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**Land and Environment
Court**
of New South Wales

PRACTICE NOTE
CLASS 3 COMPENSATION CLAIMS

Name and commencement

1. This practice note commences on 12 November 2025. It replaces the Practice Note – Class 3 Compensation Claims dated 10 September 2024.

Application of Practice Note

2. This practice note applies to Class 3 claims for compensation by reason of the acquisition of land (“Compensation Claims”), including claims under the *Land Acquisition (Just Terms Compensation) Act 1991* (“Just Terms Act”).

Purpose of Practice Note

3. The purpose of this practice note is to set out the case management procedures for the just, quick and cheap resolution of Compensation Claims.

Responsibility of parties, legal practitioners and agents

4. It is the responsibility of each party, their legal representatives and agents (as applicable) to consider the orders and directions appropriate to be made in the particular case to facilitate the just, quick and cheap resolution of the real issues in the proceedings.
5. If any party reasonably considers that compliance with this practice note will not be possible, or will not be conducive to the just, quick and cheap resolution of the proceedings, the party should apply to be relieved from compliance on the basis that alternative procedures will be more conducive to such a resolution. In that event, the party is to notify the other party of the proposed alternative procedures as soon as practicable and is to make available to the Court short minutes reflecting the alternative procedures.
6. Parties are to ensure that all directions which they seek will assist in enabling Compensation Claims to be dealt with at the hearing with as little

formality and technicality, and as quickly as the requirements of the *Land and Environment Court Act 1979* (“the Court Act”) and of every other relevant enactment and as the proper consideration of the matters before the Court permits (see s 38 of the Court Act).

Legal practitioners and agents of parties to be prepared

7. Each party not appearing in person shall be represented before the Court by a legal practitioner or duly authorised agent familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.
8. Legal practitioners and agents for the parties are to communicate prior to any attendance before the Court with a view to reaching agreement on directions to propose to the Court and preparation of agreed or competing short minutes recording the proposed directions.

Cooperation

9. The Court expects legal practitioners and experts to work together to implement this practice note in a practical and sensible way which ensures that it achieves its intended purpose.

Breach of the Court’s directions

10. If any party fails to comply with a direction of the Court that some action be taken by a specified time, and the defaulting party is not able to take that action within five working days of the specified time, the defaulting party is to:
 - (a) have the matter relisted;
 - (b) file and serve, when relisting, an affidavit explaining the non-compliance, the reason for the non-compliance, what action the party proposes to take and when the party proposes to take action to comply with the direction;
 - (c) where the delay in complying with the direction of the Court is caused by an expert, file and serve an affidavit of that expert explaining the reasons for the non-compliance; and
 - (d) provide short minutes of order of the directions and orders the party seeks for the Court to make.
11. If any party fails to comply with a direction of the Court or this practice note, the Court will usually order that the defaulting party pay the costs of the other party of and occasioned by the non-compliance and any relisting required unless it appears to the Court that some other order should be made as to the whole or any part of the costs.
12. Any proposed directions that vary an existing timetable, must include the vacation of listings that can no longer be maintained, including any dates for directions hearings or mention or for the hearing of motions.

13. Any failure by one party to comply with the Court's directions will not be considered an adequate excuse for any failure to comply by the other party. Both parties are responsible for ensuring that they comply with directions.

Commencing a Compensation Claim

14. A Compensation Claim is to be commenced by filing in the Registry of the Court, by mail, over the counter or through the NSW Online Registry, a completed Class 3 Application Form (Form B (Version 1)) with accompanying documents.

The return date of the Compensation Claim

15. The originating application will usually be given a return date before the Court on a date 12 weeks after the application was filed. On the return date, the first directions hearing will occur before a registrar.

Service of originating application

16. The originating application for a Compensation Claim and the accompanying documents are to be served within 7 days of filing.

Identifying the issues in the Compensation Claim

17. The issues involved in the determination of the Compensation Claim are to be identified by the applicant's and the respondent's contentions on determination of compensation and, if necessary, the applicant's contentions in reply.
18. The contentions on the determination of compensation are to include:
- (a) the amount of compensation that each party contends should be payable;
 - (b) the components of that amount by reference to each relevant matter in s 55(a) to (f) of the Just Terms Act;
 - (c) the basis of the valuation of the market value or special value of the land under s 55(a) and (b) and ss 56 and 57 of the Just Terms Act;
 - (d) the valuation methodology to be adopted in determining compensation;
 - (e) particulars of any comparable sales upon which the valuation is based;
 - (f) a schedule of any hypothetical development calculations;
 - (g) the schedule of losses attributable to disturbance under s 55(d) and s 59(1)(a) to (e) of the Just Terms Act including, where appropriate, the factual foundation upon which such claim is made;
 - (h) the schedule of other financial costs claimed under s 59(1)(f) of the Just Terms Act including, where appropriate, the factual foundation upon

which such claim is made;

- (i) any matter in respect of which the respondent contends compensation is not payable under ss 61 or 62 of the Just Terms Act; and
 - (j) any matter relied upon to offset the claim.
19. The applicant is to file and serve its contentions on determination of compensation within four weeks of filing its originating application.
20. The respondent is to file and serve its contentions on determination of compensation 10 weeks after the filing of the originating application.
21. Any reply by the applicant is to be filed and served 11 weeks after the filing of the originating application.

Number of pre-hearing attendances

22. Unless there are interlocutory applications, a Compensation Claim usually should appear in Court before the final hearing on no more than six occasions as follows:
- (a) at the first directions hearing;
 - (b) for complex matters, at a case management conference;
 - (c) at a conciliation conference pursuant to s 34 of the Court Act;
 - (d) at the second directions hearing;
 - (e) at the third directions hearing; and
 - (f) at a pre-hearing mention listed two weeks before the hearing commences, if possible before the hearing judge or commissioner.

Before the first directions hearing

23. Before the first directions hearing, the parties are to discuss and endeavour to agree upon:
- (a) whether the proceedings are suitable for a conciliation conference;
- [NOTE: There is a presumption that all Compensation Claims will be referred for at least one conciliation conference – the parties will need to persuade the Court why this should not be the case.]
- (b) whether the matter should be treated as a complex matter; and
 - (c) the directions that the Court should make at the first directions hearing.

At the first directions hearing

24. The first directions hearing will be on the return date.
25. Unless good reason is demonstrated, each party is to be sufficiently prepared

at the first directions hearing to assist the Court in making and to accept a timetable up to and including the dates of the conciliation conference and the second directions hearing. Legal practitioners and other representatives of the parties are to ensure that they advise the parties of their obligation to be ready to agree to a timetable up to and including those dates and are to obtain full and timely instructions to ensure the parties comply with this obligation.

26. To assist the Court in making the appropriate directions, each party is to have completed and hand to the Court at the first directions hearing a completed Information Sheet in the form of **Schedule A**.
27. At the first directions hearing the Court will determine whether the Compensation Claim is a complex matter.
28. Should the Compensation Claim be determined not to be a complex matter, the directions in Part 1 of **Schedule B** will usually be made.
29. Should the Compensation Claim be determined to be a complex matter, the directions in **Schedule C** will usually be made.
30. If the parties do not agree, each party should prepare their own written version of the directions they propose the Court should make.

At the second directions hearing

31. The second directions hearing will usually be held 14 days after any conciliation conference if agreement is not reached at the conciliation conference.
32. At the second directions hearing, the Court will:
 - (a) after consulting the parties, determine the appropriateness of conducting the hearing on a paperless basis;
 - (b) if the Compensation Claim is determined not to be a complex matter, make the directions in Part 2 of **Schedule B**;
 - (c) if the Compensation Claim is determined to be complex, make the directions in **Schedule C**;
 - (d) hear any application for directions for expert evidence; and
 - (e) not fix a hearing date until all evidence has been filed.

At the third directions hearing

33. At the third directions hearing, being 7 days after all evidence is filed, the Court will make the directions in Part 3 of **Schedule B**.

At the pre-hearing mention

34. The pre-hearing mention will be two weeks before the hearing. If possible, it

will be before the judge or commissioner allocated to hear the proceedings. Counsel or solicitors briefed to appear on the hearing should attend.

35. The purpose of the pre-hearing mention is to ensure readiness for hearing and to give directions as to the conduct of the hearing and of any inspection of the resumed property and comparable sale properties. Prior to the pre-hearing mention, in accordance with any direction made, the parties are to file:
- (a) one copy of the Court Book (either in a folder [if the hearing is to be paper-based] or electronically [if paperless] (e.g. on a USB stick));
 - (b) one copy of the Evidence Book (either in folders [if the hearing is to be paper-based] or electronically [if paperless] (e.g. on a USB stick)); and
 - (c) one copy of the bundle of documents (either in folders [if the hearing is to be paper-based] or electronically [if paperless] (e.g. on a USB stick)).

NOTE: If all the material required by (a) to (c) for a paperless hearing can be loaded on a single USB stick, this is to be done.

36. The Court Book is to include:

- (a) a statement by the respondent as to those matters which might have been expected to be contested but which are no longer contested by the respondent;
- (b) an agreed table setting out the matters in s 55(a) to (f) and s 59(1) of the Just Terms Act in respect of which the applicant claims compensation. This table should set out the amount claimed for each matter; the statutory provision pursuant to which the claim is made; a short summary (maximum one, 10 line paragraph) of the basis for the claim; and, if a claimed matter is disputed by the respondent, the amount (if any) conceded by the respondent and a short summary (maximum one, 10 line paragraph) by the respondent as to the nature of the dispute concerning this claimed matter; and
- (c) an agreed schedule:
 - (i) containing a brief description of the resumed property and each comparable sale property that it is proposed the Court should inspect;
 - (ii) noting which party relies on each comparable sale;
 - (iii) including a map showing the location of each property; and
 - (iv) if a site inspection is determined to be necessary, proposing a time when the hearing judge or commissioner should inspect the properties and the arrangements for inspection.

37. The Court at the pre-hearing mention will determine whether an onsite inspection is necessary and if so, when such inspection will take place. The parties will be required to identify what properties each party contends should be physically inspected and why such inspection is necessary. The parties are to give genuine consideration to the necessity for such inspection to enable the just, quick and cheap resolution of the real issues in dispute in the

proceedings.

38. If any witness is required for cross-examination at the hearing, notice is to be given before the pre-hearing mention.

The hearing

39. Evidence and submissions at the hearing are to address all issues the subject of the proceedings. No issue will be separately determined unless the Court so orders.

NOTE: Application for separate determination of questions, under s 62(2) of the *Civil Procedure Act 2005* or Pt 28 r 28.2 of the Uniform Civil Procedure Rules, should be made by notice of motion with supporting affidavit.

40. Unless the hearing judge or commissioner otherwise directs, expert evidence is to be taken concurrently where there are two or more experts giving evidence in the same area of expertise. Parties are to ensure that any witnesses to be called are reasonably available during the period the proceedings are listed for hearing so as to ensure the efficient conduct of the hearing.
41. At the commencement of oral evidence of any witness, counsel or the solicitor appearing for a party, having conferred beforehand, are to hand to the hearing judge or commissioner agreed or competing lists of the topics on which it is proposed to cross-examine and for which leave is sought. Generally, the conduct of the hearing will not be determined by the convenience of a particular witness.
42. Opening submissions of not more than 10 pages are to be filed 10 working days prior to the hearing. The brief opening submissions should not generally be a substitute for a written outline of closing submissions.
43. The Court will usually be assisted by a written outline of closing submissions that includes references to evidence in the Evidence Book, the bundle of documents and oral evidence. The written outline of closing submissions should be filed and served for the early attention of the hearing judge or commissioner.

