



Queensland

Integrated Planning Act 1997

Planning and Environment Court Rules 1999

Reprinted as in force on 5 May 2000

Reprint No. 1A*

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the Office of the Queensland Parliamentary Counsel
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NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 2008 SL No. 410 s 49

* Minor differences in presentation between this reprint and another reprint with the same number are due to the conversion to new styles. The content has not changed.

Information about this reprint

These rules are reprinted as at 5 May 2000. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

Planning and Environment Court Rules 1999

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Planning and Environment Court Rules 1999

[as amended by all amendments that commenced on or before 5 May 2000]

Chapter 1 Preliminary

1 Short title

These rules may be cited as the *Planning and Environment Court Rules 1999*.

2 Commencement

These rules commence on 1 July 1999.

3 Application of rules

- (1) These rules apply to proceedings in the Planning and Environment Court.
- (2) If these rules do not provide for a matter in relation to a proceeding, or proceedings, in the Planning and Environment Court and the rules applying in the District Court would provide for the matter in relation to a proceeding, or proceedings, in the District Court, the rules applying in the District Court apply for the matter in the Planning and Environment Court with necessary changes.¹

4 Definitions

The dictionary in the schedule defines particular words used in these rules.

¹ If neither these rules nor the rules applying in the District Court provide for a matter about court procedure, directions may be made under section 4.1.11 of the Act.

5 Compliance with rules

The court may excuse a person from complying with a rule, or waive a non-compliance with a rule, if the court considers the compliance would be likely to cause the person injustice or unreasonable expense or inconvenience.

Chapter 2 Conduct of proceedings

Part 1 Starting proceedings

6 Starting proceedings

A proceeding, other than an appeal,² is started by filing an originating application with the registrar.

Example of a proceeding other than an appeal—

A proceeding for a declaration or order under chapter 4, part 1, division 7³ of the Act.

7 Where to start proceeding

A proceeding may be started in any registry of the court.

8 Content of originating process

- (1) An originating application must name as respondents the persons directly affected by the relief sought in it.
- (2) A notice of appeal must name as respondents or co-respondents the persons who are respondents or co-respondents under the law that allows the appeal.⁴

2 See section 4.1.39 of the Act, for how appeals to the court are started.

3 Chapter 4 (Appeals, offences and enforcement), part 1 (Planning and Environment Court), division 7 (Other court matters) of the Act

4 See chapter 4, part 1, division 10 (Making an appeal to court) of the Act.

- (3) Subrule (1) does not apply to an originating application if under rule 14 or another law the application may be heard without notice being given to any other person.
- (4) An originating application or notice of appeal must state—
 - (a) the orders or other relief sought in the proceeding or appeal; and
 - (b) the grounds on which the orders or other relief are sought.

9 Applicant's or appellant's contact details and address for service

- (1) The applicant or appellant (the *person*), or the person's solicitor or agent must ensure—
 - (a) if the person intends to act personally, the following details are on the originating process before it is filed—
 - (i) the person's residential or business address;
 - (ii) if the address given under subparagraph (i) is more than 30km from the issuing registry, an address not more than 30km from the registry or another address approved by the court as the address for service;
 - (iii) the person's telephone number, if any;
 - (iv) if the person does not have a telephone number, a way of contacting the person by telephone;
 - (v) the person's fax number, if any;
 - (b) if a solicitor or agent is appointed to act for the person, the following details are on the originating process before it is filed—
 - (i) the person's residential or business address;
 - (ii) the name of the solicitor or agent and, if the solicitor or agent practices in a firm, the name of the firm;
 - (iii) the address of the solicitor's or agent's place of business;

- (iv) if the address given under subparagraph (iii) is not the person's address for service or is not a Queensland address, an address for service in Queensland including, for example, an address approved by the court as the address for service;
 - (v) the solicitor's or agent's telephone number;
 - (vi) the solicitor's or agent's fax number.
- (2) If the person intends to act personally and has an email address, the person may include the email address with the details required under subrule (1)(a).
- (3) If the person's solicitor or agent, or the solicitor's or agent's firm, has an email address, the solicitor or agent may include the email address with the details required under subrule (1)(b).
- (4) If the solicitor or agent, or the solicitor's or agent's firm, is a member of an approved document exchange, the solicitor or agent may include the document exchange address with the details required under subrule (1)(b).
- (5) The *address for service* of the person is—
 - (a) for a person acting personally—
 - (i) if the person is required to give an address under subrule (1)(a)(ii)—that address; or
 - (ii) otherwise, the address given under subrule (1)(a)(i); and
 - (b) for a person for whom a solicitor or agent acts—
 - (i) if an address is specified under subrule (1)(b)(iv)—that address; or
 - (ii) otherwise—the address specified under subrule (1)(b)(iii).

