



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

**Coronial inquests/inquiries into 2019-20 New South  
Wales Bushfire Season and related deaths**

**Public Hearings – Information Paper**

## **Background**

- 1) The State Coroner of New South Wales will be conducting a series of coronial inquests and inquiries relating to the 2019-20 NSW bushfire season.
- 2) There were 11,774 fires across NSW during the 2019-20 bushfire season which ran from July 2019 until March 2020.<sup>1</sup> Twenty-five people died in relation to the fires. The immense loss this represents to their families, friends and communities is acknowledged and will be remembered during the course of these hearings.
- 3) In addition to these deaths, huge amounts of the State burnt. Large numbers of native wildlife were killed or injured, and their habitat destroyed. Also, large numbers of stock and domestic pets were also lost during the fires posing both an emotional and economic loss to some families, farms and other businesses.
- 4) The loss of life, the destruction of property and the scale of the fires has meant a number of important investigations have already taken place at a local, state and national level. These included NSW Police, NSW RFS, NSW Bushfire Inquiry (NSW Parliament), Royal Commission into Natural Disaster Arrangements and the Senate Finance and Public Administration References Committee Inquiry.
- 5) The work of the NSW Bushfire Inquiry, in particular, has been important in guiding the approach the Court proposes to take to the conduct of these hearings. The Coroner is being assisted by a team known as the Counsel Assisting team.

## **Will there be a hearing?**

- 6) The Court has neither the power nor the resources to review all of the matters that have already been addressed in great detail during the course of other inquiries. Approximately 91 fires have been referred to the Court. Each of these matters has been investigated by NSW Police and a brief of evidence prepared for the Court. The Court decides which matters will proceed to a formal hearing.

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<sup>1</sup> Report of the NSW Bushfire Inquiry, Dave Owens APM and Professor Mary O'Kane, 31 July 2020 ['the NSW Inquiry'], p.23.

- 7) The Coroner’s primary role at a coronial inquiry is to establish the cause and origin of the fire. If the cause and origin of the fire is clear, then a court hearing may not be necessary. A large number of the reported fires to the Court will likely not proceed to a court hearing for this reason.
- 8) At a coronial inquest the Coroner will determine the manner and cause of the death of the deceased. In some cases, the Coroner can also make recommendations if it is necessary or desirable. Recommendations are an important part of coronial process and can help improve public health and safety and prevent similar events from happening again. The Court will be conducting an inquest into each death in relation to a fire.

**Where and when will the hearings take place?**

- 9) The size and spread of fires across NSW mean it is not possible for the Court to travel to each of the affected communities to conduct hearings locally. The Court will, however, have some hearing days in regional locations central to some affected communities.
- 10) The public hearing will commence on **25 August 2021** at Lidcombe in Sydney. Counsel Assisting the Coroner will outline how the hearings will be conducted and what issues are expected to arise during the hearings. No evidence will be heard on this day.
- 11) At a later date, the Court will then have hearings in regional locations. A number of geographic regions have been identified within New South Wales for the regional hearings. The proposed regions are detailed in the table below. The geographic region groupings, and decisions about which fire matters within these groups are proceeding to a formal hearing, may change.

Location	Related fire events
Far Southern	<ul style="list-style-type: none"> <li>a) Adaminaby Complex Fire, Adaminaby</li> <li>b) Badja Forest Fire, Forest Road - <i>and seven related deaths</i></li> <li>c) Border ('Rockton') Fire, Timbilica</li> <li>d) Coondella Fire (Deua National Park)</li> <li>e) Dunns Road Fire, Ellerslie Range - <i>and one related death</i></li> <li>f) East Ournie Creek Fire, Ellerslie Range</li> <li>g) Green Valley, Talmalmo Fire - <i>and one related death</i></li> <li>h) Werri Berri Fire (Wadbilliga National Park)</li> </ul>
Mid Southern	<ul style="list-style-type: none"> <li>a) Charleys Forest Fire (Monga National Park)</li> <li>b) Clyde Mountain Fire</li> <li>c) Currowan Fire, Clyde Ridge Road - <i>and three related deaths</i></li> </ul>

