

Management of Criminal Proceedings listed in the Downing Centre

1. This Practice Note replaces District Court Criminal Practice Note 29.¹

Commencement

2. This Practice Note commences at Sydney District Court on 5 May 2025.

Application

3. This Practice Note applies to the case management of proceedings in the Downing Centre, excluding proceedings in the Walama List and proceedings listed where the District Court sits on a circuit basis.
4. The management of Criminal Proceedings listed at courts outside of the Downing Centre, which have a resident Judge and/or a permanent list Judge will be left to the discretion of those Judges and in accordance with any local arrangements they may choose to implement.

Arraignment

5. The Local Court Magistrate will commit an accused person for trial to appear for arraignment at the Downing Centre on a date no more than 4 weeks after committal (unless ordered otherwise).
6. Parties should expect that arraignments for trials prosecuted by the Commonwealth DPP (whether conducted in-person or via AVL) will be listed in Court 3.1 at the Downing Centre each **Monday** at **9:00am**.

¹ This Practice Note replaces District Court Criminal Practice Note 29 but only in the following respects:

1. The addition of para [4] to clarify the application of this Practice Note.
2. The addition of paras [13]-[14] to address the statutory disclosure requirements on the prosecution.
3. Changes to paras [6], [23] and [31] to facilitate listing changes as agreed with the Commonwealth DPP.

7. Parties should expect that arraignments for trials prosecuted by the State DPP (whether conducted in-person or via AVL) will be listed in Court 3.1 at the Downing Centre each **Friday at 10:00am**.
8. The accused person is to file and serve a Notice of Appearance by the Friday (7 days) before arraignment.
9. The Prosecution is to file and serve the Indictment, the Crown Case Statement and the Brief Index by the Monday (5 days) before arraignment.
10. At the arraignment, the Prosecution shall present the Indictment. The accused person must be present either in-person or via AVL to be arraigned and to be ready to enter their plea.
11. If the accused person is not legally represented at arraignment, the Court will make orders for case management to ensure that representation is obtained at the earliest opportunity.
12. At the arraignment, the parties are to provide the Court with a completed **Arraignment Form – Sydney District Court (Annexure 1)** and have sufficient knowledge of the matter to provide the following information:

Party	Information
Prosecution & Accused Person	<u>Issues in dispute and outstanding items</u> <ul style="list-style-type: none"> - an outline of issues in dispute, including any anticipated pre-trial issues or legal argument - any agreed facts - any outstanding items yet to be served and an estimate as to when they will be available to be served
	<u>Trial estimate and available dates</u> <ul style="list-style-type: none"> - an estimate of the length of the trial (which is to include time for any pre-trial issues, including legal argument, counsels' addresses, the summing up and a reasonable period for jury deliberations) - available dates for witnesses and counsel (and solicitors) briefed to appear

	<u>Witness requirements</u> <ul style="list-style-type: none"> - any requirement for remote witness facilities - any requirement for AVL facilities - any requirement for interpreters, including the language and precise dialect, the number of and identification of which witness/es require interpreters
Accused Person	<u>Sexual Assault Communication Privilege</u> <ul style="list-style-type: none"> - whether a question may arise under Chapter 6, Part 5, Division 2 of the <i>Criminal Procedure Act 1986</i> (NSW) for determination by the Court and whether leave may be required for the issue of subpoena or for evidence to be adduced regarding protected confidences

13. For trials prosecuted by the State DPP, the prosecution is to file and serve on the accused person, no later than 8 weeks prior to the date fixed for the Readiness Hearing, an affidavit by the police officer or law enforcement officer in charge of the case which:

- a) confirms compliance with the duty of disclosure as set out in s 15A of the *Director of Public Prosecutions Act 1986* (NSW); and
- b) details any further evidence the police are yet to obtain.

14. For trials prosecuted by the Commonwealth DPP, the prosecution is to file and serve on the accused person, no later than 8 weeks prior to the date fixed for the Readiness Hearing, an affidavit by an appropriate officer of the relevant investigating agency which:

- a) confirms compliance with the duty of disclosure as set out in paragraph 3 of the Commonwealth Director of Public Prosecutions "Statement on Disclosure in Prosecutions conducted by the Commonwealth" and in s 36B of the *Criminal Procedure Act 1986* (NSW); and
- b) details any further evidence the police are yet to obtain.

Readiness Hearings

15. If the accused person pleads, or intends to plead, not guilty to any count, the Court will fix a date for trial and for a Readiness Hearing.