Seeking directions before adducing expert evidence

44. Parties are encouraged to consider whether there is a genuine need to adduce expert evidence on any issue in dispute. Unnecessary expert evidence substantially increases the time and cost of Compensation Claims.
45. Parties may not adduce expert evidence in a Compensation Claim unless directions have been sought and made under r 31.19 of the Uniform Procedure Rules 2005 (NSW) ("UCPR") and otherwise than in accordance with those directions (see r 31.19(3) of the UCPR).
46. The Court may give directions in relation to the use of expert evidence generally and as to any matter in r 31.20(2) of the UCPR, including:
- (a) any limitation on the subject matter or issues on which the expert

evidence may be adduced;

- (b) the identity of the expert who may adduce expert evidence on a subject matter or issue;
 - (c) any limitation on the number of expert witnesses who may be called to give evidence on a subject matter or issue;
 - (d) the date for filing and serving the expert evidence; and
 - (e) the date for experts to confer and prepare a joint report.
47. Before directions are sought to adduce expert evidence, the parties and their legal representatives are to ensure that the expert has agreed to provide the expert evidence, including any report, in accordance with such directions as the Court may make, including the dates for joint conferencing and report and filing expert evidence.
48. An application for directions to adduce expert evidence will be heard on a date allocated for that purpose. This could be at a scheduled directions hearing or a date fixed at a directions hearing for hearing of the application.
49. The application for directions to adduce expert evidence should include but not be limited by the answers to the questions in **Schedule A**.
50. Should a party seek to vary the directions the Court has made regarding expert evidence, application to vary the directions is to be made by notice of motion together with an accompanying affidavit that identifies:
- (a) the variation sought;
 - (b) if variation is to extend the time for filing the expert evidence, the extension of time sought;
 - (c) the reason for the need for variation; and
 - (d) the time upon which both the expert and the legal practitioner or party first became aware of the need for variation.

Use of a parties' single expert

51. Where expert evidence is necessary to be adduced in relation to an issue, the Court encourages parties to use a parties' single expert. The use of a parties' single expert in an appropriate case can reduce costs and ensure the Court has the benefit of evidence from a person who is not engaged by only one party. In determining whether a parties' single expert might be appropriate in a particular case, consideration should be given to:
- (a) the importance and complexity of the subject matter in dispute in the proceedings;

- (b) the likely cost of obtaining expert evidence from a parties' single expert compared to the alternative of obtaining expert evidence from individual experts engaged by each of the parties;
 - (c) the proportionality of the cost in (b) to the importance and complexity of the subject matter in (a);
 - (d) whether the use of a parties' single expert in relation to an issue is reasonably likely either to narrow the scope of the issue or resolve the issue; the nature of the issue, including:
 - (i) whether the issue is capable of being answered in an objectively verifiable manner;
 - (ii) whether the issue involves the application of accepted criteria (such as Australian Standards) to ascertainable facts;
 - (iii) whether the issue is likely to involve a genuine division of expert opinion on methodology, or schools of thought in the discipline;
 - (e) whether the parties' single expert would be required independently to obtain further information or to undertake monitoring, surveys or other means of obtaining data before being able to provide expert evidence;
 - (f) whether the parties are prepared at the time to proceed to hearing on the basis of a parties' single expert report about the issue and no other expert evidence about that issue;
 - (g) whether the integrity of expert evidence on the issue is likely to be enhanced by evidence being provided by a parties' single expert instead of by individual experts engaged by the parties; and
 - (h) whether the Court is likely to be better assisted by expert evidence on the issue being provided by a parties' single expert instead of by individual experts engaged by the parties.
52. If the parties agree on the use of a parties' single expert, directions still need to be sought and made permitting the appointment of and adducing of expert evidence from that expert.
53. It is the responsibility of the parties to agree the remuneration to be paid to a parties' single expert. This includes making provision with respect to the amount of the expert's fees and the frequency with which the expert renders accounts. The Court will fix the remuneration of a parties' single expert only where the parties are unable to agree that remuneration.
54. Where a parties' single expert has been appointed to adduce evidence in relation to any issue, the parties may not rely on any other expert evidence about that issue without leave. Any application for leave is to be made by notice of motion with an affidavit in support as soon as reasonably possible and usually no later than five days after receiving the report of the parties' single expert.

Expert's compliance with expert witness code of conduct

55. An expert (including a parties' single expert) and the expert's report are to comply with the requirements of Division 2 of Pt 31 of the UCPR and the Expert Witness Code of Conduct in Schedule 7 of the UCPR.
56. An expert witness should identify any pre-existing relationship between the expert witness, or their firm or company, and a party to the litigation.

Joint conferencing of experts

57. If experts are directed by the Court to confer, experts are to ensure that their joint conference is a genuine dialogue between experts in a common effort to reach agreement with the other expert witness about the relevant facts and issues. Any joint report is to be a product of this genuine dialogue and is not to be a mere summary or compilation of the pre-existing positions of the experts.
58. Legal representatives are not to attend joint conferences of experts or be involved in the preparation of joint reports without the leave of the Court.

Notices of motion

59. Any notice of motion is to be returnable at a directions hearing unless the circumstances are so urgent as to justify an earlier listing. Parties and legal practitioners should file and serve evidence in support of the motion so that, if practicable, the motion may be heard on the return date.

Amendment of contentions on determination of compensation

60. Parties require leave of the Court to amend their Contentions on Determination of Compensation.
61. Other than amendments sought during the hearing or where the other party consents, leave to amend is to be sought by notice of motion accompanied by a short affidavit in support explaining the reasons for leave being sought.

Liberty to restore

62. Parties have general liberty to restore to the Compensation Claim on three working days' notice, or less if urgency requires it. A party seeking to do so should make prior arrangement with, or give appropriate notice to, any other party, and should send an Online Court communication or, if not legally represented, an e-mail to the registrar.

Applications to vacate hearings and for adjournments

63. Compensation Claims will not be adjourned generally.
64. Compensation Claims usually will not be adjourned because of failure to comply with this practice note or directions or because of lack of preparedness for any attendance before the Court. If failure to comply or lack of preparedness nevertheless does cause the adjournment of proceedings, the

defaulting parties or legal practitioners may be ordered to pay costs.

65. Applications to vacate hearing dates or conciliation conferences are to be by notice of motion, with an affidavit in support explaining the circumstances of the application and the reasons the hearing date should be vacated.

Settlement of proceedings

66. If proceedings settle on terms that require the Court to make an order, it is necessary to apply to the Court to make orders finalising the litigation:
- (a) the application is to be by written request to the registrar accompanied by a copy of the proposed final consent orders signed by all parties;
 - (b) if the Court considers the consent orders finalising the proceedings to be satisfactory, orders may be made in chambers; and
 - (c) if orders are not made in chambers, the proceedings will be listed before a judge, commissioner or registrar. Representatives of the parties attending the listing must be familiar with the subject matter of the proceedings and have instructions sufficient to inform the Court about the terms of the proposed orders.
67. If proceedings are to be discontinued, a notice of discontinuance is to be filed with the Registry by Online Registry or in hard copy at the Registry Counter.

Mediation, conciliation, neutral evaluation or reference

68. Consideration should be given prior to and throughout the course of the proceedings as to whether the proceedings or any questions are appropriate for mediation, conciliation, neutral evaluation or reference to a referee for inquiry and report.
69. It is expected that legal practitioners, or parties not legally represented, will be in a position to advise the Court at any directions hearing:
- (a) whether the parties have attempted mediation, conciliation or neutral evaluation; and
 - (b) whether the parties are willing to proceed to mediation, conciliation, neutral evaluation or reference to a referee for inquiry and report at an appropriate time.
70. At a mediation, conciliation or neutral evaluation, the parties are to ensure that a person who is able to make a decision as to whether the proceedings or any particular issue should settle or be resolved is present personally or represented by an authorised nominee. If this is not possible, a person with authority must be contactable and have authority to confirm acceptance of any proposed settlement.
71. Where the proceedings or questions are appropriate to be referred to a mediator, conciliator or neutral evaluator or to a referee for inquiry and report,

the parties should prepare proposed short minutes to be handed to the Court which:

- (a) where questions are to be referred, formulate the questions with precision; and
 - (b) state:
 - (i) that the matter is to be mediated by an in-court mediator or conciliator, or the name of an agreed external mediator, neutral evaluator or referee or, if no agreement can be reached, the person each party suggests;
 - (ii) the date on which the mediator, neutral evaluator or referee can commence the mediation, neutral evaluation or reference;
 - (iii) expected duration of the mediation, neutral evaluation or reference; and
 - (iv) the anticipated date for finalisation of the mediation or neutral evaluation, or for delivery to the Court of the referee's report.
72. Proposed consent orders for amendment to the questions referred to a mediator, neutral evaluator or referee may be filed with the Court, which may make such orders in chambers. Any contested amendments, or amendments in respect of which the Court wishes to hear the parties, will be heard on a date notified to the parties by the registrar.

Costs and compliance

73. If a breach of the Court's directions or of this practice note causes costs to be thrown away, a party or legal practitioner responsible for the breach may be ordered to pay those costs.
74. The cost of unnecessary photocopying and assembly of documents is unacceptable. Legal practitioners for the parties are to consider carefully the documents necessary to be tendered. Excessive documents may attract adverse costs orders.

***The Honourable Justice Brian J Preston
Chief Judge***

12 November 2025

SCHEDULE A

Class 3 Compensation Claims – Information Sheet

Note: Attach additional pages as required.

Proceedings No. _____

Parties _____

Applicant _____

Respondent _____

1. Has the Respondent provided the Applicant with access to, and copies of, relevant documents? YES/NO

If not, when will access be provided?

2. Has the Applicant notified the Respondent of the compensation which the applicant seeks? YES/NO

If not, when will the Applicant do so?

3. Have the parties sought to resolve their dispute by mediation? YES/NO
[Give details of the steps taken to resolve the dispute]

4. Is there any reason for the proceedings not be fixed for a conciliation conference under s 34 of the *Land and Environment Court Act 1979* (NSW)? If so, provide reasons.

5. Have the parties conferred and identified whether they propose to rely on any expert evidence? YES/NO

If yes, state the identity of each expert, the area of expertise, the issues on which expert evidence is to be adduced, the reason why the expert evidence is necessary and the dates the expert is available to prepare expert evidence and appear at the hearing.

6. Can all expert evidence be filed at the same time or does some evidence need to be prepared before or after other evidence?

If yes, state directions sought and reasons.

7. If parties' single experts are agreed, set out below their name, charge rates, estimate of total fees and disbursements and available dates to prepare expert evidence and appear at a hearing.

8. If parties' single experts are not appropriate, state the reasons why not.

9. Can the parties' experts proceed directly to a joint conference and joint report, without preparing individual reports? If so, identify the experts and areas of expertise. If not, provide the reasons why not.

10. Are there any experts who should prepare an individual report before proceeding to a joint conference and joint report and, if so, identify the expert, the area of expertise and provide reasons supporting the individual report being necessary or appropriate?

11. Identify number and names of lay witnesses and available dates to appear at the hearing.

12. I state that the expert witnesses for whom leave to adduce expert evidence has been sought have been advised of the directions sought to be obtained at 5, 6 and 7 above and they have advised me that they are able to comply with any such directions and acknowledge their obligation to do so and that leave will be limited to only such evidence that complies with directions made by the Court.

