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**NSW Police Force**

18 August 2023

Mr Enzo Camporeale
 Director, Legal
 Special Commission of Inquiry into LGBTIQ hate crimes
 121 Macquarie St
 SYDNEY NSW 2000

By email: enzo.camporeale@specialcommission.nsw.gov.au

Dear Mr Camporeale

Special Commission of Inquiry into LGBTIQ hate crimes

We refer to your letter of 18 August in response to our letter of 17 August in relation to Public Hearing 2.

Provision of names and contact details

We refer to your request to be provided with the personal contact information of various individuals referred to at [79], [83] and [84] of your letter of 10 August 2023.

Our office is concerned that the voluntary disclosure of such personal information may be prohibited by the *Privacy and Personal Information Protection Act 1998* (NSW). In those circumstances, we respectfully request that the Inquiry issue a summons to the Commissioner of Police seeking production of the relevant contact information. We note that this approach has previously been taken by the Inquiry when seeking the personal contact information of other individuals.

We otherwise note the collation of this information is already well underway in anticipation of receiving such a summons.

In respect of the persons listed in those paragraphs who are current employees of the NSW Police Force (or otherwise where certain contact details are publicly available, such as in the case of Dr Danielle Tyson and Dr Philip Birch), we provide that contact information as follows:

DS Penelope Brown (on secondment to Office of the Special Investigator):

[REDACTED]

DSC Paul Rullo: [REDACTED]

Det Insp Paul Grace: [REDACTED]

Det Supt Craig Middleton: [REDACTED]

SC Cameron Bignell: [REDACTED]

DS Rowena Clancy: [REDACTED]

DSC Alicia Taylor: [REDACTED]

Dr Danielle Tyson: Danielle.tyson@deakin.edu.au; (03) 9246 8354

OFFICE OF THE GENERAL COUNSEL

[REDACTED]

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Sensitive: Legal

Dr Philip Birch: Philip.birch@uts.edu.au; (02) 9514 7673

Witness statements and representation

It is well established that it is not the role of a party to determine the steps that must be taken by an Inquiry to discharge its procedural fairness obligations or the witnesses that are required to be called in order to properly and fairly ground the factual findings proposed by Counsel Assisting. Nevertheless, on a general level, we reiterate our submissions in relation to Public Hearing 2 in that respect, along with the further observations made in our letter yesterday.

As concerns the witnesses listed at [79] of your letter of 10 August 2023, we note the “preference” expressed at [14] of Practice Guideline 1 that each party be independently represented. Furthermore, we note that a feature of the present circumstances is that extensive written submissions have already been made on behalf of the Commissioner of Police in circumstances where we do not represent the persons identified at [79] of your letter. Among other things, those submissions include a variety of observations as to, for example, steps that might appropriately have been taken in a particular but do not appear to have been. Those submissions again, were advanced on behalf of the Commissioner of Police, not on behalf of every member of the NSWPF individually, nor on behalf of any of the persons identified at [79] of your 10 August 2023 letter.

We make the following further observations regarding the persons referred to at [79] of that letter.

- a) Inquiries in relation to the identification of a witness who can speak to the matters addressed at [79](a) are ongoing and we are unable to further comment at this time;
- b) DCI Stewart Leggat is no longer a police officer. In view of the submissions made by Counsel Assisting and the submissions advanced on behalf of the Commissioner of Police, and having regard to the short period of time that has elapsed since your letter, it is not presently possible to give the Inquiry the assurance required by [14](b) of Practice Guideline 1 that no conflict of interest is anticipated;
- c) DCI John Lehmann is no longer a police officer. In view of the submissions made by Counsel Assisting and the submissions advanced on behalf of the Commissioner of Police, and having regard to the short period of time that has elapsed since your letter, it is not presently possible to give the Inquiry the assurance required by [14](b) of Practice Guideline 1 that no conflict of interest is anticipated;
- d) DCI Pamela Young is no longer a police officer. It is not possible to give the Inquiry the assurance required by [14](b) of Practice Guideline 1 that no conflict of interest is anticipated;
- e) DS Penelope Brown is a serving police officer, albeit currently on secondment to the Office of the Special Investigator. It is not possible to give the Inquiry the assurance required at [14](b) of Practice Guideline 1 that no conflict of interest is anticipated;
- f) DSC Paul Rullo is a serving police officer. It is not possible to give the Inquiry the assurance required at [14](b) of Practice Guideline 1 that no conflict of interest is anticipated;
- g) DSC Michael Chebl is no longer a police officer. It is not possible to give the Inquiry the assurance required at [14](b) of Practice Guideline 1 that no conflict of interest is anticipated;

Sensitive: Legal

- h) DCI Craig Middleton is a serving police officer. It is likely that we will seek to represent him and presently intend to provide a statement from him;
- i) DS Paul Grace is a serving police officer. We are seeking his instructions in relation to whether he agrees to be represented by us;
- j) DSC Cameron Bignell is a serving police officer. We are seeking his instructions in relation to whether he agrees to be represented by us.

We do not presently represent any of the named persons at [83] and [84] of your letter. It has not been possible, in the time allowed in your letter to speak with those persons; we are not presently able to give an assurance of the type required at of Practice Guideline 1.

We are not yet able to say whether we may be in a position to provide a statement from any of those witnesses within the required timeframe.

We reiterate the observation made in our letter of 17 August 2023 and the submissions we have previously made that various findings propounded by Counsel Assisting are not properly or fairly able to be made in the absence of evidence from the identified critical witnesses. That remains the case whether or not we are able to provide statements from the relevant witnesses. Again, we do not represent any of the persons listed at [83] and [84] of your 10 August 2023 letter. With the exception of DS Rowena Clancy and DSC Alicia Taylor, none of the specifically named persons are presently employed by the NSWPF.

Further hearing dates and submissions

Thank you for indicating that any further oral evidence in relation to Public Hearing 2 will be heard during the two weeks commencing 18 September 2023. We advise that both Senior and Junior Counsel for the Commissioner of Police are unavailable on 27 September 2023, however are otherwise available for the duration of that period. We would be grateful if that unavailability could be accommodated.

Yours sincerely



Katherine Garaty
Director
Crime Disruption & Special Inquiries Law
Office of the General Counsel
NSW Police Force