16. The Readiness Hearing is to be listed at least 8 weeks before the date fixed for trial (unless ordered otherwise).
17. Parties should expect that Readiness Hearings will be listed in Court 3.1 at the Downing Centre each **Friday at 2:00pm**.
18. Readiness Hearings may be conducted in-person or via AVL. The accused person is excused from appearing if legally represented.
19. The Court will impose case management measures available under Division 3 of the *Criminal Procedure Act 1986* (NSW) as appropriate for the efficient management and conduct of the trial. The Court will exercise its discretion in determining which of those measures, including any orders, determinations, findings, further directions or rulings are necessary.
20. The Court may fix as many Readiness Hearings as the Court considers necessary and may set a timetable for the filing of Notice of Motions and submissions as required.
21. At the Readiness Hearing, the Crown Prosecutor or Solicitor Advocate, and the Barrister or Solicitor Advocate briefed to appear for the accused person at the trial, are to appear and are to provide the Court with the following information:
 - a) confirmation of any pre-trial issues, including legal argument
 - b) confirmation of the trial estimate
 - c) any agreed facts
 - d) confirmation that all witnesses required for trial have been served with a subpoena
 - e) whether any updated disclosure affidavits have been filed and served
 - f) whether a timetable is required for the service of any further material
 - g) whether an order is sought pursuant to s 19 of the *Jury Act 1977* (NSW) for alternate jurors
 - h) whether a grant of legal aid is sought and/or has been refused and is under appeal

Trial Callover

22. Parties in trials prosecuted by the State DPP should expect the trial will be called over in Court 3.1 at the Downing Centre on the **Thursday** before the date fixed for trial at **9:00am**.

23. Parties in trials prosecuted by the Commonwealth DPP (or any other agency) should expect that the trial will be called over in Court 3.1 at the Downing Centre on the **Monday** before the date fixed for trial at **9:00am**.
24. Trial callovers may be conducted in-person or via AVL. The accused person is excused from appearing if legally represented.
25. At the trial callover, the Crown Prosecutor or Solicitor Advocate, and the Barrister or Solicitor Advocate briefed to appear for the accused person at the trial, are to appear.
26. At the trial callover, the Court expects to be advised of the anticipated day of jury empanelment and whether any alternate jurors are required.
27. At the trial callover, the Court expects confirmation to be provided of the day/s any interpreter will be required, the language and precise dialect and for which witness/es.

Trial

28. The Court expects that trials will be ready to commence on the date listed for trial. The first day of trial is not to be considered as a preparation day.
29. Any application to vacate a trial date is to be made by way of filing and serving a Notice of Motion with a supporting affidavit setting out the grounds for the application and it will be listed in Court 3.1 for hearing (unless ordered otherwise).

Committals for Sentence

30. The Local Court Magistrate will commit an offender for sentence to the Downing Centre no more than 4 weeks after committal (unless ordered otherwise).
31. Parties in sentence proceedings prosecuted by the Commonwealth DPP (or any other agency) should expect that the sentence will be listed for callover in Court 3.1 at the Downing Centre on a **Monday** at **9:00am**. The offender is excused from appearing if legally represented.
32. Parties in sentence proceedings prosecuted by the State DPP should expect that the sentence will be listed for callover in Court 3.1 at the Downing Centre on a **Friday** at **9:30am**. The offender is excused from appearing if legally represented.

33. The offender is to file a Notice of Appearance with the District Court Registry no later than 7 days prior to the sentence hearing.

Sentence proceedings where the facts are agreed:

34. At the sentence callover, the parties are to provide the Court with a completed **Sentence Hearing Order Form – Sydney District Court (Annexure 2)** and be in a position to provide the following information:

Party	Information
Prosecution & Offender	<u>Sentence estimate and available dates</u> <ul style="list-style-type: none">- an estimate of the length of the sentencing hearing- available dates for counsel (and solicitors) briefed to appear and for any witnesses required to give evidence, including witnesses required by the Prosecution (inclusive of expert witnesses)
	<u>Witness requirements</u> <ul style="list-style-type: none">- any requirement for remote witness facilities- any requirement for AVL facilities- any requirement for interpreters, including the language and precise dialect, the number of and identification of which witness/es require interpreters
	<u>Sentencing Assessment report (SAR)</u> <ul style="list-style-type: none">- any requirement for a SAR and the address of the nearest community corrections office to the offender

Sentence proceedings where the facts are not agreed:

35. If the facts upon which the offender is to be sentenced are not agreed, the offender is to advise the Court at the sentence callover as to the areas of dispute and the names of any witnesses required for cross-examination.

Sentence Hearings

36. Unless otherwise directed, the parties are to file material in accordance with the following timetable:

Party	Requirement
Prosecution	<u>14 days</u> prior to the sentence hearing, file and serve the Crown Sentence Bundle
Offender	<u>7 days</u> prior to the sentence hearing, file and serve any documentary material, including expert reports, to be relied upon at sentence
Prosecution & Offender	<u>3 days</u> prior to the sentence hearing, file and serve an outline of submissions

37. By the date fixed for the sentence hearing, the matter must be ready to proceed.

Conviction Appeals

38. Parties in conviction appeals should expect that the appeal will be listed for callover before the Registrar on a **Thursday at 9:00am**.