Name of party or legal representative

Date

Signed

SCHEDULE B

Usual Directions for Class 3 Compensation Claims

Note: Strike through/amend as required.

PART 1

First Directions Hearing

1. By # [+ 7 days of the first directions hearing], the Respondent is to provide the applicant with access to and copies of documents within the possession, custody or control of the Respondent relevant to the consideration and determination of the compensation claim by the Valuer General or Respondent. The applicant must meet the reasonable copying costs of the Respondent in so doing.
2. A conciliation conference under s 34 of the *Land and Environment Court Act 1979* (NSW) is arranged for #.
3. The proceedings are listed for a second directions hearing on # [+ 14 days after the conciliation conference].
4. The [party's] application for directions to adduce expert evidence is listed on # before # [this may be at the second directions hearing].
5. If the proceedings are resolved at or after the conciliation conference, the parties are to notify the Court at least 48 hours before the date of the second directions hearing.

PART 2

Second Directions Hearing

1. Under rr 31.19 and 31.20 of the Uniform Civil Procedure Rules 2005 ('UCPR'), the Court makes the following directions regarding expert evidence:
 - (a) [name of the expert witness] may prepare an individual expert's report on [specified issues];
 - (b) [the named experts] are to confer in relation to [specified issues] under UCPR r 31.24 and prepare a joint expert report;
 - (c) the individual expert's report of [named expert] is to be filed and served by [date];
 - (d) the joint expert report of [named experts] is to be filed and served by [date].Note: The above directions may be duplicated for each area of expertise required.
2. Unless the Court otherwise orders, expert evidence may not be adduced at the hearing otherwise than in accordance with the directions made by the Court in accordance with UCPR rr 31.19 and 31.20, including compliance with directions as to the time for service and filing of experts' reports and joint expert reports.
3. Parties are to serve a copy of these directions, the statements of contentions on determination of compensation, Division 2 of Pt 31 of the Uniform Civil Procedure Rules, the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules, and the Court policies on Joint Reports and on Conference of Expert Witnesses on all experts upon whose evidence they propose to rely within 3 business days of these orders being made, or, for a statement of facts and contentions (or reply) filed after the making of these orders, within 3 business days of them being filed or served.
4. Experts are directed to give written notice to the Court and the party instructing them if for any reason they anticipate that they cannot comply with these directions. In that case, or if the experts have failed to comply with these directions, the parties will promptly list the matter before the Court for directions and give written notice to the other parties.

5. Experts are to ensure that a joint conference is a genuine dialogue between experts in a common effort to reach agreement with the other expert witness about the relevant facts and issues. Any joint report is to be a product of this genuine dialogue and is not to be a mere summary or compilation of the preexisting positions of the experts.
6. A joint report is to identify the experts involved in its preparation, the date of their joint conferences, the matters they agreed about, the matters they disagreed about and reasons for agreement and disagreement. A joint report should avoid repetition and be organised to facilitate a clear understanding of the final position of the experts about the matters in issue and the reasoning process they used to reach those positions. Each expert is to sign and date the joint report.
7. Legal representatives are not to attend joint conferences of experts or be involved in the preparation of joint reports without the leave of the Court.
8. At the hearing the evidence of experts is to be given by way of concurrent evidence, unless the hearing judge or commissioner directs otherwise.
9. A party calling a witness may not, without the leave of the Court, lead evidence from the witness the substance of which is not included in a document served in accordance with the Court's directions.
10. If any witness is required for cross-examination, notice is to be given prior to the pre-hearing mention.
11. A party who proposes to object to any part of an affidavit, statement or report is to file and serve notice of its objections, including the grounds in support, at least seven days before the hearing.
12. The matter is fixed for a third directions hearing on # [7 days after final evidence is to be filed]

PART 3

Third Directions Hearing

1. The hearing is fixed for # days commencing on #.
2. A pre-hearing mention is listed on #[date two weeks prior to hearing] and #[time].
3. The parties are to confer and prepare a paginated and consecutively numbered Court Book with a table of contents, a copy of the originating application and pleadings and any objections to evidence or documents in the bundle of documents.
4. The parties are to confer and prepare a paginated and consecutively numbered Evidence Book with a table of contents and the lay and expert evidence (with expert reports grouped by discipline). The table of contents for the Evidence Book is to conform with the template in **Schedule D** to this practice note.
5. The parties are to confer and prepare a bundle of documents (the bundle) on which the parties seek to rely. The bundle is to include a table of contents and be paginated and consecutively numbered. The bundle is not to include documents annexed or exhibited to an affidavit unless there are good reasons to do so.
6. Correspondence and other documents in the bundle of documents are to be arranged in chronological order.
7. Any party objecting to the tender of any evidence in the Evidence Book or a document within the bundle of documents is to notify the other party of the objection and the grounds in support at least three working days before the Court Book, Evidence Book and bundle of documents are to be filed. The documents subject to objection are to be included in the Evidence Book or bundle of documents, but the objection, as well as the party tendering the document and the party objecting to the tender, is to be noted in the table of contents to the Evidence Book or bundle of documents. Short reasons for each objection are to be provided in the Court Book.
8. The parties are to file and serve their opening submissions of not more than ten pages; an agreed statement of facts; an agreed (or, if not agreed, their competing) chronology; and (where warranted by the number of persons involved) a list of relevant persons by 10 working days prior to the hearing.

9. The parties are to file and serve any submissions in reply of no more than five pages by five working days prior to the hearing.
10. The parties are to file:
 - (a) the Court Book;
 - (b) the Evidence Book; and
 - (c) the bundle of documents,
prior to the pre-hearing mention.

Date: # [insert date]

SCHEDULE C

Usual Directions for complex Class 3 Compensation Claims

Note: Strike through/amend as required.

1. The matter is fixed for a case management conference at # on #.
2. At the case management conference it is expected that each party will be represented by a person with sufficient knowledge of the matter and authority to conduct the matter so as to assist the Court.
3. At the case management conference it will be expected that the parties have already conferred with each other in broad terms as to the appropriate manner for the conduct of the proceedings.
4. At the case management conference discussion will be had, and if appropriate directions made, in respect of:
 - (a) the identification of the issues that arise for determination in the proceedings;
 - (b) the appropriateness for mediation and or s 34 conciliation;
 - (c) the need for and order of witnesses to be called (should leave be granted);
 - (d) the seeking and granting of leave to adduce expert evidence; and
 - (e) any particular matters that arise due to the identified complexity of the matter.
5. At the case management conference directions will be made for the conduct of the matter:
 - (a) as best respond to the issues raised having regard to the overriding purpose referred to in [3] of this Practice Note; and
 - (b) usually in accordance with the directions in **Schedule B** (adapted as appropriate to the circumstances of the case).
6. The parties should be aware that a hearing date will not be fixed until all of the evidence has been filed and served.

Date: # [insert date]

SCHEDULE D

Index to Evidence Book

Note: Strike through/amend as required.

[DATE]

| Tab | Document | Date | Adducing Party | Page | Objections |
|------------------------------------------|--------------------------------------------------|------|----------------|------|------------|
| PART A: Lay evidence | | | | | |
| A 1. | Affidavit of [name of witness] | | | | Yes/No |
| A 2. | Affidavit of [name of witness] | | | | Yes/No |
| A 3. | Affidavit of [name of witness] | | | | Yes/No |
| A 4. | Affidavit of [name of witness] | | | | Yes/No |
| PART B: (expert discipline) | | | | | |
| B 1. | Expert report of [name of one party's witness] | | | | Yes/No |
| B 2. | Expert report of [name of one party's witness] | | | | Yes/No |
| B 3. | Supplementary expert report of [name of witness] | | | | Yes/No |
| B 4. | Joint Expert Report | | | | Yes/No |

Add new parts for other expert disciplines as required



**Land and Environment
Court**
of New South Wales

PRACTICE NOTE

CLASS 3 VALUATION OBJECTIONS

Name and commencement

1. This practice note commences on 12 November 2025. It replaces the Practice Note – Class 3 Valuation Objections dated 2 April 2024.

Application of Practice Note

2. This practice note applies to Class 3 proceedings, which are objections to valuations under s 37 of the *Valuation of Land Act 1916*. In this practice note, these proceedings are called “Valuation Objections”. This practice note is to be known as *Practice Note – Class 3 Valuation Objections*.

Purpose of Practice Note

3. The purpose of this practice note is to set out the case management procedures for the just, quick and cheap resolution of Valuation Objections.

Responsibility of parties, legal practitioners and agents

4. It is the responsibility of each party, their legal practitioners and agents (as applicable) to consider the orders and directions appropriate to be made in the particular case to facilitate the just, quick and cheap resolution of the real issues in the proceedings.
5. If any party reasonably considers that compliance with this practice note will not be possible, or will not be conducive to the just, quick and cheap resolution of the proceedings, the party should apply to be relieved from compliance on the basis that an alternative proposed regime will be more conducive to such resolution. In that event, the party is to notify the other party of the proposed alternative procedures as soon as practicable and is to make available to the Court short minutes reflecting those alternative procedures.
6. Parties are to ensure that all directions which they seek will assist in enabling Valuation Objections to be dealt with at the hearing with as little formality and technicality, and with as much expedition, as the requirements of the *Land and Environment Court Act 1979* (“the Court Act”) and of every other relevant enactment and as the proper consideration of the matters before the Court permits (see s 38 of the Court Act).

Legal practitioners and agents of parties to be prepared

7. Each party not appearing in person shall be represented before the Court by a legal practitioner or duly authorised agent familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.
8. Legal practitioners and agents for the parties are to communicate prior to any attendance before the Court with a view to reaching agreement on directions to propose to the Court and preparation of agreed or competing short minutes recording the proposed directions.

Cooperation

9. The Court expects legal practitioners and experts to work together to implement this practice note in a practical and sensible way which ensures that it achieves its intended purpose.

Breach of the Court's directions

10. If any party fails to comply with a direction of the Court that some action be taken by a specified time, and the defaulting party is not able to take that action within five working days of the specified time, the defaulting party is to:
 - (a) have the matter relisted;
 - (b) file and serve, when relisting, an affidavit explaining the non-compliance, the reason for the non-compliance, what action the party proposes to take and when the party proposes to take action to comply with the direction;
 - (c) where the delay in complying with the direction of the Court is caused by an expert, file and serve an affidavit of that expert explaining the reasons for the non-compliance; and
 - (d) provide short minutes of order of the directions and orders the party seeks for the Court to make.
11. If any party fails to comply with a direction of the Court or this practice note, the Court will usually order that the defaulting party pay the costs of the other party of and occasioned by the non-compliance and any relisting required unless it appears to the Court that some other order should be made as to the whole or any part of the costs.
12. Any proposed directions that vary an existing timetable, must include the vacation of listings that can no longer be maintained, including any dates for directions hearings or mention or for the hearing of motions.
13. Any failure by one party to comply with the Court's directions will not be considered an adequate excuse for any failure to comply by the other party. Both parties are responsible for ensuring that they comply with directions.

Commencing a Valuation Objection

14. A Valuation Objection is to be commenced by filing in the Registry of the Court, by mail, over the counter or through the NSW Online Registry a completed Class 3 Application Form (Form B (Version 1)) and accompanying documents.

The return date of the Valuation Objection

15. The originating application will usually be given a return date before the Court on a date 12 weeks after the application was filed. On the return date, the first directions hearing will occur before a registrar.

Service of originating application

16. The originating application for a Valuation Objection and the accompanying documents are to be served within 7 days of filing.

