



## Special Commission of Inquiry into LGBTIQ hate crimes

15 December 2022

Dr Linda Iles  
Victorian Institute of Forensic Medicine  
65 Kavanagh Street  
SOUTHBANK VIC 3006

By email: [REDACTED]

Dear Dr Iles,

### **Special Commission of Inquiry into LGBTIQ hate crimes: Review of material regarding William Antony Rooney**

I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”). Meg O’Brien, of counsel, and Elizabeth Blomfield, solicitor, are assisting his Honour in his consideration of the death of William Antony Rooney (“Mr Rooney”). Thank you for your willingness to provide an expert report to the Inquiry from the perspective of a forensic pathologist.

#### **The Inquiry**

By way of background, on 13 April 2022 the Governor of NSW, by Letters Patent, issued a commission to his Honour to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require his Honour to inquire into and report to the Governor and Premier on the following matters by 30 June 2023:

- A. The manner and cause of death in all cases that remain unsolved from the 88 deaths or suspected deaths of men potentially motivated by gay hate bias that were considered by Strike Force Parrabell; and
- B. The manner and cause of death in all unsolved suspected hate crime deaths in New South Wales that occurred between 1970 and 2010 where:
  - i. The victim was a member of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community; and
  - ii. The death was the subject of a previous investigation by the NSW Police Force.

#### **Request for expert opinion**

Mr Rooney’s death is one of the unsolved deaths which his Honour is inquiring into pursuant to item A of the Letters Patent. On 14 February 1986, Mr Rooney was found unconscious, lying at the rear of a store in Crown Lane, Wollongong. He was conveyed to Wollongong Hospital on the same day and declared life extinct on 20 February 1985 following brain death. Coroner Warwick Graeme Soden found on 15 May 1987 that Mr Rooney

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“on 20<sup>th</sup> February 1985 at Wollongong Hospital died of the effects of head injuries sustained on 14<sup>th</sup> February 1986”.

By this letter, you are briefed to prepare a written report in relation to Mr Rooney’s death to assist the Inquiry. It is requested that you provide your report no later than **31 January 2023**. In the event that you require further time to prepare your report, please advise Ms Blomfield as soon as possible.

### Background

To assist you in the preparation of your report, you are provided with the following background information in relation to Mr Rooney. This information is provided by way of summary only and should not be treated as a comprehensive record or a substitute for your own review of the materials.

1. Mr Rooney was born on 24 May 1950. He died on 20 February 1986, following head injuries sustained on 14 February 1986.
2. At the time of his death, Mr Rooney had been in a de-facto relationship with his partner, Mr Wayne Davis, since 1982.
3. On 13 February 1986, Mr Rooney was at the Tattersall Hotel in Wollongong with Mr Wayne Herbert Davis between 6:15pm to approximately 9-10pm. During this period, they had about six schooners of Fosters lager.
4. Mr Davis left after this period to a friend’s place in Keiraville. Mr Rooney told Mr Davis that he was going to go to Annabel’s nightclub to say hello to “Murray”.
5. At the time Mr Davis left Mr Rooney, he observed Mr Rooney to be in extremely good spirits and not overly effected by liquor. Mr Davis noted that Mr Rooney drinks “quite a bit” and “can hold his liquor well”.
6. Mr Rooney’s movements between 10pm on 13 February 1986 and 8:40am on 14 February 1986 are not entirely clear.

### *Discovery on 14 February 1986*

7. At around 8:40am on 14 February 1986, Harvey Thomas Finch, the manager of the L & B Discounts Store situated at 250 Crown Street, Wollongong, went to the rear of the store to open the gate. Upon opening the gate, Mr Finch observed Mr Rooney lying on the ground, wedged between the toilet block and the wall. A large amount of blood was around Mr Rooney’s face and head, and blood was coming from his mouth, nose and left ear. Mr Finch called an ambulance immediately after finding Mr Rooney.
8. Ambulance officers Terrence William Morrow and Annette Robyn Lavender attended the scene at around 8:53am, being told that a person had reportedly “fallen off a roof”. On arrival, they observed Rooney lying approximately three metres between a dwelling and a wall at the base of steps. Ms Lavender observed that Mr Rooney’s right leg was wedged under the down pipe of the toilet.
9. Mr Rooney was wearing blue jeans and a blue collared t-shirt. His pants were partially lowered with the button and fly undone. He was unconscious and observed to be restless and disorientated, and only responded to stimuli.

### *Hospitalisation and subsequent death*

10. Mr Rooney was conveyed to Wollongong Hospital by ambulance shortly after.
11. Between 7 and 8am on 19 February 1986, Mr Rooney’s responses decreased. Following discussion between Dr Mason Phillip and Dr Peter Moloney, Mr Rooney was formally evaluated as brain dead

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between 1 and 2:30pm on 20 February 1986. His ventilator support was then terminated, and Mr Rooney was declared life extinct at 2:35pm.

