

**CASE MANAGEMENT DIRECTIONS FOR CIVIL PROCEEDINGS**

These are draft directions that litigants should use to ensure compliance with [Practice Direction 18 of 2018 “Efficient Conduct of Civil Litigation”](https://www.courts.qld.gov.au/__data/assets/pdf_file/0007/579418/sc-pd-18of2018.pdf).

They should be used as the *starting point* to develop directions that suit the conduct of an individual case. They are not to be slavishly followed. They need to be adapted and supplemented to suit the circumstances.

This should be done *before* parties appear at a review or a hearing in the Applications List. Doing so saves the parties and the Court time and costs.

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****DIRECTIONS FOR A LIST OF ISSUES, A DOCUMENT MANAGEMENT PLAN, AND A HEARING PLAN****

**SUPREME COURT OF QUEENSLAND**

Registry: Brisbane

 Number: BS … /2..

Applicant: **ABC PTY LTD ACN 123 456 789**

AND

Respondent: **DEF PTY LTD ACN 987 654 321**

**ORDER**

Before: Justice ……

Date: … 202…

Initiating Document: …

THE COURT DIRECTS THAT:

1. By … 202…, the parties are to prepare:

 *[delete or add to the following, as required… e.g. in some cases (b) and (c) will not be necessary]*

* 1. a concise list of the issues to be tried at the final hearing;
	2. a concise list of the factual issues that require judicial determination;
	3. a list of facts and matters that are not in contention;
	4. a plan for management and presentation of documents at the final hearing; and
	5. a hearing plan (with times allocated for openings, examination and cross-examination of any witnesses, and oral submissions),

 and submit the same to the Associate to Justice … (email: associate.[*insert name*] j@courts.qld.gov.au). *[AND/OR depending on the circumstances the Resolution Registrar/Civil List Manager/Supervised Case List Manager/Caseflow Manager/Applications List Manager]*

Signed: ....................................................

****DIRECTIONS FOR A LIST OF ISSUES, A DOCUMENT MANAGEMENT PLAN, A HEARING PLAN, A REVIEW AND (IF APPROPRIATE) LISTING OF MATTER FOR FINAL HEARING****

**SUPREME COURT OF QUEENSLAND**

Registry: Brisbane

 Number: BS … /2..

Applicant: **ABC PTY LTD ACN 123 456 789**

AND

Respondent: **DEF PTY LTD ACN 987 654 321**

**ORDER**

Before: Justice ……

Date: … 202…

Initiating Document: …

THE COURT DIRECTS THAT:

1. By … 202…, the parties are to prepare:

*[delete or add to the following, as required… e.g. in some cases (b) and (c) will not be necessary]*

* 1. a concise list of the issues to be tried at the final hearing;
	2. a concise list of the factual issues that require judicial determination;
	3. a list of facts and matters that are not in contention;
	4. a plan for management and presentation of documents at the final hearing; and
	5. a hearing plan (with times allocated for openings, any cross-examination of witnesses, and oral submissions),

 and submit the same to the Associate to Justice … (email: associate.[*insert name*]j@ courts.qld.gov.au) [*AND/OR depending on the circumstances the Resolution Registrar/Civil List Manager/ Supervised Case List Manager/Caseflow Manager/Applications List Manager]*

1. If the parties are unable to agree upon these matters, they may arrange a case conference before the Resolution Registrar with a view to resolving those matters at a minimum of expense before the review.
2. Otherwise, the matter will be reviewed on a date to be fixed in … [*insert month*] 202…, with practitioners from outside the Brisbane metropolitan area having leave to contact the Associate to Justice … to arrange to appear by video-link or phone.

[ADD THE FOLLOWING IF A FINAL HEARING SHOULD BE LISTED]

1. By … 202…, the parties are to confer about listing the matter for a final hearing and then to approach the Civil List Manager for the listing of the matter for final hearing.
2. The final hearing be listed after the Civil List Manager has consulted a Judge about proposed dates and the Judge has directed that the matter be listed.
3. Before the final hearing, the parties are to seek guidance from the Associate to ……. *[OR the Associate to the Judge allocated to hear the matter]* as to the manner in which copies of affidavits or witness statements, submissions and other documents are to be provided to the judge before the hearing, either in electronic or physical form in order that the judge has copies of essential documents.

