



Special Commission of Inquiry into LGBTIQ hate crimes

SUBMISSIONS OF COUNSEL ASSISTING

26 June 2023

IN THE MATTER OF BARRY JONES

Introduction

1. These submissions are filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**).

Summary of matter

Date and location of death

2. Barry Jones died on 26 September 1976 at the grandstand in Five Dock Park, Five Dock, some time after 10:00pm. He was 41 years old (DOB: 22 May 1935).

Circumstances of death

3. Mr Jones lived at ■ Walker Avenue, Haberfield with his cousin, Kenneth Grant, and Mr Grant's de facto partner, Carol Grant. He worked as a labourer for Drummoyne Municipal Council.¹ He appears to have spent most of his time outside of work drinking and socialising at pubs and clubs in the Five Dock area, where he was well known by other "locals".
4. On Sunday, 26 September 1976, Mr Jones left home at about 10:00am, having told Mr Grant that he was going to the local bowling club for a drink, and suggesting that Mr Grant join him. Mr Grant did not join Mr Jones there, but did meet up with him later in the day: see below.²
5. Mr Jones arrived at the Five Dock Bowling Club ("the Bowling Club") sometime before midday, where he drank with a local couple who he knew, Elizabeth (Lil) Adair and Robert (Bob) Adair. As a result of a

¹ Statement of Kenneth Grant, 27 September 1976, 1 (SCOI.10495.00023).

² Statement of Kenneth Grant, 27 September 1976, 2 (SCOI.10495.00023).

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past incident Mr Jones was on a curfew at the Bowling Club – he was required to leave before 2:00pm.³

Mr Jones left the Bowling Club at around that time.⁴

6. After leaving the Bowling Club, Mr Jones went to the Western Suburbs Soccer Club (“the Soccer Club”). Between 3:00pm and 3:30pm, Mr Grant met Mr Jones in the foyer of the Soccer Club. They went to the lounge and sat with Jimmy Briggs, a friend of Mr Jones. Mr Grant stayed with them for about half an hour, before leaving at about 3:30pm.⁵
7. There are very different accounts as to when Mr Jones left the Soccer Club that evening. These are considered at [149]-[156] below.
8. Whatever time he left the Soccer Club, Mr Jones ended up in the vicinity of the grandstand in Five Dock Park, most likely sometime between 10pm and midnight. The grandstand was (and is) in an open park and could be accessed by any person, day or night.
9. At around 7:15-7:20am the following morning (Monday 27 September 1976), the body of Mr Jones was found at the top of the grandstand in Five Dock Park by Aldo Zajc, a gardener employed by Drummoynes Municipal Council. Mr Zajc reported the matter to Five Dock Police Station.⁶
10. Mr Jones had been stabbed at least 53 times in the back, the underside of the left arm, the right side of his chest, and the stomach area. In addition, one wound in the left side of his chest measured 14cm by 10cm and had been caused by further repeated knife blows. Mr Jones also suffered cuts to his throat.⁷
11. A knife was found sticking out of Mr Jones’ chest, with the blade driven fully into his body. The knife was distinctive – it was a Black Eagle hunting knife with a 5-inch blade, and a 5-inch black handle made of buffalo horn. The handle was carved into the shape of a hoof.⁸
12. Mr Jones was fully dressed when he was found. He was wearing black shoes, fawn socks, fawn trousers, a belt, white underpants, a yellow t-shirt, blue shirt, red jumper and a grey cardigan. He had a watch on his left wrist and had \$2.26 in coins on his person.⁹

³ Statement of Detective Sergeant Donald McCusker, 6 December 1977, [7] (SCOI.10495.00015).

⁴ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 83-85, 141 (SCOI.83626).

⁵ Statement of Kenneth Grant, 27 September 1976, 2 (SCOI.10495.00023).

⁶ Statement of Aldo Zajc, 30 September 1976 (SCOI.10495.00020).

⁷ Post-mortem Report of Dr William Brighton, 27 September 1976, 1-2 (SCOI.10495.00016).

⁸ Memorandum from Detective Sergeant McCusker – Inquiries as to knife, 24 September 1976, 1 (NPL.2015.0001.1065).

⁹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 6 (SCOI.83626).

