



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

**PRACTICE NOTE
CLASS 3 COMPENSATION CLAIMS**

Commencement

1. This practice note commences on 15 July 2011 and replaces the Practice Note - Class 3 Compensation Claims dated 30 April 2007.

Application of Practice Note

2. This practice note applies to Class 3 claims for compensation by reason of the acquisition of land ("Class 3 Compensation Claims"), including claims under the *Land Acquisition (Just Terms Compensation) Act 1991* ("Just Terms Act"). This practice note is to be known as Practice Note Class 3 Compensation Claims.

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 Class 3 Compensation Claims.

Responsibility of parties, legal practitioners and agents

4. It is the responsibility of each party, its legal representatives and agents (as applicable) to consider the directions appropriate to be made in the particular case to facilitate the just, quick and cheap resolution of the real issues in the proceedings. If a 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 other parties of the proposed alternative regime as soon as practicable and is to make available to the Court short minutes reflecting that alternative regime. Parties are to ensure that all directions which they seek will assist in enabling claims 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* and of every other relevant enactment and as the proper consideration of the matters before the Court permits (see s 38 *Land and Environment Court Act 1979*).

Legal practitioners and agents of parties to be prepared

5. 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.

6. 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.

Commencing a Class 3 Compensation Claim

7. A Class 3 Compensation Claim is to be commenced by filing in the Registry of the Court a completed Class 3 Application Form (Form B (Version 1)).

Service of originating application

8. The originating application for a Class 3 Compensation Claim is to be served within 7 days of filing.

Documents to be served with originating application

9. The applicant is to serve with its originating application:
 - (a) a schedule of losses attributable to disturbance under s 59(a) to (e) of the Just Terms Act;
 - (b) a schedule of disturbance loss heads of claim which may arise under s 59(f);
 - (c) all lay evidence.

The return of the originating application before the Court

10. The originating application will usually be given a return date before the Court about 4 weeks after the application was filed. On the return, the first directions hearing will occur before the List Judge of the Class 3 Compensation List.

Class 3 Compensation List

11. There is a Class 3 Compensation List which will be managed by the List Judge, usually each Friday.
12. The Class 3 Compensation List will conduct:
 - (a) the first directions hearing;
 - (b) the second directions hearing; and

- (c) the return of any notice of motion and other interlocutory applications.
13. Matters in a Friday list will be listed in blocks on a “*not before*” a specified time basis. Parties should check the daily court lists as published prior to attendance at Court on a Friday in order to determine the “*not before*” time that their matter is listed.

Number of pre-hearing attendances

14. Unless there are interlocutory applications, a Class 3 Compensation Claim normally should appear in Court before the final hearing on no more than three occasions as follows:
- (a) at the first directions hearing in the Friday list;
 - (b) at the second directions hearing in the Friday list;
 - (c) a pre-hearing mention on the second last Friday before the hearing commences, if possible before the hearing judge.

At the first directions hearing

15. The first directions hearing will be on the return date of the originating application and will usually be about four weeks after the application is filed.
16. At the first directions hearing, the parties having conferred beforehand:
- (a) the respondent is to hand to the Court a statement as to whether or not the respondent accepts the Valuer-General’s determination under the Just Terms Act of compensation to be offered to the applicant;
 - (b) the parties are to hand to the Court an agreed statement or separate statements as to the disciplines in respect of which the parties respectively propose to call expert evidence.
17. At each directions hearing the parties, having conferred beforehand, are to hand to the Court agreed or competing short minutes of proposed directions.
18. At the first directions hearing, the parties should expect that the Court will usually make the “Usual Directions at First Directions Hearing” in **Schedule A**.
19. The usual directions will be that the following documents be served or exchanged or the following events occur within the following times thereafter (see Schedule A):

(a)	respondent's schedule and evidence of losses attributable to disturbance under s 59(a) to (e) of the <i>Just Terms Act</i> , and all lay evidence	1 week
(b)	applicant's evidence in reply re loss attributable to disturbance under s 59(a) to (e) of the <i>Just Terms Act</i> , and lay evidence in reply	2 weeks
(c)	each party's expert evidence other than valuation evidence	4 weeks
(d)	joint experts' reports other than valuation report	6 weeks
(e)	applicant's schedule and evidence of losses attributable to disturbance under s 59(f)	6 weeks
(f)	respondent's schedule and evidence of losses attributable to disturbance under s 59(f)	8 weeks
(g)	joint report of experts on losses attributable to disturbance	10 weeks
(h)	each party's valuation evidence	11 weeks
(i)	joint valuation experts' report	13 weeks
(j)	applicant's points of claim	14 weeks
(k)	respondent's points of defence	15 weeks
(l)	settlement or conciliation conference	16 weeks
(m)	second directions hearing	17 weeks