Signed: ....................................................

DIRECTIONS FOR A COMPLEX MATTER IN THE APPLICATIONS LIST OR A SHORT MATTER IN THE CIVIL LIST

**SUPREME COURT OF QUEENSLAND**

Registry: Brisbane

 Number: BS … /2..

Applicant: **ABC PTY LTD ACN 123 456 789**

AND

Respondent: **DEF PTY LTD ACN 987 654 321**

**ORDER**

Before: Justice ……

Date: … 202…

Initiating Document: …

**[Draft Directions for a complex matter in Applications List or a short matter in Civil List]**

THE COURT DIRECTS THAT:

1. Counsel with the conduct of the matter confer to facilitate the fair and efficient conduct of the proposed hearing of the application, and:
2. by …… 202…, advise the Applications List Manager, Civil List Manager and the Associate to Justice … by email of the time needed to hear and determine the application;
3. agree, if possible, on the documents to which the judge allocated to hear the application (“the judge”) should be specifically directed (in order to prepare for the hearing of the matter), and to which specific reference is likely to be made in written or oral submissions;
4. approach the Associate to the judge as to the judge’s preference for how those documents are to be provided to the judge before the hearing (either in written or electronic form) so that the judge has working copies of essential documents;
5. ensure the parties avoid the unnecessary copying of hard copies of voluminous documents (such as annexures to pleadings and material exhibited to filed affidavits);
6. provide a list of essential authorities to which the judge is to be taken and approach the Associate to the judge as to whether the judge requires the authorities to be provided in hard copy or electronic form; and
7. before the hearing the parties provide to the Associate to the judge a hearing plan consisting of the allocation of time for openings, reading material, oral evidence (if any) and closing oral submissions.
8. The matter be provisionally allocated … hours hearing time in the Applications List on …… 202…, OR provisionally allocated a half-day hearing in the Civil List on the same day.
9. The decision as to whether the matter is in either the Applications List or the Civil List is to await the advice referred to in 1(a) and be made by Justice … in consultation with the Senior Judge Administrator.

Signed: ....................................................

DIRECTIONS TO ENSURE COMPLIANCE WITH PRACTICE DIRECTION 18 OF 2018

**SUPREME COURT OF QUEENSLAND**

Registry: Brisbane

 Number: BS … /2..

Applicant: **ABC PTY LTD ACN 123 456 789**

AND

Respondent: **DEF PTY LTD ACN 987 654 321**

**ORDER**

Before: Justice ……

Date: … 202…

Initiating Document: …

THE COURT DIRECTS THAT:

1. The parties ensure their compliance with Practice Direction 18 of 2018 and agree directions for the future conduct and resolution of the proceeding.
2. By … 202…, the parties communicate with each other and, if necessary, confer (either in person, by telephone or by video-link):
3. to facilitate the identification and resolution of as many issues as possible at or before any review;
4. to agree steps and directions for the just and expeditious resolution of issues at a minimum of expense;
5. to agree, if they have not already done so, on a Document Plan for the electronic management of documents in the proceeding;
6. to identify the issues that are proposed to be dealt with at any review and the directions that will be sought at the review; and
7. to be able to inform the Court of the current, realistic estimate of the length of the final hearing, and when the parties expect the matter will be ready for a final hearing.
8. If the parties agree on directions, they shall submit the same to [*depending on the circumstances* the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) *the Resolution Registrar/Civil List Manager/Supervised Case List Manager/Caseflow Manager/Applications List Manager]* by … 202…
9. If the parties are unable to agree on directions by … 202…, they shall arrange for the matter to be listed for review and directions *[either before Justice … OR in the Applications List OR, if appropriate, in a specific list e.g. Supervised Case List.].*

Signed: ....................................................

DIRECTIONS TO DEVELOP AND RESOLVE TRIAL DIRECTIONS

**SUPREME COURT OF QUEENSLAND**

Registry: Brisbane

 Number: BS … /2..