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Findings of post-mortem examination

13. On Monday 27 September 1976, Dr William Brighton examined Mr Jones' body in situ. He noted that rigor mortis has complete and post-mortem lividity was fixed.¹⁰ Later on the same day, Dr Brighton conducted a more detailed post-mortem examination at the mortuary. He concluded that Mr Jones died as a result of haemorrhage and respiratory failure, as a result of multiple stab wounds to the chest and abdomen.¹¹
14. Dr Brighton noted that it was possible to see the interior of Mr Jones' chest through the large wound.¹² The cut to Mr Jones' throat was approximately 10cm in length but had not carried through into the larynx or trachea.¹³ There were no defensive cuts on Mr Jones' hands, although there was a single stab wound near the left wrist.¹⁴
15. Dr Brighton concluded that several of Mr Jones' injuries had been inflicted after his death, including the massive wound to the left chest area, the slashing of the throat and the two wounds to the front thoracic area (including the wound in which the knife was found).¹⁵
16. Mr Jones had a blood alcohol level of 0.350 percent.¹⁶

Indicators of LGBTIQ status or bias

17. Evidence in relation to Mr Jones's sexuality is ambiguous. If he was gay, there is no evidence that he was out. Several people suggested that Mr Jones had no sexual interest in women, and that sexual matters appeared to make him uncomfortable:
 - a. Carol Grant described Mr Jones as "sex-less". She said that when she first moved into the house they shared, he would become embarrassed and leave the area if she wore a short top or sunbathed;¹⁷
 - b. Jim Collins told police that Mr Jones "never displayed any homosexual tendencies in [his presence] and as far as the female sex was concerned, Collins claimed that [he] just wasn't interested as far as he could tell";¹⁸

¹⁰ Post-mortem Report of Dr William Brighton, 27 September 1976, 2 (SCOI.10495.00016).

¹¹ Post-mortem Report of Dr William Brighton, 27 September 1976, 1-2 (SCOI.10495.00016).

¹² Post-mortem Report of Dr William Brighton, 27 September 1976, 2 (SCOI.10495.00016).

¹³ Post-mortem Report of Dr William Brighton, 27 September 1976, 2 (SCOI.10495.00016).

¹⁴ Post-mortem Report of Dr William Brighton, 27 September 1976, 2 (SCOI.10495.00016).

¹⁵ Post-mortem Report of Dr William Brighton, 27 September 1976, 2 (SCOI.10495.00016).

¹⁶ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 11 (SCOI.83626).

¹⁷ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 58 (SCOI.83626).

¹⁸ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 95 (SCOI.83626).

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- c. Walter Coe said that Mr Jones was “still a ‘virgin’ with females, and definitely was not a homosexual”;¹⁹
 - d. Patrick Syron “had never seen [Mr Jones] with women, and had no reason to think that he was homosexual”;²⁰
 - e. Reginald Mullins was one of Mr Jones’ co-workers. He said that when workers were working in groups, they would often look at Playboy, Man and Penthouse magazines while on break. Jones would never look at them and would change the subject if the men started talking about sex;²¹
 - f. One acquaintance, Ashley Bridge, suggested that Mr Jones “may have homosexual tendencies, although he didn’t obviously display them”. Mr Bridge suggested that Mr Jones was known to associate with a bisexual man;²²
 - g. Gladys Emerson was a cousin of Mr Jones, who had not seen him for fifteen years. She told police that he had had one or two girlfriends in the past. She had been told that he had not had a girlfriend over the last fifteen years. She did not think that Mr Jones was gay;²³
 - h. Allan Adair indicated in an account given in 2018 that he understood Mr Jones to have been gay (see [111] below).
18. In January 1977, police spoke to [1375], a gay man who was said to be a member of the gay rights lobby group, CAMP. [1375] told police that Five Dock Park had been “a regular meeting place for homosexuals, until about 18 months ago”, but that it had ceased to be a “recognised meeting place” although “on occasion homosexuals are seen there”. [1375] expressed the view that Mr Jones may have been killed as a result of “friction between the ‘gay’ and ‘square’ faction of the area.”²⁴ It appears that Five Dock Park had been a beat and may still have been used as a beat at the time of Mr Jones’ death.
19. Although in the material available to the Inquiry there is no “theory” explicitly stated by the original investigators that the murder had occurred at a beat and may have involved gay hate bias, it seems evident that investigators were alive to the possibility that Mr Jones may have been gay and/or that his death may have occurred in circumstances that had been preceded by a sexual act. Investigators

¹⁹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 132 (SCOI.83626).

²⁰ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 135 (SCOI.83626).

²¹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 28 (SCOI.83626).

²² Relevant Running Sheets, 27 September 1976 – 27 May 1977, 76-77 (SCOI.83626).