20. Joint experts' reports are to include any reply evidence.
21. In some complex matters it may be necessary for these usual directions to be modified to allow for expert non-valuation evidence to be obtained and served sequentially rather than simultaneously (eg ecological evidence which may impact on hydrological evidence and consequently planning evidence).
22. In addition, other directions may be given with a view to the just, quick and cheap disposal of the proceedings. However, directions for formal discovery and interrogatories will only be made in exceptional circumstances and will generally be confined to particular issues.

At the second directions hearing

23. At the second directions hearing, the parties should expect that the Court will usually fix the hearing dates and a pre-hearing mention, if possible before the hearing judge, on the second Friday before the hearing and make the "Usual Directions at the Second Directions Hearing" in **Schedule B**.

24. At the second directions hearing, the parties, having conferred beforehand, are to hand to the Court realistic agreed or competing estimates of the hearing time on half a page broken down by the following elements:

- (a) opening addresses;
- (b) tender of documents and written evidence and any objections;
- (c) any inspection of properties by the Court;
- (d) cross-examination (grouping experts by categories);
- (e) closing submissions.

25. The usual directions will be that the parties file as follows at the pre-hearing mention or file and serve as follows by no later than the following business days before the commencement of the hearing (see Schedule B):

- (a) a paginated Court Book containing a table of contents, a copy of the application and pleadings, the evidence and any objections to evidence. Expert reports are to be grouped by discipline. At the pre-hearing mention
- (b) an agreed schedule – At the pre-hearing mention
 - (i) containing a brief description of the subject property and any comparable sales properties 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;
 - (iv) proposing a time when the judge should inspect the properties and the arrangements for the inspection.
- (c) skeleton opening submissions, agreed or competing chronology and (where warranted by the number of persons involved) a list of characters. 4 days
- (d) skeleton reply submissions. 1 day

At the pre-hearing mention

26. The pre-hearing mention will be on the second last Friday before the hearing. If possible, it will be before the judge allocated to hear the

proceedings. Counsel or solicitors briefed to appear on the hearing should attend.

27. 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 subject property and comparable sales properties.
28. At the pre-hearing mention, the parties, having conferred beforehand, are to file:
 - (a) the Court Book; and
 - (b) an agreed schedule
 - (i) containing a brief description of the subject property and each comparable sales 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;
 - (iv) proposing a time when the judge should inspect the properties and the arrangements for inspection.
29. If any witness is required for cross-examination, notice is to be given before the pre-hearing mention.

Notices of motion returnable in the Friday list

30. Any notice of motion is to be returnable on a Friday unless the circumstances are so urgent as to justify an earlier listing. Parties and legal practitioners should endeavour to arrange evidence so that, if practicable, the motion may be heard on the return date.

Pleadings

31. Points of claim and points of defence are to include:
 - (a) the amount of compensation payable;
 - (b) the components thereof by reference to each relevant matter enumerated in s 55 of the Just Terms Act;
 - (c) the basis of the valuation;
 - (d) particulars of any comparable sales upon which the valuation is based;
 - (e) a schedule of any hypothetical development calculations;
 - (f) in the points of defence, any matter relied upon to offset the claim;

- (g) a list of the witnesses proposed to be called at the hearing including the dates of their affidavits or reports and, in the case of experts, their discipline.

Amendment of pleadings

- 32. Parties require leave of the court to amend their points of claim and points of defence.
- 33. 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.

Breach of the Court's directions

- 34. If there is any significant breach of the Court's directions sufficient to cause slippage in a timetable, the parties must promptly, by e-Court communication or fax to the Registrar, restore the matter to the next Friday list before the List Judge. The party in breach or a legal practitioner with knowledge of the reasons for the breach must serve an affidavit no later than 4:00pm on the preceding day (Thursday) which identifies the breach, explains the reasons for the breach and proposes directions to be made in consequence of the breach.

Variation of timetables

- 35. If proposed directions vary an existing timetable, they must include the vacation of previous directions that can no longer be maintained including any dates for directions hearings or mention or for the hearing of motions.

Liberty to restore

- 36. Parties have general liberty to restore on a Friday 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 eCourt communication or fax to the Registrar.