Applicant: **ABC PTY LTD ACN 123 456 789**

AND

Respondent: **DEF PTY LTD ACN 987 654 321**

**ORDER**

Before: Justice ……

Date: … 202…

Initiating Document: …

THE COURT DIRECTS THAT:

1. By … 202…, the parties are to confer for the purpose of:

 *[select or delete one or more of the following matters depending on the stage the matter is at]*

(a) resolving or narrowing the issues in dispute and identifying the real issues that remain in dispute;

(b) agreeing on a Document Plan;

(c) possible referral to alternative dispute resolution;

(d) agreeing on trial directions; and

(e) agreeing on a provisional trial plan.

1. By …… 202…, the parties shall provide a report to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) and to the Resolution Registrar (email: Resolution.Registrar@courts.qld.gov.au) that addresses:

(a) a document plan, that will provide a process for the efficient management of both paper and electronic documents in the proceeding;

(b) the process by which, and by when, a short summary of the real issues in dispute is prepared;

(c) the process by which matters which are not in contention are agreed and documented in accordance with Practice Direction 18 of 2018;

(d) the manner in which lay evidence is expected to be presented (e.g. witness summaries, witness statements, affidavits or a combination of the same) and by when it is anticipated that material will be provided to the other parties;

(e) the preparation and presentation of expert evidence (if any);

(f) mediation and its timing;

(g) when the parties expect trial directions to be made, including directions about witness summaries, witness statements and the like, and the manner in which documents are to be presented and managed at the trial; and

(h) when the parties expect to provide a provisional trial plan which will enable, among other things, the expected duration of the trial to be reliably estimated and for the matter to be set down for trial at an appropriate time.

1. If the parties are unable to agree on the above matters, they may arrange a case conference before the Resolution Registrar with a view to resolving those matters at a minimum of expense before the review.
2. Otherwise, the matter will be reviewed on a date to be fixed in [*insert month*] 202…, with practitioners from outside the Brisbane metropolitan area having leave to make arrangements with the Associate to Justice … to appear by video-link or phone.

Signed: ....................................................

DIRECTIONS FOR EXPERT EVIDENCE

**EXPERT EVIDENCE DIRECTIONS**

1. By … 202…, the parties are to communicate with each other and, if necessary, confer (either in person, by telephone or by video-link) for the purpose of identifying the specific issue or issues to which expert evidence may be directed, and agreeing steps and directions for the just and expeditious resolution of those issues at a minimum of expense.
2. The questions to be answered by the expert or experts are, as far as possible, to be those specified by the Court or agreed to by the parties. Questions for an expert should be framed with a view to assisting the resolution of the real issue or real issues in the proceeding.
3. The parties should consider whether it is cost effective and expeditious to prepare a joint statement of assumptions to be made by the experts, including any competing assumptions to be made in the alternative.
4. The unnecessary duplication of effort in preparing chronologies and other materials briefed to experts is to be avoided with the intent that experts in the same field are briefed with the same or similar materials.
5. By … 202..., the parties shall provide to the Associate to Justice … (email: *associate.[insert name*]j@courts.qld.gov.au) their proposals and draft directions in relation to expert evidence including:
6. the formulation of the issue or issues to which expert opinion is to be directed;
7. the assumptions upon which the expert opinion is to be based, including any competing assumptions to be made in the alternative;
8. the briefing of experts, including the provision of relevant documents, suitably arranged;
9. the provision, upon reasonable request from the experts, of additional information or instruction;
10. for experts in the same field to confer once they have been properly briefed, are ready to participate in an expert conference and before they have drafted their reports;
11. for such a conference to address issues within their area of expertise, including issues of methodology, analysis and opinion, so as to identify matters of agreement and any matters about which they disagree at the time of the conference;
12. for the experts jointly and concisely to report to the parties about matters where the experts are in agreement and any matters about which they disagree;
13. the preparation and delivery of expert reports;
14. for the experts to confer after they have read the other expert’s report for the purpose of preparing a joint report about the outcome of their conference, that concisely identifies where they are in agreement and where they are not (in the latter case stating the basis of disagreement).
15. If the parties are unable to agree on directions in relation to expert evidence, they shall seek to resolve their differences with the assistance of a facilitator, at a case conference before the Resolution Registrar, or at a directions hearing before a Judge.

