

# Commission of Inquiry

## PARADISE DAM

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### Practice Guideline No.2

#### *Publication of Witness Statements, Evidentiary and other Matters and Public Hearings*

##### **Part A. Provision of Information to Commission**

1. Any person with information relevant to the Commission's Terms of Reference may submit that material in writing to the Executive Director by email to Secretary@paradisedaminquiry.qld.gov.au by 31 March 2020.
2. Where that information may require further investigation, it ought to be submitted as soon as possible and in any event before 3 March 2020.
3. The submission of any electronic documents (including witness statements and their exhibits, submissions, and all other information) to the Commission is to be in accordance with the Document Management Protocol published on the Commission's website.
4. In addition to the requirements of Part G of Practice Guideline No. 1, any person who provides a witness statement or any other document to the Commission who wishes to claim privilege over all or part of that material should contact the Executive Director by email to Secretary@paradisedaminquiry.qld.gov.au as soon as possible.

##### **Part B. Publication of Witness Statements and Evidentiary Materials**

5. Subject to any orders by the Chairperson prohibiting publication of any document or information provided to the Commission, witness statements (including attachments) and other evidentiary materials which are provided to the Commission, including documents produced on summons, will be accessible as follows:
  - (a) where the material has been lodged with the Commission but has not yet been admitted into evidence - only to persons authorised by the Chairperson;
  - (b) for witness statements (and attachments) which have been admitted into evidence at a hearing - to the public via the Commission's website;
  - (c) other evidentiary materials, including expert reports and submissions from persons (or groups of persons) having particular knowledge or expertise in the subject matter of the Terms of Reference which have been admitted into evidence at a hearing - usually to the public via the Commission's website (subject to the Chairperson's further consideration in light of the public importance and quantity of such material and any confidentiality or privilege which might properly attach to such material).

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6. At hearings conducted by the Commission (subject to the direction of the Chairperson and in addition to the requirements of Part B of Practice Guideline No. 1):
  - (a) a witness's evidence-in-chief will be given primarily by way of the witness statement (in cases in which it has been practicable to obtain such a statement) or record of interview that he or she has provided to the Commission;
  - (b) no document may be tendered in evidence other than by Counsel Assisting;
  - (c) a person who has leave to appear before the Commission will be given an opportunity to examine a witness who gives evidence-in-chief, subject to any conditions attaching to the order giving them leave to appear and any further order by the Chairperson;
  - (d) the order of examination of each witness will be at the discretion of the Chairperson, and duplication and repetition must be avoided, but a witness will usually be examined –
    - i. first, if necessary, by Counsel Assisting to supplement, correct or clarify matters arising on the face of the witness's statement or to take account of material that became available after the witness completed his or her statement or was interviewed by Commission staff;
    - ii. next, by those representing persons with leave to appear other than the witness;
    - iii. then, by those representing the witness;
    - iv. last, by Counsel Assisting;
  - (e) in the interests of order and expedition, the Chairperson may at any time impose restrictions on the issues about which a witness may be examined and the time available for examination by any other person; and
  - (f) at the completion of the examination of a witness, the witness shall, unless excused from further attendance, be taken to have been stood down only and to be subject to recall at the direction of the Commission.
7. By 5:00pm on 24 February 2020, Counsel Assisting will provide all parties or their legal representatives with a document setting out the key issues on which the Commission intends to focus during the hearings.
8. Subject to any orders the Chairperson may make, while public hearings are on foot:
  - (a) where possible, the Commission will publish regularly to the parties and/or on its website a list of the witnesses to be called to give oral evidence and the proposed dates and times of their evidence;

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- (b) the published list of witnesses will be updated regularly (and remains, therefore, subject to change);
- (c) if the witness's statement has not already been made available to the parties, the Commission will, where possible, make the witness's statement available to the persons with leave to appear at least 2 business days before the witness is called;
- (d) where possible, 4 business days before a witness is called, the Commission will give the witness or his or her legal representative notice of the Commission's area of interest and a list of the documents to which the witness may be taken to (other than those attached to or referred to in the witness's statement) and provide all other parties with an interest in such issues or documents with copies of the notice and the list;
- (e) at least 2 business days before the witness is to be called to give evidence, any person with leave to appear who wishes to cross-examine the witness must give notice to the Executive Director by email to [Secretary@paradisedaminquiry.qld.gov.au](mailto:Secretary@paradisedaminquiry.qld.gov.au) specifying –
  - i. the name of the witness proposed to be cross-examined;
  - ii. a considered estimate of the time which will be required for the cross-examination;
- (f) if the person giving a notice of proposed cross-examination anticipates showing the witness any document –
  - i. if the document has already been provided to the Commission, it must be identified in the notice;
  - ii. if the document is not already available on the Commission's website (whether as an attachment to a witness statement or otherwise), a copy of it must be provided with the notice in one of the following electronic formats:
    - Text for plain text records;
    - Fully text searchable PDF/A or PDF for formatted document type records;
    - TIFF for images such as plans;
    - JPEG 2000 or JPEG for photos;
    - MPEG4 for videos;
- (g) any person with leave to appear who wishes to have evidence adduced from a witness other than a witness proposed to be called by Counsel Assisting must give notice to the Executive Director by email to [Secretary@paradisedaminquiry.qld.gov.au](mailto:Secretary@paradisedaminquiry.qld.gov.au) accompanied by a proof of evidence from the witness.

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- Nothing in this Guideline prevents a person seeking leave to cross-examine a witness at any time during the Inquiry if something occurs during the Inquiry which leads that person to believe that his or her interests may be adversely affected.
- Any person with leave to appear who wishes to raise a procedural matter must give notice to the Executive Director by email to [Secretary@paradisedaminquiry.qld.gov.au](mailto:Secretary@paradisedaminquiry.qld.gov.au) identifying the matter, stating the outcome sought, and summarising the submissions to be advanced in support of that outcome.

### Part C. Public Hearings

#### Initial Hearing

- The Commission will hold an initial public hearing on 20 February 2020 at Court Room 4, Brisbane Magistrates Court, Level 1 363 George Street, Brisbane, Queensland.
- No witnesses will be called at the initial hearing.
- Applications for leave to appear or to be legally represented at future hearings (so far as the application has not previously been determined on the papers) will be heard.
- The Chairperson will make opening remarks.
- Senior Counsel Assisting the Commission will make opening submissions.

#### Future Hearings

- Public hearings will be held on the following dates and locations indicated in the table below:

Date	Location	Address
3 – 6 March	Supreme/District Court Room Bundaberg Courthouse	44 Quay Street, Bundaberg
9 – 13 March	Court Room 4, Level 1 Brisbane Magistrates Court	363 George Street, Brisbane
16 – 20 March	Court Room 17, Level 4 Brisbane Magistrates Court	363 George Street, Brisbane
6 – 7 April	Supreme/District Court Room Bundaberg Courthouse	44 Quay Street, Bundaberg

#### JOHN H BYRNE AO RFD

Chairperson and Commissioner  
25 February 2020