10 Originating process must be signed

The applicant or appellant, or the applicant's or appellant's solicitor or agent, must sign the originating process.

11 Originating application must be given to other parties

Unless the court otherwise orders under rule 14, the applicant must give a copy of the originating application to each other party.

Part 1A Discontinuing and withdrawing proceedings**11A Discontinuing and withdrawing proceedings**

- (1) An applicant or appellant may discontinue a proceeding, or withdraw part of it, by filing in the court in which the originating process was filed—
 - (a) a notice of discontinuance or withdrawal; and
 - (b) an affidavit stating the date a copy of the notice was served on each active party in the proceeding.
- (2) If an active party wants to make an application to the court about the proceeding after being served with a copy of the notice, the active party must make the application within 14 days after being served with the copy.
- (3) If no applications are made to the court under subrule (2) within the 14 days mentioned in the subrule, the discontinuance or withdrawal takes effect at the end of the 14 days.

Part 2 Hearing proceedings

Division 1 Venue

12 Where proceeding is heard

- (1) A proceeding must be heard in the court at the place where the originating process is filed (the *first court*).
- (2) However, the proceeding, or part of it, may be heard in the court at another place (the *other court*) if—
 - (a) the court, on application made to it by a party, decides it can be more conveniently or fairly heard in the other court; or
 - (b) the hearing is transferred to the other court under rule 13.

13 Party may request hearing be transferred to other court

- (1) This rule applies if no judge of the court is, or will be, at the first court when a party wishes to be heard on the proceeding.
- (2) The party may request the hearing be transferred to the other court.
- (3) A request under subrule (2) must be written and given to the registrar of the first court together with the written consent to the transfer signed by each active party.
- (4) The registrar must immediately—
 - (a) give the registrar of the other court true copies of all documents in the proceeding filed in the first court and necessary for the hearing; and
 - (b) give the parties written notice of the transfer to the other court.

Division 2 Procedure

Subdivision 1 Hearing originating applications without notice

14 Hearing originating application without notice

If the court considers it appropriate because of urgent circumstances in a particular case, the court may—

- (a) order the originating application be heard and decided without notice being given by the applicant to any other person; and
- (b) make any other order.

Subdivision 2 General

15 Entry of appearance

(1) This rule applies to—

- (a) a person named as a respondent in an originating application who wishes to be heard on the application; and
- (b) a person named as a respondent or co-respondent in a notice of appeal who, under a law, is entitled to be heard on the appeal and wishes to be heard on the appeal; and
- (c) a person not named as a respondent or co-respondent in a notice of appeal who, under a law, is entitled to elect to become a co-respondent in the appeal and wishes to be heard on the appeal.

(2) The person must—

- (a) within 10 days after being served with a copy of the originating process, file an entry of appearance with the registrar at the place where the application is to be heard; and
- (b) serve a copy of the entry of appearance on each other party.

- (3) A person mentioned in subrule (1)(c) is taken to have complied with subrule (2) if the person—
 - (a) files a notice of election under section 4.1.45⁵ of the Act; and
 - (b) serves a copy of the notice on each other party.

16 Optional early settlement procedure

- (1) An active party may—
 - (a) file a notice requiring preliminary steps with the registrar at the place where the proceeding is to be heard; and
 - (b) serve a copy of the notice on each other active party.
- (2) The notice may only be filed within 10 days after the last day on which a party may file an entry of appearance in the proceeding.
- (3) Subrule (2) does not apply if the court orders, or the active parties agree in writing, that the notice be filed at a later time.
- (4) After the notice is filed, the applicant or appellant must serve on each other active party a list of issues in the proceeding and the applicant or appellant's document list—
 - (a) if the applicant or appellant is the party who filed the notice—within 10 days after filing the notice; or
 - (b) if the applicant or appellant is not the party who filed the notice—within 10 days after being served with a copy of the notice.
- (5) Within 10 days after the list of issues is served on an active party, the party (the *disclosing party*) must—
 - (a) give each other active party the disclosing party's document list; or
 - (b) otherwise comply with the disclosing party's duty of disclosure under the rules applying in the District Court as if the proceeding were a proceeding in the District Court.

5 Section 4.1.45 (How a person may elect to be co-respondent) of the Act

- (6) An active party wishing to inspect a document mentioned in a document list given to the party under subrule (4) or (5) must inspect the document within 7 days after the party is given the list.
- (7) Within 14 days after the last day on which an active party may inspect a document under subrule (6), the active parties must, with the consultant experts retained by the active parties, confer with a view to reaching agreement on, or narrowing, the issues stated in the list of issues.
- (8) Within 7 days after the conference ends, the applicant or appellant must file and serve on each other active party a written notice of—
 - (a) any agreement reached in relation to an issue; and
 - (b) all unresolved issues.
- (9) In this rule—

document list, for a party, means a list of documents presently in the party's possession or under the party's control and directly relevant to an issue stated in the list of issues given under subrule (4).