Number of pre-hearing attendances

17. Unless there are interlocutory applications, a Valuation Objection usually should appear in Court before the final hearing on no more than six occasions as follows:
- (a) at the first directions hearing;
 - (b) for complex matters, at a case management conference;
 - (c) at a conciliation conference pursuant to s 34 of the Court Act;
 - (d) at the second directions hearing;
 - (e) at the third directions hearing; and
 - (f) at a pre-hearing mention listed two weeks before the hearing commences, if possible before the hearing judge or commissioner.

Before the first directions hearing

18. Prior to the first directions hearing each party shall file and serve their contentions on valuation objection that identify:
- (a) the underlying basic facts relating to the Valuation Objection;
 - (b) the grounds of appeal and orders to be sought;
 - (c) the value for which it is contended including:
 - (i) the address and title details of the subject site;
 - (ii) the area of the subject site;
 - (iii) the zoning of the subject site;
 - (iv) the planning instruments applying to the subject site which are contended to be material to the valuation;

- (v) the valuation methodology to be adopted in the Valuation Objection;
 - (vi) the features of the subject site which are contended to be material to the valuation;
 - (vii) the comparable sales, if any, relied upon by the party in the determination of the Valuation Objection (including, if reasonably practicable, with respect to each comparable sale, the title details, site area, sale date, unadjusted sale price expressed as \$ rate per square metre and adjusted sale price expressed as \$ rate per square metre);
 - (viii) any sections of the *Valuation of Land Act 1916* said to be relevant;
 - (ix) the value of the subject site expressed as \$ rate per square metre;
 - (x) any other facts, matters or circumstances contended to be material to the resolution of the Valuation Objection; and
- (d) whether the Valuation Objection is considered to be a complex Valuation Objection and the reasons why.
19. The contentions on valuation objection are to be filed and served:
- (a) by the applicant within 4 weeks of filing of the Valuation Objection;
 - (b) by the Valuer-General within 10 weeks of filing of the Valuation Objection; and
 - (c) any reply by the applicant is to be filed within 11 weeks of filing of the Valuation Objection.
20. If reasonably practicable, before the first directions hearing in the matter, the Valuer-General is to provide the applicant with access to documents within the possession, custody or control of the Valuer-General that were relevant to the Valuer-General's consideration and determination of the valuation the subject of the objection. The Valuer-General is to provide the applicant with copies of such documents on request, provided that the applicant is willing to meet the reasonable copying costs of the Valuer-General.
21. If reasonably practicable, before the first directions hearing, the applicant and the Valuer-General (or their authorised representatives) are either to:
- (a) meet for the purpose of formal or informal mediation on a "without prejudice" basis for the purpose of determining whether the objection may be resolved; or
 - (b) confer in order to nominate a time for such a meeting to occur so that this time may be notified to the Court at the first directions hearing.

Note: Except with leave of the Court, parties will not be permitted to proceed to a hearing of Valuation Objections unless and until the parties have engaged in an informal or formal process of mediation to ascertain whether the Valuation Objection may be resolved other than by a hearing before the Court. Parties may proceed to a conciliation conference under s 34 of the *Land and Environment Court Act 1979* instead of mediation.

Where a party has made an offer of compromise to settle a Valuation Objection, and the matter proceeds to a Court hearing in which the Court determines the Valuation Objection by deciding the value of the subject site is (i) in the case of an offer of compromise by an applicant – a value equal to or less than the value in the offer of compromise, or (ii) in the case of the Valuer- General - a value equal to or greater than the value in the offer of compromise, the making of the offer of compromise will be a circumstance relevant to the question whether it is fair and reasonable for an order for costs to be made in accordance with Rule 3.7 of the *Land and Environment Court Rules 2007* (which provides that no order for the payment of costs will be made in proceedings to which this Rule applies unless the Court considers that the making of a costs order is, in the circumstances of the particular case, fair and reasonable).

22. If reasonably practicable, before the first directions hearing, the parties must confer and identify to each other whether they propose to rely on any expert evidence.

At the first directions hearing

23. The first directions hearing will be on the return date.
24. Unless good reason is demonstrated, each party is to be sufficiently prepared at the first directions hearing to assist the Court in making and to accept a timetable up to and including the dates of the conciliation conference and the second directions hearing. Legal practitioners and other representatives of the parties are to ensure that they advise the parties of their obligation to be ready to agree to a timetable up to and including those dates and are to obtain full and timely instructions to ensure the parties comply with this obligation.
25. To assist the Court in making the appropriate directions, each party is to have completed and hand to the Court at the first directions hearing a completed Information Sheet in the form of **Schedule A**.
26. At the first directions hearing the Court will determine whether the Valuation Objection is a complex matter.
27. Should the Valuation Objection be determined not to be a complex matter the directions in Part 1 of **Schedule B** will usually be made.
28. Should the Valuation Objection be determined to be a complex matter the directions in **Schedule C** will usually be made.
29. If the parties do not agree, each party should prepare their own written version of the directions they propose the Court should make.

At the second directions hearing

30. The second directions hearing will usually be held 14 days after any conciliation conference if agreement is not reached at the conciliation conference.
31. At the second directions hearing, the Court will:
 - (a) after consulting the parties, determine the appropriateness of conducting the hearing on a paperless basis;
 - (b) if the Valuation Objection is determined not to be a complex matter, make the directions in Part 2 of **Schedule B**;

- (c) if the Compensation Claim is determined to be complex, make the directions in **Schedule C**;
- (d) hear any application for directions for expert evidence; and
- (e) not fix a hearing date until all evidence has been filed.

At the third directions hearing

32. At the third directions hearing, being 7 days after all evidence is filed, the Court will make the directions in Part 3 of **Schedule B**.

At the pre-hearing mention

33. The pre-hearing mention will be in the second last week before the hearing. If possible, it will be before the judge or commissioner allocated to hear the proceedings. Counsel or solicitors briefed to appear on the hearing should attend.
34. The purpose of the pre-hearing mention is to ensure readiness for hearing and to give directions as to the conduct of the hearing and of any inspection of the property being valued and comparable sale properties. Prior to the pre-hearing mention, in accordance with any direction made, the parties are to file:
- (a) one copy of the Court Book (either in a folder [if the hearing is to be paper-based] or electronically [if paperless] (e.g. on a USB stick));
 - (b) one copy of the Evidence Book (either in folders [if the hearing is to be paper-based] or electronically [if paperless] (e.g. on a USB stick)); and
 - (c) one copy of the bundle of documents (either in folders [if the hearing is to be paper-based] or electronically [if paperless] (e.g. on a USB stick)).

NOTE: If all the material required by (a) to (c) for a paperless hearing can be loaded on a single USB stick, this is to be done.

35. The Court Book is to include:
- (a) a statement by the respondent as to those matters which might have been expected to be contested but which are no longer contested by the respondent; and
 - (b) an agreed schedule:
 - (i) containing a brief description of the property being valued and each comparable sale property that it is proposed the Court should inspect;
 - (ii) noting which party relies on each comparable sale;
 - (iii) including a map showing the location of each property; and
 - (iv) if a site inspection is determined to be necessary, proposing a time when the hearing judge or commissioner should inspect the properties and the arrangements for inspection.

36. The Court at the pre-hearing mention will determine whether an onsite

inspection is necessary and if so, when such inspection will take place. The parties will be required to identify what properties each party contends should be physically inspected and why such inspection is necessary. The parties are to give genuine consideration to the necessity for such inspection to enable the just, quick and cheap resolution of the real issues in dispute in the proceedings.

37. If any witness is required for cross-examination at the hearing, notice is to be given before the pre-hearing mention.

The hearing

38. Evidence and submissions at the hearing are to address all issues the subject of the proceedings. No issue will be separately determined unless the Court so orders.

NOTE: Application for separate determination of questions, under s 62(2) of the *Civil Procedure Act 2005* or Pt 28 r 28.2 of the Uniform Civil Procedure Rules, should be made by notice of motion with supporting affidavit.

39. Unless the hearing judge or commissioner otherwise directs, expert evidence is to be taken concurrently where there are two or more experts giving evidence in the same area of expertise. Parties are to ensure that any witnesses to be called are reasonably available during the period the proceedings are listed for hearing so as to ensure the efficient conduct of the hearing.
40. At the commencement of oral evidence of any witness, counsel or the solicitor appearing for a party, having conferred beforehand, are to hand to the hearing judge or commissioner agreed or competing lists of the topics on which it is proposed to cross-examine and for which leave is sought. Generally, the conduct of the hearing will not be determined by the convenience of a particular witness.
41. Opening submissions of not more than 10 pages are to be filed 10 working days prior to the hearing. The brief opening submissions should not generally be a substitute for a written outline of closing submissions.
42. The Court will usually be assisted by a written outline of closing submissions that includes references to evidence in the Evidence Book, the bundle of documents and oral evidence. The written outline of closing submissions should be filed and served for the early attention of the hearing judge or commissioner.

Seeking directions before adducing expert evidence

43. Parties are encouraged to consider whether there is a genuine need to adduce expert evidence on any issue in dispute. Unnecessary expert evidence substantially increase the time and costs of Valuation Objections.
44. Parties may not adduce expert evidence in a Valuation Objection unless directions have been sought and made under r 31.19 of the Uniform Procedure Rules 2005 (NSW) ("UCPR") and otherwise than in accordance with those directions (see r 31.19(3) of the UCPR).

45. If the Valuer-General intends to adduce expert evidence from the valuer who prepared the valuation report for the valuation of the land to which objection is made:
- (a) directions are taken to have been given by the Court under r 31.19 of the UCPR to tender that valuation report;
 - (b) the Court is taken to have ordered under r 31.23(3) of the UCPR that that valuation report may be admitted;
 - (c) directions will need to be sought and obtained by the Valuer-General to adduce further expert evidence from that valuer in addition to that valuation report; and
 - (d) directions will need to be sought and obtained by the Valuer-General to adduce expert evidence from another valuer in addition to the expert evidence of that valuer.
46. The Court may give directions in relation to the use of expert evidence generally and as to any matter in r 31.20(2) of the UCPR, including:
- (a) any limitation on the subject matter or issues on which the expert evidence may be adduced;
 - (b) the identity of the expert who may adduce expert evidence on a subject matter or issue;
 - (c) any limitation on the number of expert witnesses who may be called to give evidence on a subject matter or issue;
 - (d) the date for filing and serving the expert evidence; and
 - (e) the date for experts to confer and prepare a joint report.
47. Before directions are sought to adduce expert evidence, the parties and their legal representatives are to ensure that the expert has agreed to provide the expert evidence, including any report, in accordance with such directions as the Court may make, including the dates for joint conferencing and report and filing expert evidence.
48. An application for directions to adduce expert evidence will be heard on a date allocated for that purpose. This could be at a scheduled directions hearing or a date fixed at a directions hearing for hearing of the application.
49. The application for directions to adduce expert evidence should include but not be limited by the answers to the questions in **Schedule A**.
50. Should a party seek to vary the directions the Court has made regarding expert evidence, application to vary the directions is to be made by notice of motion together with an accompanying affidavit that identifies:

- (a) the variation sought;
- (b) if variation is to extend the time for filing the expert evidence, the extension of time sought;
- (c) the reason for the need for variation; and
- (d) the time upon which both the expert and the legal practitioner or party first became aware of the need for variation.