Location	Related fire events
	<ul style="list-style-type: none"> <li>d) Morton Fire, Morton</li> <li>e) North Black Range Fire, Palerang (Tallaganda National Park)</li> <li>f) Tianjara Fire, Braidwood Road</li> </ul>
Southern	Good Good Fire, Peak View - <i>and three related deaths</i>
Central/Metro	<ul style="list-style-type: none"> <li>a) Gaspers Mountain Fire (Wollemi National Park)</li> <li>b) Green Wattle Creek Fire, Lake Burragorang - <i>and two related deaths</i></li> <li>c) Grose Valley Fire, Mount Wilson</li> <li>d) Little L Complex Fire, Laguna</li> <li>e) Palmers Oaky Fire, Upper Turon</li> <li>f) Ruined Castle Fire, Kedumba Valley</li> <li>g) Three Mile, Gunderman Fire (Dharug National Park)</li> </ul>
Lower Northern	<ul style="list-style-type: none"> <li>a) Bills Crossing, Crowdy Bay Fire - <i>and one related death</i></li> <li>b) Failford Rd, Darawank Fire</li> <li>c) Goddo's Road Fire (Nundle State Forest)</li> <li>d) Goldens Rd, Forster Fire</li> <li>e) Hillville Fire, Hillville</li> <li>f) Minimbah Fire (Aerodrome Rd, Nabic)</li> <li>g) Rumba Complex Fire, Dingo Tops Road (Tapin Tops National Park)</li> <li>h) Thunderbolts Way, Brett Fire</li> </ul>
Mid Northern	<ul style="list-style-type: none"> <li>a) Bees Nest Fire (Guy Fawkes River National Park)</li> <li>b) Carrai Creek Fire, Carrai Plateau (Oxley Wild Rivers National Park)</li> <li>c) Carrai East (Jacobs Spur) Fire, Willawarrin - <i>and one related death</i></li> <li>d) Comara Road, Retreat ('Amaroo') Fire</li> <li>e) Kangawalla Fire, Diehard - <i>and two related deaths</i></li> <li>f) Kian Road Fire, South Arm - <i>and one related death</i></li> <li>g) Liberation Trail Fire (Chaelundi National Park)</li> <li>h) Myall Creek Fire, Bora Ridge</li> <li>i) Stockyard Flat Fire, Yarrowitch - <i>and one related death</i></li> </ul>
Far Northern	<ul style="list-style-type: none"> <li>a) Busbys Flat ('Rappville') Fire, Busbys Flat</li> <li>b) Gulf Road Fire, Emmaville and Torrington</li> <li>c) Long Gully Road, Drake Fire - <i>and two related deaths</i></li> <li>d) Mount Mackenzie Road, Tenterfield Fire</li> <li>e) Mount Nardi Fire, Nimbin</li> </ul>

12) The dates and locations for the regional based hearings are being planned. Hearings for the Far Southern and Mid Southern groups of fires are the only hearings presently listed. These hearings will take place as follows:

a) Far Southern: Cooma Local Court: 6 - 17 September 2021

b) Mid Southern: Queanbeyan Local Court: 20 September – 1 October 2021.

14) The dates and locations for other regional based hearings are expected to occur during 2022. The regional based hearings is **Stage 1** of the hearings.

15) When the regional based hearings are finished, the Court will return to Lidcombe in Sydney for more hearings at a later date. These hearings will focus on selected case studies, any expert evidence and recommendations that might be required. These hearing dates are expected to take place during 2022. This is **Stage 2** of the hearings.

16) Further information about the exact dates and locations for the Stage 1 and 2 hearings will be published on the Coroner's Court website:

<https://www.coroners.nsw.gov.au/coroners-court/upcoming-inquests/nsw-bushfires.html>

17) Arrangements will also be made for all of the hearings (regardless of location) to be viewed online and details will be published on the Coroner's Court website closer to the hearing dates:

<https://www.coroners.nsw.gov.au/coroners-court/upcoming-inquests/live-streams.html>

### **What will happen in the hearings?**

18) Coronial hearings are not a trial. The purpose is to inquire into relevant events and gather information about what happened. The purpose of the proceedings is not to lay blame or to make decisions about the liability of any person or organisation because of the fires.