²³ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 122 (SCOI.83626).

²⁴ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 148 (SCOI.83626).

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frequently asked witnesses about Mr Jones's sexuality. They received information about and from men whom they pointedly describe as "homosexual".

20. That they seem to have entertained such a theory was no doubt reinforced by the receipt of information that semen had been identified on a penile swab, on Mr Jones's underpants and on the outside of his trousers. However, it is noted that caution is necessary in relation to the drawing of any inference from this evidence in view of the potential for the semen to have been a post-mortem artefact. This issue is discussed further below at [49]-[51].
21. The gratuitous infliction of wounds well in excess of those necessary to bring about death is indicative of a frenzied attack and is potentially consistent with a hate-based motivation for killing Mr Jones.

Persons of interest – Kenneth Grant

22. Police investigated the possibility that Mr Grant had killed Mr Jones.
23. Mr Jones owned the house in Haberfield where he lived with Mr and Mrs Grant. Sixteen months before his death, he had changed his will to leave the house to Mr Grant. In May 1976, Mr Jones granted a power of attorney to Mr Grant. In July 1976, Mr Jones and Mr Grant took out a joint personal loan of \$2,500 to repay a fine, or restitution order, related to an embezzlement charge against Mr Grant.²⁵
24. One of Mr Jones' co-workers, Francis Rowland, told police that Mr Jones had bought two watches for Carol Grant in the two months prior to his death. Mr Rowland reportedly said to Mr Jones, "You must be getting your cock in". Mr Jones reportedly replied, "She likes a bit of cock". Mr Jones also reportedly found a "rubber cock" belonging to Carol Grant and threw it away, and reportedly told Mr Rowland that "he and Carol had showers together and Kenny Grant knew about it but didn't mind".²⁶
25. Mr Grant's financial dealings with Mr Jones, and Mr Rowland's claims, if true, provided plausible motives for Mr Grant to kill Mr Jones.
26. Mr Grant provided a statement to police. He claimed that after he left the Soccer Club at around 3:30pm, he drove to his mother's place. He stayed there with his mother, daughter and Carol until he and Carol left at about 4:30pm to 5:00pm. He and Carol drove home, read the papers, drank some coffee and decided to go out for dinner. After getting dinner, they drove home and arrived just before 9:00pm. They watched television and went to bed at about 11:00pm. Mr Grant did not get to sleep

²⁵ Statement of Detective Sergeant Donald McCusker, 6 December 1977, [20]-[22] (SCOI.10495.00015).

²⁶ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 66 (SCOI.83626).

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until about 12:30am to 1:00am. Mr Jones was not home when he went to sleep, to his knowledge.²⁷

When Mr Grant woke up the next morning at 6:50am, Mr Jones was not in the house.²⁸

27. Mrs Grant confirmed Mr Grant's account of events when interviewed separately by police.²⁹ She also confirmed that Mr Jones had bought her various presents over a period of 18 months: three watches, a zodiac pendant, a travelling watch radio, a pop up toaster and a couple of pairs of shoes. She said that Mr Jones bought the presents cheaply and that he also bought Mr Grant presents such as cigarettes and lighters. Mrs Grant claimed that Mr Jones did not give any reason for buying these presents.³⁰
28. Mrs Grant told police that she and Mr Jones had never had sex and that Mr Jones had never made any sexual advances towards her.³¹ She told police that she did own a dildo, corroborating part of the story told by Mr Jones to Mr Rowland.³²
29. However, even if Mr Rowland accurately reported what Mr Jones told him, it does not follow that Mr Jones was telling the truth about having a sexual relationship with Mrs Grant. Such a proposition appears to contradict the evidence that Mr Jones was not sexually interested in women and that he was uncomfortable about the topic of sex.
30. If Mr Jones was gay, it seems likely that he was seeking to conceal the fact. If those were the circumstances, the conversation reported by Mr Rowland can be explained as an attempt by Mr Jones to conceal and deflect suspicion of his sexuality.
31. In the days following the murder, the police seized a number of items of property from the Grants for forensic testing. One of the items, a torch located in Mr Grant's car, tested positive to the presence of blood, though in insufficient quantity to determine the relevant blood group.³³
32. There was no other evidence to implicate the Grants in the murder of Mr Jones and it is noted that the frenzied nature of the attack does not appear to be consistent with a motive of greed related to inheritance of Mr Jones's house.

