



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

PRACTICE NOTE

CLASS 4 PROCEEDINGS

Name and commencement of Practice Note

1. This Practice Note is to be known as Practice Note – Class 4 Proceedings. It commences on 13 January 2014. It replaces the Practice Note – Class 4 Proceedings dated 30 April 2007.

Application of Practice Note

2. This Practice Note applies to proceedings in Class 4 of the Court's jurisdiction referred to in s 20 of the *Land and Environment Court Act 1979*.

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 4 proceedings.

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.
5. 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 provide the Court with short minutes of proposed directions reflecting that alternative regime.

Legal practitioners and agents of parties to be prepared

6. Each party not appearing in person shall be represented before the Court by a legal practitioner (or an agent authorised by the party in writing to whom leave of the Court has been granted to appear for the party) familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.



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7. 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.

Judicial review proceedings

8. In relation to judicial review proceedings, attention is drawn to Part 59, entitled “Judicial Review Proceedings”, of the Uniform Civil Procedure Rules 2005 (**UCPR**), which regulates:
- (a) commencement of proceedings;
 - (b) who must be joined as a respondent;
 - (c) content and service of the summons;
 - (d) the response;
 - (e) procedure as to evidence generally;
 - (f) procedure as to a Court Book and the parties’ written arguments;
 - (g) where a public authority is a respondent, a special procedure for obtaining a copy of the decision and a statement of reasons from the public authority;
 - (h) time for commencing proceedings; and
 - (i) security for costs.

Commencing Class 4 proceedings

9. Class 4 proceedings are to be commenced by summons filed in the Registry of the Court.

Return date of the summons

10. The summons will be given a return date before the Court, usually on the fourth Friday after it is filed. On the return date, the first directions hearing will occur before the List Judge.

Class 4 List

11. There is a Class 4 List, which will be managed by the List Judge, usually each Friday.
12. In the Class 4 List the Court:
- (a) conducts directions hearings, and
 - (b) hears or manages any notices of motion or other interlocutory application.



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13. Matters in the Class 4 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 the Court in order to determine the “not before” time that their matter is listed.

Number of pre-trial attendances

14. Unless there are interlocutory applications, a Class 4 proceeding normally should appear in court before trial on no more than two occasions:
- (a) at the first directions hearing, and
 - (b) at the second directions hearing.
15. Where the matter is particularly complex or is expected to exceed three days hearing time, a pre-trial mention may also be required, usually on the second last Friday before the trial commences, if possible before the trial judge.

Before the first directions hearing

16. Before the first directions hearing the parties are to discuss and endeavour to agree upon:
- (a) the directions that the Court should make at the first directions hearing;
 - (b) in the case of non judicial review proceedings, whether there should be points of claim, points of defence or points of reply;
 - (c) (if applicable) a statement of the disciplines in respect of which they propose to call expert evidence, the issues to which the proposed expert evidence relates, and the reasons why the proposed expert evidence is reasonably required to resolve the proceedings having regard to the just, quick and cheap requirement.

Note: r 31.19 of the UCPR requires a party to promptly seek directions from the Court if it intends to adduce expert evidence at trial or if it becomes apparent that any party may adduce expert evidence at trial.

17. If the parties do not agree, each party should prepare their own written version of the directions they propose.

At the first directions hearing

18. The first directions hearing will be on the return date of the originating application, usually on the fourth Friday after it is filed. It will be conducted by the List Judge in a courtroom in the Court’s building at 225 Macquarie Street,



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Sydney. The location of the courtroom and the time of day the first directions hearing is listed will be shown on the Court Lists posted on a notice board in the foyer of the building and on the Court's website under Court Lists in the afternoon of the day before the directions hearing. The Sydney Morning Herald may also (but does not always) publish the Court Lists on the morning of the date set for the first mention.

19. At the first directions hearing the parties are to hand to the Court:
 - (a) agreed or competing short minutes of the directions they propose the Court should make;
 - (b) (if applicable) an agreed statement or separate statements as to the disciplines in respect of which they respectively propose to call expert evidence, the issues to which the proposed expert evidence relates, and the reasons why the proposed expert evidence is reasonably required to resolve the proceedings having regard to the just, quick and cheap requirement.
20. If the parties are in dispute as to any proposed directions, they are to briefly inform the Court of the nature of the dispute and their estimate of how long a hearing of the dispute will take. If practicable, the Court will determine the dispute at that directions hearing, otherwise it will fix a date for the hearing of the dispute.
21. At the first directions hearing, the Court will usually make directions in accordance with **Schedule A** as follows:
 - (a) [In the case of judicial review proceedings only] The respondent is to serve its response to the summons within 1 week.
 - (b) The applicant is to serve its affidavits in chief and bundle of documents [and, in non-judicial review proceedings where appropriate, points of claim] within 2 weeks.
 - (c) The respondent is to serve any affidavits and a bundle of any additional tender documents [and, in non-judicial review proceedings where appropriate, points of defence] within 5 weeks.
 - (d) The applicant is to serve any affidavits in reply and a bundle of any additional tender documents [and, in non-judicial review proceedings where appropriate, points of reply] within 7 weeks
 - (e) There will be a second directions hearing in 8 weeks.



