

The Special Commission of Inquiry  
into LGBTIQ Hate Crimes

**TENDER BUNDLE HEARING OF 4 APRIL 2023**

**Concerning the death of Peter John Sheil**

*Submissions on behalf of the Commissioner of Police*

**Introductory**

1. These submissions are prepared on behalf of the Commissioner of Police by way of response to the submissions made by Counsel Assisting on 4 April 2023 in relation to the death of Peter John Sheil.
2. These submissions are provided in advance of the Commissioner's submissions in respect of the Parrabell hearings. While they necessarily touch upon some of the general matters to which those hearings relate, they do not represent a comprehensive statement of the Commissioner's position on the general Parrabell issues, which will no doubt be informed by the submissions ultimately made by Counsel Assisting. In due course, these submissions should be read with those made on behalf of the Commissioner of Police in connection with the Parrabell hearings and the other "tender bundle" cases.

**Peter John Sheil**

***Circumstances of death***

3. Mr Sheil's body was found on the rocks at Gordons Bay at around 10am on 29 April 1983.
4. Investigating police formed the opinion that Mr Sheil had fallen from a rocky outcrop, which was described as having a "highly slippery" surface.<sup>1</sup> He suffered a number of serious injuries as a result of the fall and died as a result.<sup>2</sup>

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<sup>1</sup> Statement of William Strange (SOI.11037.00011).

<sup>2</sup> Autopsy Report of Dr Colin Goldschmidt dated 3 June 1983 (SCOI.11037.00004).

***Initial police investigations***

5. Counsel Assisting levels a number of criticisms at the original police investigators. Those criticisms do not afford sufficient weight to a number of matters of fundamental importance.
  - a) First, the Coroner dispensed with an inquest on 1 September 1983.<sup>3</sup> The fact that the Coroner dispensed with the inquest, without directing that further investigations be undertaken, is a clear indication that the police investigation was regarded as sufficient.
  - b) Second, Mr Sheil's death and the associated police investigation occurred 40 years ago. The adequacy of investigation into his death and the management of related exhibits should not be assessed by reference to modern investigative standards.
  - c) Third, the Inquiry has not received evidence from the investigating officers, nor any of their contemporaries. In those circumstances, the Inquiry could not fairly conclude that the investigation was inadequate.
6. As for the particular criticisms made by Counsel Assisting (CA, [16] – [25]), some further observations should be made.
7. On the one hand, Counsel Assisting asserts that the investigation into Mr Sheil's death concluded within a week (CA, [16]), yet on the other, concern is raised in relation to the fact that some key witnesses did not provide statements until more than a month after the investigation (CA, [22]). Setting aside the difficulty in reconciling those observations, the fact that an investigation concluded relatively quickly cannot, without more, be regarded as a foundation for a finding that it was deficient. Moreover, there may be any number of explanations as to why a statement was not formally taken until some time after an event; various factors, including the availability of the relevant witnesses, may have explained that delay.
8. It is clear that investigating officers had contact with Mr Sheil's family and obtained some information from them. It does not necessarily follow from the fact that Mr Sheil's mother did not provide a formal statement to police that there was "no attempt" to obtain information from her (cf CA, [19]).

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<sup>3</sup> Coroners Court summary sheet dated 1 September 1983 (SCOI.11037.00002).

9. The statement of the Officer-in-Charge is not as detailed as would be expected in modern times; as a general proposition, expectations in relation to the length and detail included in statements (and documentation in general) have shifted substantially in the intervening 40 years, with the advent of widely available computer systems and word processing software. In the absence of evidence from the relevant officer it cannot, for example, be assumed that his statement provides a comprehensive accounting of all of the investigative steps he undertook.
10. Counsel Assisting also relies on statements made by Mr Sheil's brother in various media articles about his perceptions of the adequacy of the police investigations (CA, [19], [43] and [70]). However, it is submitted little weight can be attributed to these untested second-hand hearsay observations: No statements have been obtained from Mr Sheil's siblings, and they have not been called to give evidence.

