

PROTOCOL FOR ARRAIGNMENTS LIST

31 March 2020

Consistent with the announcement of the Chief Justice on 23 March 2020 published on the Supreme Court website, there will be no appearances in person in the arraignment list either by practitioners or the accused until further notice.

Fullerton J proposes to call through the arraignments list at 10:00 AM on Friday, 3 April 2020 utilising the available AVL technology in accordance with the procedure in s 22C(3) and (4) of the *Evidence (Audio and Audio Visual Links) Act 1998* (NSW) introduced following the passage of the COVID-19 Legislation Amendment Act 2020.

Section 22C(5) provides that the Court may direct that an “accused” and or “legal practitioner representing a party” to appear by audio or audio visual link “but only after the parties have had an opportunity to be heard”.

Any practitioner who wishes to be heard on that question should furnish a submission in writing to her Honour’s Associate and Tipstaff (and copied to the Crown) no later than midday on Thursday, 2 April 2020 setting out the basis upon which an order under s 20C(5) is resisted. The submission will be considered in chambers and the parties advised whether a direction will be made or not.

The Court is in the process of making the necessary arrangements, if possible, to have the accused that are in custody continue to appear via the established AVL system but in an audio ‘interface’ only with their legal representative in the Virtual Courtroom. That is, Fullerton J will see and hear the accused on the fixed screen in Court 9D and see and hear the accused’s legal representative(s) and the Crown via a screen on the bench dedicated to the Virtual Courtroom. The expectation is that the accused and their representative will be in audio contact only while the Court is in session.

Where an accused does not wish to appear either from custody or via the Virtual courtroom where that person is on bail, the Court should be notified by an email to her Honour’s Associate and Tipstaff, again no later than midday on Thursday, 2 April 2020.

Legal practitioners appearing in the arraignment list are to advise her Honour’s Tipstaff (jevan.griffiths@courts.nsw.gov.au) by email of their intended appearance (first initial and surname) no later than midday on Thursday, 2 April 2020.

Attached for your reference is a Fact Sheet published by the Court to assist participants in navigating the Virtual Courtroom environment.

The details to connect to Courtroom 9D are set out in the table below. Please use the web link below for video:

- Web Link (mobile devices, laptops):
<https://avl.justice.nsw.gov.au/invited.sf?id=10090887&secret=FFuZi3xxZjpYu2VxbPuWIQ>
- Telephone link: 02 8759 0887
- SIP Address (video suites): 10090887@justice.nsw.gov.au

When prompted to provide your name please include the following details:

- List number;
- First initial of given name;
- Surname;
- Party you represent – R or D

If using a web browser to connect to the Virtual Courtroom, use either the latest version of Google Chrome or Firefox.

To minimise being disconnected, avoid connecting through a wireless connection. Instead use a hard-wired Internet connection, by plugging directly into your router or modem. This should give you a faster connection with minimal disconnects.

If you are disconnected from the Virtual Courtroom, join again using the link provided. As long as the Virtual Courtroom is in progress you should be able to reconnect.

If you are disconnected from the Virtual Courtroom and receive a prompt to enter a meeting ID and passcode those details are as follows:

- meeting ID: 10090887;
- passcode: FFuZi3.

Her Honour is hopeful of being able to give practitioners a specific time allocation for the calling over of the matters in the list to avoid practitioners and an accused who is not in custody 'dialling' and 'staying on line' until their matter is called. If that proves practicable, the matters in the list will be called over in the order in which they appear on the Court List on the Supreme Court website and at the time allocated to them on the list.

Practitioners (and an accused not in custody) should ensure they have joined the Virtual Courtroom in advance of the time allocated to them to ensure when their matter is called the practitioner (and the accused) will "appear". This is particularly important when an accused is to be arraigned.

To minimise noise and feedback during the proceedings, practitioners should ensure their devices are on "mute" and cameras off until their matter is called. Devices will need to be unmuted to address the Court.

Practitioners should then announce their appearance, including first initial. For those solicitors not addressing the Court directly, both the video and audio to their device off should remain off at all times.

Your attention is also drawn to the *COVID-19 Legislation Amendment Act 2020* and the consequential amendment to s 365 of the *Criminal Procedure Act* relating to Judge alone trials. The parties are encouraged to consider whether a JAT is feasible in the circumstances of the particular trial utilising the facility of the Virtual Courtroom.

If the consent of the accused is forthcoming, then the Crown should consider its position and advise the accused and the Court without delay. Where a JAT can proceed it may be possible to allocate that trial to a trial judge for case management.

Where an accused does not consent to a JAT, the matter will not be allocated a trial date or a trial judge. The matter will remain in the arraignment list for allocation at a later date.

ooOoo