²⁷ Statement of Kenneth Grant, 27 September 1976, 2-3 (SCOI.10495.00023).

²⁸ Statement of Kenneth Grant, 27 September 1976, 3 (SCOI.10495.00023).

²⁹ Record of Interview with Carol Grant, 2 October 1976, Q3-A3, Q20-A29 (SCOI.83632).

³⁰ Record of Interview with Carol Grant, 2 October 1976, Q35-A42 (SCOI.83632).

³¹ Record of Interview with Carol Grant, 2 October 1976, Q46-A49 (SCOI.83632).

³² Relevant Running Sheets, 27 September 1976 – 27 May 1977, 58 (SCOI.83626).

³³ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 60 (SCOI.83626); Report of Robert Goetz, 5 November 1976, 2-3 (SCOI.10495.00028)

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Persons of interest – NP246

33. On 9 October 1976, police separately spoke to I378 and I379 after they received information that they may have had knowledge of the persons responsible for the murder of Mr Jones.
34. I379 aged 15, told Police that a group of boys had been boasting that they knew who killed the man in the park. She identified one of those boys as NP246 also 15, of Minnesota Avenue, Five Dock. I379 did not know the other boys, but described them as “Sharpie” types who hung around the Milk Bar known as Alberts in Great North Road, Five Dock. I378 later confirmed her sister’s story, but was unable to provide further information.³⁴
35. On 11 October 1976, Police interviewed NP246. He denied bragging about or knowing who committed the murder. He claimed that he became aware of the murder, when on the school bus, from another young person (I389). Police established that I389’s house was one of those that had been canvassed by police at an early stage of the investigation due to its proximity to the park.
36. Police questioned NP246 about his whereabouts on the day of the murder. They appear to have done so in the presence of his parents. He described his movements as follows:
- He was at the home of a friend, I390 in [REDACTED] Five Dock, until about 7:00pm. He went home for a few minutes;
 - He then went to the home of another friend, I382 in [REDACTED] Abbotsford, where he stayed until about 8:30pm.
 - He caught a bus to Five Dock and walked home, arriving between 8:45pm and 9:00pm;
 - He watched television until about 10:30pm, went to bed and did not leave the house again that night.³⁵
37. NP246 parents were interviewed. They also claimed that he arrived home before 9:00pm that night.³⁶ At the time NP246 was under the supervision of the Child Welfare Department and was not supposed to be out at night after 8:00pm.³⁷

³⁴ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 123 (SCOI.83626).

³⁵ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 125 (SCOI.83626).

³⁶ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 125 (SCOI.83626).

³⁷ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 125 (SCOI.83626).

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38. [I390] and his father subsequently confirmed that [NP246] had been at their home on the day of the murder.³⁸ [I382] and his mother also confirmed that [NP246] had been at their home on the day of the murder.³⁹
39. Subsequently, on 24 November 1976, police received information from a 14-year-old boy that at around the time of the murder, he had heard from a friend, [I395], that [NP246] had committed the murder. The police record made at the time⁴⁰ indicated that [NP246] would be further interviewed, although there is no record of such an interview taking place.
40. In 1998 police received a further report from a member of the public who had been told that [NP246] was responsible for Mr Jones' murder. This report is the subject of further consideration at [95]-[97] below.

Persons of interest – [NP247]

41. On 18 March 1977, police received information from a member of the public, Mr Albert Hatfield, about a possible suspect for Mr Jones' murder. Mr Hatfield reportedly described the man as a someone who suffered from schizophrenia and who was "mad keen" on knives, swords and similar weapons.⁴¹
42. When interviewed on 20 May 1977, Mr Hatfield told police that the person concerned was his nephew, [NP247] [NP247] resided alone at [REDACTED] Abbotsford. Mr Hatfield's mother had left the house to [NP247] in her will.⁴²
43. Mr Hatfield said that [NP247] had "confessed" to Mr Hatfield's wife that he was a homosexual and that he had had a relationship with a man in Vancouver, Canada. Mr Hatfield described to police an occasion in August 1976 police when [NP247] had threatened one of his uncles with a sword while saying "I'll kill the bastard", and that [NP247] bore hatred towards this uncle as a result of overhearing the uncle refer to [NP247] as a "poofter".⁴³
44. Mr Hatfield said that [NP247] sometimes drank at the Five Dock Hotel and at the Soccer Club, and that [NP247] knew Mr Jones.⁴⁴ Mr Hatfield also said that he had only recently persuaded [NP247] to wear something on his feet. Prior to this, he said that [NP247] would wear nothing on his feet, but would now often wear thongs: see [59] below.⁴⁵

³⁸ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 127 (SCOI.83626).

