

PLANNING AND ENVIRONMENT COURT HEARINGS

Health and Safety - COVID-19

- [1] The Planning and Environment Court wishes to ensure that hearings take place, if possible, consistent with the safety and health of all participants having regard, in particular, to the risk of the Covid-19 virus. Accordingly:
- (a) If, in relation to a matter set down for hearing, a party becomes aware that a material witness or a legal representative with responsibility for the conduct of the matter has become unavailable, or some other thing has occurred by reason of the virus which jeopardises the hearing, then the other parties and the court should be advised as soon as possible.
 - (b) Where hearings are to proceed reasonable steps should be taken to safeguard the health and safety of all participants at all stages of the hearing and during any site inspection. The court encourages the parties to:
 - consider the need for maintaining sufficient physical separation:
 - (i) during site inspections (including travel); and
 - (ii) in the courtroom, including at the bar table.
 - take active steps to narrow the issues to be tried, agree facts which should not be in contention and take other steps to reduce the duration of the hearing and to avoid the unnecessary appearance of non-essential witnesses (either in person or otherwise);
 - consider whether witnesses, including those who are not experts or those whose evidence is likely to be less controversial, could give evidence by telephone or video-link;
 - minimise the number of individuals present in the courtroom at any time and the duration of their presence;
 - ensure that witnesses giving evidence in person, particularly experts, have copies of those exhibits of most relevance to their evidence, so as to minimise the need for interaction between them and the bailiff or associate and also to minimise the extent to which the one document is handled by multiple people.
- [2] As to the appearance of witnesses by telephone or video-link, only 25 courtrooms in the Brisbane Court Complex are equipped with video-links. These courtrooms must serve both the Supreme and District Courts, including criminal matters in which an increasing number of sentences are likely to be conducted by video-link. These resource limitations may mean that witnesses in P&E matters who are not required to give evidence in person may have to give evidence by telephone rather than video-link.

- [3] To facilitate the just and timely resolution of matters, the parties are requested to confer with each other by telephone or video-link as to the proposed conduct of their hearing and agree upon a plan which specifies the steps which are to be taken to safeguard health and safety during the hearing. That plan should include the names of witnesses including witnesses whose evidence is the subject of a request to be given by telephone or video-link.
- [4] Where a matter is to be heard in a sittings but has not yet been allocated dates at a call-over, the parties will be expected to be able to advise the court as to their plan at the pre-call-over review. Where a matter has already been set down for hearing for specified dates, the parties should confer and jointly provide the plan to the judge's associate as soon as possible.
- [5] If the parties are unable to agree as to whether the hearing can proceed in a way which adequately protects health and safety or about a plan for the way in which it should proceed then arrangements should be made to have the matter listed for review/directions. Wherever possible that will be conducted by telephone.
- [6] The Chief Judge emphasises the importance of the work of the court continuing as far as is reasonably possible. The situation concerning Covid-19 is however, under constant review by the government chief health officers and is rapidly changing. The court cannot predict what rules or recommendations will apply in even a few weeks' time. In the meantime the court wishes to ensure that if hearings can safely and fairly proceed, they do so.