17 Court may excuse parties from optional early settlement procedure

If the court considers compliance with rule 16 is likely to cause injustice to a party or is unlikely to produce a worthwhile result, the court may, at any time after the originating process is filed, order that the rule, or part of the rule, does not apply to the proceeding.

18 Confidentiality

- (1) Evidence of anything done or said, an admission made, or a document tendered, at a conference held under rule 16 is admissible in the proceeding or before another civil proceeding in the court or elsewhere only if—
 - (a) all the active parties to the proceeding agree; or
 - (b) the evidence is an agreement reached in the conference.
- (2) In subsection (1)—

civil proceeding does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the conference.

19 Entry for hearing

Any active party may file an entry for hearing with the registrar if—

- (a) a party does not file and serve a notice requiring preliminary steps under rule 16; or
- (b) a notice of unresolved issues in the proceeding is filed under the rule; or
- (c) the court orders that the rule does not apply to the proceeding.

20 Orders or directions

- (1) At any time after an entry for hearing is filed in a proceeding, any party may apply to the court for an order or directions about the proceeding.
- (2) Without limiting subrule (1), the application may be for 1 or more of the following—
 - (a) a declaration that the court is satisfied chapter 3, part 4⁶ of the Act, or similar provisions of another relevant Act, for a development application have been complied with;
 - (b) an order about a preliminary point that may wholly or substantially decide the proceeding or a significant issue in the proceeding;
 - (c) directions about a procedural matter not provided for in these rules or under the Act or another relevant Act;
 - (d) an order about the conduct of the proceeding, including an order about 1 or more of the following—
 - (i) the grounds of dispute;
 - (ii) exchanging statements of evidence;

6 Chapter 3 (Integrated development assessment system (IDAS)), part 4 (Notification stage) of the Act

- (iii) disclosure by inspection of documents or delivery of interrogatories;
 - (iv) a compulsory settlement conference;
 - (v) a hearing date;
 - (vi) a pre-hearing review by the court.
- (3) If the application is for a matter mentioned in subrule (2)(a) or (b), a party wishing to raise an argument about the matter must serve the following documents on each other active party—
- (a) any affidavit the party intends to rely on;
 - (b) a short outline of the party's intended argument.
- (4) The affidavit and outline of argument must be served at least 5 business days before the application for the declaration or order is heard.

21 Effect of application under rule 20

- (1) An application under rule 20 must be dealt with by the court before the court hears the proceeding.
- (2) If the court makes an order or gives directions under the rule, the court may decline to set a date for hearing the proceeding until the court is satisfied the parties have complied with the order or directions.
- (3) The parties must comply with the order or directions before the proceeding is heard, unless the court considers it appropriate, because of the exceptional circumstances of the case, to hear the proceeding without the order or directions being complied with.

Part 3 Evidence

Division 1 General

22 Rules of evidence

- (1) The court may, at any time during a proceeding, order that the rules of evidence do not apply to proving a fact if the court considers—
 - (a) strict proof of the fact may cause unnecessary or unreasonable expense, delay or inconvenience in the proceeding; or
 - (b) the fact is not seriously in dispute.
- (2) Without limiting subrule (1), the court may order that the rules of evidence do not apply to proving handwriting or a document, authority or identity.
- (3) This rule applies regardless of the importance of the fact sought to be proved.

23 Expert evidence

- (1) Other than with the court's leave, a party, at any hearing in a proceeding, may call evidence from only 1 expert witness for each subject of expertise dealt with in the hearing.
- (2) An expert witness must prepare a written statement of the witness's evidence for the hearing.
- (3) The party intending to call the evidence must serve each other party with a copy of the statement of evidence as directed by the court.
- (4) Other than with the court's leave, an expert witness, in examination in chief, must not repeat or expand on matters contained in the witness's statement of evidence or introduce fresh material.
- (5) To remove doubt, it is declared that this rule is in addition to, and does not limit the application in the proceeding of, the rules about experts and court experts applying in the District Court.

Division 2 Affidavits

24 Content of affidavit

- (1) A note must be written on an affidavit stating the name of the party on whose behalf it is filed.
- (2) An affidavit may contain statements based on information and belief if the person making the affidavit states the sources of the information and the grounds for the belief.
- (3) However, if the court considers it just in the circumstances of the case, the court may decline to act on the statements.

Part 4 Applications in a proceeding

25 Content of application in a proceeding

- (1) An application within a proceeding must state the date on which it is to be heard.
- (2) The application must name as respondent any party whose interests may be affected by the granting of the relief sought.
- (3) If the application is made by a person who is not a party to the proceedings, the application must have on it the information required under rule 9⁷ to be on an originating process unless the information has already been provided on a document filed in the proceeding.