Multiple related proceedings

51. Where there are more than one proceedings filed relating to the determination of the value of the same land in more than one valuing years (**Multiple Valuing Years Proceedings**), unless the Court otherwise directs:

- (a) the Multiple Valuing Years Proceedings shall be listed for directions on the same date;
- (b) the Multiple Valuing Years Proceedings shall be listed for hearing on the same date;
- (c) the evidence in each proceedings will be evidence in all other proceedings comprising the Multiple Valuing Years Proceedings; and
- (d) any expert evidence for which leave is granted in connection with the Multiple Valuing Years Proceedings shall be prepared as a single report:
 - (i) providing evidence to enable the determination of value for each of the relevant valuing years;
 - (ii) shall, where possible, limit repetition of relevant facts and opinions.

52. Where there are more than one proceedings filed relating to the determination of the value of a number of related parcels of land (**Multiple Land Parcel Proceedings**), unless the Court otherwise directs:

- (a) the Multiple Land Parcel Proceedings shall be listed for directions on the same date;
- (b) the Multiple Land Parcel Proceedings shall be listed for hearing on the same date;
- (c) the evidence in each proceeding will be evidence in all other proceedings comprising the Multiple Land Parcel Proceedings; and
- (d) any expert evidence for which leave is granted in connection with the Multiple Land Parcel Proceedings shall be prepared as a single report:
 - (i) providing evidence to enable the determination of value for each of the relevant alternative valuation scenarios, where

appropriate, as relates to the highest and best use of the valued land either on a standalone basis or in conjunction with the other lands in the Multiple Land Parcel Proceedings; and

- (ii) shall, where possible, limit repetition of relevant facts and opinions.

Use of a parties' single expert

53. Where expert evidence is necessary to be adduced in relation to an issue, the Court encourages parties to use a parties' single expert. The use of a parties' single expert in an appropriate case can reduce costs and ensure the Court has the benefit of evidence from a person who is not engaged by only one party. In determining whether a parties' single expert might be appropriate in a particular case, consideration should be given to:

- (a) the importance and complexity of the subject matter in dispute in the proceedings;
- (b) the likely cost of obtaining expert evidence from a parties' single expert compared to the alternative of obtaining expert evidence from individual experts engaged by each of the parties;
- (c) the proportionality of the cost in (b) to the importance and complexity of the subject matter in (a);
- (d) whether the use of a parties' single expert in relation to an issue is reasonably likely either to narrow the scope of the issue or resolve the issue;
- (e) the nature of the issue, including:
 - (i) whether the issue is capable of being answered in an objectively verifiable manner;
 - (ii) whether the issue involves the application of accepted criteria (such as Australian Standards) to ascertainable facts;
 - (iii) whether the issue is likely to involve a genuine division of expert opinion on methodology, or schools of thought in the discipline;
- (f) whether the parties' single expert would be required independently to obtain further information or to undertake monitoring, surveys or other means of obtaining data before being able to provide expert evidence;
- (g) whether the parties are prepared at the time to proceed to hearing on the basis of a parties' single expert report about the issue and no other expert evidence about that issue; whether the integrity of expert evidence on the issue is likely to be enhanced by evidence being provided by a parties' single expert instead of by individual experts engaged by the parties; and
- (h) whether the Court is likely to be better assisted by expert evidence on the issue being provided by a parties' single expert instead of by individual experts engaged by the parties.

54. If the parties agree on the use of a parties' single expert, directions still need to be sought and made permitting the appointment of and adducing of expert evidence from that expert.
55. It is the responsibility of the parties to agree the remuneration to be paid to a parties' single expert. This includes making provision with respect to the amount of the expert's fees and the frequency with which the expert renders accounts. The Court will fix the remuneration of a parties' single expert only where the parties are unable to agree that remuneration.
56. Where a parties' single expert has been appointed to adduce evidence in relation to any issue, the parties may not rely on any other expert evidence about that issue without leave. Any application for leave is to be made by way of notice of motion with a short affidavit in support as soon as reasonably possible and usually no later than five days after receiving the report of the parties' single expert.

Expert's compliance with expert witness code of conduct

57. An expert (including a parties' single expert) and the expert's report are to comply with the requirements of Division 2 of Pt 31 of the UCPR and the Expert Witness Code of Conduct in Schedule 7 of the UCPR.
58. An expert witness should identify any pre-existing relationship between the expert witness, or their firm or company, and a party to the litigation.

Joint conferencing of experts

59. If experts are directed by the Court to confer, experts are to ensure that their joint conference is a genuine dialogue between experts in a common effort to reach agreement with the other expert witness about the relevant facts and issues. Any joint report is to be a product of this genuine dialogue and is not to be a mere summary or compilation of the pre-existing positions of the experts.
60. Legal representatives are not to attend joint conferences of experts or be involved in the preparation of joint reports without the leave of the Court.

Notices of motion

61. Any notice of motion is to be returnable at a directions hearing unless the circumstances are so urgent as to justify an earlier listing. Parties and legal practitioners should file and serve evidence in support of the motion so that, if practicable, the motion may be heard on the return date.

Liberty to restore

62. Parties have general liberty to restore to the Class 3 Valuation Objections on three working days' notice, or less if urgency requires it. A party seeking to do so should make prior arrangement with, or give appropriate notice to, any

other party, and should send an Online Court communication or, if not legally represented, an e-mail to the registrar.

Applications to vacate hearings and for adjournments

63. Valuation Objections will not be adjourned generally.
64. Valuation Objections usually will not be adjourned because of failure to comply with this practice note or directions or because of lack of preparedness for any attendance before the Court. If failure to comply or lack of preparedness nevertheless does cause the adjournment of proceedings, the defaulting parties or legal practitioners may be ordered to pay costs.
65. Applications to vacate hearing dates or conciliation conferences are to be by notice of motion, with an affidavit in support explaining the circumstances of the application and the reasons the hearing date should be vacated.

Settlement of proceedings

66. If proceedings settle on terms that require the Court to make an order, it is necessary to apply to the Court to make orders finalising the litigation:
 - (a) the application is to be by written request to the registrar accompanied by a copy of the proposed final consent orders signed by all parties;
 - (b) if the Court considers the consent orders finalising the proceedings to be satisfactory, orders may be made in chambers; and
 - (c) if orders are not made in chambers, the proceedings will be listed before a judge, commissioner or registrar. Representatives of the parties attending the listing must be familiar with the subject matter of the proceedings and have instructions sufficient to inform the Court about the terms of the proposed orders.
67. If proceedings are to be discontinued, a notice of discontinuance is to be filed with the Registry by Online Registry or in hard copy at the Registry Counter.

Mediation, conciliation, neutral evaluation or reference

68. Consideration should be given prior to and throughout the course of the proceedings as to whether the proceedings or any questions are appropriate for mediation, conciliation, neutral evaluation or reference to a referee for inquiry and report.
69. It is expected that legal practitioners, or parties not legally represented, will be in a position to advise the Court at any directions hearing:
 - (a) whether the parties have attempted mediation, conciliation or neutral evaluation; and
 - (b) whether the parties are willing to proceed to mediation, conciliation, neutral evaluation or reference to a referee for inquiry and report at an

appropriate time.

70. At a mediation, conciliation or neutral evaluation, the parties are to ensure that a person who is able to make a decision as to whether the proceedings or any particular issue should settle or be resolved is present personally or represented by an authorised nominee. If this is not possible, a person with authority must be contactable and have authority to confirm acceptance of any proposed settlement.
71. Where the proceedings or questions are appropriate to be referred to a mediator, conciliator or neutral evaluator or to a referee for inquiry and report, the parties should prepare proposed short minutes to be handed to the Court which:
- (a) where questions are to be referred, formulate the questions with precision; and
 - (b) state:
 - (i) that the matter is to be mediated by an in-court mediator or conciliator, or the name of an agreed external mediator, neutral evaluator or referee or, if no agreement can be reached, the person each party suggests;
 - (ii) the date on which the mediator, neutral evaluator or referee can commence the mediation, neutral evaluation or reference;
 - (iii) expected duration of the mediation, neutral evaluation or reference; and
 - (iv) the anticipated date for finalisation of the mediation or neutral evaluation, or for delivery to the Court of the referee's report.
72. Proposed consent orders for amendment to the questions referred to a mediator, neutral evaluator or referee may be filed with the Court, which may make such orders in chambers. Any contested amendments, or amendments in respect of which the Court wishes to hear the parties, will be heard on a date notified to the parties by the registrar.

Costs and compliance

73. If a breach of the Court's directions or of this practice note causes costs to be thrown away, a party or legal practitioner responsible for the breach may be ordered to pay those costs.
74. The cost of unnecessary photocopying and assembly of documents is unacceptable. Legal practitioners for the parties are to carefully consider the documents necessary to be tendered. Excessive documents may attract adverse costs orders.

The Honourable Justice Brian J Preston
Chief Judge

12 November 2025

SCHEDULE A

Class 3 Valuation Objections – Information Sheet

Note: Attach additional pages as required.

Proceedings No. _____

Parties _____

Applicant _____

Respondent _____

1. Has the Valuer-General provided the Applicant with access to, and copies of, relevant documents? YES/NO

If not, when will access be provided?

2. Has the Applicant notified the Valuer-General of the valuation for which the applicant contends? YES/NO

If not, when will the Applicant do so?

3. Have the parties sought to resolve their dispute by mediation? YES/NO

[Give details of the steps taken to resolve the dispute]

4. Is there any reason for the proceedings not be fixed for a conciliation conference under s 34 of the *Land and Environment Court Act 1979*? If so, provide reasons.

5. Have the parties conferred and identified whether they propose to rely on any expert evidence? YES/NO

If yes, state the identity of each expert, the area of expertise, the issues on which expert evidence is to be adduced, the reason why the expert evidence is necessary and the dates the expert is available to prepare expert evidence and appear at the hearing.

6. Can all expert evidence be filed at the same time or does some evidence need to be prepared before or after other evidence?

If so, state directions sought and reasons.

7. If parties' single experts are agreed, set out below their name, charge rates, estimate of total fees and disbursements and available dates to prepare expert evidence and appear at a hearing.

8. If parties' single experts are not appropriate, state the reasons why not.

9. Can the parties' experts proceed directly to a joint conference and joint report, without preparing individual reports? If so, identify the experts and areas of expertise. If not, provide the reasons why not.

10. Are there any experts who should prepare an individual report before proceeding to a joint conference and joint report and, if so, identify the expert, the area of expertise and provide reasons supporting the individual report being necessary or appropriate?

11. Identify number and names of lay witnesses and available dates to appear at the hearing.

12. I state that the expert witnesses for whom leave to adduce expert evidence has been sought have been advised of the directions sought to be obtained at 5, 6 and 7 above and they have advised me that they are able to comply with any such directions and acknowledge their obligation to do so and that leave will be limited to only such evidence that complies with directions made by the Court.

Name of party or legal representative

Date

Signed

SCHEDULE B

Usual Directions for Class 3 Valuation Objections

Note: Strike through/amend as required.

PART 1

First Directions Hearing

1. By # [+ 7 days of the first directions hearing], the Valuer-General is to provide the applicant with access to and copies of documents within the possession, custody or control of the Valuer-General relevant to the Valuer-General's consideration and determination of the objection. The applicant must meet the reasonable copying costs of the Valuer-General in so doing.
2. A conciliation conference under s 34 of the *Land and Environment Court Act 1979* (NSW) is arranged for #.
3. The proceedings are listed for a second directions hearing on # [+ 14 days after the conciliation conference].
4. The [party's] application for directions to adduce expert evidence is listed on # before # [this may be at the second directions hearing].
5. If the proceedings are resolved at or after the conciliation conference, the parties are to notify the Court at least 48 hours before the date of the second directions hearing.