Applications to vacate hearings and for adjournments

- 37. Proceedings will not be adjourned generally.
- 38. Proceedings 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.

39. Applications to vacate hearing dates 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

40. If proceedings settle, it is necessary to have the Court make orders finalising the litigation, rather than merely filing terms with the registry.
41. If proceedings settle, the parties are to arrange for the proceedings to be listed in the Friday list by written request to the Registrar accompanied by a copy of the proposed final consent orders signed by all parties.
42. Representatives of the parties attending for the purpose of the making of final consent orders 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.

Filing and service of evidence

43. Evidence to be relied upon at the final hearing should not be filed as case preparation occurs, with the exception of evidence in support of interlocutory applications.
44. The evidence to be relied upon at the final hearing is to be included in the Court Book to be filed at the pre-hearing mention: see [25] above.
45. Evidence to be relied upon in support of interlocutory applications is to be filed and served. Timetables for preparation of such applications should include provision for that process.

Expert evidence

46. Where expert evidence is necessary to be called in relation to an issue, the parties are to confer before the first directions hearing to see if they can agree on the appointment of a parties' single expert and, if so, the identity and remuneration of the expert. Failing agreement, directions may be sought at the first directions hearing concerning the appointment of a parties' single expert. Such directions will require adaptation of the usual directions in Schedule A.
47. 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; and
 - (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 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.

48. A parties' single expert is to file and serve one expert report only. Without leave of the Court, a parties' single expert is not to provide parties with preliminary reports or opinions.

Note: Under Pt 31 r 41 of the Uniform Civil Procedure Rules 2005 a party may seek clarification of the report of a parties' single expert on one occasion only.

49. The parties are not to provide a parties' single expert with any expert report brought into existence for the purpose of the proceedings addressing any matter the subject of instructions to the parties' single expert, without leave of the Court.
50. Where a parties' single expert has been appointed to give 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 as soon as reasonably possible and usually no later than five

days after receiving the report of the parties' single expert. Leave is to be sought by notice of motion, with an affidavit in support explaining:

- (a) the name, qualifications and expertise of the expert proposed to be called;
- (b) the matters proposed to be addressed by the expert;
- (c) the date on which the expert was first retained and the date or dates of any expert report the expert has already prepared;
- (d) the reasons for the need to call an additional expert to give that evidence, rather than having the parties' single expert address the matters further or in cross examination;
- (e) how calling the additional expert at all, or at the particular stage in the preparation of the proceedings, promotes the just, quick and cheap resolution of the proceedings; and
- (f) the party's position in relation to any additional costs that might be caused by the calling of the expert.

If practicable, the affidavit should not exceed three pages in length (excluding annexures).

- 51. If there are large differences in the amount of compensation for which the parties or their experts contend, the Court may appoint a parties' single expert.
- 52. 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 Uniform Civil Procedure Rules and the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules.
- 53. An expert witness should identify any pre-existing relationship between the expert witness, or their firm or company, and a party to the litigation.
- 54. 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.

Note: See Pt 31 r 45 of the Uniform Civil Procedure Rules.

- 55. If experts are directed by the Court to confer, experts are to ensure that any 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.

56. 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.
57. Where expert evidence from more than one expert in the same discipline is to be given in Court, the experts will give such evidence concurrently (subject to any order by the Court to the contrary).
58. If a party requires any expert for cross-examination, notice is to be given at least seven days before the hearing.

Co-operation

59. 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.

Mediation, conciliation, neutral evaluation, reference and settlement conference

60. Consideration should be given prior to and throughout the course of the proceedings to whether the proceedings or any questions are appropriate for mediation, conciliation, neutral evaluation, reference to a referee or a settlement conference.
61. It is expected that legal practitioners, or parties not legally represented, will be in a position to advise the Court at any directions hearing or mention:
 - (i) whether the parties have attempted mediation, conciliation, neutral evaluation or a settlement conference; and
 - (ii) whether the parties are willing to proceed to mediation, conciliation, neutral evaluation or a settlement conference at an appropriate time.
62. At a mediation, conciliation, neutral evaluation or settlement conference, the parties are to ensure that a person who is able to make a decision as to whether the proceedings and particular issues settle or are resolved is present personally or by an authorised nominee.
63. Where 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) 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.

64. Proposed consent orders for amendment to the questions referred to a mediator, neutral evaluator or referee may be filed with the Class 3 Compensation List Judge's Associate and the List Judge may make such orders in chambers. Any contested amendments and amendments in respect of which the List Judge wishes to hear the parties, will be heard on a Friday by the List Judge.

