



## SUPREME COURT PRACTICE NOTE SC EQ 12

### REAL PROPERTY LIST

#### Commencement

This Practice Note was issued on 24 August 2016 and commences on 1 September 2016.

#### Introduction

1. The objective of the Real Property List in the Equity Division (the List) and this Practice Note is to facilitate the prompt and efficient resolution of the real issues in dispute in Real Property Matters.
2. Real Property Matters are proceedings involving claims in respect of land or interests in land, including claims:
  - (a) in respect of contracts for the sale of land;
  - (b) in respect of leases of land;
  - (c) in respect of easements or covenants over land; and
  - (d) pursuant to or in relation to the provisions of statutes relating to real property including the *Real Property Act 1900* (NSW), the *Conveyancing Act 1919* (NSW), the *Crown Lands Act 1989* (NSW) and the legislation governing the creation and management of strata schemes and community schemes.
3. Real Property Matters do not include proceedings in, or to be commenced in the Possession List in the Common Law Division.
4. All proceedings in the List will be case managed by the Real Property List Judge (the List Judge).

#### Application

5. This Practice Note applies to new and existing Real Property Matters that are entered in the List.
6. The Court may, if it is satisfied that it is appropriate to do so, order that proceedings be entered in or removed from the List.

## Case Management

7. Any Summons or Statement of Claim in relation to a Real Property Matter must record on the front sheet that it is in the Real Property List. The Court encourages electronic filing of all pleadings and affidavits.
8. All Real Property Matters will be allocated a first return date before the List Judge on a Friday.
9. It is expected that on the first return date the legal representatives for the respective parties will be in a position to clearly identify the real issues that will be in dispute and to provide to the Court an agreed regime for preparing the matter for trial, including reference to mediation at a suitable time.
10. Directions hearings will be listed before the List Judge on Fridays from 9:30 am. Parties must check the published List to ascertain the time their matters are listed.
11. Interlocutory applications are not encouraged. Motions may not be filed without leave. Subject to paragraph 13, leave must be obtained from the List Judge, in which case the motion will be listed before the List Judge on a Friday at 9:15 am.
12. Any applications for substituted service, security for costs, setting aside Subpoenas or Notices to Produce may only be brought by Notice of Motion with the leave of the Registrar in Equity. If leave is granted, the Registrar in Equity will hear the application on a date allocated by the Registrar.
13. Practice Note SC Eq 5 (Expert Evidence) and Practice Note SC Eq 11 (Disclosure in the Equity Division) apply to proceedings in the List. Practice Note SC Eq 1 (Case Management) does not apply to proceedings in the List.
14. Any urgent application must be made by arrangement with the List Judge's Associate to obtain a suitable time for the hearing of the application.
15. When proceedings are listed for final hearing, the Court will generally make the Usual Order for Hearing set out in Annexure A.
16. Consent orders will be made by the List Judge in Chambers on days other than Friday by application in writing to the List Judge's Associate.
17. The List closes at 12:00 pm on Thursday. Any application to add a matter to the List or remove a matter from the List must be made prior to 12:00 pm on Thursday. Such applications are to be made in writing to the List Judge's Associate.
18. If proceedings settle prior to hearing, the orders disposing of the proceedings will be made by the List Judge (including in Chambers). Any Terms of Settlement and/or Notices of Discontinuance should be filed with the List Judge's Associate.



**T F BATHURST AC**  
*Chief Justice of New South Wales*

24 August 2016

## **Amendment History**

1 September 2016: This Practice Note replaces the previous version of SC Eq 12 that was issued 20 May 2015 and commenced on 1 June 2015.

## **Annexure A**

### **Usual Order for Hearing**

1. It is noted that the matter has been set down for hearing on the estimate for trial provided by the legal representatives for the respective parties.
2. The legal representatives must monitor the estimate for trial.
3. If the estimate for trial changes, the legal representatives must notify the trial judge (or the List Judge) within 48 hours of becoming aware of that change.
4. No later than 4 working days before the hearing date the parties are to provide to the Associate to the trial judge a paginated Court Book (and a working copy Court Book) consisting of the pleadings, the evidence, any objections thereto that are essential and an Outline of Submissions.