



PRACTICE NOTE

CLASS 3 VALUATION OBJECTIONS

Commencement

1. This practice note commences on 14 May 2007.

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. 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 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 with respect to

valuation objections will assist in enabling such objections to be dealt with at the hearing with as little formality and technicality, and with as much expedition, as the requirements of this Act and of every other relevant enactment and as the proper consideration of the matters before the Court permits (see s 38 of *the Land and Environment Court Act 1979*).

Class 3 valuation objection list

5. There will be a Class 3 List which includes all new and existing Class 3 valuation objections. The Class 3 List will usually be managed in Court each Friday.
6. Prior to hearing, unless there are interlocutory applications, a Class 3 valuation objection normally should appear in a Friday list on no more than two occasions, as follows:
 - (a) at the **first** directions hearing when the parties are to complete and hand to the Court the valuation objection information sheet in **Schedule A** and the *“Usual Directions at First Directions Hearing”* will usually be made in the form of **Schedule B**; and
 - (b) at the **second directions hearing**, when the *“Usual Directions at Second Directions Hearing”* will usually be made in the form of **Schedule C**.
7. In addition to the directions in these usual orders, other directions may be given with a view to the just, quick and cheap disposal of the proceedings. However, directions relating to the provision of particulars, the filing of lists of documents and the administration of interrogatories will only be made upon demonstrated need being established.
8. Any motion relating to a Class 3 valuation objection is to be made 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 of the motion.
9. Matters in a Friday list will be listed in blocks on a *“not before”* a specified time basis. Practitioners 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.

Before the first directions hearing

10. 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.
11. If reasonably practicable, before the first directions hearing in the matter, and only if the applicant has not done so already, the applicant is to notify the Valuer-General of the valuation for which the applicant contends.
12. If reasonably practicable, before the first directions hearing in the matter, 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 preliminary 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 Part 16 Rule 4 of the *Land and Environment Court Rules 1996* (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).

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

At the first directions hearing

14. At the first directions hearing (which will usually be on a Friday), the parties must notify the Court in writing of their compliance or otherwise with the requirements of paragraphs 11 to 14 of this practice note. The valuation objections information sheet (see **Schedule A**) is to be completed and filed at the first directions hearing for this purpose.
15. At the first directions hearing, the parties should expect that the usual directions set out in **Schedule B** will be made and should have either agreed or competing proposed short minutes to hand to the Court. In preparing these short minutes, parties may delete, amend or abridge any part of the usual directions to facilitate the just, quick and cheap resolution of the proceedings. Parties may also propose alternative directions if they have a reasonable basis for considering that alternative directions will better facilitate the just, quick and cheap resolution of the proceedings. If alternative directions are proposed, the party seeking those directions is to notify the other party before the first return date of the valuation objection and ensure that proposed short minutes are available to be handed to the Court.
16. The parties are to inform the Court whether there is any reason for the proceedings not to be fixed for a preliminary conference under s 34 of the *Land and Environment Court Act 1979*.
17. If it is appropriate to fix the proceedings for a preliminary conference under s 34 of the *Land and Environment Court Act 1979* then, in the ordinary course, the proceedings will be fixed for a preliminary conference as follows:

- (a) for short matters, before the Duty Commissioner on the next available Friday; or
- (b) for other matters, within 14 days,
subject to the availability of the Court.

At the second directions hearing

- 18. At the second directions hearing (which will usually be on a Friday), the parties should expect that the “Usual Directions at Second Directions Hearing” will be made. Those directions are set out in **Schedule C**. Parties may suggest alternative directions if they have a reasonable basis for considering that alternative directions will better facilitate the just, quick and cheap resolution of the valuation objection.

Short matters

- 19. Parties may request short matters (less than 2 hours) to be fixed for hearing before a Duty Commissioner or Duty Judge on a Friday.
- 20. If the request is by consent, the parties may file the request with the Registry before the first return date. Parties will be notified if the hearing can be listed on a Friday before the first return date, in which event the first return date will be amended to be the hearing date.

Expedition

- 21. Any party may seek expedition of a valuation objection by notice of motion, with a short affidavit in support setting out the reasons in support of expedition.

Breach of the Court’s directions

- 22. If there is any significant breach of the Court’s directions, including a breach 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 reason or reasons for the breach and submits what directions should be made in consequence of the breach.

Variation of timetables

23. If proposed directions vary an existing timetable, they must include the vacation of any date for a directions hearings or mention or for the hearing of motions that can no longer be maintained.

Liberty to restore

24. Parties have general liberty to restore on a Friday on three working days' notice, or earlier 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 e-Court communication or fax to the Registrar.

