



Special Commission of Inquiry into LGBTIQ hate crimes

30 September 2023

Jonathan Milner
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Level 24, Chifley Tower
SYDNEY NSW 2000

By email: jmilner@abl.com.au

Dear Mr Milner,

Special Commission of Inquiry into LGBTIQ hate crimes

I refer to your letter of 27 September 2023, which raised various matters arising from remarks made orally by Counsel Assisting on 21 September 2023, and from statements provided to the Inquiry by Pamela Young and Emma Alberici.

Opportunity to respond

I note your contention that the remarks made by Counsel Assisting on 21 September 2023 “included criticism of Mr Wiling and/or his legal representatives.

Counsel Assisting’s introductory remarks concerned two matters only: (i) the reasons for the extension of the Inquiry’s reporting date from 30 August 2023 to 15 December 2023; and (ii) the reasons why Public Hearing 2 has been reopened.

The second matter related to contentions advanced by the NSWPF and by Mr Willing in their respective written submissions of 28 June 2023. Counsel Assisting did not reply to the substance of those contentions; rather, in those introductory remarks he outlined the general nature of those contentions, the practical steps the Inquiry has chosen to take in relation to them, and the results of those steps thus far.

It is a matter for you whether, after considering the above, you seek leave during the course of this hearing to respond to Counsel Assisting’s remarks. Any such response would not constitute an opportunity to engage with the merits of the contentions raised in Mr Willing’s written submissions. Any debate as to those matters, to the extent they may remain relevant after Public Hearing 2 concludes on Friday 6 October 2023, can be the subject of final written submissions.

Calling witnesses

I do not propose to engage in this letter with your views concerning the appropriateness of either Counsel Assisting calling additional witnesses at an earlier stage or whether or not relevant applications could or should have been made on Mr Willing’s behalf. As Counsel Assisting observed in his remarks on 21 September 2023 (at T5773) “... from a practical perspective, the Inquiry has taken the view that it would nevertheless take steps itself with a view to eliminating or at least minimising the need for such a debate”.

Special Commission of Inquiry into LGBTIQ hate crimes

It is not accepted that (as you assert in your letter) Practice Guideline 1 only permits an approach to be made to Counsel Assisting for the calling of a witness in respect of “witnesses unknown to Counsel Assisting, or whose evidence is not obviously relevant, and who would otherwise be prepared to cooperate with the relevant interested party, to provide evidence”.

Had Mr Willing or his advisers considered that any of Ms Young, Ms Brown and/or Ms Alberici should give evidence, a course available to him (even if those persons had not provided a statement at Mr Willing’s request) would have been to notify Counsel Assisting of the names of those witnesses, in the manner required by paragraph 21 of Practice Guideline 1, and to have advised Counsel Assisting that he was not able to provide statements from them.

Ms Young’s statement and ‘further information requested’

I note your observations in relation to Ms Young’s statement of 17 April 2023. This statement was not provided in response to any request by the Inquiry for a statement. Rather, Ms Young provided the statement voluntarily at the time she produced documents in response to Inquiry summonses PY2 and PY3. All eight of the documents produced by her at that time had already been produced to the Inquiry by the NSWPF and/or the ABC.

The assertion in your letter that “Counsel Assisting submitted that Mr Willing lied when he said that the 5pm call took place before the studio interview” is incorrect: see the submissions of Counsel Assisting at [430] – [435] and [436] – [451].

In view of the course that the Inquiry has taken to obtain and adduce further evidence, including from Ms Young, in due course Counsel Assisting’s submissions will be supplemented including, if appropriate, in relation to the phone conversation in issue. An opportunity will be afforded to all parties including Mr Willing to reply to those submissions.

Other Matters

At no stage did the Inquiry advise that Ms Alberici would not be called to give evidence. The list of witnesses for the September tranche of Public Hearing 2 has been the subject of ongoing revision based on a multitude of factors, including the nature of further information and evidence obtained by the Inquiry.

As to your comment that Ms Alberici has been called to give evidence at a time when Mr Willing’s counsel is unavailable – because he is on a holiday – I note that:

- the Inquiry must deliver its report by 15 December 2023, and in order to meet that requirement it had proposed (as the parties were notified) to complete Public Hearing 2 by 29 September 2023;
- the Inquiry has made every effort to accommodate the availability of Mr Willing’s preferred counsel, including by scheduling the evidence of Ms Brown and Ms Young instead for next week commencing 3 October 2023, and by arranging for Ms Alberici to be available for questioning on a second day, namely 3 October 2023, when Mr Thangaraj SC can be present.

Further, the Inquiry rejects the assertion in your letter that any “potential to contaminate” Ms Alberici’s evidence arose from her awareness of claims made by or on behalf of Mr Willing about Ms Young. The term ‘going rogue’ was expressly adopted by Mr Willing’s counsel in public oral submissions made on 21 June 2023 (T4428.4-25), in relation to whether Ms Young had authority to take the approach which she did to the interview on Lateline with Ms Alberici on 13 April 2015. Those submissions were made in public and they were livestreamed.

Special Commission of Inquiry into LGBTIQ hate crimes

Yours faithfully,



Enzo Camporeale

Director, Legal

Solicitor Assisting the Inquiry