

**NOTE TO PARTIES AND PRACTITIONERS - PRELIMINARY CONFERENCES UNDER SECTION
34 OF THE LAND AND ENVIRONMENT COURT ACT 1979**

General requirements

Given the recent amendments to s 34 of the Land and Environment Court Act 1979 making conciliation conferences under that section available in all proceedings within classes 1 to 3 of the Court's jurisdiction and the recent Practice Notes encouraging parties to consider using such conferences to resolve disputes or narrow the scope of issues in dispute, it is appropriate that the Court clarify its expectations about the use of and processes involved in these conferences. The usual directions refer to these conferences as "preliminary conferences", as that is the heading to section 34 in the Act. All such conferences, however, are conciliation conferences, the purpose of which is to resolve all issues in the appeal, if possible. The parties should properly prepare for each conference with this purpose in mind. Parties should not attend any conference assuming that it is "preliminary" to the conference proper or that the conference may be adjourned due to inadequate preparation and/or instructions, as this will increase (rather than reduce) costs. The Court also expects all parties to be prepared and have sufficient instructions and authority to engage in meaningful conciliation at the conference whether or not they agree to the Commissioner resolving the dispute if consensus is not reached.

To this end, the Court will be making an additional usual direction where a preliminary conference is fixed as follows, which parties should include in their draft short minutes of order:

All parties must be prepared and have sufficient instructions and authority to engage in meaningful conciliation at the preliminary conference.

What if consensus is not reached?

The Court does not expect parties, in each and every matter, to agree to the Commissioner disposing of the proceedings if consensus is not reached. The Court encourages parties to give serious consideration to this option, as it provides a potentially quick, cost effective and proportionate option for dispute resolution. Accordingly, legal practitioners and parties should consider this option before the first directions hearing and be able to inform the Court about their respective positions. If the parties agree to this course, then they should ensure that they have available draft short minutes of order available at the directions hearing appropriate to enable the conference to proceed in the agreed manner. In appropriate matters this would include ensuring that draft conditions are available before the conference commences. It is the responsibility of the parties in the first instance to select and amend as appropriate the usual directions to achieve the agreed purpose.