



## **CORONERS COURT OF NEW SOUTH WALES**

**General case management directions for the  
conduct of the coronial inquests/inquiries into 2019-  
2020 New South Wales Bushfire Season and related  
deaths**

**Directions Note 1 – 5 August 2021**

## **The Object of Directions Note 1:**

1. The purpose of this Note is to outline the general principles and procedures to be adopted by the State Coroner conducting the hearings into fires and fire related deaths across the 2019-2020 NSW Bushfire Season.
2. These directions are issued pursuant to section 49 of the *Coroner Act 2009*.

## **Hearing Administration**

3. Counsel Assisting is Adam Casselden SC, Donna Ward and Tracey Stevens, instructed by the Department of Communities and Justice, Legal.
4. A general opening address which touches upon all matters arising from the 2019-2020 Bushfires will be made by Counsel Assisting on Wednesday, 25 August 2021 from the Coroners Court in Lidcombe. The opening address will be streamed online.
5. Parties with sufficient interest are not expected to make any opening submissions and no evidence will be taken on this date.
6. Note current [State Coroner's COVID-19 Memorandum No 4](#) which applies in relation to the conduct of coronial proceedings at the Coroners Court at Lidcombe.
7. Details of the dates and locations for the hearing of specific inquests and inquiries will be published on the Coroner's Court website. Measures and precautions will be taken to minimise the risk of transmission of COVID-19 according to applicable NSW Government health orders and guidance.
8. Seating within the court room may be restricted but arrangements will be made for people to be able to view the proceedings online. Further details will be provided closer to the hearing dates.
9. The court will ordinarily sit Monday to Friday during the inquest/inquiry. Sitting hours will usually be from 10.00am to 1.00pm and from 2.00pm to 4.00pm.
10. Negotiations or discussions between legal representatives with Counsel Assisting or their instructing solicitors must take place outside hearing hours or during breaks.
11. Conferences between legal representatives and their clients must also be undertaken outside hearing hours or during breaks.
12. Subject to the direction of the State Coroner, Counsel Assisting will manage the order in which witnesses are called. As the hearing progresses, they will endeavour to provide reasonable notice of the proposed witness list for each day to interested persons and their legal representatives.
13. Counsel Assisting and their instructing solicitors will endeavour to minimise inconvenience to interested persons and witnesses.
14. Interested persons and witnesses who have special needs or difficulties relating to their appearances are requested to notify their legal representatives or, if not legally represented, Counsel Assisting or their instructing solicitors as soon as practicable once aware of their difficulties or needs. Legal representatives should make contact

with Counsel Assisting or their instructing solicitors as soon as practicable once notified of their clients' difficulties.

### **Leave to appear at inquest**

15. Grants of leave to appear or to be represented, except for relatives of deceased persons, are not automatic. A sufficient interest in the subject matter of the inquest must be demonstrated by an applicant seeking leave. As far as possible the State Coroner, with the advice of Counsel Assisting and their instructing solicitors, will identify persons with a sufficient interest and notify them accordingly.
16. Other persons seeking leave to appear or to be represented ought apply as soon as possible to the State Coroner by writing to the Department of Communities and Justice, Legal.

### **Witnesses**

17. All witnesses will be called by Counsel Assisting. Any person wishing to have evidence of a witness or witnesses placed before the inquest should notify Counsel Assisting or their instructing solicitors as soon as is reasonably practicable and provide a signed statement of the expected evidence, preferably in the form of an affidavit.
18. Counsel Assisting will consult the State Coroner concerning such applications and the State Coroner will determine them.

### **Examination and cross-examination of witnesses**

19. It is anticipated that examination of witnesses will be conducted in the main by Counsel Assisting with supplementary questions being asked by other legal representatives.
20. Counsel Assisting, in consultation with the State Coroner, will settle a timetable for witnesses. The State Coroner may make "stopwatch" orders in relation to each witness or categories of witness. That is, the State Coroner may indicate proposed time limits for the questioning of witnesses. If necessary, time will be extended but Counsel Assisting and the State Coroner will endeavour to keep to schedule. Legal representatives are requested to use their best endeavours to assist in maintaining the schedule.
21. Legal representatives will only be permitted to examine witnesses when their clients' interests are or may be affected by the evidence in question unless granted leave by the State Coroner.
22. If a legal representative propose to examine a witness in respect of a document, that document must first be produced to Counsel Assisting or their instructing solicitors. It is requested that it be made available as soon as reasonably practicable once the decision is made to use that document for that purpose.
23. Witnesses legally represented will first be examined by Counsel Assisting, then in an order determined by the State Coroner and finally may be re-examined by Counsel Assisting.
24. The State Coroner will seek to avoid duplication and repetition of evidence as far as possible and requests the co-operation of legal representatives on this point.

## **Media reporting and Non-publication Orders**

25. Oral and documentary evidence will generally be given in public and may be published unless an order is made to the contrary.
26. For the purpose of public reporting of the proceedings, authorised media representatives may apply for access to any document tendered in evidence by submitting a written application to the Registry, and copied to the Department of Communities and Justice, Legal. Applications may be facilitated by contacting Department of Communities and Justice, Digital, Media and Events.
27. Any person seeking a non-publication order must, as soon as is reasonably practicable, approach Counsel Assisting or their instructing solicitors to notify them of the proposed application and the reasons for it. Applications will be made in public to the State Coroner unless there are compelling reasons to the contrary.
28. The State Coroner may, of her own motion, make a non-publication order if she considers it to be in interests of justice.

## **Final submissions**

29. Persons appearing with leave are entitled to address the inquest/inquiry in relation to issues that affect their interests but are not entitled to address generally in relation to all or any issues unless given leave by the State Coroner.
30. At the conclusion of the evidence, the State Coroner, after hearing from all persons appearing at the inquest who wish to be heard on the question, will determine who will have the right to address on what issues, in what order and whether submissions will be oral and/or in writing.
31. The anticipated order of addresses is that Counsel Assisting will address first with responses to follow. Counsel Assisting may then, if necessary, address any matter raised in response by other legal representatives appearing.

## **Variations and further directions**

32. The State Coroner may vary these directions and issue further directions at any time.

## **Contact details**

33. Any enquiries in relation to these directions or enquiries generally may be directed to the Department of Communities and Justice, Legal marked attention to:

Lincoln Chee, Director  
Inquests, Inquiries & Representation  
Locked Bag 5111  
PARRAMATTA NSW 2124

Alternatively the solicitors assisting the State Coroner may be contacted by email to [bushfires.legal@justice.nsw.gov.au](mailto:bushfires.legal@justice.nsw.gov.au) or by phone to (02) 8688 0101.

34. Any media enquiries may be directed to Angus Huntsdale, Director, Digital, Media and Events by email to [localcourtmedia@courts.nsw.gov.au](mailto:localcourtmedia@courts.nsw.gov.au) or phone to 0484 012 391.