**Submission on Class 3 Compensation Practice Note**

Please see to follow my submission as to the questions put forward by His Honour for discussion.

1. Yes.  The criteria should be whether there is to be a disturbance claim (apart from s 59(a) or (b)) – or alternatively whether the acquisition was partial or total and involved taking or leaving a dwelling.
2. Only the Applicant should be able to elect to put any LVC matter into a “faster” stream. Where an applicant has elected not to be put into that stream, that should be taken into account in any review by the LVC judge.
3. Conciliation conferences for less complex matters should be scheduled as soon as possible after filing.  Alternatively, parties should exchange only without prejudice valuation reports and position papers before that conference. There should in general be no staggering in this process.
4. Yes.
5. Yes. And to say that repetition of documents (such as VG determination and report) is not necessary. Also, it should be a requirement for the Respondent to make positive assertions as to its case, not just to say that it disagrees with an Applicant’s analysis.
6. It should be changed as suggested. The “more complex” list should also have standard directions changed to allow for the possibility of earlier conciliation conferences without staggering of evidence and position papers.
7. Yes. To that end, it should be clearly stated in the practice note that the parties are required to attend any conciliation conference with sufficient authority to make and execute agreements.
8. If a matter proceeds to trial, directions should incorporate the possibility of agreed bundles but only if it is an express requirement that (a) duplication is avoided (particularly from joint reports or in annexures); (b) the agreement extends to the authenticity of the document, but not admissibility (in order that parties can preserve objections); (c) parties are to provide any copy of a document proposed for an agreed bundle as immediately as possible following a request.  The bundle should be prepared well advanced from the hearing date in order to assist the production of useful submissions (which should also be prepared farther out from the hearing date than under current directions).
9. Lay evidence should be filed later in the timetable if disturbance is in issue.
10. An earlier case management mention either after evidence has been exchanged or at the close of pleadings and at least one month before the hearing date would assist.  The immediate pre-trial mention could then be after filing of submissions and primarily concentrate on the organisation of the view.
11. A pre-trial mention is useful for organisation of the view.
12. This could be a requirement for the Respondent’s submissions.
13. I doubt the utility of such a form.  What would assist is if submission directions were brought farther forward from the hearing date so that issues in disturbance, amongst others, were better known in advance of the hearing date.
14. Pre-trial mention.
15. Either:

a Current arrangements for the Applicant to produce evidence first be reversed so that the Respondent/Authority sets the stage for its view of compensation to be provided before an Applicant undertakes the costs/risks of challenging the Respondent’s case (and has a proper opportunity to consider the VG-determined offer); or

b There should be greater occasion for evidence to be exchanged.

Yours faithfully

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