

## PRACTICE GUIDELINE No. 3

### Leave to Appear at Public Hearings

#### Part A - Introductory matters

1. This Practice Guideline relates to applications for leave to appear at the public hearings of the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry (**Inquiry**). It should be read in conjunction with the *Commissions of Inquiry Act 1950* (Qld) (**Act**) and the Terms of Reference (**TOR**) contained in the *Commissions of Inquiry Order (No. 2) 2025* made 1 August 2025 (**Order**).
2. The Commissioner determines who may participate in its public hearings.
3. '**Leave to appear**' is the term used when the Inquiry grants permission to a person or organisation to participate in one or more of its public hearings by allowing that person or organisation to ask questions of witnesses and make oral submissions or arguments to the Inquiry during that public hearing or hearings.
4. Leave to appear is not to be confused with attending public hearings of the Inquiry as an observer. Any person is permitted to attend and observe its public hearings.
5. This Practice Guideline is designed to facilitate applications for leave to appear at the public hearings of the Inquiry by ensuring that all persons or organisations seeking leave to appear are aware of and understand the Inquiry's procedures for applications for leave to appear and how the Inquiry will determine such applications.
6. This Practice Guideline and any future Practice Guidelines may at any time be varied, changed or replaced. The Commissioner may, at any time, dispense with compliance with this Practice Guideline if he considers it appropriate to do so, subject to the Act and Order.

#### Part B - When leave to appear is required

7. Applications for leave to appear are required where a person or organisation seeks to appear, other than as a witness, at one or more the public hearings held by the Inquiry.
8. Any person summonsed to attend as a witness before the Inquiry pursuant to section 5(1)(a) of the Act may be represented by a lawyer while that person is giving evidence without the need for leave.

### **Part C - Determining applications for leave to appear**

9. Leave to appear must be sought in writing from the Commissioner prior to a public hearing.
10. In considering whether an application for leave to appear will be granted to a person or organisation (the Applicant), the Commissioner may have regard to the following factors:
  - a. Whether the Applicant has any direct or special interest in the subject matter of the Inquiry generally, or in respect of any particular part of the TOR;
  - b. The topic or topics to be dealt with at the public hearing the subject of the request for leave to appear;
  - c. The likelihood that the Inquiry may make an adverse finding against the Applicant;
  - d. Whether, and if so how, granting leave to appear to the Applicant would materially assist the Inquiry during the public hearing or hearings over and above any written submissions the Applicant might make to the Inquiry;
  - e. If the Applicant is a natural person, the age of that person; and
  - f. Any other matter the Inquiry considers relevant.
11. An Applicant will generally satisfy the criteria for leave to appear when the Applicant:
  - a. Is the subject of a specific issue or issues the Inquiry intends to investigate at a particular public hearing or hearings;
  - b. May be the subject of an adverse finding; or
  - c. Is able to demonstrate that their participation in the public hearing will materially assist the Inquiry.

### **Part D - Scope of any leave granted**

12. Leave to appear may be sought and/or granted on a conditional or unconditional basis. An Applicant will be informed of whether leave is granted conditionally or unconditionally when the Applicant's application for leave to appear is determined, and the nature of any conditions attached to that grant of leave.
13. Leave to appear may be conditional when an Applicant's direct or special interest is limited to a specific issue or issues which will be the subject of the

Inquiry's public hearings, or as otherwise determined by the Commissioner having regard to the Applicant's application for leave to appear.

14. An Applicant granted leave to appear:
  - a. May be legally represented at the public hearings without the need for further or separate authorisation; and
  - b. is entitled to appear at, and participate in, the public hearings subject to any conditions on the grant of leave, the Commissioner's control of the public hearings and to the extent the Commissioner considers appropriate.
15. Where an Applicant is granted leave to appear, the Applicant or their legal representative may:
  - a. Apply to have evidence tendered or heard;
  - b. Apply for leave to examine or cross-examine a witness in accordance with any Practice Guideline that may be issued by the Inquiry;
  - c. Make submissions about potential findings and recommendations to the Inquiry following the conclusion of the public hearings.
16. No general, open ended right to tender evidence, examine or cross-examine will be granted to any Applicant.
17. Leave to appear before the Inquiry may, at any time, be varied or revoked by the Commissioner, or made subject to altered or additional limitations or conditions.

**Part E - Applications for leave to appear**

18. A person seeking leave to appear at public hearings should complete the form entitled 'Application for Leave to Appear' on the Inquiry's website at the appropriate time. The form should be provided to the Inquiry by email to [legal@cfmeuinquiry.qld.gov.au](mailto:legal@cfmeuinquiry.qld.gov.au).
19. The application should be accompanied by a written submission limited to 2 pages which identifies why leave to appear should be granted.
20. Leave to appear may be determined on the basis of the material contained in the application. In such cases, the Applicant will receive written notification that their application has been granted or refused.
21. Applications for leave to appear should be submitted as early as possible and otherwise be submitted at least 7 days prior to the public hearings at which leave to appear is sought.

22. Nothing in this Practice Guideline prevents a person or organisation from seeking leave to appear at any time after a public hearing has commenced, if something that has occurred during a public hearing leads them to believe that they have a proper basis to make an application for leave to appear.

**Stuart Wood AM KC**

Commissioner

18 September 2025