Costs

65. 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.
66. 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.
67. 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.

The hearing

68. 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.

69. At the hearing, the Court Book may be tendered as an exhibit containing all the written evidence in the case, subject to any objections.

70. At the commencement of oral evidence of any witness, counsel are to hand to the presiding judge agreed or separate lists of the topics on which they propose to cross-examine.
71. Skeleton opening submissions should not generally be a substitute for a written outline of closing submissions. The Court will usually be assisted by a written outline of closing submissions which includes references to evidence in the Court Book and oral evidence. The written outline of closing submissions should be provided to the presiding judge electronically and in hard copy.

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

29 June 2011

SCHEDULE A

Usual Directions at First Directions Hearing

1. The respondent is to serve a schedule and evidence of disturbance losses under s 59(a) to (e) of the *Land Acquisition (Just Terms) Compensation Act* 1991, and all lay evidence by [insert date: 1 week].
2. The applicant is to serve its evidence in reply of disturbance losses under s 59(a) to (e), and all lay evidence in reply by [insert date: 2 weeks].
3. The parties are to exchange their expert evidence, other than expert valuation evidence and expert evidence of disturbance losses under s 59(f), by [insert date: 4 weeks].
4. Joint experts' reports, other than joint experts' valuation report and joint experts' report of disturbance losses under s 59(f), are to be served by the experts on the parties by [insert date: 6 weeks].
5. The applicant is to serve a schedule and evidence of disturbance losses under s 59(f) by [insert date: 6 weeks].
6. The respondent is to serve its schedule and evidence of disturbance losses under s 59(f) by [insert date: 8 weeks].
7. Joint experts' report on disturbance losses under s 59(f) is to be served by the experts on the parties by [insert date: 10 weeks].
8. The parties are to exchange their expert valuation evidence by [insert date: 11 weeks].
9. Joint valuation experts' report is to be served by the experts on the parties by [insert date: 13 weeks].
10. The applicant is to serve its points of claim by [insert date: 14 weeks].
11. The respondent is to serve its points of defence by [insert date: 15 weeks].
12. The parties are to have a settlement or conciliation conference by [insert date: 16 weeks].
13. There will be a second directions hearing on [insert date: 17 weeks].
14. Points of claim and points of defence are to include:
 - (a) the amount of compensation to which it is said the applicant is entitled;

- (b) the components of the claim by reference to each relevant matter enumerated in s 55 of the *Land Acquisition (Just Terms Compensation) Act 1991*;
 - (c) the basis of the valuation in support of the claim;
 - (d) particulars of comparable sales, if any, upon which the valuation is based;
 - (e) a schedule of any hypothetical development calculations;
 - (f) in the points of defence, any matter relied upon to offset the applicant's claim.
 - (g) a list of the witnesses proposed to be called at the hearing including the dates of their affidavits and reports and, in the case of experts, their discipline.
15. The parties are to serve a copy of these directions, Division 2 of Pt 31 of the Uniform Civil Procedure Rules and the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules on their experts when retaining the experts. Experts are to comply with those provisions.
 16. The parties are to serve on their respective expert valuers a copy of all non-valuation expert reports, including joint reports, and lay witness statements as relevant to valuation issues promptly after they become available.
 17. A joint report of experts is to include any evidence in reply.
 18. In preparing their joint report, expert valuers should consider the matters in Annexure 2 to the Usual Directions at First Directions Hearing insofar as relevant to matters agreed and not agreed.
 19. The parties are not to provide a parties' single expert with any expert report brought into existence for the purpose of the proceedings addressing any matter the subject of instructions to the parties' single expert, without leave of the Court.
 20. Experts are 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. Default without leave of the Court can result in the imposition of sanctions.
 21. 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 pre-existing positions of the experts.

22. A joint report of experts is to identify the experts involved in its preparation, the dates of their joint conferences, the matters on which they agree, the matters on which they disagree and the reasons for any 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.
23. 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.
24. 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.
25. Liberty to restore on three working days' notice.

ANNEXURE 1 TO USUAL DIRECTIONS AT FIRST DIRECTIONS HEARING PARTIES' SINGLE EXPERT USUAL DIRECTIONS

If a parties' single expert is to be appointed, the usual directions at the first direction hearing will require adaptation, including by the following alternative usual directions:

If the parties agree on or the Court requires the appointment of a parties' single expert to address any issue:

1. The court notes the agreement between the parties to engage [insert name] as the parties' single expert on the issue of [insert issue] and that the parties have agreed the remuneration to be paid to that expert.

