

Queensland



Subordinate Legislation 1992 No.8

Canals Act 1958

CANALS REGULATION 1992

TABLE OF PROVISIONS

Section	Page
1 Short title	1
2 Commencement	1
3 Definitions	2
4 Approval of forms	2
5 Fees	2
6 Application for provisional approval	2
7 Application for final approval	4
8 Application for Director-General's certificate to Minister	6
9 Control of vessels in canals	7
10 Repeal	8

SCHEDULE

FEES	9
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Short title

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

Commencement

2. This regulation commences on 8 February 1992.

Definitions

3. In this regulation—

“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;

“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;

“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.

Approval of forms

4. 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.

Fees

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

Application for provisional approval

6.(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 metre 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.

Application for final approval

7. 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.

Application for Director-General's certificate to Minister

8.(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 metres 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 metres 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.

Control of vessels in canals

9.(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.

Repeal

10. The *Canals Regulations 1985* are repealed.

SCHEDULE
FEES

1. Application for provisional approval \$12 311.00
 2. Application for final approval, per metre or part
of a metre of the land fronting the proposed canal \$8.50
 3. Application for transfer of provisional approval
or final approval \$80.00
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ENDNOTES

1. Made by the Governor in Council on 6 February 1992.
2. Published in the Gazette on 8 February 1992.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Environment and Heritage.