



Special Commission of Inquiry into the Ruby Princess

PRACTICE GUIDELINE 2

Leave to Appear at the Special Commission

Part A

This Guideline

1. This Practice Guideline (PG 2) relates to the conduct of the Special Commission of Inquiry into the Ruby Princess (**Ruby Princess Inquiry** or **Special Commission**). It should be read in conjunction with the *Special Commissions of Inquiry Act 1983* (NSW) (**Act**) and the terms of reference contained in the Letters Patent establishing the Special Commission dated 15 April 2020 and Practice Guideline 1.
2. This Practice Guideline sets out general guidance about applications for leave to appear before the Special Commission.

Part B

When leave to appear may be granted

3. Leave to appear may be granted when an applicant has a substantial and direct interest in the hearing, part of the hearing or the subject of inquiry, and will generally be granted when an applicant:
 - a. has been summonsed to give evidence;
 - b. is the subject of an inquiry to be undertaken; or
 - c. is likely to be the subject of an adverse allegation.
4. Leave to appear before the Special Commission may, at any time, be varied or withdrawn by the Commissioner, or made subject to limitations or conditions.

Part C

Process for applications

5. Hearings enable the Special Commission to inquire into, and receive evidence concerning, a particular topic falling within the terms of reference.
6. As the Special Commission determines its programme of public hearings, these will be published on its website.
7. The Special Commission's general process for applications for leave to appear is that, at the time that the scope of a hearing is published, the Special Commission will invite written applications for leave to appear from people¹ who believe that they have a substantial and direct interest in the scope of a particular public hearing.
8. Applications for leave to appear:
 - a. should be made on the form 'Application for Leave to Appear at a Hearing of the Special Commission', which will be made available on the Special Commission's website. This form should be accompanied by a short submission setting out the basis on which it is said the applicant has a substantial and direct interest. The form and the submission should be lodged with the Special Commission by emailing it to solicitors.assisting@rubyprincessinquiry.nsw.gov.au no later than five business days prior to the scheduled hearing; and
 - b. will either be determined on the papers in advance of each hearing and the outcome of the application will be communicated to the applicant, or the Commissioner may notify the applicant or the applicant's legal representative that they will be required to appear before the Special Commission on a specified date for further consideration of the application.
9. It is unlikely that the Special Commission will grant any person unconditional leave to appear. It is anticipated that most grants of leave to appear will be confined to a particular issue in respect of which the person has a substantial and direct interest and subject to conditions, such as limiting the particular topics or issues upon which the person may examine or cross-examine a witness.
10. Where a person is granted leave to appear:
 - a. the person to whom leave to appear is granted is entitled to participate in the public hearing concerning the particular inquiry, subject to the

¹ A reference to a 'person' or 'people' in this Practice Guideline includes a body politic or body corporate as well as an individual.

Commissioners' control and to such extent as the Commissioner consider appropriate;

- b. the person, or the person's legal representative, may:
 - i. apply to have evidence tendered or heard;
 - ii. apply for leave to cross-examine a witness; and
 - iii. make submissions about the findings available to the Special Commission following the relevant hearing; and
 - c. the Commissioner may determine the nature and extent of any other conditions attaching to any grant of leave taking into account all relevant considerations, including the individual circumstances of the applicant and the contents of the applicant's application for leave.
11. People who have been granted leave to appear and who wish to raise a procedural or legal matter, or wish to make a submission about the determination of their application for leave, should communicate with the Solicitors Assisting by email to solicitors.assisting@rubyprincessinquiry.nsw.gov.au, identifying the issue and providing a brief outline of the submission to be made.
 12. People who have been granted leave to appear before the Special Commission may be represented by a legal representative at a hearing without the further need for that legal representative to obtain separate authorisation.
 13. Notwithstanding paragraph 8.a), above, people may seek leave to appear at any time if something that has occurred during a public hearing leads them to believe that they may have a substantial and direct interest in the subject of inquiry.

Bret Walker
Commissioner

20 April 2020