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- (f) [In judicial review proceedings where cross-examination is only permissible with leave of the Court: r 59.7(3) UCPR]. If a party proposes to seek leave to cross-examine, that should be communicated to the other parties with an explanation before the second directions hearing, and leave should be sought at the second directions hearing.
- (g) At the second directions hearing the parties are to hand to the Court an agreed estimate or competing estimates of the duration of the trial broken down into the elements of the trial:
- (i) opening addresses,
 - (ii) tender of written evidence,
 - (iii) cross-examination (grouping experts by categories)
 - (iv) any inspection of properties,
 - (v) closing submissions.

22. Directions for formal discovery and interrogatories will only be made in exceptional circumstances and will generally be confined to particular issues. A party seeking such directions must provide the Court with a draft list of categories of documents to be discovered or draft interrogatories.

Before the second directions hearing

23. The parties are to discuss and endeavour to agree on whether conciliation, mediation or other means of resolving the appeal without a trial would be appropriate.
24. The parties are to discuss and endeavour to agree on the estimated duration of the trial, broken down into the elements of the trial. If they are unable to agree, each party should prepare their own version of the estimated duration.
25. The parties are to discuss and endeavour to agree upon the directions that the Court should make at the second directions hearing. If the parties do not agree, each party should prepare its own written version of the directions it proposes.
26. In judicial review proceedings, if a party has given notice that it intends to seek leave to cross-examine, the other parties are to notify that party whether they will consent to or oppose the grant of leave.

At the second directions hearing

27. The second directions hearing will usually be conducted on a Friday by the List Judge on a date fixed at the first directions hearing.



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28. The parties are to hand to the Court realistic agreed or competing estimates of the duration of for the trial, broken down into the elements of the trial.
29. The parties are to hand to the Court agreed or competing short minutes of the directions they propose the Court should make.
30. At the second directions hearing, the Court will usually make directions in accordance with **Schedule B** as follows:
 - (a) The matter is fixed for hearing on the following dates [insert dates obtained from the Registry and approved by the List Judge].
 - (b) The parties are to confer and prepare a paginated Court Book with a table of contents in a white folder (or folders) containing the following sections with dividers between them:
 - (i) a copy of the summons, each respondent's response to the summons (in judicial review proceedings), and (if applicable) pleadings,
 - (ii) an agreed list (or competing lists) of the real issues for determination,
 - (iii) a summary of the applicant's argument (not exceeding 10 pages),
 - (iv) in judicial review proceedings, the decision under review and the statement of reasons (if any) of the decision-maker,
 - (v) any statement of facts able to be agreed between the parties,
 - (vi) an agreed chronology or, failing agreement, the respective chronologies of the parties,
 - (vii) an agreed schedule of any relevant legislative provisions or, failing agreement, the respective schedules of the parties of any relevant legislative provisions,
 - (viii) each party's list of objections (if any) to evidence,
 - (ix) spaces for the summary of the respondent's argument and any summary of the applicant's argument in reply (when filed).
 - (c) The parties are to confer and prepare a paginated Evidence Book in a non-white folder (or folders) with a table of contents containing the following copy documents with dividers between them:
 - (i) documents the parties jointly or separately propose to tender,
 - (ii) affidavits of the applicant's lay witnesses,
 - (iii) affidavits of the respondent's lay witnesses,
 - (iv) expert reports grouped by discipline.
 - (d) The applicant, at least 7 working days before the hearing, is to file and serve the Court Book and the Evidence Book.



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- (e) The respondent, at least 4 working days before the hearing, is to file and serve a summary of the respondent's argument (not exceeding 10 pages).
- (f) The applicant, at least 1 working day before the hearing, is to file and serve a summary of the applicant's argument in reply if the applicant considers a reply is needed (not exceeding 5 pages).

Service of directions on absent party

- 31. If a party is absent when directions are made, the party who is present is to serve a copy of the directions on the absent party within three working days. Unless the Court otherwise directs, the party who is present is also to file an affidavit of service at least one working day before the matter is next listed before the Court, except that it is unnecessary to file an affidavit of service if the party who is present mentioned the matter on behalf of the absent party on the occasion that the directions were made.