Applications to vacate hearings and for adjournments

25. Class 3 valuation objections will not be adjourned generally.
26. Class 3 valuation objections usually will not be adjourned because of failure to comply with this practice note or Court 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 the proceedings, the defaulting parties or legal practitioners may be ordered to pay costs.
27. 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.

Applications for final orders by consent

28. If proceedings settle, it is necessary to have the Court make orders finalising the litigation, rather than filing terms with the registry.

29. If the parties have agreed to final orders by consent, they are to exercise the liberty to restore and are to file proposed consent orders signed by all parties before the return date pursuant to the liberty.
30. The representatives of the parties attending for the purpose of the making of final orders by consent 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.

Legal practitioners and agents of parties to be prepared

31. 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.
32. Legal practitioners and agents for each party should communicate prior to any attendance before the Court with a view to reaching agreement on directions to propose to the Court and on preparation of short minutes recording the directions.

Evidence for hearing

33. Evidence for the hearing is to address all issues the subject of the proceedings. No issue will be separately determined unless the Court so orders.

Expert evidence

34. Parties are encouraged to consider whether expert evidence is genuinely necessary to resolve the issues in dispute in development appeals. Unnecessary expert evidence substantially increases the time and cost of valuation objections.
35. Where expert evidence is necessary to be called 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; 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' 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;
- (h) 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
- (i) 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.

36. The Court will not usually accept the appointment of a parties' single expert if that expert is unable to provide a report within 5 weeks of receiving the brief or is unable to attend a hearing within a further 28 days thereafter.
37. The usual directions provide for a parties' single expert 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 31.41 of the Uniform Civil Procedure Rules a party may seek clarification of the report of a parties' single expert on one occasion only.

38. 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.
39. 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.
40. 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).

41. It is not the role of any expert to opine whether a valuation objection should be upheld or dismissed. Expert opinions in reports and joint reports are to deal with the issues in dispute. Any other matter relevant to the expert's expertise, which the expert feels obliged to draw to the attention of the parties and the Court, may also be noted.
42. 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.
43. An expert witness should identify any pre-existing relationship between the expert witness, or their firm or company, and a party to the litigation.
44. 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 31.45 of the Uniform Civil Procedure Rules.

45. Experts' reports are not to repeat matters in the statement of facts prepared by the Valuer-General. Wherever possible, an expert should state that the facts in the statement of facts have been adopted as correct. If this cannot be stated, the expert should identify the matters which are disputed and state his or her position in relation to those matters.
46. 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.
47. 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.

48. 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 hearing Judge or Commissioner to the contrary).
49. If a party requires any expert for cross-examination, notice is to be given at least seven days before the hearing.
50. 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, neutral evaluation and reference

51. Throughout the course of the proceedings the parties should continue to consider whether the proceedings or any questions are appropriate for mediation or neutral evaluation or for reference to a referee. The fact that formal or informal mediation or a preliminary conference under s 34 of the *Land and Environment Court Act 1979* did not resolve the matter is not sufficient reason to disregard the potential for mediation to resolve the matter or narrow the issues in dispute.
52. At a mediation or neutral evaluation, the parties are to ensure that a person who is able to make a decision as to whether the matter settles is present personally or by an authorised nominee.
53. Where questions are appropriate to be referred to a mediator 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) the name of an agreed 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) the 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.

54. Proposed consent orders for amendment to the questions referred to a mediator, neutral evaluator or referee may be filed with the List Judge's Associate in writing 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 and compliance

55. If a breach of the Court's directions or of this practice note causes costs to be thrown away, a party or a party's legal practitioner responsible for the breach may be ordered to pay those costs.

56. 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. Unnecessary documents may attract adverse costs orders.

57. 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 Honourable Justice Brian J Preston
Chief Judge***

30 April 2007

Schedule A

Class 3 Valuation Objections - Information Sheet

Parties:	
Applicant:	
Respondent(s):	
Proceedings no:	
1.	(a) Has the Valuer-General provided the applicant with access to, and copies of, relevant documents? Yes/No (b) If not, when will access be provided?
2.	(a) Has the applicant notified the Valuer-General of the valuation for which the applicant contends? Yes/No (b) 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 to be fixed for a preliminary conference under s 34 of the <i>Land and Environment Court Act 1979</i> ? If so, provide reasons [point form only].

