



Special Commission of Inquiry into LGBTIQ hate crimes

SUPPLEMENTARY SUBMISSIONS OF COUNSEL ASSISTING

28 July 2023

IN THE MATTER OF KENNETH BRENNAN

Introduction

1. These submissions are filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**). These submissions supplement the written submissions filed on behalf of Counsel Assisting the Inquiry on 23 June 2023.
2. This matter was the subject of a hearing by way of documentary tender on 23 June 2023.

Further material from NSW Police Force (NSWPF)

3. On 21 June 2023, the Inquiry received further material in relation to Mr Brennan's death in response to summons NSWPF1, which was issued on 18 May 2022.¹

Information Report

4. That further material included an Information Report Summary dated 16 July 2002 which detailed four folders and one calendar "pertaining to the supposed murder of the resident's former lover" located at NP215 residence in Summer Hill on 16 July 2002, and subsequently collected and photographed by the NSWPF.² This Information Report Summary had not previously been produced to the Inquiry.

¹ Exhibit 37, Tab 189, Letter from Office of the General Counsel, NSW Police Force to the Solicitor Assisting the Inquiry, re: Summons NSWPF1, 21 June 2023 (SCOI.84870).

² Exhibit 37, Tab 191, Information Report Summary – I14943773 – Property found re; possible murder, 25 July 2002 (NPL.0131.0001.1139).

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5. On 22 June 2023, the Inquiry issued a summons to produce to NSWPF (summons NSWPF138) seeking any photographs of, or other documents or records in relation to, the property collected from **NP215** residence.³
6. On 25 June 2023, the Inquiry received six photographs in response to summons NSWPF138.⁴ These photographs depict what appears to be folders of sympathy cards in relation to Mr Brennan's death. The NSWPF did not photograph the contents of the folders. The NSWPF advised that no further records relating to the property had been located.⁵

Email Correspondence from DSC Jeroen Huisman to DSC Lyle Van Leeuwen

7. The further material produced to the Inquiry on 21 June 2023 also included some email correspondence between DSC Jeroen Huisman of State Crime Command and DSC Lyle Van Leeuwen dated between 6 August 2004 and 9 August 2004. This correspondence appears to have been connected to the review of Mr Brennan's matter by the Unsolved Homicide Review Team in 2004.⁶ In the correspondence, DSC Huisman requests DSC Van Leeuwen's assistance in identifying the location of the physical exhibits for the purpose for confirming whether they have been forensically examined. In addition, in an email dated 9 August 2004, DSC Huisman asked DSC Van Leeuwen the following questions:
 - a. Where is the condom wrapper on right bedside table?
 - b. Was the glass on the right bedside table tested for fingerprints?
 - c. Was the Trojan condom packaging (and paper bag) subject tested for fingerprints/DNA?
 - d. Was a fingerprint identified on a champagne glass, and if so, was the fingerprint placed on the relevant database?⁷
8. No material has been produced to the Inquiry that documents a reply from DSC Van Leeuwen to these questions, although it is possible that DSC Huisman and DSC Van Leeuwen later discussed these issues in person or by telephone. Counsel Assisting notes that an additional (undated) version of the 'Review

³ Exhibit 37, Tab 195, Letter from Solicitor Assisting the Inquiry to Office of the General Counsel, NSW Police Force re: Summons to produce documents, 22 June 2023 (SCOI.84226); Exhibit 37, Tab 195A, Summons to produce to NSW Police Force (NSWPF138), 22 June 2023 (SCOI.84225).

⁴ Exhibit 37, Tab 196A, Photographs of property (x6), 25 June 2023 (NPL.0189.0001.0001-0006).

⁵ Exhibit 37, Tab 196, Letter from Office of the General Counsel, NSW Police Force, to the Solicitor Assisting the Inquiry, re: Summons NSWPF138, 22 June 2023 (SCOI.84224).

⁶ The Written Submissions of Counsel Assisting filed on 23 June 2023 made reference to an unsigned form entitled 'Review of an Unsolved Homicide Case Screening Form' dated 6 August 2004, which was produced in the original material provided by NSWPF (SCOI.44995).

⁷ Exhibit 37, Tab 193, Email from DSC Jeroen Huisman to DSC Lyle Van Leeuwen, 6 August–9 August 2004 (NPL.0131.0001.1154).

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of an Unsolved Homicide Case Screening Form' was also produced in the supplementary material. This new version includes handwritten comments in the 'Status' column of the table entitled 'Exhibits located' that may indicate that previous testing of the two 'Mates' condom wrappers, the 'Strepsil' packet, and the cardboard carving packet/plastic sheath obtained from the crime scene produced no fingerprints.⁸

Comments on the further NSWPF material

9. It is regrettable that this further material was produced to the Inquiry at such a late stage of proceedings. As referred to above at [3], this material ought to have been produced in response to the summons NSWPF1, which was issued on 18 May 2022 and returnable on 1 June 2022.
10. Nevertheless, Counsel Assisting submits that the receipt of the material referred to at [3]-[8] above does not change their submissions dated 23 June 2023 as to the manner and cause of Mr Brennan's death. Noting the NSWPF did not take photographs of or produce any notes of the contents of the material located at NP215 residence (referred to above at [4]-[6]), Counsel Assisting is unable to submit as to the relevance of that material in relation to NP215 possible involvement in Mr Brennan's death.

Claire Palmer

Counsel Assisting

⁸ Exhibit 37, Tab 194, Additional Review of an Unsolved Homicide Case Screening Form, undated, 5 (NPL.0131.0001.1159).