### *Post-mortem investigations*

12. A post-mortem examination was carried out by Dr Vincent Verzosa at 10:15am on 21 February 1986.
13. The direct cause of death was determined to be massive subdural cerebral haemorrhage and intracardiac thrombus. Antecedent causes of death were torn meningeal vessels and basal skull fractures, most probably due to a fall, with the back of the head hitting a hard surface.
14. There were several other injuries, including skull fractures, diffuse haematoma on his scalp, and abrasions and contusions on some extremities.
15. At the coronial inquest, Dr Verzosa opined that it was unlikely that the injuries to Mr Rooney's head were caused by being struck with an object to the back of the head.

### **Material with which you are briefed**

For the purpose of preparing your report, you are briefed with the documents in the enclosed index. The material contained in the index has been extracted from the NSWPF investigation file and the court file from the Coroners Court of NSW.

If there is any additional material that you consider would be of use to you in forming your opinion, please contact Ms Blomfield and this material will be provided to you (if available).

### **Matters to be addressed in your report**

I would be grateful if you could address the following matters in your report, having regard to the material with which you are briefed and to the extent that they are matters which fall within your expertise:

1. The adequacy of the post-mortem investigations conducted with respect to Mr Rooney;
2. The nature of Mr Rooney's injuries;

Without limiting the matters which you may consider relevant to this question, please outline your views regarding:

- a. Whether Mr Rooney's injuries are consistent with an accidental fall from three metres;
  - b. Whether Mr Rooney's injuries are consistent with having been pushed off a three-metre platform (i.e. was there a degree of force involved in a fall);
  - c. Whether Mr Rooney's injuries are consistent with having been hit by an object;
  - d. Whether you agree with the opinion of Dr Verzosa that "battering of the head with hard instruments, whether wood or metal" usually splits open the skin with the fracturing of the skull.
3. To the extent that there are inconsistencies in the conclusions drawn by Drs Versoza and Ramsay, whose conclusions should be preferred and why;
  4. Any recommendations for further investigations with respect to determining the manner and cause of Mr Rooney's death;
  5. Please provide any other comment, within your expertise, which you consider to be relevant to the manner and cause of Mr Rooney's death.

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The above questions are not intended to be exhaustive. Accordingly, if there is any matter arising from the circumstances of Mr Rooney's death within your area of expertise on which you wish to express an opinion and which will be of assistance to his Honour, please do so.

I also request that you please attach a detailed curriculum vitae to your report.

### Expert Code of Conduct

I **enclose** a copy of the Expert Code of Conduct and ask that you read it carefully. In the report you should acknowledge that you have read the Code and agree to be bound by it. I suggest the following form of words be included in the body of your report:

"I, Dr Linda Iles, acknowledge for the purpose of Rule 31.23 of the Uniform Civil Procedure Rules 2005 that I have read the Expert Witness Code of Conduct in Schedule 7 to the said rules and agree to be bound by it."

### Conclusion

Please do not hesitate to contact Ms Blomfield at [Elizabeth.Blomfield@specialcommission.nsw.gov.au](mailto:Elizabeth.Blomfield@specialcommission.nsw.gov.au) if you have any queries in relation to this matter.

Yours faithfully,

*E. Blomfield*

Elizabeth Blomfield  
Senior Solicitor

**Solicitor Assisting the Inquiry**

Encl. (1)



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# Uniform Civil Procedure Rules 2005

Current version for 1 December 2021 to date (accessed 5 October 2022 at 10:00)

## Schedule 7

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### Schedule 7 Expert witness code of conduct

(Rule 31.23)

#### 1 Application of code

This code of conduct applies to any expert witness engaged or appointed—

- (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings, or
- (b) to give opinion evidence in proceedings or proposed proceedings.

#### 2 General duties to the Court

An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the court impartially on matters relevant to the area of expertise of the witness.

#### 3 Content of report

Every report prepared by an expert witness for use in court must clearly state the opinion or opinions of the expert and must state, specify or provide—

- (a) the name and address of the expert, and
- (b) an acknowledgement that the expert has read this code and agrees to be bound by it, and
- (c) the qualifications of the expert to prepare the report, and
- (d) the assumptions and material facts on which each opinion expressed in the report is based (a letter of instructions may be annexed), and
- (e) the reasons for and any literature or other materials utilised in support of each such opinion, and
- (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise, and
- (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications, and
- (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person, and
- (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the knowledge of the expert, been withheld from the court, and

- (j) any qualification of an opinion expressed in the report without which the report is or may be incomplete or inaccurate, and
- (k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason, and
- (l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

#### **4 Supplementary report following change of opinion**

- (1) Where an expert witness has provided to a party (or that party's legal representative) a report for use in court, and the expert thereafter changes his or her opinion on a material matter, the expert must forthwith provide to the party (or that party's legal representative) a supplementary report which must state, specify or provide the information referred to in clause 3(a), (d), (e), (g), (h), (i), (j), (k) and (l), and if applicable, clause 3(f).
- (2) In any subsequent report (whether prepared in accordance with subclause (1) or not), the expert may refer to material contained in the earlier report without repeating it.

#### **5 Duty to comply with the court's directions**

If directed to do so by the court, an expert witness must—

- (a) confer with any other expert witness, and
- (b) provide the court with a joint report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing, and
- (c) abide in a timely way by any direction of the court.

#### **6 Conferences of experts**

Each expert witness must—

- (a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the court and in relation to each report thereafter provided, and must not act on any instruction or request to withhold or avoid agreement, and
- (b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.