PART 2

Second Directions Hearing

1. Under rr 31.19 and 31.20 of the Uniform Civil Procedure Rules 2005 ('UCPR'), the Court makes the following directions regarding expert evidence:
 - (a) [name of the expert witness] may prepare an individual expert's report on [specified issues];
 - (b) [the named experts] are to confer in relation to [specified issues] under UCPR r 31.24 and prepare a joint expert report;
 - (c) the individual expert's report of [named expert] is to be filed and served by [date];
 - (d) the joint expert report of [named experts] is to be filed and served by [date].

Note: The above directions may be duplicated for each area of expertise required.
2. Unless the Court otherwise orders, expert evidence may not be adduced at the hearing otherwise than in accordance with the directions made by the Court in accordance with UCPR rr 31.19 and 31.20, including compliance with directions as to the time for service and filing of experts' reports and joint expert reports.
3. Parties are to serve a copy of these directions, the statements of contentions on valuation objection, Division 2 of Pt 31 of the Uniform Civil Procedure Rules, the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules, and the Court policies on Joint Reports and on Conference of Expert Witnesses on all experts upon whose evidence they propose to rely within 3 business days of these orders being made, or, for a statement of facts and contentions (or reply) filed after the making of these orders, within 3 business days of them being filed or served.
4. Experts are directed to give written notice to the Court and the party instructing them if for any reason they anticipate that they cannot comply with these directions. In that case, or if the experts have failed to comply with these directions, the parties will promptly list the matter before the Court for directions and give written notice to the other parties.

5. Experts are to ensure that a joint conference is a genuine dialogue between experts in a common effort to reach agreement with the other expert witness about the relevant facts and issues. Any joint report is to be a product of this genuine dialogue and is not to be a mere summary or compilation of the preexisting positions of the experts.
6. A joint report is to identify the experts involved in its preparation, the date of their joint conferences, the matters they agreed about, the matters they disagreed about and reasons for agreement and disagreement. A joint report should avoid repetition and be organised to facilitate a clear understanding of the final position of the experts about the matters in issue and the reasoning process they used to reach those positions. Each expert is to sign and date the joint report.
7. Legal representatives are not to attend joint conferences of experts or be involved in the preparation of joint reports without the leave of the Court.
8. At the hearing the evidence of experts is to be given by way of concurrent evidence, unless the hearing judge or commissioner directs otherwise.
9. A party calling a witness may not, without the leave of the Court, lead evidence from the witness the substance of which is not included in a document served in accordance with the Court's directions.
10. If any witness is required for cross-examination, notice is to be given prior to the pre-hearing mention.
11. A party who proposes to object to any part of an affidavit, statement or report is to file and serve notice of its objections, including the grounds in support, at least seven days before the hearing.
12. The matter is fixed for a third directions hearing on # [7 days after final evidence is to be filed]

PART 3

Third Directions Hearing

1. The hearing is fixed for # days commencing on #.
2. A pre-hearing mention is listed on #[date two weeks prior to hearing] and #[time].
3. The parties are to confer and prepare a paginated and consecutively numbered Court Book with a table of contents, a copy of the originating application and pleadings and any objections to evidence or documents in the bundle of documents.
4. The parties are to confer and prepare a paginated and consecutively numbered Evidence Book with a table of contents and the lay and expert evidence (with expert reports grouped by discipline). The table of contents for the Evidence Book is to conform with the template in **Schedule D** to this practice note.
5. The parties are to confer and prepare a bundle of documents (the bundle) on which the parties seek to rely. The bundle is to include a table of contents and be paginated and consecutively numbered. The bundle is not to include documents annexed or exhibited to an affidavit unless there are good reasons to do so.
6. Correspondence and other documents in the bundle of documents are to be arranged in chronological order.
7. Any party objecting to the tender of any evidence in the Evidence Book or a document within the bundle of documents is to notify the other party of the objection and the grounds in support at least three working days before the Court Book, Evidence Book and bundle of documents are to be filed. The documents subject to objection are to be included in the Evidence Book or bundle of documents, but the objection, as well as the party tendering the document and the party objecting to the tender, is to be noted in the table of contents to the Evidence Book or bundle of documents. Short reasons for each objection are to be provided in the Court Book.
8. The parties are to file and serve their opening submissions of not more than ten pages; an agreed statement of facts; an agreed (or, if not agreed, their competing) chronology; and (where warranted by the number of persons involved) a list of relevant persons by 10 working days prior to the hearing.

9. The parties are to file and serve any submissions in reply of no more than five pages by five working days prior to the hearing.
10. The parties are to file:
 - (a) the Court Book;
 - (b) the Evidence Book; and
 - (c) the bundle of documents,
prior to the pre-hearing mention.

Date: # [insert date]

SCHEDULE C

Usual Directions for complex Class 3 Valuation Objections

Note: Strike through/amend as required.

1. The matter is fixed for a case management conference at # on #.
2. At the case management conference it is expected that each party will be represented by a person with sufficient knowledge of the matter and authority to conduct the matter so as to assist the Court.
3. At the case management conference it will be expected that the parties have already conferred with each other in broad terms as to the appropriate manner for the conduct of the proceedings.
4. At the case management conference discussion will be had, and if appropriate directions made, in respect of:
 - (a) the identification of the issues that arise for determination in the proceedings;
 - (b) the appropriateness for mediation and or s 34 conciliation;
 - (c) the need for and order of witnesses to be called (should leave be granted);
 - (d) the seeking and granting of leave to adduce expert evidence; and
 - (e) any particular matters that arise due to the identified complexity of the matter.
5. At the case management conference directions will be made for the conduct of the matter:
 - (a) as best respond to the issues raised having regard to the overriding purpose referred to in [3] of this Practice Note; and
 - (b) usually in accordance with the directions in **Schedule B** (adapted as appropriate to the circumstances of the case).
6. The parties should be aware that a hearing date will not be fixed until all of the evidence has been filed and served.

Date: # [insert date]

SCHEDULE D

Index to Evidence Book

Note: Strike through/amend as required.

[DATE]

| Tab | Document | Date | Adducing Party | Page | Objections |
|------------------------------------------|--------------------------------------------------|------|----------------|------|------------|
| PART A: Lay evidence | | | | | |
| A 1. | Affidavit of [name of witness] | | | | Yes/No |
| A 2. | Affidavit of [name of witness] | | | | Yes/No |
| A 3. | Affidavit of [name of witness] | | | | Yes/No |
| A 4. | Affidavit of [name of witness] | | | | Yes/No |
| PART B: (expert discipline) | | | | | |
| B 1. | Expert report of [name of one party's witness] | | | | Yes/No |
| B 2. | Expert report of [name of one party's witness] | | | | Yes/No |
| B 3. | Supplementary expert report of [name of witness] | | | | Yes/No |
| B 4. | Joint Expert Report | | | | Yes/No |

Add new parts for other expert disciplines as required

Criminal Assets Recovery Act 1990 (section 21C)

ASSETS FORFEITURE NOTICE

In accordance with section 21C of the *Criminal Assets Recovery Act 1990 (the Act)*, the New South Wales Crime Commission (**the Commission**) hereby issues a notice of intention to forfeit (**assets forfeiture notice**) the following property,

Cash in the amount of \$44,170 in Australian currency (**the property**) and any interest earned thereon, found and subsequently seized by officers of the New South Wales Police Force (**NSWPF**), on 15 July 2024 following a search of a white Toyota HiAce vehicle with New South Wales registration FEG52Z, at Homebush West,

to the Crown.

This assets forfeiture notice is issued on the following grounds:

1. The property is held by the NSWPF pursuant to the *Law Enforcement (Powers and Responsibilities) Act 2002* after it was seized as a result of a search on 15 July 2024, of a white Toyota HiAce vehicle with New South Wales registration FEG52Z, at Homebush West. On that day, the occupants of the vehicle were arrested and charged with offences contrary to the *Crimes Act 1900* (NSW) including knowingly dealing with property suspected to be proceeds of crime. The passenger in the vehicle has claimed ownership over the property.
2. The Commission is reasonably satisfied the property is an interest in property:
 - a. of a person suspected of engaging in serious crime related activity; and/or
 - b. suspected of being serious crime derived property because of serious crime related activity; and/or
 - c. suspected of being an available interest relating to serious crime use property;

within the meaning of the Act.

Pursuant to section 21A of the Act, a dispute claim in relation to this assets forfeiture notice may be made by **20 February 2026** and pursuant to section 21G of the Act, **MUST**:

1. be made **in writing to the Commission** by post to 453-463 Kent Street, Sydney, NSW or by e-mail to confiscations@crimecommission.nsw.gov.au; and
2. include the following information:
 - (a) the name, date of birth and address of the person making the claim (**the claimant**),
 - (b) the basis of the claim, including the following and evidence, if any, supporting the following —
 - (i) a description of the claimant's interest in the property,
 - (ii) how the interest in the property was acquired,

- (iii) why the interest in the property is not illegally acquired property,
- (c) a statutory declaration supporting the information in the claim.

Unless a dispute claim is made to the Commission, this assets forfeiture notice takes effect immediately after **20 February 2026**.



Commissioner
New South Wales Crime Commission
Date: 25/11/2025

Management of Criminal Proceedings listed in Wollongong District Court

Commencement

1. This Practice Note commences at Wollongong District Court on 1 December 2025.
2. This Practice Note applies to the case management of criminal proceedings in the Wollongong District Court and is implemented in accordance with paragraph 5 of District Court Criminal Practice Note 34

Trials

Arraignment

3. At every appearance, commencing with the first appearance, the solicitor with carriage of the matter or counsel appearing at the trial/hearing is to appear.
4. The accused person is to file and serve a Notice of Appearance with the Wollongong District Court Registry 7 days before the arraignment date.
5. The prosecution is to file and serve the Indictment, the Crown Case Statement and the Brief Index 5 days before the arraignment date.
6. The accused person may be arraigned on the arraignment date *or* if suitable to the Court and the parties (and particularly where an Indictment is lengthy), the list judge may not require the accused person to be arraigned but only if the accused person's legal representative is in a position to indicate the accused's plea/s.
7. At the arraignment the parties will be expected to advise the Court as to the following:
 - a) Issues in dispute, including any anticipated pre-trial issues or legal arguments.
 - b) Any agreed facts.
 - c) Any outstanding items yet to be served and an estimate as to when they will be available to be served.
 - d) Whether a question may arise under Chapter 6, Part 5, Division 2 of the *Criminal Procedure Act 1986* (NSW) for determination by the Court and whether leave may be required for the issue of subpoena or for evidence to be adduced regarding protected confidences.

- e) An estimate of the length of the trial, including time for any pre-trial issues, legal arguments, counsels' addresses, summing up and a reasonable period for jury deliberations.
- f) Any requirement for remote witness facilities.
- g) Any requirement for AVL facilities.
- h) Any requirement for interpreters, including the language and precise dialect, the number of and any identification of which witnesses require interpreters and any unique circumstances of the case requiring particular interpreters.