A RANGE OF OTHER POSSIBLE DIRECTIONS

**Parties to confer**

**Alternative A**

1. By … 202…, the parties are to confer for the purpose of:
2. resolving or narrowing the issues in dispute and identifying the real issues that remain in dispute;
3. agreeing on a document plan;
4. possible referral to alternative dispute resolution;
5. agreeing on trial directions; and
6. agreeing on a trial plan.

**Alternative B**

1. By … 202…, the parties are to confer for the purpose of resolving or narrowing the issues in dispute, identifying the real issues that remain in dispute, and agreeing on steps and directions for the just and expeditious resolution of those issues at a minimum of expense.

**Alternative C**

1. By … 202…, the parties are to confer for the purpose of resolving or narrowing the issues in dispute, identifying the real issues that remain in dispute, and agreeing steps for the just and expeditious resolution of those issues at a minimum of expense.
2. The legal practitioners with the conduct of the trial of the proceeding, and each party or a representative of each party who is familiar with the issues in dispute shall attend the conference, unless excused from doing so by the Court.
3. Such conference may be in person, by video conference or by telephone conference.
4. Part or all of the conference may be held “without prejudice” by express agreement of the parties.
5. The parties may agree to the appointment of an independent person to facilitate the conference.

**Alternative D**

1. By … 202..., the parties are to confer (either in person or by telephone) and propose:
2. a document plan, which will address a process for the efficient management of both paper and electronic documents in the proceeding;
3. the manner in which lay evidence is expected to be presented (e.g. witness summaries, witness statements, affidavits or a combination of the same);
4. the preparation and presentation of expert evidence (if any), and if expert evidence is to be given, the question or questions any expert is to address, the appointment and briefing of a single joint expert or the briefing of the parties’ experts, and for experts to confer at an early stage so as to avoid unnecessary expense and duplication of effort;
5. mediation and its timing;
6. trial directions, including directions about witness summaries, witness statements and the like, and the manner in which documents are to be presented and managed at the trial; and
7. a trial plan that will enable, among other things, the expected duration of the trial to be reliably estimated, for the matter to be set down for trial, and directions made as to where evidence is to be heard (e.g. whether some witnesses give their evidence by phone or video‑link).

**Report as to status**

**Alternative A**

1. By … 202..., the parties shall provide a brief report to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) about the current status of the matter and how it is intended to progress the proceeding to resolution.
2. The matter be listed for review on a date to be fixed after provision of the report.

**Alternative B**

1. By … 202…, the parties shall provide a report to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au).
2. The report should address:

 *[delete one or more of the following, as appropriate, or add additional topics, as appropriate]*

1. the real issues in dispute;
2. the status of the proceeding;
3. how it is intended to progress the proceeding to resolution;
4. the directions sought;
5. a document plan;
6. expert evidence;
7. alternative dispute resolution;
8. the trial of the proceeding, including its expected duration;
9. steps to reduce the length of any trial; and
10. any other matters that will facilitate the just and expeditious resolution of the real issues in the proceedings at a minimum of expense.
11. The matter be listed for review on a date to be fixed after provision of the report.

**Alternative C**

1. By … 202…, the parties shall provide a report to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) which addresses:
2. a document plan, that will provide a process for the efficient management of both paper and electronic documents in the proceeding;
3. the manner in which lay evidence is expected to be presented (e.g. witness summaries, witness statements, affidavits or a combination of the same);
4. the preparation and presentation of expert evidence (if any), and if expert evidence is to be given, the question or questions any expert is to address, the appointment and briefing of a single joint expert or the briefing of the parties’ experts, and for experts to confer at an early stage so as to avoid unnecessary expense and duplication of effort;
5. mediation and its timing;
6. trial directions, including directions about witness summaries, witness statements and the like, and the manner in which documents are to be presented and managed at the trial; and
7. a trial plan that will enable, among other things, the expected duration of the trial to be reliably estimated, for the matter to be set down for trial, and directions made as to where evidence is to be heard (e.g. whether some witnesses give their evidence by phone or video‑link).