39. Callovers may be conducted in-person or via AVL. The appellant is excused from appearing if legally represented.

40. At the Registrar's callover, the parties are to indicate what transcript will be required for the hearing of the appeal and the Registrar will order such transcript.

41. At the Registrar's callover, the parties are to provide the Court with an estimate of the length of the hearing.

42. At the Registrar's callover, the parties are to inform the Registrar whether an application for leave to adduce fresh evidence will be made pursuant to s 18 of the *Crimes (Appeal and Review) Act 2001* (NSW). Any such application is to be made by way of Notice of Motion with a supporting affidavit.

43. Once the transcript has been provided, the parties should expect to receive a hearing date from the Registrar.

44. Unless otherwise directed, the parties are to file material for the hearing in accordance with the following timetable:

Party	Requirement
Respondent	<u>21 days</u> prior to the conviction appeal, file and serve the Appeal Bundle
Appellant	<u>14 days</u> prior to the conviction appeal, file and serve an outline of written submissions in support of the appeal with references to citations of authorities and the transcript pages to be relied upon. The outline of written submissions must clearly identify the issues in the appeal (and should not normally exceed 10 pages)
Respondent	<u>7 days</u> prior to the conviction appeal, file and serve an outline of written submissions (which should not normally exceed 10 pages)

45. Other directions may be made at the discretion of the Court when the appellant is not legally represented or where otherwise required.

46. Parties in conviction appeals should expect that the appeal will be called over in Court 3.1 at the Downing Centre on the **Thursday** before the date fixed for the hearing of the appeal at **9:30am**. The appellant is excused from appearing if legally represented.

47. Appeal hearing callovers may be conducted in-person or via AVL.

48. At the appeal hearing callover, the Court expects to be advised of any anticipated issues that might affect the hearing of the appeal.

49. At the appeal hearing callover, the parties briefed to appear at the appeal are to appear.

50. By the date fixed for the hearing of the appeal, the matter must be ready to proceed.

Non-Compliance

51. If it appears to the Court that a party has not complied with any part of this Practice Note or with any other Court direction, the Court may contact that party directly or list the matter for Mention, either on the Court's own initiative or at the request of another party.
52. Without limiting the Court's power otherwise to deal with an inexcusable failure to comply with a direction, the Court may order the non-compliant party to attend all future callovers unless excused by the Court.



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

ANNEXURE 1

ARRAIGNMENT FORM – SYDNEY DISTRICT COURT

Matter name:

Matter number:

Date:

DPP representative:

Defence representative:

Orders:

1. Trial date:
2. Trial estimate:
3. Readiness Hearing date:
4. Callover date:
5. The accused person is excused from attending both the Readiness Hearing and the callover if legally represented.
6. The Defence is to advise the DPP in writing of any edits required to the ERISP/JIRT (7 days before first callover).
7. The Crown is to serve the s 142 notice (6 weeks before Readiness Hearing).
8. The Defence is to serve the s 143 response (3 weeks before Readiness Hearing).
9. The parties are to attend a s 140 conference by (2 weeks before Readiness Hearing).
10. The Crown is to serve the s 144 notice by (1 week before Readiness Hearing).
11. The parties are to file the Key Issues Statement (1 week before Readiness Hearing).
12. DPP to serve Notices and/or any reports (date set by Court).
13. Defence to serve any reports (date set by Court).
14. Interpreter required?
15. Remote room required?
16. In custody – s 77 order for accused person to appear at trial or BTC – accused person to appear at trial.

ANNEXURE 2

SENTENCE HEARING ORDER FORM – SYDNEY DISTRICT COURT

Matter name:

Matter number:

Hearing date:

DPP representative:

Defence representative:

Orders

1. Estimate for hearing:
2. A SAR is ordered/not ordered. If ordered, the offender must attend the Community Corrections Office at (X) within 5 days from this date.
3. The SAR is to be prepared and forwarded to the Sydney Criminal Registry by (3 weeks before hearing date).
4. The DPP is to serve on the Defence and file the Crown Sentence Bundle in the Sydney Criminal Registry no later than (2 weeks before hearing date).
5. The Defence is to serve on the DPP and file in the Sydney Criminal Registry all reports, references, any other subjective material, and written submissions no later than (1 week before hearing date).
6. The DPP is to file and serve written submissions in response to Defence submissions no later than (3 days before hearing date).
7. The offender's bail is continued – to appear or a s 77 order is made for their appearance:
 - a. In-person or
 - b. Via AVL.
8. Interpreters required:
9. Other orders: