

Queensland



Canals Act 1958

CANALS REGULATION 1992

**Reprinted as in force on 4 January 2002
(includes amendments up to SL No. 283 of 2001)**

Reprint No. 2B

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

**NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 2001 Act No. 93 s 25(b)**

Information about this reprint

This regulation is reprinted as at 4 January 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

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 earlier reprints is included in the endnotes.

Also see endnotes for information about—

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

Queensland



CANALS REGULATION 1992

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CANALS REGULATION 1992

[as amended by all amendments that commenced on or before 4 January 2002]

1 Short title

This regulation may be cited as the *Canals Regulation 1992*.

2 Commencement

This regulation commences on 8 February 1992.

3 Definitions

In this regulation—

“**mean high water springs**” means the long term average height of 2 successive high waters during those periods of 24 hours when the range of tide is greatest, at full and new moon;

“**mean low water springs**” means the long term average height of 2— successive low waters during those periods of 24 hours when the range of tide is greatest, at full and new moon;

“**prescribed form**” means a form approved by the Director-General under section 4;

“**site**” means the land that is the subject of an application for provisional approval to construct a canal and includes land that is proposed to be reclaimed or filled with spoil from the proposed canal.

4 Approval of forms

The Director-General may approve a form—

- (a) for a purpose under the Act or this regulation for which a prescribed form is required or authorised to be used; or
- (b) for use for any purpose in connection with the administration of the Act or this regulation.

5 Fees

The fees specified in the Schedule are the prescribed fees to be paid for the purposes specified in the Schedule.

6 Application for provisional approval

(1) An application for provisional approval to construct a canal is to be made in relation to the whole of the land proposed to be developed, even though the applicant proposes to subdivide the land and to seek final approval for the construction of the canal in stages.

(2) If an application for provisional approval to construct a canal is refused, or lapses under section 7(2) of the Act, the Minister may refund to the applicant so much of the application fee as the Minister considers reasonable in the circumstances, after taking into account the costs incurred in processing the application.

(3) An application for provisional approval to construct a canal must be accompanied by—

- (a) a copy of the certificates of title or leases of the land comprising the site; and
- (b) a plan of the site, to a scale of not less than 1:2500, showing—
 - (i) the location and layout of the proposed canal; and
 - (ii) the proposed connection of the canal to tidal waters; and
 - (iii) the property descriptions and the boundaries of the parcels of land comprising the site; and
 - (iv) the metes and bounds descriptions of the boundaries of the site and of the proposed canal, in relation to the existing boundaries of the parcels of land adjoining the site; and
 - (v) spot levels or contour lines based on the Australian Height Datum, sufficiently spaced to clearly indicate the topographical features of the land as at the application date; and
 - (vi) the roads and reserves (including drainage reserves) within the site; and
 - (vii) the location of test bores taken of the soil at the site; and

- (c) logs of test bores taken to a depth of at least 1 m below the bottom of the proposed canal detailing the distribution and classification of soil types at the site; and
- (d) drawings of cross-sections of the proposed canal designed from information obtained from the test bores showing—
 - (i) the soil stability calculations in support of the design; and
 - (ii) the levels of the tide at mean low water springs and mean high water springs, as determined by continuous tide measurements over at least 2 periods, each of 29 days; and
 - (iii) the Australian Height Datum; and
 - (iv) the width and length of the proposed canal when the tide is at mean high water springs; and
 - (v) the depth of the proposed canal when the tide is at mean low water springs; and
 - (vi) the levels of the land at the site after the canal is constructed; and
- (e) a recent coloured vertical aerial photograph of the site, to a scale of not more than 1:12000, showing the boundaries mentioned in paragraph (b)(iv); and
- (f) information about the highest flood levels at the site (including the source of the information); and
- (g) estimates of the quantity of spoil—
 - (i) to be excavated from the site and the method of disposing of the spoil; and
 - (ii) to be introduced to the site (if any) and the source of the spoil; and
- (h) if the approval to construct a canal is sought in relation to land in a proposed subdivision, written advice from the relevant local authority stating that it will approve a plan of subdivision incorporating the proposed canal in terms of the *Local Government (Planning and Environment) Act 1990* and section 9(c) of the Act or, if the applicant is unable to obtain that advice, particulars of correspondence or negotiations between the applicant and the local authority relating to the approval of the plan of subdivision; and

- (i) a written assessment of the potential environmental impact that may result from the construction of the canal prepared in accordance with guidelines approved by the Director-General.

7 Application for final approval

An application for final approval of the construction of a canal must be accompanied by—

- (a) if the approval to construct a canal is sought in relation to land in a proposed subdivision—a plan of the subdivision of the land that includes the land that is the subject of the application for final approval to construct the canal, approved by the relevant local authority, showing—
 - (i) the property descriptions and the boundaries of the parcels of land comprising the subdivision; and
 - (ii) the metes and bounds descriptions of the boundaries of the subdivision and of the proposed canal, in relation to the existing boundaries of the parcels of land adjoining the subdivision and the parcels of land in relation to which provisional approval has been granted; and
 - (iii) the word ‘canal’ within the proposed canal’s boundaries; and
- (b) detailed engineering drawings and specifications of—
 - (i) cross-sections of the proposed canal showing the levels of the adjoining land before and after construction; and
 - (ii) retaining walls relating to the proposed canal; and
 - (iii) stormwater drains and outlets relating to the proposed canal; and
 - (iv) revetment and protection works relating to the proposed canal; and
 - (v) bridges and other structures in or over the proposed canal or adjacent tidal waters showing their clearance to the water when the tide is at the mean high water springs; and
- (c) final estimates of the quantity of spoil—
 - (i) to be excavated from the proposed canal and the method of disposing of the spoil; and

- (ii) to be introduced to the site (if any) including the source of the spoil and a copy of any application for a dredging permit required to be given to the relevant authority; and
- (d) particulars of the method of stabilising any land filled with spoil against surface erosion; and
- (e) the proposed date of completion of construction of the canal and ancillary works; and
- (f) evidence verifying that the applicant owns the land to which the application relates or that the applicant will obtain ownership of the land on the granting of final approval to construct the canal; and
- (g) such other information and particulars as are required by the terms and conditions of the provisional approval or as may otherwise be required by the Director-General.

