



QUEENSLAND FARMERS' FEDERATION

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2 February 2017

Judge Fleur Kingham
President
Land Court of Queensland
GPO Box 5266
BRISBANE QLD 4001

Dear Judge Kingham

Fleur

Re: Draft Practice Directions

Thank you for your letter dated 8 December 2016 seeking feedback on two Land Court draft Practice Directions: 'Court Supervised Mediation' and 'Guidelines for the Use of Concurrent Evidence'.

The Queensland Farmers' Federation (QFF) does not have in-house legal counsel and has not engaged legal expertise to review the draft Practice Directions, but offers the following general comments.

Court Supervised Mediation

- No timeframes for the mediation process have been identified. Set times can be useful for bringing unnecessarily protracted disputes to a resolution.
- Timeframes have been identified for providing material to the mediator. For farmers, if there are timeframes around attendance and decision making, it will be important for the Court to recognise and accommodate seasonally busy periods; such as planting and harvesting.
- The appointment of mediators, or whether there is any ability to contest an appointed mediator, is unclear.
- Consideration should be given to the number of participants or placing a restriction around the number of organisation representatives that can attend a mediation to ensure a 'level playing field'. This is important as the majority of farming enterprises are small businesses, which would be severely 'out-resourced' in a mediation process with a large corporate entity.
- In the event of either termination or agreement following mediation, both parties should be notified of the decision, advised the reasons for the decision, the date the decision is effective, and any next steps in the process.
- It should also be stated that both parties agree to participate in the mediation in good faith.

Use of Concurrent Evidence

- It should be stated that an expert witness must adhere to the Expert Witness Code of Conduct.
- Expert witnesses should disclose their remuneration, including whether there is an additional payment for a favourable outcome.
- Unless it is outlined elsewhere, what is trying to be achieved through the writing of the joint report and that there needs to be a narrowing of focus on the points of disagreement could more clearly defined.
- It is unclear whether this approach to expert witnesses only applies for court proceedings or whether it will also apply to any expert witnesses involved in mediation processes.

The united voice of intensive agriculture



General Comments

It is unclear how both draft Practice Directions fit within an overall process and whether they represent changes to individual sections only, or whether there is an intention to amend the overall process more broadly.

About QFF

QFF is the united voice of intensive agriculture in Queensland. It is a federation that represents the interests of 15 of Queensland's peak rural industry organisations, which in turn collectively represent more than 13,000 primary producers across the state. QFF engages in a broad range of economic, social, environmental and regional issues of strategic importance to the productivity, sustainability and growth of the agricultural sector. QFF's mission is to secure a strong and sustainable future for Queensland primary producers by representing the common interests of our member organisations:

- CANEGROWERS
- Cotton Australia
- Growcom
- Nursery & Garden Industry Queensland
- Queensland Chicken Growers Association
- Queensland Dairyfarmers' Organisation
- Burdekin River Irrigation Area Committee
- Central Downs Irrigators Limited
- Bundaberg Regional Irrigators Group
- Flower Association of Queensland Inc.
- Pioneer Valley Water Board
- Pork Queensland Inc.
- Queensland Chicken Meat Council
- Queensland United Egg Producers
- Australian Organic.

Thank you for the opportunity to comment on these draft Practice Directions and for considering the above comments in the final Practice Direction documents.

Yours sincerely

Travis Tobin
Chief Executive Officer