

Subject: Expert evidence

Purpose: To provide information about providing expert evidence in writing and at Commission hearings

1.0 Introduction

Often matters heard by the Commission are supported by expert evidence in writing and at Commission hearings.

For example, a natural values assessment prepared by a suitably qualified expert may accompany a request for the rezoning of land, or a representor may engage their own expert in support of their representation or when appearing at a Commission hearing.

This Practice Note outlines the Commission's expectations for provision of expert evidence, for the assistance of parties to Commission hearings.

2.0 Statement of evidence

The cover sheet in Attachment A must be used for all statements of evidence submitted to the Commission once a matter is referred for assessment or review.

Statements of evidence from experts should document the methodology used to reach any findings or conclusions. This will vary depending on the nature of expert evidence, but may include details such as time and date of sampling, equipment used for sampling, data or documents relied upon, and the like.

This information is important, as it allows the Commission and the parties to better understand how the evidence was arrived at and whether differences in methodology may result in different outcomes.

A statement summarising the expert's relevant education, experience (including state and country and duration) and any membership affiliations or eligibility in the specialised field is also to be included.

This is not required if expert reports or written submissions already submitted to the Commission clearly describe the qualifications and experience of the authors. For example, a traffic impact assessment submitted as a requirement for a planning scheme amendment and combined permit should include sufficient information to establish the credentials of the traffic engineer.

If a party makes their own submission as an expert, a statement summarising their expertise is essential to allow the Commission to determine what weight to give to the submission. Statements of evidence must be provided to the Commission in accordance with the timeframes given in its directions. It is important to observe these timeframes to ensure that all parties and the Commission have time to consider the evidence.

Where an extension of time is required, a request should be made in writing to the Commission before the due date expires.

If no directions for further submissions are given, the parties may provide expert statements of evidence at their discretion. However, this must be provided within seven days of the hearing to allow other parties time to review the evidence and prepare their response. (Please note that the exchange of hearing documents occurs through publication on the Commission's website and same day publication is not always guaranteed.)

The tabling of further submissions after this time is not desirable and will only be permitted in particular circumstances and with the consent of the Commission.

3.0 Role of experts

The role of experts is to assist the Commission to determine matters before it. An expert witness is not an advocate for a party. An expert witness has a duty to provide independent expert advice, even though they are engaged and paid for by the parties.

An expert should not express any opinion on an issue outside the area of expertise.

4.0 Appearance at hearings

The Commission may request that experts who have provided written evidence are to appear at a hearing to be questioned about their evidence. If experts do not make themselves available, or are unable to appear, the weight to be attributed to their evidence will be based on interpretation of their written evidence, without the benefit of further clarification.

Where more than one party has an expert from the same discipline, the Commission may use a number of techniques to assist it to better understand differences of opinion. For example, it may direct the experts to confer, with or without the parties present, to compile a statement of agreed facts and opinions to minimise the time taken hearing evidence about matters that are not in dispute.

Where there is only one expert and the Commission has reservations about the adequacy of the expert's evidence, the Commission may direct a peer review of the evidence be provided by a suitably qualified expert acceptable to the Commission.

The Commission acknowledges that expert evidence is usually only required for part of the hearing and will advise the parties about the timing of expert appearances wherever this is possible. Experts may join the hearing by video or telephone.

Further information

For further information contact the Tasmanian Planning Commission:

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Sandra Hogue

Executive Commissioner

Tasmanian Planning Commission

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Attachment A: Cover sheet for statements of evidence

Statement of Evidence

- Reference:** (insert the amendment number or similar identifier)
- Author:** (insert name)
- Field of expertise:** (such as ecology, traffic engineering or Aboriginal heritage)
- Filed on behalf of:** (insert name and whether for the applicant, a representor or the planning authority)
- Date:** (date the proof was prepared)

Notes:

1. The cover sheet must be used for all statements of evidence made to the Tasmanian Planning Commission. It should not contain any illustrations, logos or the like.
2. Documents are to be in PDF format with page and paragraph numbering, and electronic indexing of each section by bookmarking.