Readiness Hearings

- 8. If the accused person pleads, or intends to plead, not guilty to any count, the Court will fix a date for trial and for a readiness hearing.
- 9. The accused person is excused from appearing at the readiness hearing if legally represented.
- 10. In the event the trial is listed in excess of 52 weeks after the date of arraignment, a further trial call over will be listed 26 weeks after the date of arraignment.
- 11. A readiness hearing will be listed on the **Tuesday** eight weeks prior to the date fixed for trial.
- 12. A call over will be listed on the **Tuesday** prior to the date fixed for trial.
- 13. On or before six weeks prior to the readiness hearing, the Crown is to serve the s 142 notice.
- 14. On or before six weeks prior to the readiness hearing, for trials prosecuted by the State DPP, the prosecution is to file and serve on the accused person an affidavit by the police officer or law enforcement officer in charge of the case which:
 - a) confirms compliance with the duty of disclosure as set out in s 15A of the *Director of Public Prosecutions Act 1986* (NSW); and
 - b) details of any further evidence the police are yet to obtain.
- 15. On or before for six weeks prior to the readiness hearing, for trials prosecuted by the Commonwealth DPP, the prosecution is to file and serve on the accused person an affidavit by an appropriate officer of the relevant investigating agency which:
 - a) confirms compliance with the duty of disclosure as set out in paragraph 3 of the Commonwealth Director of Public Prosecutions "Statement on disclosure in prosecutions conducted by the

Commonwealth" and in compliance with s 36B of the *Criminal Procedure Act 1986* (NSW); and

- b) details of any further evidence the police are yet to obtain and/or serve.

16. On or before three weeks prior to the readiness hearing, the defence is to serve the s 143 response.

17. On or before two weeks prior to the readiness hearing, the parties are to attend a s 140 conference.

18. On or before one week prior to the readiness hearing, the Crown is to serve the s 144 notice.

19. At the readiness hearing, the parties are to advise the Court of any:

- a) pre-trial issues to be determined;
- b) issues that will impact the readiness of the trial;
- c) any change to the original estimate of the trial;
- d) any agreed facts;
- e) confirmation that all witnesses required for trial have been served with a subpoena;
- f) whether any updated disclosure affidavits have been filed and served;
- g) whether a timetable is required for the service of any further material;
- h) whether an order is sought pursuant to s 19 of the *Jury Act 1977* (NSW) for additional jurors;
- i) any other relevant issue impacting the conduct of the trial; and
- j) whether there is to be any application to amend the indictment.

20. In the event there are any pre-trial issues to be determined the Court will fix a date for the hearing of such pre-trial issues together with a timetable for the service of evidence and submissions. It is expected that the hearing a date will be well before the trial date.

21. In the event either party seeks to have any pre-trial issue determined not the subject of notification at the readiness hearing the solicitor with carriage of the matter for the party in default is to file and serve an affidavit setting out the reasons why the issue was not identified at the readiness hearing.

22. Any substantial and/or lengthy pre-trial issue will not be heard on the date fixed for the commencement of the trial other than in exceptional circumstances.

Trial call over

23. At the trial call over on the **Tuesday** in the week prior to the trial, the parties are to advise of any further issue with the readiness of the trial, the length of the trial or any issue that will prevent jury empanelment on the first day of trial.
24. The accused person is excused from appearing at the trial call over if legally represented.
25. At the trial call over, the Crown Prosecutor or Solicitor Advocate briefed to appear for the DPP at trial and the Barrister or Solicitor Advocate briefed to appear for the accused person at the trial are to appear.
26. At the trial call over, the Court expects confirmation to be provided of the day/s any interpreter will be required, the language and precise dialect and for which witness/es.
27. The Court expects the trial to be ready to commence on the trial date. The first day of trial is not a preparation day.
28. Any application to vacate a trial date is to be made by way of filing and serving a Notice of Motion with a supporting affidavit setting out the grounds for the application. Any such application will be listed as soon as practicable after the motion is filed.

Sentence Hearings

29. The first mention for sentence proceedings will take place on the **Friday** allocated at the time of committal.
30. The offender is excused from appearing at the first mention date if legally represented.
31. The offender is to file a Notice of Appearance with the District Court Registry no later than 7 days before the first mention date.
32. At the first mention date the legal representative for the offender is to advise of the extent of any subjective material proposed to be relied upon by the offender, and in the event the offender is bail refused, whether the offender intends to appear in person or by audiovisual link from the correctional facility.
33. If the facts upon which the offender is to be sentenced are not agreed, the offender is to advise the Court at the first mention date as to the areas of dispute and the names of any witnesses required for cross-examination.

34. At the first mention date the parties are to provide an estimate for the sentence hearing which is to take into account some component for reading, the sentence hearing and the sentence delivery, assuming it is to be delivered ex tempore.
35. At the first mention date the parties are to advise the Court of any requirement for remote witness facilities, any requirement for AVL facilities, and any requirement for interpreters. Any request for interpreter should specify the language and precise dialect, the number of and identification of which witness/es require interpreters, and any unique circumstances of the matter requiring particular interpreters.
36. The legal representatives for the offender are to advise the Court of any requirement for a SAR and the address of the closest Community Corrections Office at the first mention date.
37. The Court will appoint a date for the sentence hearing and order a timetable chronologically as follows:
- a) Service of the Crown Sentence Bundle which, for offenders who were at any time on bail, must include a chronology of bail conditions that the offender has indicated are relevant.
 - b) Service of all documentary material relied upon by the offender including expert reports and written submissions which must include an outline of the findings the Court will be asked to make in relation to matters raised in any expert reports.
 - c) Crown submissions, including, if the offender is being sentenced for a registrable offence under the *Child Protection (Offenders Registration) Act 2000*:
 - i. whether the Crown contends a registrable person order is required under the *Child Protection (Offenders Registration) Act 2000*, and if so, the proposed period of the order by reference to s 31(1) of the Act; or
 - ii. in the event the offender was a child when the registrable offence was committed, whether the Crown seeks a registrable person order in accordance with s 3C(1)(b) of the Act, and if so, the basis on which such an order ought to be made and the proposed period of the order by reference to s 31(2) of the Act.
 - a) If the offender is being sentenced for a registrable offence under the *Child Protection (Offenders Registration) Act 2000*, supplementary submissions which address:
 - iii. whether the offender concedes that a registrable person order is required under the *Child Protection (Offenders Registration) Act 2000*, and if so, whether the offender agrees with the Crown's proposed period of the order by reference to section 31(1) of the Act; or
 - iv. in the event the offender was a child when the registrable offence was committed, the offender's position on whether the Court ought to make a registrable person order in accordance

with s 3C(1)(b) of the Act, and if so, the proposed period of the order by reference to s 3I(2) of the Act.

38. The Court expects sentence hearings to be ready to be heard on the hearing date.

Conviction Appeals

39. Conviction appeals will be listed for mention on the first available **Friday** after the filing of the appeal.

40. The appellant is excused from appearing at the first mention date if legally represented.

41. The offender is to file a Notice of Appearance with the District Court Registry no later than 7 days before the first mention date.

42. The appeal will not be allocated a hearing date until the transcript is available.

43. At the first mention date:

- a) the appellant is to advise whether there is to be any application for leave to adduce fresh evidence in accordance with s 18 of the *Crimes (Appeal and Review) Act 2001*;
- b) the appellant is to advise as to the issues on the appeal;
- c) the parties are to provide a realistic estimate of the length of the hearing of the appeal which will include an allowance for some reading of the appeal papers, submissions, the hearing, and the possible delivery of an ex tempore judgment; and
- d) the parties are to indicate what parts of the Local Court transcript are required for the hearing of the appeal and the Registry will order such transcript.

44. Once the transcript is available, the Court will allocate a hearing date and set a timetable for the following chronologically:

- a) Service of the appeal bundle.
- b) Written submissions by the appellant not exceeding 12 pages.
- c) Written submissions by the Crown not exceeding 12 pages.
- d) Written submissions by the appellant in reply not exceeding 3 pages.

45. At the first mention date, the Court is to be advised of any anticipated issues that might affect the hearing of the appeal.

46. The Court expects the appeal to be ready to be heard on the hearing date.

Management of proceedings under the Child Sexual Offence Evidence Program

47. The following applies to the case management of all proceedings falling within Division 1A of Part 5 of the *Criminal Procedure Act 1986* (NSW) (**CP Act**).

48. The Court expects the parties to familiarise themselves with the provisions contained within Division 1A of the CP Act but stated simply, they establish a process for the pre-recording of evidence given by witnesses under the age of 18. That process includes the use of a witness intermediary (**WI**), a ground rules hearing (**GRH**) and a pre-recorded evidence hearing (**PRH**).

Listing procedures

49. Practitioners are to ensure that applications for Legal Aid have been lodged and finalised immediately after committal for trial and that the representatives briefed for the Crown and for the Defence are available for a PRH which will usually be conducted within 2 to 3 months of committal and that thereafter, they are available to appear at the balance of the trial.

50. No later than 3 days prior to the date of the first arraignment, the parties are to liaise with criminal listings by email to local-court-wollongong@justice.nsw.gov.au to agree on dates for the GRH, PRH and trial.

51. At the conclusion of the arraignment, it is expected, in accordance with paragraph 50, that the parties will have agreed on the dates for the GRH, PRH and trial and orders in accordance with those set out in Annexure C will be made.

52. Should the parties seek different orders to those contained in Annexure C, (including an application for a date for the PRH outside those provided to the parties), they must be in a position to provide reasons at the arraignment. Otherwise, the parties are to provide draft proposed orders in accordance with Annexure C to the Judge's associate by 5:00pm on the Friday before the arraignment.

53. The Court will set dates for the GRH, PRH and any legal argument at the arraignment.

Applications and pleas of guilty

54. In cases involving charges of child sexual assault, children who are required to give evidence are often anxious about giving evidence and being cross-examined.
55. Practitioners should notify the Court as soon as possible of an intention to apply to vacate the PRH or to enter a plea of guilty. This can be done by email to the Judge's associate. The Prosecution should be notified before this intention is conveyed to the Court. An application to vacate a PRH must then be made by Notice of Motion and supporting affidavit.

Legal argument

56. The parties are to advise the Court if there are any anticipated pre-trial issues or legal arguments that need to be resolved before the start of the trial, that being, before the start of the PRH.
57. Parties should expect that the Judge presiding over the PRH will endeavour to resolve all outstanding pre-trial issues and/or legal arguments during or around the time of the PRH. This will minimise the need for court time being required during the balance of the trial.

Appointment of a witness intermediary

58. The Court will appoint a WI for all child witnesses under the age of 16.
59. The Court may, on the application of a party or on its own motion, appoint a WI to assess the communication needs for a witness who is aged 16 or 17 if the witness has difficulty communicating.
60. A WI is an officer of the Court and has a duty to impartially facilitate the communication of, and with, the witness so they can give their best evidence.
61. The WI prepares a report in relation to the witness which is provided to the Court at least one week before the commencement of the PRH. The report is provided to the parties as soon as it becomes available.

Ground rules hearing

62. A GRH is to be conducted not less than one week prior to the PRH.
63. It may be conducted in-person or via AVL. The accused person is excused from appearing if legally represented.

64. The GRH is not adversarial in nature. It is conducted to assist the Court and the parties to understand the communication needs of the witness. It also provides the parties the opportunity to seek the assistance of the WI in preparing questions to be asked of the witness during the PRH.
65. At the conclusion of the GRH, the Court will make orders in relation to the questioning of a witness and the manner in which the witness is to give evidence that facilitates the witness giving their best evidence.
66. It is anticipated that at the conclusion of the GRH, orders in accordance with those set out in the attached GRH orders will be made (see **Annexure A**).