At the pre-trial mention (if applicable)

- 32. The List Judge may direct that a pre-trial mention take place where the matter is particularly complex or is expected to exceed three days hearing time. The pre-trial mention will usually be held on the second last Friday before the hearing, if possible before the trial judge. Counsel briefed to appear at the final hearing or (if counsel is unavailable) a solicitor with the carriage of the matter must attend for each party.
- 33. The purpose of a pre-trial mention is to ensure readiness for trial and to give any further directions necessary to facilitate the just, quick and cheap resolution of the matter.

Authorities and legislation

- 34. Each party is to provide a list of authorities and legislation to be relied on to the trial judge one working day before the trial is to commence.
- 35. If any unreported authorities or superseded legislation or planning instruments are to be relied on, copies are to be provided to the trial judge at the trial. If necessary, the parties should liaise to avoid duplication.

The trial

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



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

37. At the trial, evidence in the Evidence Book may be tendered as one exhibit, or separately as more than one exhibit, subject to any objections.
38. A written summary of opening argument should generally not be a substitute for a written summary of closing submissions. The Court will usually be assisted by a written summary of closing submissions, which includes references to the evidence.
39. Proposed final orders are to be provided in hard copy and electronically to the trial judge.

Notices of motion returnable in the Friday list

40. Any notice of motion is to be returnable on a Friday before the List Judge 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 by the List Judge or Duty Judge. If the motion is lengthy, complex, or it is otherwise impracticable to hear the motion on the first return date, directions will be made on that occasion for the preparation and setting down of the motion for final hearing.

Breach of the Court's directions

41. If there is any significant breach of the Court's directions sufficient to cause slippage in a timetable, the parties must promptly, by eCourt communication or fax to the Registrar, restore the matter to the next Friday list before the List Judge.
42. 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.
43. A 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.

Variation of timetables

44. If proposed directions vary an existing timetable there must also be a direction to vacate previous directions that can no longer be maintained, including for dates for directions hearings or the hearing of motions.



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Liberty to restore

45. Parties have general liberty to restore to the Friday list on three working days' notice, or less if urgency requires it. A party seeking to do so is to make prior arrangements with, or give appropriate notice to, any other party, and send an eCourt communication or fax to the Registrar.

Adjournments

46. Proceedings will not be adjourned generally. They will only be adjourned to a specific date.

Applications to vacate hearing dates

47. Hearing dates will not generally be vacated and will not be vacated merely because the parties consent to the vacation. 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.

Filing and service of evidence

48. Evidence to be relied upon at trial should not be filed as case preparation occurs.
49. Each party's evidence for the trial, accompanied by a list of that evidence, is to be filed when the Evidence Book is filed and copies are to be included in the Evidence Book.
50. 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

51. Any expert and any expert's report are to comply with this Practice Note, the requirements of Division 2 of Pt 31 of the UCPR and the Expert Witness Code of Conduct in Schedule 7 of the UCPR.
52. The parties are to serve a copy of this Practice Note, Division 2 of Pt 31 of the UCPR and the Expert Witness Code of Conduct in Schedule 7 of the UCPR on their experts when retaining the experts.



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53. The front page of an expert report is to state:
- (a) the name of the proceedings and its Court file number,
 - (b) the party for whom the report has been prepared,
 - (c) the author of the report,
 - (d) the author's relevant field of expertise,
 - (e) the date of the report.
54. If there is any pre-existing relationship between the expert witness, or their firm or company, and a party to the litigation, it should be stated in the expert report.

Parties' single expert

55. 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 Schedules A and B.
56. 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 that 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:



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- (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.
57. 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 r 31.41 of the Uniform Civil Procedure Rules 2005 a party may seek clarification of the report of a parties' single expert on one occasion only.
58. 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.
59. 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 that the expert has already prepared;



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- (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 in cross examination;
 - (e) how calling the additional expert at all, or at the particular stage in the preparation of the proceedings, promotes the quick, just 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.
60. 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 to that remuneration.

Note: See r 31.45 of the UCPR.

Joint Conference and Joint Report

- 61. 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 witnesses about the relevant facts and issues.
- 62. 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.
- 63. 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.
- 64. 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.
- 65. 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 processes they used to reach those positions.
- 66. Each expert is to sign and date the joint report.
- 67. A joint report of experts is to include any evidence in reply.



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Failure to comply

68. 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 this Practice Note, Division 2 of Pt 31 of the Uniform Civil Procedure Rules or the Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules. 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 may result in the imposition of sanctions.

Concurrent evidence

69. 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).