Or, failing agreement about the identity and/or remuneration of the parties' single expert:

1.
 - (a) The Court orders the parties to engage [insert name] as a parties' single expert on the issue of [insert issue].
 - (b) The Court fixes the remuneration of the parties' single expert at [insert details of remuneration].
 - (c) A parties' single expert is not to incur fees or disbursements additional to the remuneration agreed by the parties or fixed by the Court without written agreement of both parties or, absent such agreement, the leave of the Court.
 - (d) The parties are to brief the parties' single expert with agreed instructions and an agreed bundle of documents by [within 7 days of the first directions hearing].
 - (e) The parties' single expert is to file and serve their expert report by [insert date]. Without leave of the Court, the parties single expert is not to provide the parties with a preliminary expert report or preliminary opinion.
 - (f) The parties' single expert is to comply with the requirements of Division 2 of Pt 31 of the Uniform Civil Procedure Rules and the Expert Witness Code of conduct in Schedule 7 of the Uniform Civil Procedure Rules, including the requirements for experts' reports.

In all cases

2. If the Court has ordered that a parties' single expert address any issue, no expert report addressing the same issue other than the report of the parties single expert may be relied upon at the hearing without leave of the Court.

Date: [insert date]

ANNEXURE 2 TO USUAL DIRECTIONS AT FIRST DIRECTIONS HEARING

In conferring and preparing their joint report, expert valuers should consider the issues set out below insofar as relevant to the matters agreed and not agreed.

1. Identify the method of valuation adopted including the primary method and any check method.
2. Disclose full workings and calculations.
3. Identify comparable sales including:
 - (a) property address and title details of each comparable sale to be adopted by the Court;
 - (b) sale date;
 - (c) sale price absent any adjustments expressed as a total and as a \$ rate per sq m if relevant;
 - (d) sale price adjusted for any condition of sale expressed as a total and as a \$ rate per sq m where relevant;
 - (e) area of land of each comparable sale;
 - (f) zoning of each comparable sale at the relevant date;
 - (g) any other relevant planning controls applicable to the comparable sale as at the relevant date; and
 - (h) floor space area of any buildings on the comparable sales sites which may be relevant.
4. State agreed matters.
5. State matters not agreed and give reasons for disagreement.
6. Consider:
 - (a) highest and best use adopted for assessment of market value of land at the date of acquisition and the reasons;
 - (b) alternative facts and assumptions which the Court may accept, including alternative facts and assumptions based on non valuation expert reports;
 - (c) factors which should be taken into consideration in applying a comparable sale to the subject site including but not limited to time, location, site area, site configuration, conditions of sale; and
 - (d) comparable sales which should be inspected by the Court.

SCHEDULE B

Usual Directions at Second Directions Hearing

1. The hearing is fixed for [insert number] days commencing on [insert date to be obtained from the Registry].
2. The parties are to prepare, file and serve a paginated Court Book with a table of contents, a copy of the originating application and pleadings, the evidence (with expert evidence grouped by discipline) and any objections to evidence at the pre-hearing mention.
3. The parties are to exchange and deliver electronically and in hard copy to the hearing judge's Associate their skeleton opening submissions, an agreed or competing chronology and (where warranted by the number of persons involved) a list of relevant characters by [insert date: 4 business days before the hearing].
4. The parties are to exchange and deliver electronically and in hard copy to the hearing judge's Associate any skeleton opening submissions in reply by [insert date: 1 business day before the hearing].
5. There will be a pre-hearing mention, if possible before the hearing judge, which counsel or solicitors briefed to appear on the hearing should attend, on [insert date: second last Friday before the hearing].
6. At the pre-hearing mention the parties, having conferred beforehand, are to file:
 - (a) the Court Book; and
 - (b) an agreed schedule
 - (i) containing a brief description of the subject property and each comparable sales 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;
 - (iv) proposing a time when the judge should inspect the properties and the arrangements for inspection.
7. If any witness is required for cross-examination, notice is to be given before the pre-hearing mention.
8. At the hearing the evidence of experts is to be given by way of concurrent evidence, unless the hearing judge directs otherwise.
9. At the commencement of oral evidence of any witness, counsel, having conferred beforehand, are to hand to the Court an agreed list or competing lists of the topics on which it is proposed to cross-examine.

10. Parties are to promptly notify the Court if there is any material slippage in the timetable.