Pre-recorded evidence hearing

67. The CP Act requires that a PRH must be held as soon as practicable after the date listed for the accused person's first appearance in the District Court.
68. The PRH is the commencement of the trial and the accused is arraigned at the commencement of the PRH.
69. The evidence of any witness under the age of 18 must be given by way of PRH.
70. The parties are to follow the orders made at the GRH during the PRH.
71. A PRH is conducted where additional oral evidence in chief, cross-examination and re-examination is required in addition to the child interview(s) which were conducted by the police and which are to be played as the witness' evidence in chief. All evidence given during a PRH is recorded and is played in Court during the balance of the trial.
72. The child interview(s) which were conducted by the police are not played during the PRH. The parties and the Judge will watch such interview(s) before the PRH. The child will watch (and/or read) such interview transcript(s) before the PRH.
73. After the completion of a PRH, a witness may only be recalled to give further evidence during the balance of the trial with leave if:
- a) a party has become aware of a matter they could not reasonably have been aware of at the time of the pre-recorded hearing; *or*
 - b) it is in the interest of justice.
74. Any further evidence of a witness under the age of 18 must be by way of a PRH (unless ordered otherwise).

75. It is anticipated that at the conclusion of the PRH, orders in accordance with those set out in the attached PRH orders will be made (see **Annexure B**).

76. The Court expects that representatives for the Prosecution and Defence who appear at a PRH will continue to appear in the balance of the trial.

Procedural orders generally

77. In the event any party is in breach of any orders of the Court made in accordance with this Practice Note, that party is to advise the Court in writing forthwith including any reason for non-compliance.

Non-compliance

78. If it appears to the Court that a party has not complied with any part of this Practice Note or with any other Court direction, the Court may contact that party directly or list the matter for Mention, either on the Court's own initiative or at the request of another party.

79. Without limiting the Court's power otherwise to deal with an inexcusable failure to comply with a direction, the Court may order the non-compliant party to attend all future call overs unless excused by the Court.



The Hon. Justice S Huggett
Chief Judge of the District Court of New South Wales
25 November 2025

ANNEXURE A

**IN THE DISTRICT COURT OF NEW SOUTH WALES AT WOLLONGONG CRIMINAL
JURISDICTION**

R v _____ No: _____.

Date: _____

Coram: _____

Crown: _____

Defence: _____

Notes:

- Complainant(s) (Name(s) and Age(s)):

- Witness(es) (Name(s) and Age(s)):

Orders:

1. The recommendations made by the Witness Intermediary be adhered to throughout the PRH.
2. A transcript of the GRH be provided to the parties.
3. The parties provide agreed topic headings to the Witness Intermediary for preparation of topic heading cards by 5pm on _____.
4. The parties provide an agreed timeline to the Witness Intermediary for preparation of a timeline document by 5pm on _____.
5. If the Defence intend to use separate topic heading cards, they are to provide topic headings to the Witness Intermediary on a confidential basis for preparation of topic heading cards by 5pm on _____.
6. The parties are to conference, individually or together, with the Witness Intermediary by 5pm on _____.

ANNEXURE B

**IN THE DISTRICT COURT OF NEW SOUTH WALES AT WOLLONGONG CRIMINAL
JURISDICTION**

MATTER:

FILE NO:

Date:

Appearances:

Crown:
Defence:
WI:

Orders:

1. Two copies of the recording of the pre-recorded evidence are to be made. One copy is to be provided to the ODPP, and one copy is to be placed on the Court file.
2. The transcript of the pre-recorded evidence be provided to the parties, and a copy placed onto the Court file.
3. The parties are to provide a word document of the transcript with suggested agreed edits to the PRH by _____ as follows:
 - Proposed deletions highlighted in yellow
 - Errata set out as tracked changes
4. If there are contested edits to the PRH the parties are to provide a word document of the transcript with the contested aspects highlighted together with brief written submissions by _____. The parties are also to provide a list of suitable dates for hearing of any argument by that same day.
5. The parties are to confirm whether there are any legal arguments and what those arguments are that need to be dealt with before the jury is empaneled by _____.

ANNEXURE C

**IN THE DISTRICT COURT OF NEW SOUTH WALES AT WOLLONGONG CRIMINAL
JURISDICTION**

R v _____ No: _____

Date: _____

Coram: _____

DPP Solicitor: _____ Crown: _____

Def Solicitor: _____ Counsel: _____

Notes:

• Complainant(s) (Name(s) and Age(s)):

• Witness(es) (Name(s) and Age(s)):

Orders

Witness Intermediary, Ground Rules and Pre-Recorded Hearing

1. If the child is under 16 years: I order that a witness intermediary is appointed for the Complainant(s)/Witness(es).
2. If child is over 16 years: I order a witness intermediary be appointed to prepare a report on the communication needs of the Complainant/Witness.
3. I direct that the witness intermediary reports be filed and served by 5pm on _____.
4. The matter is listed for GRH at 9:30am on _____.
5. I order that the evidence of the Complainant(s) and Witness(es) are/is to be given at a pre-recorded hearing.
6. The matter is listed for PRH on _____. The PRH has an estimate of _____.

7. The Crown are to notify the CSOEP Registry of the proposed arrangements, including from where they are to give their evidence, for all child witnesses by 5pm on _____.

Case Management

Brief service orders

1. The Crown is directed to serve any further evidence by 5pm on _____.
2. The Crown Prosecutor appearing is to have a conference with the Officer in Charge to ensure compliance with duty of disclosure by 5pm on _____.
3. The Crown are to file an affidavit from the Officer in Charge confirming compliance with duty of disclosure (s 15A) by 5pm on _____.
4. The Defence is directed to serve any expert report or notices on which they rely by 5pm on _____.

Case management forms

5. Would the parties be assisted by a 140 conference? If so, the parties are to conduct a section 140 conference by 5pm on _____.
6. The Crown is to file and serve the section 142 Notice by 5pm on _____.
7. The Defence is to file and serve the section 143 Notice by 5pm on _____.
8. The Crown is to file and serve the section 144 Notice, if any, by 5pm on _____.
9. The parties are to agree on facts not in issue by way of a statement of agreed facts (s 191 Evidence Act) 5pm on _____.

Pre-Recorded Evidence Brief

10. The parties are to provide agreed edits to the child interviews by _____. The PRH bundle must contain the edited transcript.
11. If there are contested edits to the child interviews the parties are to provide a word document of the transcript with the contested aspects highlighted together with brief written submissions by _____. The parties are also to provide a list of suitable dates for hearing of any argument by that same day.
12. The Crown is to deliver one hard copy of the PRH bundle to the Registry at Wollongong District Court by 5pm on _____.
13. The PRH Bundle should contain the Indictment, Crown Case Statement, child interviews (discs and transcripts), ERISP (disc and transcript), complaint witness statements and any other material relevant to the PRH such as but not limited to tendency notices and material to be referred to in the PRH.

14. The Crown is to file an electronic copy of this material (save for multimedia files) by the same date. The electronic PRH Bundle is to be a searchable, paginated and bookmarked PDF.
15. Counsel for the Crown and Defence are to make a short opening address at the start of the PRH to indicate to the presiding Judge the issues in the trial.

Legal Argument

16. The Crown are to serve any Notice on which they intend to rely, including but not limited to, Tendency/Coincidence Notices, applications under s 294CB of the CP Act, applications in relation to sexual assault communications privilege, applications pursuant to s 38 of the Evidence Act, and applications to amend the Indictment by 5pm on _____.
17. The Defence are to notify the Crown of any objection to any evidence or application that needs to be resolved before the empanelment of the jury, including but not limited to: Separate Trial applications, applications to exclude evidence, edits or proposed exclusions to the child interview, applications under s 294CB of the CP Act, applications in relation to Sexual Assault Communications Privilege and objections to any application to be made by the Crown, by 5pm on _____.
18. Any subpoena and/or application to file subpoena is to be filed by 5pm on _____.
19. The Crown are to notify the Defence of their position in relation to any objection or application by 5pm on _____.
20. The parties are to notify the CSOEP Registry whether there are any unresolved legal matters or confirm that there are no legal matters that need to be determined before empanelment of the jury by 5pm on _____.
21. If matters remained unresolved:
 - a. The Crown and Defence are to file a joint Voir Dire tender bundle (electronically by bookmarked, paginated and searchable PDF) with my associate by 5pm on _____.
 - b. The Crown are to file and serve (electronically) written submissions by 5pm on _____.
 - c. The Defence are to file and serve (electronically) written submissions electronically by 5pm on _____.
 - d. Any legal argument arising out of the above is listed for hearing on _____.

Readiness hearing (Circuit Courts)

22. A readiness hearing is listed at 9am on Monday _____. The readiness hearing will be conducted via AVL. The parties must be connected by 8.50 AM and must

mute their microphone until their matter is called. If the party is disconnected for any reason the party must notify the Court.

Balance of Trial

23. The matter is listed at _____ on _____ to obtain a balance of trial date.

Interpreter

24. Do any complainants/accused/witnesses require an interpreter for the GRH/PRH/Trial? If so:

a. A _____ interpreter is ordered for the _____ at the _____.

Filing

25. Any electronic filing or notification is to be by way of email to the Registry (local-court-wollongong@justice.nsw.gov.au) and to the Judge's associate.

Acknowledgment of Receipt

26. Counsel appearing are to acknowledge receipt of these orders by way of email to the Judge's associate.

Resources

27. Advocates for the Crown and Defence are directed to watch the following training videos:

- a. CSOEP role play video
https://jirs.judcom.nsw.gov.au/menus/videos.php?video=csoep_roleplay
- b. "A Question of Practice": Short training film released by the Advocate's Gateway:
<https://www.theadvocatesgateway.org/resources>
- c. "The Advocate's Gateway Toolkits": Toolkit resources released by the Advocate's Gateway: <https://www.theadvocatesgateway.org/toolkits-1-1-1>

CONSTITUTION ACT 1902

Ministerial arrangements for the Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage

Pursuant to section 36 of the *Constitution Act 1902*, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable Paul Scully MP to act for and on behalf of the Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage on and from 30 November 2025 up to and including 6 December 2025.

Dated: 26 November 2025

CHRIS MINNS, MP
Premier

CONSTITUTION ACT 1902

Ministerial arrangements for the Minister for Better Regulation and Fair Trading, Minister for Industry and Trade, Minister for Innovation, Science and Technology, Minister for Building and Minister for Corrections

Pursuant to section 36 of the *Constitution Act 1902*, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable Paul Scully MP to act for and on behalf of the Minister for Better Regulation and Fair Trading, Minister for Industry and Trade, Minister for Innovation, Science and Technology, Minister for Building and Minister for Corrections on and from 1 December 2025 to 7 December 2025, inclusive.

Dated: 26 November 2025

CHRIS MINNS, MP
Premier



LEGISLATIVE ASSEMBLY

Office of the Clerk

ACTS OF PARLIAMENT ASSENTED TO Legislative Assembly Office, 24 November 2025

It is hereby notified, for general information, that Her Excellency the Governor, has, in the name and on behalf of His Majesty, this day assented to the under mentioned Acts passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No. 71 — An Act to amend the Environmental Planning and Assessment Act 1979 to make further provision relating to housing and the planning system; to make consequential amendments to other legislation; and for related purposes. **[Environmental Planning and Assessment Amendment (Planning System Reforms) Bill]**

Act No. 72 — An Act to amend workers compensation legislation and related legislation to implement changes to liability and entitlements for psychological injuries; and to make miscellaneous amendments to improve the effective operation of the workers compensation scheme. **[Workers Compensation Legislation Amendment Bill]**

Helen Minnican
Clerk of the Legislative Assembly