Alternative dispute resolution

70. Consideration must be given prior to and throughout the course of the proceedings to whether the appeal or any issues are appropriate for mediation, conciliation, neutral evaluation, reference to a referee, or a settlement conference.
71. 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:
- (a) whether the parties have attempted mediation, conciliation, neutral evaluation or a settlement conference, and
 - (b) whether the parties are willing to proceed to mediation, conciliation, neutral evaluation, reference to a referee, or a settlement conference at an appropriate time.
72. At a mediation, conciliation, neutral evaluation or settlement conference, the parties are to ensure that the person who is able to make a decision as to whether the proceedings or particular issues settle or are resolved is present personally or by an authorised nominee.
73. Where issues are appropriate to be referred to a mediator, conciliator, neutral evaluator or referee, the parties should prepare proposed short minutes to be handed to the Court which:
- (a) formulate the issues with precision, and



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- (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, conciliator, neutral evaluator or referee can commence the mediation, conciliation or evaluation;
 - (iii) the expected duration of the mediation, conciliation, neutral evaluation or reference; and
 - (iv) the anticipated date for finalisation of the mediation, conciliation or neutral evaluation, or for delivery to the Court of the referee's report.

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

Settlement of proceedings

75. If the matter is resolved out of Court, it is necessary to have the Court make orders finalising the litigation, rather than merely filing terms with the registry.
76. 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.
77. 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.
78. The Court will not make declarations merely by reason of the consent of the parties. A proper factual and juridical basis must be established before the Court will make a declaration.
79. If the proposed consent final orders involve the Court making an order against or accepting an undertaking by a party to take action or to refrain from taking action, the Court should be assured that that party understands the nature and consequences of the order being made or the undertaking being accepted by the Court.



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Co-operation

80. The Court expects parties, legal practitioners and experts to work cooperatively to implement this Practice Note in a practical and sensible way ensures that it achieves its intended purpose.

Costs

81. If a breach of the Court's directions or 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.
82. 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.
83. 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.

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

17 December 2013



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SCHEDULE A

Usual directions at first directions hearing

- 1 [in judicial review proceedings only] The respondent is to serve its response to the summons by [1 week].
- 2 The applicant is to serve its affidavits in chief and bundle of tender documents [and, in non-judicial review proceedings where appropriate, points of claim] by [2 weeks].
- 3 The respondent is to serve its affidavits in chief and bundle of any additional documents [and, in non-judicial review proceedings where appropriate, points of defence] by [5 weeks].
- 4 The applicant is to serve any affidavits in reply and bundle of any additional documents in reply [and, in non-judicial review proceedings where appropriate, points of reply] by [7 weeks].
- 5 [if applicable] The parties' experts are to confer and serve the parties with a joint report (including any reply evidence) setting out the matters on which they agree and disagree and the reasons for any disagreement by [9 weeks].
- 6 The matter is listed for a second directions hearing before the List Judge on [10 weeks].
- 7 At the second directions hearing the parties are to hand to the Court an agreed estimate or competing estimates of the time required for the hearing broken down as follows:
 - (a) opening addresses,
 - (b) tender of written evidence and objections,
 - (c) cross-examination,
 - (d) any view of properties,
 - (e) closing submissions.
- 8 [In judicial review proceedings] If leave to cross-examine a witness is to be sought (see r 59.7(3) UCPR), leave should be sought, if practicable, at the second directions hearing.



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SCHEDULE B

Usual directions at second directions hearing

- 1 The matter is fixed for hearing on the following dates [insert dates obtained from the Registry and approved by the List Judge].
- 2 The parties are to confer and prepare a paginated Court Book with a table of contents in a white folder (or folders) containing the following sections with dividers between them:
 - (a) a copy of the summons, each respondent's response to the summons (in judicial review proceedings) and (if applicable) pleadings;
 - (b) an agreed list (or competing lists) of the real issues for determination;
 - (c) a summary of the applicant's argument (not exceeding 10 pages);
 - (d) [in judicial review proceedings only] the decision under review and the statement of reasons (if any) of the decision-maker;
 - (e) any statement of facts able to be agreed between the parties;
 - (f) an agreed chronology or, failing agreement, the parties' respective chronologies;
 - (g) an agreed schedule of any relevant legislative provisions or, failing agreement, the parties' respective schedules of any relevant legislative provisions;
 - (h) each party's list of objections (if any) to evidence;
 - (i) spaces for the summary of the respondent's argument and any summary of the applicant's argument in reply (when filed).
- 3 The parties are to confer and prepare a paginated Evidence Book in a non-white folder (or folders) with a table of contents containing the following copy documents with dividers between them:
 - (a) documents the parties jointly or separately propose to tender, with a table of contents indicating any objections to admissibility and the grounds;
 - (b) affidavits of the applicant's lay witnesses;



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- (c) affidavits of the respondent's lay witnesses;
 - (d) expert reports grouped by discipline.
- 4 The applicant, at least 7 working days before the hearing, is to file and serve the Court Book and the Evidence Book.
 - 5 The respondent, at least 4 working days before the hearing, is to file and serve a summary of the respondent's argument (not exceeding 10 pages).
 - 6 The applicant, at least 1 working day before the hearing, is to file and serve a summary of the applicant's argument in reply if the applicant considers a reply is needed (not exceeding 5 pages).