***Was the death LGBTIQ-hate motivated?***

*The circumstances of the death*

11. Mr Sheil was not a member of the LGBTIQ community.
12. Counsel Assisting submits that "As Mr Sheil's last known movements involved walking home via a coastal track that included and/or passed by a beat, it is possible that he was presumed to be gay and attacked for that reason" (CA, [10]).
13. There is, as noted by Counsel Assisting, evidence that the coastal path between Coogee and Clovelly operated as a beat in the 1960s – 1980s. However, there is nothing to indicate what proportion of the persons walking the path used it to seek sexual or romantic connection. No doubt the path was, as it is today, popular with residents moving from place to place in the eastern beaches, and with persons simply seeking to walk in a picturesque coastal locale.
14. While it is theoretically possible that Mr Sheil's death was occasioned in the manner suggested as a possibility by Counsel Assisting, the status of that possibility should not be unduly elevated by speculation driven almost entirely by the fact that Mr Sheil was present in a location that at times served as a beat. This is all the more so when the relevant location was a popular coastal walking track (given that it is likely that only a small proportion of the persons walking the path were doing so for the purposes of finding sexual partners).

15. As noted by Counsel Assisting, Mr Sheil's death occurred several kilometres from the Bondi-Marks park area and occurred some six years before the disappearance of Ross Warren and the death of John Russell and seven years before the murder of Kritchikorn Rattanjurathaporn (CA, [81]).
16. It is accepted that the opinion expressed by Officer-in-Charge that Mr Sheil was masturbating immediately prior to his death appears to have been relatively speculative (see CA, [64] – [67]). Constable Strange is understood to be deceased, and the basis for his opinion has not been explored with him.
17. In assessing the likelihood of the various possibilities surrounding Mr Sheil's death, it should be recalled that he appears to have been suffering from a very significant mental illness, and his behaviour might not have accorded with conventional expectations (cf CA, [66]).
18. Correspondence from the Prince of Wales Hospital to the Coroner dated 2 June 1983 indicated that Mr Sheil had been admitted to the Prince of Wales Hospital on more than 12 occasions in the three years prior to his death "with depression and hypermania".<sup>4</sup> That correspondence stated that Mr Sheil "was thought to have manic depressive illness or possibly schizoaffective psychosis", before going on to say:

"Even at his best, Peter had severe lack of motivation, anergia and complained that he couldn't do much. He occasionally had fleeting suicidal idealea but he denied any serious intent".<sup>5</sup>
19. It might be regarded as somewhat unusual for a person to have deviated from the coastal track after dark (in particular if that deviation was for the purposes of masturbation) (CA, [66]). The fact that Mr Sheil was prone to "hypermania" and potentially suffered from a psychotic mental illness, however, undoubtedly increased the likelihood of his behaviour departing from conventional expectations. Such a departure might well have included a decision to deliberately walk along the rocks at the edge of the cliff above where his body was found.
20. There are a variety of possible explanations for the apparent disturbance to Mr Sheil's clothing (the precise state of which, unfortunately, cannot be ascertained on the basis of

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<sup>4</sup> See Letter of 2 June 1983 from C Rikard-Bell to the Coroner (SCOI.11037.00007).

<sup>5</sup> Letter of 2 June 1983 from C Rikard-Bell to the Coroner (SCOI.11037.00007).



the available evidence). One possible explanation is that Mr Sheil's psychological state was such that he was not concerned with the dishevelled state of his clothing (if, indeed, the state of his clothing following his fall reflected the position it was in before he fell<sup>6</sup>).

