

## **Notice to Legal Profession/Prosecution about Waverley Local Court procedures from 1 December 2021 until further notice**

Waverley Local Court, from 1 December 2021, will continue to attempt to minimise people attending court in person, to protect the health of court staff, the legal profession, other court users and the community. This is due to space limitations at Waverley Local Court, and the need to implement the Government's directions for social distancing. The measures implemented are consistent with Chief Magistrate's Covid-19 Memorandum 24 (Memo 24) which should be referred to.

All defended hearings listed at Waverley will proceed from 1 December 2021 in accordance with Memo 24 and the processes below.

### **Procedures to apply from 1 December 2021**

#### Process for procedural mentions of matters:

- For legally represented – procedural mentions will continue to be heard by email appearance, with the legal practitioner and their client being excused (see below).
- For self represented parties - procedural mentions, and indication of pleas, in writing/by email will be preferred (see below). If the self represented person is required to appear in person for sentencing after the written plea is received, they will be contacted and given that opportunity on a future date.

#### Substantive matters:

Substantive matters include sentencing, s14/s32 diversionary mental health applications, and defended hearings with witnesses. These matters will require the attendance of parties and the legal representatives in person (see below). For defended hearings, applications may be made for witnesses to attend by AVL. Police officer prosecution witnesses may appear by AVL.

#### Other health and safety requirements :

- Masks will be worn indoors in the court building by all attending the court, and will be worn in the court rooms unless removal is authorised by the Magistrate.
- Social distancing will be practiced having regard to government guidelines for indoor areas. The number of attendees to the court house to be given access to the court room at any stage will continue to be monitored and restricted. Additionally parties may be required to wait outside the court house itself until called to enter, so that the indoor social distancing within the court building can be maintained.

### **Procedure for procedural mentions**

The recent practice of appearances by email/in writing for procedural mentions will continue – see procedures A and B below

### **Procedure for matters proceeding substantively**

All substantive matters proceeding – such as sentencing matters (with the exception of fine only sentence matters), s14 diversionary mental health applications, bail reviews, defended hearings – will require in person appearances of all parties, including defendants and their legal representatives. In general, the court cannot continue to hear such matters by AVL appearance given the limited technology available, and the volume of work before the court (see further below). Persons detained in custody will continue to appear by AVL, however the legal representative will be required to appear in person.

#### Procedure A - Process for mention proceedings, legally represented parties and their lawyers

- The preference for procedural mentions, is appearance by way of email, with no requirement for the defendant or legal representative to attend court. See below as to information required in the email.
- Procedural mentions include adjournments for instructions on first return date, subsequent applications for adjournment with reasons provided, brief service/reply orders, entering of plea and adjournment for sentencing assessment report, adjournment for a s14 application, entering a plea of not guilty and adjourning for hearing (with provision of available dates)
- The email notification to the court - the appearance by email - should be sent by 1pm the day prior to the listed court date to ensure the document is placed on the court file for the Magistrate's attention. The email is to provide information in the approved format as set out in the Annexure A to Memo 24 (copy attached)
- Requests for adjournments should clearly state the reason for the adjournment being sought. Please note in accordance with the Local Court Practice note there is no adjournment solely for the purpose of making representations
- Any request for a hearing date to be set, should be accompanied by a list of unavailable dates.

#### Procedure B - Process for email/written appearances for self represented parties

- Appearances by email and in writing are preferred for all procedural mentions such as adjournment requests. Reasons for requesting an adjournment should be provided.
- Written pleas of guilty/not guilty will be accepted and the self represented will be excused from attending if written pleas are provided. A written plea of not guilty must state any unavailable dates for hearing. If the person will be

required to appear in person for sentencing they will be so advised and given that opportunity at a future date.

Defended hearings, sentence matters and all substantive matters, parties and their legal representatives are to appear in person

- As stated above there will generally be no AVL appearances at Waverley for substantive matters, other than for the appearance of persons detained in custody who may appear by AVL. Witnesses in defended hearings may appear by AVL however the leave of the court and consent of the other party should be sought. Police officer witness may appear by AVL.
- If there are special reasons that appearance by AVL is sought, these should be set out in email correspondence which will be considered by the Waverley Presiding Magistrate. All correspondence about leave to appear by AVL must be received by the court by 1pm the day before the court appearance.
- While Memo 24 provides for appearance by AVL/telephone in fine only sentence matters, the limited technology and case volume at Waverley makes this difficult. Therefore in person appearances, or appearance by written plea, will be preferred in fine only sentence matters. Leave for telephone/AVL must be sought prior to the court date, and by 1pm the day before the court date at latest. Given technology and work load issues, appearances in person or by written plea will be preferred, and an application for appearance by AVL/telephone may be refused.

Magistrate Huntsman  
Co-ordinating Magistrate, Waverley Local Court