**Alternative Dispute Resolution**

1. By … 202…, the parties formulate directions for the mediation of the matters in dispute in the proceeding, or for some other form of alternative dispute resolution, and submit a referral order.
2. The parties provide a brief report to the Associate to Justice … (email: associate.[*insert* *name*]j@courts.qld.gov.au) as to the status of the matter within 7 days of the conclusion of any mediation.

**Document plan**

1. The parties are to adopt a proportionate and efficient approach to the management of both paper and electronic documents in the proceeding.
2. The parties confer and agree directions in relation to documents including, if appropriate, directions that will:
3. provide for the early identification and exchange of critical documents, being a limited number of documents that are likely to be tendered at any trial and are likely to have a decisive effect on the resolution of the matter;
4. require each party to inform the other parties in a concise written statement of the extent of the searches for documents that they propose to undertake, or have undertaken;
5. defer disclosure until the real issues in dispute are identified, and possibly until after the parties have served their evidence;
6. limit disclosure to specified documents or classes of documents;
7. reflect a practical, cost-effective and proportionate document plan that the parties have agreed or endeavoured to agree; and
8. facilitate any trial being conducted as an eTrial, including in accordance with the Supreme Court’s eTrials program.
9. By … 202..., the parties shall provide to the Associate to Justice … (email: associate.[*insert* *name*]j@courts.qld.gov.au) a document plan and proposed directions in relation to documents.

**Document and disclosure directions**

1. The parties are to adopt a proportionate and efficient approach to the management of both paper and electronic documents in the proceeding.
2. The parties are relieved from the duty of disclosure except to the extent set out in the document plan and in these directions, until further order of the Court.

***Critical Documents draft directions and guidelines***

A guide to the kind of Critical Documents directions that the parties might agree appears below:

1. By …202…, the parties are to exchange “critical documents” being those documents in the possession or under the control of the party after a reasonable search and that are likely to be tendered at trial and to have a decisive effect on the resolution of the matter. They include documents that are either supportive or adverse to a party’s case.
2. The number of such documents to be exchanged by each party should not exceed … [*insert number*].
3. At the time critical documents are exchanged a party shall provide a statement that:
	* sets out the extent of the search that has been undertaken to locate critical documents;
	* draws attention to any particular limitations on the extent of the search which was adopted for proportionality reasons and give the reasons why the limitations were adopted (e.g. the difficulty or expense that a search not subject to those limitations would have entailed or the marginal relevance of categories of documents omitted from the search);
	* certifies that documents that are considered to be adverse to the party’s case and that have been located by the search, or which are otherwise known to the party, have been included;
	* is based on the form of Disclosure Statement contained in [Appendix B](https://www.courts.qld.gov.au/__data/assets/pdf_file/0020/150266/sc-pd11of2012.pdf) [pp 21-22 of PDF] in the Guidelines for the Management of Documents during Litigation in the Supervised Case List.

***Specific disclosure directions***

The parties are to develop and propose directions that require disclosure of specified requested documents or classes of documents in accordance with a document plan, rather than seek orders for general disclosure.

**Experts**

***[General direction re appointment and reporting]***

1. By … 202…, the parties shall provide to the Associate to Justice … (email: associate.[*insert* *name*]j@courts.qld.gov.au) a draft consent order containing proposed directions for:
2. the appointment of an expert to inquire into questions that are identified in the proposed directions;
3. the remuneration of the expert;
4. the briefing of the expert;
5. the time for the expert to report; and
6. any other matter that is necessary to facilitate the timely provision of expert evidence.