21. Finally, Mr Sheil's depressive and psychotic illness, together with the other circumstances surrounding his death, raises the possibility that he jumped deliberately from the cliffs (either in an attempt to die by suicide, or for some other reason associated with a psychotic episode). As concerns suicide, it is to be noted that there were no outward signs that Mr Sheil was considering such a step immediately prior to his death. That, of course, could not rule out the possibility that he took his life. Similarly, it appears that there were cliffs nearby of a greater height that would have presented a more "logical" location for a person seeking to end their life (CA, [77](e)). Of course, if Mr Sheil's state of mind was such that he was driven to suicide, he may well not have carefully considered the heights of different cliff tops.
22. The possibility that Mr Sheil's death was a homicide cannot be ruled out. Indeed, as will be considered below, that possibility was left open by SF Parrabell. However, in the absence of any positive indications of homicide, and having regard to: the treacherous ground above where his body was found; the evidence as to Mr Sheil's severe mental illness; the timing and location of Mr Sheil's death relative to other possible gay-hate homicides; and the infrequency of homicide generally, homicide is probably the least likely of the possible causes of Mr Sheil's death.

*SF Parrabell review*

23. Strike Force Parrabell (and the academic reviewers) concluded that there was insufficient information to allow a determination as to whether Mr Sheil's death was the product of LGBTIQ bias. This conclusion was appropriate. Counsel Assisting submits that the same conclusion should be reached by the Inquiry (CA, [79]. [83]).
24. An investigator's note prepared by Constable Borg on 13 October 2016 includes the following:

"Ann LAMBINO, the registrar at the New South Wales Coroner's Court informed there was material from the NSW State Coroners available at the government

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<sup>6</sup> Noting, in this respect, Dr Iles view that Mr Sheil likely "tumbled" in his final position: Expert report of Dr Linda Iles received 24 March 2023, 5 (SCOI.45162), p. 9.

records repository, Kingswood. The documents related to the inquest of SHEIL 123/83 on the 1 September 1983, Goldschmid was the Coroner. These documents according to the Registrar are contained in GRR Reference number K312020. Kathleen ANSETT from the Government Records Repository advised the documents for SHEIL were not in the box and they are unable to be located. Further checks were completed by LAMBINO however the details of where the records should be located reveal they are not in the correct place therefore being unable to find documentation on SHEIL.”<sup>7</sup>

25. The above note makes clear that police sought information both from the Coroner’s Court directly (i.e. via the Registrar on two separate occasions), and from government archives. No documents were able to be located in response to these requests.
26. Counsel Assisting nevertheless appears critical of the fact that SF Parrabell attempted to consider the case at all (CA, [29]). There may have been some force to such a criticism had a conclusion other than “insufficient information” been reached.
27. As it stands, the criticism is difficult to comprehend; Counsel Assisting appears to be suggesting that, given the lack of information, SF Parrabell should have conducted some form of reinvestigation outside SF Parrabell’s terms of reference or, in the absence of such a reinvestigation, simply have ignored the death.
28. As to the first of these possibilities, questions as to whether reinvestigation was appropriate are best canvassed in the context of SF Parrabell more generally. For present purposes, it is sufficient to note that even were a select group of cases to be subject to reinvestigation as part of SF Parrabell, it is very unlikely that Mr Sheil’s death would have been a good candidate, having regard to the paucity of information and the fact that the death was probably not a homicide. As to the second possibility, an approach that involved SF Parrabell excluding or ignoring the death would undoubtedly have resulted in police being criticised for failing to consider the matter. Again, in circumstances where the conclusion reached was that the case fell in the “insufficient information category”, the suggestion that police should be criticised for including the case in SF Parrabell’s review is difficult to understand and should not be accepted.

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<sup>7</sup> See SCOI.74347\_0002.

***Findings and recommendations***

29. It is perhaps open to the Inquiry to find that Mr Sheil more likely than not died in a narrower time window following 8pm on 27 April 1983 than is proposed in Counsel Assisting's submissions (i.e. the 38 hour period between 8pm on 27 April 1983 when Mr Sheil last spoke with another person and the time at which his body was located). The available evidence, however, would not allow the time of death to be identified with any real precision.
30. Otherwise, the Commissioner of Police does not dispute the appropriateness of Counsel Assisting's proposed formulation regarding the manner and cause of Mr Sheil's death (CA, [84]), nor the recommendation proposed at CA [85].



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