26 Service of application and supporting affidavit

- (1) A person making an application within a proceeding must—
 - (a) file the application and any supporting affidavit with the registrar; and

⁷ Rule 9 (Applicant's or appellant's contact details and address for service)

- (b) serve a copy of the application and each supporting affidavit on each respondent at least 2 business days before the day set for hearing the application.
- (2) Subrule (1) does not apply if, because of the urgent circumstances of the case, the court orders that it does not apply.

27 Hearing application

Other than with the court's leave, an application within a proceeding must be heard and decided on affidavit evidence.

Chapter 3 Appeals to Court of Appeal

28 Documents to be given to registrar

- (1) A party who applies, under section 4.1.56⁸ of the Act, for leave to appeal to the Court of Appeal against a decision of the court must give the registrar a copy of the following documents—
 - (a) the application for leave to appeal;
 - (b) the Court of Appeal's decision on the application for leave;
 - (c) if the leave is granted and the appeal is started—
 - (i) the notice of appeal; and
 - (ii) the Court of Appeal's decision on the appeal.
- (2) The registrar must keep the copies with the documents kept by the registrar for the proceeding in the court.

8 Section 4.1.56 (Who may appeal to Court of Appeal) of the Act

Chapter 4 Miscellaneous

29 Forms

- (1) The approved forms must be used for the purposes for which they are applicable with the necessary changes circumstances may require.
- (2) The document must be—
 - (a) consecutively numbered on each page; and
 - (b) divided into consecutively numbered paragraphs each containing, as far as practicable, a separate allegation or topic.

30 Fees

A document may be filed only if any prescribed fee for filing it is paid when the document is given to the registrar.

31 Court fees if state-related party

- (1) In a proceeding to which a state-related person is a party—
 - (a) despite rule 30, the state-related person may file a document without payment of a fee; and
 - (b) the state-related person is not required to prepay any other fees of court.
- (2) However, if judgment is given against another party in the proceeding, the state-related person may recover fees of court with costs from the other party.
- (3) In this rule—

state-related person means the Sovereign, the State, a person acting for the State, an entity whose expenditure is payable, in whole or part, out of amounts from the consolidated fund or a person acting for the entity.

32 Repeal

The *Local Government Court Rules 1966* are repealed.

Schedule Dictionary

rule 4

active party, for a proceeding, means—

- (a) the applicant or appellant; and
- (b) each other party who has filed an entry of appearance in the proceeding.

address for service, see rule 9(5).

application means an originating application and an application made within a proceeding.

application made within a proceeding means an application about the proceeding made after the proceeding is started and before it is decided.

first court, for chapter 2, part 3, division 1, see rule 12(1).

originating application means an application that starts a proceeding.

originating process means an originating application or notice of appeal.

other court, for chapter 2, part 3, division 1, see rule 12(2).

party means a party to a proceeding.

proceeding means an appeal and a proceeding started by an originating application.

registrar means a registrar of the court.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 May 2000. Future amendments of the Planning and Environment Court Rules 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 July 1999	1 July 1999
1A	2000 SL No. 76	1 May 2000	5 May 2000

5 List of legislation

Planning and Environment Court Rules 1999 SL No. 116

made by the Governor in Council on 24 June 1999
notfd gaz 25 June 1999 pp 932–8
rr 1–2 commenced on date of notification
remaining provisions commenced 1 July 1999 (see r 2)
SIA pts 5, 7 do not apply (see 1991 No. 68 s 118B(1))
amending legislation—

Planning and Environment Court Amendment Rule (No. 1) 2000 SL No. 76

notfd gaz 28 April 2000 pp 1558–9
ss 1–2 commenced on date of notification
remaining provisions commenced 1 May 2000 (see s 2)

6 List of annotations

Content of originating process

r 8 amd 2000 SL No. 76 s 4

Originating application must be given to other parties

r 11 amd 2000 SL No. 76 s 5

PART 1A—DISCONTINUING AND WITHDRAWING PROCEEDINGS

pt hdg ins 2000 SL No. 76 s 6

Discontinuing and withdrawing proceedings

r 11A ins 2000 SL No. 76 s 6

Where proceeding is heard

r 12 amd 2000 SL No. 76 s 7

Party may request hearing be transferred to other court

r 13 amd 2000 SL No. 76 s 8

Entry of appearance

r 15 amd 2000 SL No. 76 s 9

Optional early settlement procedure**prov hdg** sub 2000 SL No. 76 s 10(1)**r 16** amd 2000 SL No. 76 s 10(2)–(3)**Court may excuse parties from optional early settlement procedure****r 17 prov hdg** amd 2000 SL No. 76 s 11**Orders or directions****r 20** amd 2000 SL No. 76 s 12