19) Coronial hearings are less formal than other court hearings and the Coroner can inform themselves and gather information as considered appropriate. Although formal rules of evidence do not apply, the coroner must conduct proceedings fairly.

20) The Coroner will decide which issues will be examined, and who to hear evidence from. Any person whose interests may be negatively affected by the findings of the Court will be provided the opportunity to be heard by the Court.

- 21) Evidence in the Court can be provided through documents, for example, written witness statements, investigation reports, expert reports, photographs, maps and charts and, audio and video recordings. Evidence can also be provided by witnesses during the court hearings. Only a very small number of witnesses will be called to give oral evidence or to answer questions arising from written evidence they have already provided.
- 22) The Court will determine the witnesses to give oral evidence, based upon an assessment of what evidence will best assist the Court to understand the specific issues being investigated.

### *Stage 1*

- 23) During the Stage 1 hearings, the Counsel Assisting team will start each hearing by providing a short oral submission about the background for each matter and specific issues. Some oral evidence will be taken from witnesses such as the officers in charge of the investigations and other witnesses the Court considers necessary.
- 24) Personal stories from those directly affected are important. The Court is aware some people who wish to be heard have not yet had the chance to tell their story about what they experienced during the fires. For many people, the trauma of the fires is ongoing and has been worsened by the COVID-19 pandemic and other natural disasters that have occurred since. People who wish to take up the opportunity to tell their story may provide a personal account of their individual experience during the fires to the Court through a submission process on the Court's website.
- 25) Families who wish to take the opportunity to provide a statement about their loved one will be given that opportunity to speak in Court, where possible. Families will also be able to provide their reflections in writing should they chose to do so. The Counsel Assisting team will coordinate this process with those individuals involved.
- 26) At the end of the regional hearings, findings will not be made immediately about manner and cause of death or the cause and origin of a fire. Each inquiry and inquest will be adjourned. This will allow the Court to review the evidence and issues raised in each matter and determine which issues will proceed to the Stage 2 hearing in Sydney for further review as a case study.

27) There will be an opportunity to provide a written submission to the Court on whether any particular issue or fire event should proceed to the Stage 2 hearing. Once a decision has been made by the Court, the Counsel Assisting team will provide notice to the parties involved about that hearing.

28) Matters that do not proceed to a case study hearing will be reserved and findings and written reasons will be provided by the Coroner at a later date.

### *Stage 2*

29) During the Stage 2 hearings in Sydney, the Court will focus on case studies that have been identified to show systemic issues that might need further consideration, and which have not already been addressed by the NSW Bushfire Inquiry or the Royal Commission. The Court will receive expert and other evidence, as well as consider any responses to previous recommendations.

30) At the end of evidence in each case study hearing, the Court may set a timetable for written submissions. Parties involved will be able to make submissions touching upon their issue of specific interest.

31) Once the submission process has been completed in Stage 2, each inquiry and inquest will be reserved (if not already done after Stage 1), and findings and written reasons will be provided by the Coroner at a later date.

### **How can I contribute?**

32) People who may have an interest in the hearings, for example, next of kin or those who have suffered property damage, can apply to the Coroner for approval to participate in the hearing. Parties who are granted approval to participate can be legally represented or represent themselves.

33) As stated earlier, families who wish to take the opportunity to provide a statement during the hearing about their loved one will be given that opportunity should they chose to do so. The Counsel Assisting team will coordinate this process with those individuals closer to the relevant hearing date.

34) The Court would like to hear information from those who have been directly affected and about what they experienced during the fires. Any person who wishes to take up that opportunity will be able to provide a personal account to the Court of their individual experiences during the fires. All of the information provided through this process will be reviewed. This information will be able to be provided by you through the completion of an online form available through the Court's website:

<https://www.coroners.nsw.gov.au/coroners-court/upcoming-inquests/nsw-bushfires.html>.

35) In the meantime, the Court acknowledges this process can be stressful, especially for those who have suffered a loss in relation to the fires and key witnesses. Staff from the Coronial Information and Support Program can explain the process to you and put you in contact with counselling services and other support services if needed. A list of useful contacts can be found on the Coroner's Court website:

<https://www.coroners.nsw.gov.au/coroners-court/help-and-support.html>

#### **Further enquiries**

36) Any questions should be directed to the following:

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June 2021