



## 2009 Victorian Bushfires Royal Commission

Letters Patent issued 16 February 2009

### Practice Note No. 5

#### Purpose of this document

1. This Practice Note nominates the way in which the Commission will hear the evidence of the experts retained to give evidence on a specific list of issues relevant to the land use planning and fuel management topics.

#### Part A – Facilitated Experts’ Conference

##### Conduct of the Experts’ Conference

2. The experts will convene in a private conference in order to discuss the issues raised in each of their expert reports, which will have been served on the other experts and on parties with leave to appear before the date of the conference.
3. It is anticipated that the experts’ conference will take place over the duration of one day and will take place shortly before each relevant expert panel is heard before the Commission.
4. The experts’ conference will be facilitated by an appropriately experienced person.
5. The conference will follow such procedures as are determined by the facilitator after consultation with the experts and the conference is otherwise to be informal.

##### Purpose of the Experts’ Conference

6. The purpose of the experts’ conference is for the experts to identify any areas of agreement and clarify areas of disagreement in relation to the issues raised in their reports.
7. The experts must at all times exercise independent judgment.

##### Joint Written Statement by the Experts

8. The facilitator of the experts’ conference will assist the experts to prepare a short joint written statement describing the outcome of the conference.

9. The joint statement will contain a brief summary of each of the following:
  - a) The principal issues considered by the experts at the conference;
  - b) The most important areas of agreement between them on the questions addressed in their written reports;
  - c) The most important areas of disagreement between them on the questions addressed in their written reports;
  - d) Any other statements that the experts agree may assist the Commission to consider the issues addressed in the experts' written reports.
10. At the conclusion of the experts' conference the facilitator will give the statement to Counsel Assisting, who will tender it in the Commission and arrange for it to be served on the parties granted leave to appear as soon as possible thereafter.

#### **Attendance by Parties**

11. No third parties, including media, external parties and parties with leave to appear, will be permitted to attend the experts' conference.
12. Counsel Assisting and Instructing Solicitors may attend the experts' conference to observe only.
13. The Commissioners will not be present at the experts' conference.

#### **Part B – Expert Panel**

##### **Conduct of the Expert Panel**

14. The experts will appear together as a panel before the Commission.
15. Examination (including cross-examination) of the experts will be permitted in accordance with Practice Note 1.
16. Any party with leave to appear who wishes to cross examine members of the expert panel should provide a request in writing to Counsel Assisting (in the usual form) by 4pm on the hearing day before the panel is scheduled to take place. The request need only specify that the cross examination will be directed to “members of the expert panel”.
17. Each party that is granted leave to cross examine may address questions to any or all members of the panel.
18. For clarity, the order of examination of witnesses will be as follows, subject to any further direction of the Commission:

- (i) Counsel Assisting – examination (including by cross examination) of any or all of the members of the expert panel;
  - (ii) Counsel for each of the parties granted leave to appear and leave to cross-examine – cross examination of any or all of the members of the panel (in the order agreed as between themselves);
  - (iii) Counsel Assisting – re-examination of any or all of the members of the panel.
19. It is anticipated that the expert panel will be heard for a duration of one to two days.
20. Counsel Assisting may separately call evidence from any member of the experts' panel.

The Hon Bernard Teague AO  
Chairman  
2009 Victorian Bushfires Royal Commission  
1 February 2010