

**EXPERTS IN THE PLANNING AND ENVIRONMENT  
COURT OF QUEENSLAND**

**HANDOUT—RACKEMANN**

**1. References**

**P&E Court** means the Planning and Environment Court of Queensland.

**UCPR's** means the Uniform Civil Procedure Rules.

**PECR's** means the Planning and Environment Court Rules.

**2. The Number of Experts**

- (a) The provisions of the UCPR's, preferring single court appointed experts, do not apply in the P&E Court (r 429E UCPR's).
- (b) Without leave, each party may call only one expert for each area of expertise (r 34 PECR's).

**3. The Duty of Experts**

- (a) An expert giving evidence has a paramount duty to assist the court, which overrides any obligation to the party or person liable for the expert's fees or expenses (r 426 UCPR's).
- (b) Each expert must be given written notice of the expert's duty (r 26(e) PECR's).
- (c) Each expert must verify, in writing, that the expert's duty has been understood and complied with (r 27(3)(a) PECR's).
- (d) No person may give and no expert may accept instructions to adopt or reject a particular opinion (r 29 PECR's).
- (e) Each expert must verify, in writing, that the expert has not received or accepted instructions to adopt or reject a particular opinion (r 31 PECR's).

**4. Notification of Experts**

- (a) Orders or directions almost invariably require an exchange of lists of experts (r 19(5)(c)(iii) PECR's).
- (b) This is generally ordered to occur, at the latest, upon the completion of disclosure.

**5. Expert Meetings and Joint Reports**

- (a) The court almost invariably orders experts to meet and produce a joint report (r 19(5)(c)(iv) PECR's).
- (b) The meetings occur before any individual trial reports are prepared.
- (c) A party must do all things reasonably necessary or expedient to ensure an expert is ready to take part fully, properly and promptly in the meeting of experts (r 26 PECR'S).
- (d) Expert meetings may be chaired by the court's ADR registrar (r 25 PECR's).
- (e) Save for the contents of the joint report, evidence is not given of what is said in the joint meetings (r 28 PECR's).
- (f) The meetings are held in the absence of the parties and their lawyers (r 22 PECR's).

- (g) The purpose of the meetings is to discuss and attempt to reach agreement about the experts' evidence.
- (h) From the time the experts begin to meet until the joint report is prepared (usually a few weeks or more) they cannot refer to, or obtain instructions from, the parties (save by a joint response to an enquiry made by the expert's jointly). This is known to as the "quarantine period" (r 27 PECR's).

## **6. ADR and Experts**

- (a) The joint opinions of the experts inform the ADR process.
- (b) Experts will ordinarily attend mediation or other court ordered ADR processes.

## **7. Trial Reports**

- (a) Individual trial reports are only prepared:
  - (i) After expert meetings and joint reports;
  - (ii) After the completion of court ordered ADR;
  - (iii) If the matter is one of the relatively few that are nevertheless proceeding to trial
- (b) Even where a matter is proceeding to trial, individual trial reports are not required. The joint report is used as the primary report at the trial (r30(2)(a)PECR's). Individual reports may also be prepared (r30(2)(b)PECR's).
- (c) An individual trial report (other than the joint report):
  - (i) Is directed to any points of disagreement in the joint report (r30(2)(b) PECR's); and
  - (ii) May not, without the leave of the court, contradict, depart from or qualify an opinion in relation to an issue the subject of agreement in the joint report and may not raise a new matter not already mentioned in the joint report (r30(3) PECR's).
  - (iii) Otherwise must follow the general requirements as to the contents of reports (r428 UCPR; r31 PECR's)

## **8. Evidence at Trial**

- (a) The court may direct that expert evidence be given consecutively, concurrently or in another way (r 19(5)(c)(xi) PECR'S).
- (b) Expert evidence is most commonly given consecutively "in blocks" (e.g. all experts in one field are cross-examined consecutively before the next "block" of experts in another field are called).
- (c) Except by leave, an expert, in examination in chief, must not repeat or expand on the matters contained in the joint report, or in the individual report or introduce any new material (r 33 PECR).