



## NEW SOUTH WALES

29 March 2021

### CHIEF MAGISTRATE'S MEMORANDUM NO. 17 COVID-19

**This memorandum replaces all previous COVID19 memoranda**

The easing of COVID 19 restrictions by government and a return to regular court operations I rescind all previous COVID19 memoranda.

In the event of travel restrictions or the increased risk of infection, nothing in the memorandum prevents an application by a party or legal representative, for consideration of an appearance by audio or audio visual link. However any request will be subject the availability of such technology and suitability of the proceedings being dealt with in this manner.

**NOTE: Nothing in the arrangements set out below prevents a physical appearance before the court, except by a defendant in custody.**

#### **Masks**

The wearing of masks by participants in court proceedings is optional. However directions may be made by the Presiding Judicial Officer if the wearing of the mask interferes with the proper hearing of the court proceedings.

#### **List matters**

In interlocutory or list matters (ie matters not listed for hearing or sentence) may be dealt with without a physical appearance as follows:

a. Where a defendant is legally represented:

The defendant's legal representative may enter an appearance, make a request (including where seeking an adjournment) and/or indicate a plea to the court **in writing/ by email.**

*Where a plea of not guilty is entered:* the court will make orders for the service of the brief of evidence if required and advise the legal representative by email.

b. Where defendant is unrepresented:

*First return date:* an unrepresented defendant may contact the court by email with a request for an adjournment and the reason for the request. Where the defendant is seeking an adjournment to obtain legal advice and/or representation, the matter should be adjourned for a period of no less than 2 weeks.

*First return date:* an unrepresented defendant may contact the court by email with a request for an adjournment and the reason for the request. Where the defendant is seeking an adjournment to obtain legal advice and/or representation, the matter should be adjourned for a period of no less than 2 weeks.

*Where seeking to enter a plea:* an unrepresented defendant may enter a plea by email or by written notice of pleading. See s182 of the Criminal Procedure Act, 1986.

## **Hearings**

As a result of a decision by government create an entitlement for a victim in criminal domestic violence proceedings to give evidence remotely the courts ability to conduct other hearings in this manner is greatly reduced.

All parties (not in custody) are to physically attend for the defendant hearing of proceedings unless an application has been made to attend and granted by the court to allow an appearance by alternate means.

## **Custody Matters**

All appearances by persons in custody are to be by Audio Visual Link (AVL), unless listed for hearing **and** an order has been made by the court to bring the defendant physically before the court.

## **Sentence Proceedings**

Except for fine only offences the physical appearance of the defendant and his or her legal representative is required at sentencing.

### **Fine Only Offences**

Subject to the availability of appropriate facilities, application may be made by the defendant and his or her legal representative to appear via Audio or Audio Visual Link for sentence proceedings for offences that only carry a monetary penalty. There is nothing that prevents the court dealing with a matter by way of fine in the absence of the accused.

## **Domestic and Personal Violence Proceedings**

The Court will **NOT REQUIRE** the attendance of the person in need of protection in respect of any application brought by police for an apprehended domestic violence order unless the proceedings are fixed for hearing.

Judge Henson, AM  
Chief Magistrate