**SUPREME COURT OF QUEENSLAND**

**COMMERCIAL LIST NOTE TO PARTIES AND THE PROFESSION**

**Purpose**

1. This Note supplements Commercial List Practice Direction … of 2022 and addresses practical matters to aid parties and the profession in ensuring that the Commercial List operates efficiently.

**Contact details**

1. The Commercial List Principal Judge is Applegarth J.
2. The Commercial List Judges and their contact details are:

Applegarth J. 07 3738 7594 Associate.ApplegarthJ@courts.qld.gov.au

Brown J. 07 3738 7666 Associate.BrownJ@courts.qld.gov.au

Bradley J. 07 3738 7645 Associate.BradleyJ@courts.qld.gov.au

Freeburn J. 07 3738 7619 Associate.FreeburnJ@courts.qld.gov.au

Kelly J. 07 3738 7603 Associate.KellyJ@courts.qld.gov.au

Cooper J. 07 3738 7655 Associate.CooperJ@courts.qld.gov.au

Hindman J. 07 3738 7599 Associate.HindmanJ@courts.qld.gov.au

1. Once a matter is placed on the Commercial List and allocated to a particular Judge, the parties’ principal point of contact for listing and other purposes is that Judge’s Associate.
2. The Commercial List Manager who assists the Commercial List Principal Judge and the Commercial List Judges with administration and management of the Commercial List may be contacted on:

07 3738 7973  comcausemanager@justice.qld.gov.au

**Request to place matter on Commercial List**

1. A request to place a matter on the Commercial List is to be made by email to the Associate to the Commercial List Principal Judge, and copied to the other parties and to the Commercial List Manager.
2. It should include a completed version of the Request Form. [insert link to electronic form]
3. If it will assist the Court with case-management, a party requesting that a matter be placed on the Commercial List may supplement the Request Form with additional information about the nature of the dispute and the main issues that are expected to arise (not exceeding one page), and information that will assist the Court to make initial directions and list the matter for an early review.

**Draft Directions**

1. Parties on the Commercial List should propose directions that are suited to the circumstances of the case.
2. The Court encourages parties to adapt common forms of draft directions to those circumstances.
3. Draft directions can be accessed here in relation to:
4. the parties conferring for the purpose of resolving or narrowing the issues in dispute and identifying the real issues that remain in dispute;
5. a document plan for the efficient management of both paper and electronic documents in the proceeding;
6. disclosure, including early exchange of critical documents and specific disclosure directions;
7. possible referral to alternative dispute resolution;
8. the manner in which lay evidence is expected to be presented (e.g., witness summaries, witness statements, affidavits or a combination of the same);
9. expert evidence;
10. trial directions; and
11. agreeing a trial plan.

[insert link or links in the text]

**Urgent Matters / Fast Track Directions**

1. Draft directions for the proceeding to be conducted by way of Fast Track Directions may be accessed here. [insert link]

**Use of technology**

1. The use is encouraged, where appropriate, of technology permitting the taking in of evidence or other conduct of proceedings by video link or telephone conference, and the management of documents and transcripts. Practitioners should propose the use of such technology when appropriate, and the Court may give directions involving its use: for example, in major cases with a view to statements, documents and transcripts being available to all concerned on a common data base.

**Electronic document filing and management of proceedings on the Commercial List**

1. If the parties have not agreed a protocol for the electronic filing and management of documents, then they should follow the process that the Commercial List has established.
2. This matter is the subject of a separate Note which can be accessed here. [insert hyperlink]

**Disclosure**

1. Parties are subject to the general obligation in Practice Direction 18 of 2018 to adopt “a proportionate and efficient approach to the management of both paper and electronic documents at all stages of the litigation”.
2. The Court endorses a flexible rather than a prescriptive approach to disclosure and the management of documents at all stages of proceedings on the Commercial List.
3. Unless exceptional circumstances necessitate such a course, an order for disclosure is unlikely to be made until:
4. the parties have identified the real issues in dispute;
5. a document plan is developed to facilitate disclosure and inspection;
6. the parties have considered and conferred about the documents or categories of documents that should be the subject of a specific order, and the searches that are reasonable to undertake to locate them; and
7. possibly, until the parties have served their evidence.[[1]](#footnote-1)
8. Depending on the circumstances, the parties may agree, or the Court may order, one or more of a variety of options for the management of documents. These include:
9. the exchange of critical documents;[[2]](#footnote-2)
10. specific disclosure directions;[[3]](#footnote-3)
11. the exchange or disclosure of documents to be relied upon, supplemented by additional requested documents; and
12. the exchange or disclosure of documents limited to certain categories of documents or directions that exclude certain categories of documents.
13. Guidance on these matters is provided in specific notes:
14. [link to Critical Documents Guidelines and Draft Directions]
15. [link to Specific Disclosure Draft Directions]
1. This last possible course reflects Practice Note SC Eq 11 in the Supreme Court of New South Wales which has been said to be “effective in reducing cost and delay. In the vast majority of cases, the practical reality is that discovery before evidence is not genuinely needed (and never was). Many commercial disputes are about the nature and effect of communications between the parties and all parties usually know enough about their position to put on their evidence without the necessity for prior disclosure. It has encouraged parties to examine the real issues in the case early and has engendered a more disciplined analysis of the need for disclosure by reference to those real issues.’’: *Hammerschlag’s Commercial Court Handbook* 2nd ed 2.26.10 [↑](#footnote-ref-1)
2. See PD 18 of 2018 [11] and Note on “Critical Document Guidelines and Draft Directions” [insert link] [↑](#footnote-ref-2)
3. See Note on “Specific Disclosure Draft Directions” [insert link] [↑](#footnote-ref-3)