***[Directions for experts to confer, etc.]***

1. By … 202..., the parties shall provide to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) their proposals and draft directions in relation to expert evidence including:
2. the formulation of the issue or issues to which expert opinion is to be directed;
3. the assumptions upon which the expert opinion is to be based;
4. the briefing of experts, including the provision of relevant documents, suitably arranged;
5. the provision, upon reasonable request from the experts, of additional information or instruction;
6. for experts in the same field to confer once they have been properly briefed, are ready to participate in an expert conference and before they have drafted their reports;
7. for such a conference to address issues within their area of expertise, including issues of methodology, analysis and opinion, so as to identify matters of agreement and any matters about which they disagree;
8. for the experts jointly and concisely to report to the parties about matters where the experts are in agreement and any matters about which they disagree;
9. the preparation and delivery of expert reports;
10. for the experts to confer after they have read the other expert’s report for the purpose of preparing a joint report about the outcome of their conference, that concisely identifies where they are in agreement and where they are not (in the latter case stating the basis of disagreement); and
11. the giving of expert evidence at trial, including directions for expert evidence to be given concurrently or consecutively.

**Issues to be tried and avoiding costs of proving uncontentious facts and documents**

1. By … 202…, the parties are to prepare:
2. a concise list of the issues to be tried (cross-referenced to pleadings);
3. a concise list of the factual issues that require judicial determination; and
4. a list of facts and matters that are not in contention,

and submit the same to the Associate to Justice … (email: associate.[*insert name*]j@ courts.qld.gov.au).

**Trial plan and trial directions**

**Alternative A**

1. By … 202..., the parties confer for the purpose of developing a basic plan for the trial of the proceeding, and by … 202... submit to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) a basic trial plan that contains the estimated duration of openings; the estimated duration of each witness’ evidence; the sequence in which witnesses will be called; the

calling of expert witnesses (if any); the calling of witnesses by telephone or video-link; the estimated duration of submissions; and the estimated duration of the trial.

1. By … 202..., the parties shall provide to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) a trial plan and proposed directions in relation to the trial.

**Alternative B**

1. By … 202..., the parties confer and agree about a plan for the trial including directions that will ensure that:

*[delete one or more of the following, as appropriate, or add additional topics, as appropriate]*

1. the issues to be tried are identified and agreed;
2. each party is in a position to inform the Court in a report or at a pre-trial review about the witnesses and documents they intend to rely upon to prove or disprove particular matters in dispute;
3. issues that are not to be tried are identified and the resolution of those issues recorded in a suitable form;
4. trial preparation is conducted efficiently;
5. a list of the persons whose evidence is to be relied on at trial is given well in advance of the trial;
6. a brief summary of the evidence of witnesses to be called is given well in advance of the trial, including:
7. the full name and occupation and address of the person;

(ii) the curriculum vitae of any expert witness;

(iii) a brief summary of evidence to be given;

(iv) the estimated duration of evidence-in-chief of the witness; and

(v) whether the statement is suitable for exchange.

1. directions are given concerning a requirement that leave is necessary for evidence to be adduced from any person not named in the list, and that leave is necessary for evidence to be given that is not covered by the summary of their evidence;
2. witnesses who are not required for cross-examination are not inconvenienced;
3. an estimate of the duration of the cross-examination of each witness required for cross‑examination is given;
4. the trial plan includes the estimated duration of openings; the estimated duration of each witness’ evidence; the sequence in which witnesses will be called; the calling of expert witnesses; the calling of witnesses by telephone or video-link, and the estimated duration of submissions;
5. documents are efficiently managed at the trial, including whether the matter can and should be efficiently conducted as an eTrial;
6. the length of any trial is reduced; and
7. the trial finishes within its allocated dates.
8. By … 202..., the parties shall provide to the Associate to Justice … (email: associate.[*insert name*]j@courts.qld.gov.au) a trial plan and proposed directions in relation to the trial.

**Review and case conference**

1. If the parties are unable to agree about the real issues that remain in dispute, matters that should not be in contention, the management of documents, a trial plan or trial directions, they may arrange a case conference before the Resolution Registrar with a view to resolving those matters at a minimum of expense before the review.
2. Otherwise, the matter will be reviewed on a date to be fixed in … [*insert month*] 202... at 9.15am, with practitioners from outside the Brisbane metropolitan area having leave to make arrangements with the Associate to Justice … to appear by video-link or phone.