5.	<p>Have the parties conferred and identified whether they propose to rely on any expert evidence and, if so, the areas of expertise involved? Yes/No</p> <p>Set out areas of expertise below:</p>
6.	<p>If parties' single experts are agreed, set out below their name, charge rates, estimate of total fees and disbursements and available dates to prepare a report and appear at a hearing.</p>
Name:	
Charge rates	
Estimate of total fees and disbursements	
Dates by which reports can be prepared:	
Available dates to appear at a hearing	
7.	<p>If parties' single experts are not appropriate, the reasons in support [point form only].</p>

8.	Is sufficient information available or is it otherwise appropriate for any experts proposed to be called by parties to proceed directly to a joint conference and joint report, without preparing other reports? If so, identify the experts and areas of expertise. If not, provide the reasons in support [point form only].
9.	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 report being necessary or appropriate [point form only]?
10.	What is the estimated length of hearing?
11.	Identify number and names of lay witnesses?

SCHEDULE B

Usual Directions at First Directions Hearing

Note: Strike through/amend as required.

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. By # [+14 days of the first directions hearing], the applicant is to notify the Valuer-General of the valuation for which the applicant contends.
3. By # [+ 21 days of the first directions hearing], the applicant and the Valuer-General (or their authorised representatives) are to meet for the purpose of informal mediation on a "without prejudice" basis for the purpose of determining whether the objection may be resolved.

Note: The parties may elect to delete this step provided that the valuation objection is fixed for a preliminary conference under s 34 of the *Land and Environment Court Act 1979*: see direction 6 below.

4. By # [+ 28 days of the first directions hearing], the Valuer-General is to file and serve a statement of facts which identifies:
 - (a) the address and title details of the subject site;
 - (b) the area of the subject site according to the Valuer-General;
 - (c) the zoning of the subject site according to the Valuer-General;
 - (d) the planning instruments applying to the subject site which the Valuer-General considers material to the valuation;
 - (e) the features of the subject site which the Valuer-General considers material to the valuation;
 - (f) in a schedule to the statement of basic facts, the comparable sales, if any, relied upon by the Valuer-General in determining the objection and any additional comparable sales proposed to be relied upon (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);

- (g) any sections of the *Valuation of Land Act* 1916 said to be relevant by the Valuer-General;
- (h) the value of the subject site expressed as \$ rate per square metre;
- (i) any other facts, matters or circumstances the Valuer-General considers material to the resolution of the objection.

The statement of facts must not exceed two pages excluding the schedule of comparable sales.

Note: If the matter is fixed for a preliminary conference under s 34 of the *Land and Environment Court Act* 1979, then the statement of basic facts should be filed and served 14 days before the conference.

5. By # [+ 28 days of the first directions hearing], the applicant is to file and serve a statement outlining the applicant's grounds of objection to the valuation. The statement is to disclose the basis upon which the applicant objects to the valuation and is not to exceed two pages (excluding any schedule of comparable sales). If the statement includes any schedule of comparable sales, the schedule is to identify, 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).

Note: If the matter is fixed for a preliminary conference under s 34 of the *Land and Environment Court Act* 1979, then the applicant's grounds of objection should be filed and served 14 days before the conference.

6. The proceedings are listed for a preliminary conference under s 34 of the *Land and Environment Court Act* 1979 on #.
7. The proceedings are listed for a second directions hearing on # [+ 14 days after the preliminary conference].
8. (a) Each party is to notify the other party and the Court in writing of the name of the experts upon which they propose to rely and the issues to be addressed by each expert or the name of any expert they propose to nominate as a parties' single expert by # [seven days after the preliminary conference].

- (b) If the parties agree or the Court requires a parties' single expert, the parties are to agree the identity and remuneration of the parties' single expert by # [no later than 11 days after the preliminary conference].
- (c) Failing agreement, the parties are to seek orders from the Court at the second directions hearing that the parties engage a named parties' single expert and to fix the remuneration of the parties' single expert. For that purpose, each party is to file and serve the names, CVs and fee estimates of three appropriately qualified experts at least three days before the second directions hearing.

Note: If the proceedings are resolved at the preliminary conference, these directions will not need to be followed.

- 8. If the proceedings are resolved after the preliminary conference, the parties are to notify the Court at least 48 hours before the date of the second directions hearing. If the proceedings have been resolved, the second directions hearing may be vacated.

Date: # [insert date]

SCHEDULE C

Usual Directions at Second Directions Hearing

Any appropriate directions in respect of mediation, neutral evaluation or appointment of a referee.

A If the parties do not intend to rely on expert evidence:

1. Both parties are to file and serve statements of any lay witnesses by # [+ 21 days from the second directions hearing].
2. The proceedings are fixed for hearing on [insert hearing date] commencing [at 9.30am on site] or [at 10.00am in Court].
3. The parties have liberty to restore on three working days' notice.

B If the parties do intend to rely on expert evidence:

1. Any appropriate directions in respect of mediation, neutral evaluation or appointment of a referee.
2. Both parties are to file and serve statements of any lay witnesses by # [+ 21 days from the second directions hearing].

