direction 2 of 2018 (see Attachment D).

Glossary	Definition
Active party	An active party for a mining objection hearing is any of the following: (a) the applicant for the mining lease or licence 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.
Alternative Dispute Resolution	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.
Appellant	An objector to a land valuation who files a notice of appeal; or another person who is entitled by legislation to carry on the appeal against a decision which affects them.
Applicant	The person bringing the application before the court.
Case appraisal	A process where an appraiser provisionally decides the dispute.
Compensation statement	A statement detailing the amount of compensation the party considers the court should determine having regard to: (a) in the case of a mining claim – the criteria in s 85(7) and (8) of the <i>Mineral Resources Act 1989</i> (Qld); or (b) in the case of a mining lease – the criteria in s 281(3) and (4) of the <i>Mineral Resources Act 1989</i> (Qld) (see Practice Direction 1 of 2017).
Concurrent evidence	Concurrent evidence involves two or more experts in the same or closely related fields giving evidence at the same time (see Practice Direction 2 of 2017).
Court supervised mediation	A mediation conducted by either: (a) a Member or Judicial Registrar of the Court (see Practice Direction 3 of 2017); or (b) a convenor from the Land Court ADR Panel (see Practice Direction 1 of 2018).
Directions	The procedural orders made by the President or a Member regarding the actions the parties and others must take to progress the case.
Directions hearings	The first procedural hearing at which the President or a Member makes procedural orders the parties and others must do to progress the case.
Disclosure	The delivery or production of documents by a party to a case to the other parties in the case.

eCourtbook	The repository where all documents to be relied upon at an eTrial are stored. The documents in an eCourtbook are managed electronically and displayed through computer equipment using specific software which facilitates the indexing, searching, filtering, referencing, display and management of documents throughout the eTrial. It can include statement of issues (fact and law), witness statements, expert reports, and any documents to be tendered as evidence.
eTrial	A hearing where the documents are submitted and presented electronically in an eCourtbook controlled by a central operator, while also allowing remote participation in real-time.
Evidence in chief	The questioning of a witness during a hearing, by the party who called the witness.
Expert witness	A person that has a specialised knowledge or skill in a particular field that qualifies them to give evidence on an issue in the case, specific to their expertise, during legal proceedings.
File and serve	To lodge a document with the court (file) and ensure a copy of the document is received by the other party (serve).
Ground of objection	A ground of objection relied upon by a person objecting to the grant of a mining lease, licence, or environmental authority.
Hearing	A proceeding before the court.
Initiating document	A document which commences a legal proceeding in the court.
Jurisdiction	The power of a court to hear and determine a case. The extent of legal authority of a court.
Lay witness	A person who gives evidence in a hearing, who is not an expert witness.
Legal professional privilege	A mechanism which is designed to protect certain communications from subsequent disclosure. The privilege encourages open communications between a client and their lawyer.
Mediation	A form of alternative dispute resolution in which a neutral third person helps the parties reach a voluntary agreement to end the dispute.
Particulars	The 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.
Practice Direction	A procedural direction made by the President of the court that applies to all cases referred to in the Practice Direction.

Preliminary conference	A form of ADR in which the Judicial Registrar or a Member convenes an informal meeting between the parties to identify the issues in dispute, discuss those issues and try to find a mutually acceptable outcome, without a court hearing.
Privilege	A claim for privilege against disclosure of a document may be made on the basis that it is a “without prejudice” communication, or is subject to legal professional privilege or public interest immunity.
Public interest immunity	A principle by which government can prevent sensitive disclosure of documents where that would be against the public or national interest.
Queensland Globe	An online interactive tool presents physical, geographical and spatial data about a particular location in a map format.
Recommendatory jurisdiction	Where the court recommends to the Government what decision it should make on a matter.
Respondent	The person responding to an application or an appeal before the court.
Review	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.
Statement of evidence	A written statement of the expert’s evidence for the hearing of a proceeding, usually an affidavit; experts can prepare expert reports.
Statement of facts, matters and contentions.	An explanation of the particular circumstances of the case together with what you say the issues are and how you say those issues should be resolved.
Statutory party	A party to a dispute that gains its power and obligations from legislation (e.g. the Department of Environment and Science in mining objection hearings), but is not an applicant or respondent.
UCPR	<i>The Uniform Civil Procedure Rules 1999 (Qld).</i>
Without prejudice communications	Communications (verbal or written) made in the course of genuine attempts to negotiate or mediate. If negotiations fail, the communication cannot be used in Court without the consent of both parties.

LAND COURT OF QUEENSLAND

REGISTRY: [insert]

NUMBER: [insert]

Applicant/Appellant¹⁶ [insert name]

AND

[First] Respondent [insert name]

AND

[Statutory Party] [insert name]

LIST OF ISSUES OF FACT AND LAW

The following is a list of the real and substantial issues of fact in dispute between the parties in this matter.

- 1.
- 2.
- 3.
- 4.
- 5.

The following is a list of the real and substantial issues of law in dispute between the parties in this matter.

- 1.
- 2.

Signed:

Name:

Description:

Date:

Signed:

Name:

Description:

Date:

¹⁶ If the case was commenced by way of Originating Application the heading should read "Applicant".
If the case was commenced by way of Appeal on decision the heading should read "Appellant".

LAND COURT OF QUEENSLAND

REGISTRY: [insert]

NUMBER: [insert]

Applicant/Appellant¹⁷

[insert name]

AND

[First] Respondent

[insert name]

AND

[Statutory Party]

[insert name]

LIST OF MATTERS NOT IN DISPUTE

The parties agree that the following facts or matters will not be in dispute at the pending hearing and therefore proof of them is not required.

- 1.
- 2.
- 3.
- 4.
- 5.

Signed:

Name:

Description:

Date:

Signed:

Name:

Description:

Date:

¹⁷ If the case was commenced by way of Originating Application the heading should read "Applicant".
If the case was commenced by way of Appeal on decision the heading should read "Appellant".

LAND COURT OF QUEENSLAND

REGISTRY: [insert]

NUMBER: [insert]

Applicant/Appellant¹⁸ [insert name]

AND

[First] Respondent [insert name]

AND

[Statutory Party] [insert name]

INDEX TO HEARING BUNDLE

No. Description	Date	Tendered by	By Consent Yes/No	Page
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¹⁸ If the case was commenced by way of Originating Application the heading should read "Applicant".
If the case was commenced by way of Appeal on decision the heading should read "Appellant".

LAND COURT OF QUEENSLAND

REGISTRY: [insert]

NUMBER: [insert]

Applicant/Appellant¹⁹ [insert name]

AND

[First] Respondent [insert name]

AND

[Statutory Party] [insert name]

PROPOSED HEARING PLAN

1. The parties **do/do not** intend to use the eTrial document management system at the hearing of this matter.
2. The parties **will/will not** require technological facilities to be available at the hearing and in particular [insert as appropriate].
3. The parties' best estimate of the likely duration of the hearing of this matter is [insert days/hours].
4. The parties intend to call witnesses at the hearing as indicated and in the order as appears in the annexure attached to this Plan and marked "A".

OR

4. The parties **do not intend to call witnesses**.
5. The parties propose the expert witnesses will give evidence **concurrently/consecutively** by **area of expertise/in the ordinary course of the presentation of each party's case**, as indicated in annexure A to this Plan.

Signed:

Name:

Description:

Date:

Signed:

Name:

Description:

Date:

¹⁹ If the case was commenced by way of Originating Application the heading should read "Applicant".
If the case was commenced by way of Appeal on decision the heading should read "Appellant".