8 Application for Director-General's certificate to Minister

(1) An application for the Director-General's certificate to the Minister under section 8(1) of the Act must be in the prescribed form.

(2) An application for the certificate must be accompanied by—

- (a) a copy of each plan mentioned in the order in council granting final approval of the construction of the canal showing—
 - (i) any variations (to be marked in red) of the canal and ancillary works as constructed from the plan; and
 - (ii) a certificate by the engineer who supervised the construction of the canal and ancillary works certifying that the plan has been carefully compared with the canal and ancillary works constructed, as to line, level and dimensions, and has been amended where necessary so that it constitutes a true and correct representation of the canal and ancillary works constructed; and
 - (iii) the position, in relation to the boundaries of the parcels of land fronting the canal, of cross-sections of the canal (at intervals of not more than 15 m apart unless otherwise permitted by the Director-General); and
- (b) a drawing of each cross-section of the canal, to a scale of 1:100, showing—

- (i) the cross-section as plotted from levels taken (at intervals of not more than 3 m apart unless otherwise permitted by the Director-General) by a licensed surveyor across the full width of the canal including the slopes above the high water mark; and
 - (ii) the cross-section as plotted using the minimum allowable tolerances mentioned in the order in council granting final approval; and
 - (iii) the cross-section as plotted using the maximum allowable tolerances mentioned in the order in council granting final approval; and
 - (iv) the levels of the tide at mean low water springs and mean high water springs; and
 - (v) the Australian Height Datum; and
 - (vi) the date on which the survey of the cross-section was undertaken; and
 - (vii) a certificate by a licensed surveyor certifying that the drawing correctly represents the true shape of the canal as at the date of the survey; and
- (c) such other information and particulars as are necessary to verify compliance with the terms and conditions (if any) of the order in council granting final approval or as may otherwise be required by the Director-General to ensure that the canal has been constructed in accordance with the requirements of section 8(1)(a) and (b) of the Act.

9 Control of vessels in canals

(1) A person must not moor or place a vessel, which is used solely for pleasure or recreation, in a canal for a period of more than 3 days.

(2) Subsection (1) does not apply to—

- (a) an owner or occupier of land fronting a canal who moors or places the vessel adjacent to the land; or
- (b) a person who moors or places the vessel with the consent of the owner or occupier of the land fronting the canal adjacent to which the vessel is moored or placed.

(3) A person must not moor or place a vessel, which is not used solely for pleasure or recreation, in a canal for a period of more than 12 hours.

(4) Subsection (3) does not apply to—

- (a) a person who moors or places the vessel to carry out work to preserve, maintain or clean the canal; or
- (b) an owner or occupier of land fronting a canal who moors or places the vessel adjacent to the land; or
- (c) a person who moors or places the vessel with the consent of the owner or occupier of the land fronting the canal adjacent to which the vessel is moored or placed.

(5) When calculating a period for the purpose of subsection (1) or (3), the periods the vessel was moored or placed at different locations in the canal may be added together.

Maximum penalty—20 penalty units.

SCHEDULE**FEEES**

section 5

		\$
1.	Application for provisional approval	14 287.00
2.	Application for final approval, for each metre or part of a metre of the land fronting the proposed canal	9.85
3.	Application for transfer of provisional or final approval . .	93.50

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

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	1 October 1992
2	to SL No. 416 of 1993	15 December 1993
2A	to SL No. 39 of 1997	9 April 1997

5 List of legislation

Canals Regulation 1992 SL No. 8

pubd gaz 8 February 1992 pp 752–80
commenced 8 February 1992 (see s 2)

as amended by—

Canals Amendment Regulation (No. 1) 1993 SL No. 416

notfd gaz 19 November 1993 pp 1402–3
ss 1–2 commenced on date of notification
remaining provisions commenced 1 December 1993 (see s 2)

Department of Environment and Heritage (Variation of Fees) Regulation (No. 1)

1995 SL No. 404 pts 1–2

notfd gaz 22 December 1995
ss 1–2 commenced on date of notification
remaining provisions commenced 1 January 1996 (see s 2)

Canals Amendment Regulation (No. 1) 1997 SL No. 39

notfd gaz 28 February 1997 pp 827–8
ss 1–2 commenced on date of notification
remaining provisions commenced 1 March 1997 (see s 2)

Environmental Legislation Amendment Regulation (No. 1) 2001 SL No. 283 s 1, pt 2

notfd gaz 21 December 2001 pp 1482–8
commenced on date of notification

6 List of annotations

Repeal

s 10 om R1 (see RA s 40)

SCHEDULE—FEES

sub 1993 SL No. 416 s 4

amd 1995 SL No. 404 s 4; 1997 SL No. 39 s 4
sub 2001 SL No. 283 s 3