Note: The usual directions in the following paragraphs are intended to operate on an issue-by-issue basis. It is the responsibility of the parties to consider the most appropriate combination of directions for the particular case having regard to the real issues requiring resolution.

The directions in Part G below should usually be made.

C. 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 a parties' single expert 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:

- 1A. (a) The Court orders the parties to engage # [insert name] as a parties' single expert.

(b) The Court fixes the remuneration of the parties' single expert at # [insert details of remuneration].

2. 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.
3. The parties are to brief the parties' single expert with agreed instructions and an agreed bundle of documents by # [within 7 days of the second directions hearing].
4. The parties' single expert is to file and serve their expert report by # [within 6 weeks of the second directions hearing]. Without leave of the Court, the parties' single expert is not to provide the parties with a preliminary expert report or preliminary opinion.
5. 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.
6. 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.

D. If the parties agree on or the Court requires reports of non-valuation experts to be served before reports of valuation experts:

1. Individual reports of non-valuation experts are to be served by # [within 21 days of the second directions hearing].
2. Non-valuation experts, grouped in areas of expertise, are to confer in accordance 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 and are to file and serve their joint report, which is to include any evidence in reply, by # [within 5 weeks of the second directions hearing].

3. The parties are to serve on the expert valuers a copy of all non-valuation expert reports, including joint reports, and lay witness statements as relevant to valuation issues by # [within 6 weeks of the second directions hearing].
4. Individual expert valuation reports are to be served by # [within 10 weeks of the second directions hearing].
5. Expert valuers are to confer in accordance 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 and are to file and serve their joint report by # [within 12 weeks of the second directions hearing].
6. The joint report is to include any evidence in reply. In preparing their joint report, expert valuers should consider the matters in **Annexure 1** to the *Usual Directions at Second Directions Hearing* insofar as relevant to matters agreed and not agreed.

E. If the parties agree on or the Court requires reports of non-valuation experts not to be served before reports of valuation experts:

1. The parties are to serve individual expert reports by # [within 28 days of the second directions hearing] and any expert reports in reply by # [within 6 weeks of the second directions hearing].

Parties should consider whether it would be more appropriate for any evidence in reply to be dealt with through the joint conference process.

2. Experts, grouped in areas of expertise, are to confer in accordance 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 and are to file and serve their joint report by # [within 8 weeks of the second directions hearing].

F. If the parties agree or the Court requires that any experts may proceed directly to joint conferences and joint reports, without having prepared an individual expert report:

1. The parties are not to instruct experts on # [insert areas of expertise] to prepare individual expert reports.
2. The experts, grouped in areas of expertise, are to confer in accordance 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 and are to file and serve their joint report by # [within + 28 days of the second directions hearing].
3. No expert reports, other than the joint reports, may be relied upon at the hearing, without leave.

G. For all matters:

1. 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 all experts upon whose evidence they propose to rely.
2. 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.
3. 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. Default without leave of the Court can result in the imposition of sanctions.
4. 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.

5. 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.
6. 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.
7. 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.
8. If any witness is required for cross-examination, notice is to be given at least seven days before the hearing.
9. 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.
10. The parties are to confer and prepare a bundle of copy documents on which the parties seek to rely. The bundle is to include a table of contents and be paginated. The bundle is not to include documents annexed or exhibited to an affidavit unless there are good reasons for it to do so. Unnecessary copying and duplication of documents is to be avoided. Any party objecting to the tender of a document within the bundle is to notify the other party of the objection and the grounds in support at least three working days before the bundle is to be filed. The documents subject to objection are to be included in the bundle, but the objection and grounds in support, as well as the party tendering the document and the party objecting to the tender, are to be noted in the table of contents to the bundle. The bundle is to be filed at least seven days before the hearing.
11. The parties are to confer and agree upon a schedule of the comparable sales to be inspected and upon a location map showing the subject site and

comparable sales and the filing of that schedule and map by # [7 days before hearing].

12. The proceedings are fixed for hearing on [insert hearing date] commencing [at 9.30am on site] or [at 10.00am in Court].
13. Parties are to notify promptly the Court if there is any material slippage in the timetable.
14. The parties have liberty to restore on three working days' notice.
15. At the hearing the evidence of experts is to be given by way of concurrent evidence, unless the hearing judge directs otherwise.

Date: # [insert date]

ANNEXURE 1

To Usual Directions at Second 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 to be used.
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 sqm if relevant;
 - (d) sale price adjusted for any condition of sale expressed as a total and as a \$ rate per sqm 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. Confirm agreed matters.
5. Identify disagreed matters and give reasons for disagreement. Consider:
 - (a) highest and best use adopted for assessment of value of land at the relevant date and the respective reasons supporting that decision;
 - (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 the 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.

Date: # [insert date]