

# Communiqué

## Call for Expressions of Interest



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**Subject:** LAND COURT ADR PANEL – INVITATION TO APPLY FOR APPOINTMENT

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**Audience:** Land Court Users and Persons with Alternative Dispute Resolution (“ADR”) or other specialist expertise

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**Commencing:** 30 August 2017

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**Legislation:** N/A

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### INVITATION TO APPLY FOR APPOINTMENT

The Land Court is looking for people to appoint to an ADR Panel who:

- (a) have academic or professional qualifications, or employment history and experience, relevant to the Land Court’s jurisdiction (including, but not limited to, Australian lawyers);
- (b) have specialist knowledge relevant to the Land Court’s jurisdiction;
- (c) are, or who are prepared to become, an accredited Mediator (accredited by a Recognised Mediator Accreditation Body under the National Mediation Accreditation System).

The Land Court wishes to promote the use of effective ADR in regional areas of Queensland. Accordingly, if you are based in regional Queensland, or willing to chair ADR processes in regional locations, you are particularly encouraged to apply for appointment.

If you are interested in being considered for appointment to the Land Court ADR Panel (“the Panel”), please submit an application in the approved form to the Registrar of the Land Court of Queensland ***by either email, post or over the Land Court Registry Counter.***

The number of appointments may be capped. Accordingly, applications will be considered in the order in which they have been received and not all applicants will be guaranteed an appointment.

**The first round of appointments will be considered from the pool of applications received by the 30 September 2017.**

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### BACKGROUND

The Land Court is committed to resolving disputes in a way that is accessible, fair, just, economical and efficient. The use of ADR is an important means of achieving that objective.

To promote access to ADR chaired by practitioners with specialist expertise in the jurisdiction of the Land Court, the Land Court has decided to establish and manage the Panel.

The Land Court’s jurisdiction is diverse and, at times, technical. Its jurisdiction includes:

- Disputes about mining and resource activities;
- Environmental impact issues;
- Cultural heritage issues;
- Claims for compensation for compulsory acquisition of land; and
- Appeals against statutory valuations.

The resolution of disputes in the Land Court often involves experts from wide range of disciplines, including environmental specialists, agronomists, mining experts, town planners, engineers and valuers. The Land Court wants the Panel to include practitioners who possess these qualifications, or are familiar with those or other disciplines.

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Although Panel convenors will not be required to use their expertise to make decisions about disputes, knowledge of particular disciplines will give parties the comfort of knowing that the ADR process will be conducted by a person who properly understands the issues in dispute.

Initially, the Land Court will refer disputes to the Panel by order or by parties' consent. Those ADR processes will be conducted in facilities arranged by the Land Court.

If, as the Land Court expects, the benefits of referral to specialist ADR are realised, it may be possible to extend the use of the Panel to pre-filing ADR, including, where appropriate, case appraisal. In such private referrals to ADR, the Panel convenor may be asked to provide or nominate a venue for the ADR process.

The Land Court intends to provide ongoing training to Panel convenors in:

- Current ADR practices;
- Ethical obligations of ADR practitioners;
- Land Court practice and procedures; and
- Jurisdiction specific skills.

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## **CRITERIA FOR APPOINTMENT**

Appointment to the Panel is at the sole discretion of the President, whose decision is final and may not be the subject of appeal or judicial review.

To be eligible for appointment you must:

- (a) have academic or professional qualifications, or employment history and experience, relevant to the Land Court's jurisdiction, or
- (b) have specialist knowledge relevant to the Land Court's jurisdiction; and
- (c) be, or be prepared to become, an accredited Mediator (accredited by a Recognised Mediator Accreditation Body under the National Mediation Accreditation System); and
- (d) be a person of good character; and
- (e) Undertake to be bound by:
  - (i) The NMAS Practice Standards 2015;
  - (ii) The ADR provisions of the *Land Court Act 2000*, *Land Court Rules 2000*, *Civil Proceedings Act 2011* and *Uniform Civil Procedure Rules 1999*;
  - (iii) All Land Court Practice Directions that apply to the ADR Panel; and
  - (iv) Any case specific directions/orders in matters referred by the Land Court.

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## **APPOINTMENT AND TERM**

A Panel convenor is appointed for a term of three years. Once appointed, if you wish to remain on the Panel, you will need to reapply for appointment for a further term.

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## **NO WARRANTY AS TO APPOINTMENTS OR ALLOCATION OF ADR WORK**

Any referral to conduct ADR processes is at the sole discretion of the Land Court. Factors that may be considered in a decision whether to appoint you include:

- Your availability;
- The location of the dispute;
- The nature of the dispute; and
- The parties' capacity to pay your nominated rate.

Appointment to the Panel does not guarantee that Panel convenors will have ADR processes referred to them by the Land Court.

Appointment to the Panel does not warrant a minimum number of referrals or an equal distribution of appointments amongst Panel convenors.

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## **MANAGEMENT OF THE ADR PANEL**

The Registrar is responsible for managing the Panel including communication between the Land Court and Panel convenors. All enquiries regarding referrals should be directed to the Registrar.

The Registrar will publish on the Land Court of Queensland website a register of Panel convenors which includes the following details:

- Contact details;
- Rates;
- Qualifications and/or expertise of the Panel convenor; and
- Regions in which the Panel convenor is available to undertake work.

The President or a Member of the Land Court may nominate a Panel convenor by a referring order to conduct ADR.

The Registrar may nominate a Panel convenor to conduct ADR when:

- (a) Directed to do so by the President or a Member of the Court; or
- (b) At the request of all parties to a dispute, upon their filing of a consent order.

As the public will have access to the register of Panel Convenors on the Land Court website, they may elect to enter into private arrangements directly with Panel Convenors. The Registrar will not be responsible for managing those private ADR processes.

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## **OBLIGATIONS OF PANEL CONVENORS**

As a Panel convenor you must:

- (a) Advise the Registrar of any changes to your details within five business days to ensure the Panel register remains up-to-date;
- (b) Participate in ongoing professional development programs and events offered by the Land Court regarding Land Court practices, policies, procedures and jurisdiction, where reasonably required. *[Note: On-line participation in training programs through SKYPE, Webinar and other on-line formats will be offered, wherever possible, to provide flexible training options to Panel practitioners];* and
- (c) Read all materials provided by the Land Court regarding Land Court practices, policies, procedures and jurisdiction.

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## COMPLAINTS ABOUT ADR PANEL CONVENORS

All complaints about Panel convenors are to be directed to the Registrar and will be dealt with by the President.

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## PROTECTION, IMMUNITY & CONFIDENTIALITY

The protection, immunity and confidentiality provisions under Part 6, Division 5, *Civil Proceedings Act 2011* will apply to Panel convenors, parties and witnesses in ADR conducted under a referring order of the Land Court of Queensland. A consent order filed by the parties which refers their dispute to ADR is taken to be a referring order (s 42 *Civil Proceedings Act 2011*).

If parties request a Panel convenor without a referring order, the protection, immunity and confidentiality provisions under Part 6, Division 5, *Civil Proceedings Act 2011* will not apply. In that case, a Panel convenor will need appropriate professional indemnity insurance and a contract governing the terms and conditions of the ADR process.

If the Panel convenor provides the venue for an ADR process without a referring order, the Panel convenor will also need appropriate public liability insurance.

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