



## **LOCAL COURT PRACTICE NOTE NO: 10**

**ISSUED: 25 AUGUST 2003**

**AMENDED: 20 NOVEMBER 2006**

**Re-issued pursuant to section 27 Local Court Act 2007**

**Representations for Withdrawal and Time Standards**

**for matters being dealt with Summarily**

The procedures outlined in this Practice Note are intended to facilitate the expeditious determination by a prosecuting authority of representations for the withdrawal of a prosecution and to ensure that the Court's published time standards are complied with.

### **1. The following procedures apply to matters being dealt with summarily**

In all proceedings in which the Court is informed by a party it is intended to make representations for withdrawal, before granting an adjournment for this purpose the Court is to inquire of the defendant's legal representative or of a self represented defendant whether the representations have been prepared for lodgement with the prosecuting authority. If they have not been prepared the Court is to direct that they be served in writing or electronically on the Officer in Charge. Wherever possible a copy of the representations is also to be served on the Senior Local Police Prosecutor at the Court where the case is listed.

The proceedings are then to be adjourned for a period of five weeks to allow for the completion and service of the representations upon the prosecuting authority at the location outlined in paragraph number 2 of this Practice Note.

The representations are to specify so far as is relevant the full name of the defendant, the name of the informant, the station of charging, the CAN numbers, the last and next Court dates, the Court location, the name and address of the defendant's legal representatives or the address of a self represented defendant. The prosecuting authority is to acknowledge in writing receipt of the representations. Subject to the interests of justice where there

has been a failure to abide by the Orders of the Court regarding service of representations such an option will be deemed to have been abandoned. No further adjournments for the purpose of making representations will be permitted and the accused person must indicate the relevant plea to the Court. The legal representative of the defendant or a self-represented defendant is to inform the Court in writing of the fact and date of service of the representations. A copy of the representations **is not** to be filed with the Court.

Upon the adjournment date, the Court is to be informed of the result of the representations. If the representations are still under consideration on the initial adjournment, the proceedings are to be adjourned for another three weeks. If the representations are unsuccessful, a plea of guilty or not guilty must be indicated to the Court. Where a plea of not guilty is entered, the proceedings will be listed for hearing and the Court will order service of the brief within two weeks.

Where the representations have not been resolved by the further adjourned date, no subsequent adjournment is to be granted other than for the purpose of sentence or a defended hearing unless the Court considers it in the interests of justice to do so. The attention of the parties is drawn to the provisions of Section 257F of the Criminal Procedure Act in relation to the granting of adjournments in circumstances of unreasonable conduct or delay. In view of the extended period of adjournments proceedings in which representations are unsuccessful or unresolved will be listed for hearing at a time commensurate with the Court's published Time Standards.

## **2. Place of Service of Representations**

Representations are to be served:

- (i) when the prosecuting authority is the NSW Police - at the Local Area Command or specialist command where the police informant is located and on the Senior Local Police Prosecutor of the relevant court,
- (ii) when the prosecuting authority is the New South Wales Director of Public Prosecutions [DPP] the Sydney office of the DPP for matters conducted by the Sydney office and the relevant regional office of the DPP for other matters,
- (iii) when the prosecuting authority is the Commonwealth Director of Public Prosecutions by post to Locked Bag A4020 Sydney South NSW 1235, or by DX to 11497 Sydney Downtown.

Graeme Henson  
**CHIEF MAGISTRATE**