³⁹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 126 (SCOI.83626).

⁴⁰ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 146 (SCOI.83626).

⁴¹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 149 (SCOI.83626).

⁴² Relevant Running Sheets, 27 September 1976 – 27 May 1977, 150 (SCOI.83626).

⁴³ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 150 (SCOI.83626).

⁴⁴ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 151 (SCOI.83626).

⁴⁵ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 151 (SCOI.83626).

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45. On 24 May 1977, police again interviewed Mr Hatfield, this time along with his wife, Marjorie Hatfield. They were shown the murder weapon, which they did not recognise. Mrs Hatfield confirmed her husband's account of [NP247] describing a relationship he had had with a man in Canada.⁴⁶
46. On 24 May 1977, police interviewed Dr Greenway, Deputy Superintendent of Broughton Hall Psychiatric Centre, regarding [NP247] then an out-patient. Dr Greenway described [NP247] as "a paranoid schizophrenic who suffers dreams of voices and shadows appearing whilst in a depressed alcoholic state". Dr Greenway attributed [NP247]'s illness to alcoholism and said he was capable of acting responsibly when not under the influence of alcohol.⁴⁷
47. On 25 May 1977, police interviewed [NP247]. [NP247] said that he probably would have been watching television on the night in question. He told police that he met Mr Jones in June 1976 at the Bald Faced Stag Hotel, Leichhardt and then again, three months prior to the murder, at the Five Dock Hotel. They had talked about their drinking and weight problems.⁴⁸ [NP247] subsequently contacted police on 26 May 1977 to tell them that he had met Mr Jones at the Five Dock Hotel two weeks before his death when [NP247] had noticed two men aged around 35 years of age who were acting strangely. [NP247] died in November 2001.⁴⁹

Exhibits: availability and testing

48. In late 1976, various exhibits were provided to Robert Goetz, microbiologist, for forensic testing:
- Blood sample, penile swab and smear, anal swab and smear, hair sample and fingernail cuttings from Mr Jones;
 - Knife located in Mr Jones body;
 - Raincoat from Florida Dry Cleaning Co.
 - Pair of white underpants and fawn trousers worn by Mr Jones;
 - Pair of white ladies shoes belonging to Carol Grant;
 - White and red torch collected from Kenneth Grant's car;
 - Seiko watch and sliver chain belonging to Kenneth Grant;
 - Telephone book, from telephone box in Walker St, Haberfield.

⁴⁶ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 152 (SCOI.83626).

⁴⁷ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 153 (SCOI.83626).

⁴⁸ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 154 (SCOI.83626).

⁴⁹ Statement of Tom Allchurch, 26 June 2023, [29]-[31] (SCOI.83979).

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49. Semen was located on the swab and smear taken from Mr Jones' penis. Semen stains were also found on the inside front of Mr Jones' underwear and trousers. Testing of the semen established the presence of Group O blood type, which was consistent with the semen being that of Mr Jones. Semen was not detected on the anal swab and smear.⁵⁰
50. Mr Goetz estimated that the semen would have been present within 15 hours before Mr Jones' death. He could not determine whether Mr Jones had ejaculated in his pants or outside his pants, with the stains caused when he replaced his penis inside his pants.⁵¹
51. The Inquiry has received expert evidence relevant to these matters in other cases, such as the death of Mr Paul Rath. In her report in that case, Dr Linda Iles observed that the presence of semen on a penile swab should not necessarily be considered significant if the profile is consistent with that of the deceased, as its presence can be a post-mortem phenomenon.⁵²
52. Blood was found on a number of the items that were tested. In particular, the torch from Mr Grant's car tested positive to the presence of blood, though in insufficient quantity to enable a blood group to be identified. Blood located on the telephone book was of a different blood type to that of Mr Jones.⁵³
53. The knife found in Mr Jones' chest tested positive to blood with a blood grouping consistent with that of Mr Jones. However, there is no record indicating that police ever sought to obtain fingerprints from the knife.

Findings at inquest, including as to manner and cause of death

54. An inquest into Mr Jones' death was held on 26 January 1978. Coroner Parnell found that Mr Jones died on 26 September 1976 in the grandstand of Five Dock Park, Park Road, Five Dock "from haemorrhage and respiratory failure due to multiple stab wounds to the chest and abdomen inflicted by a person or persons unknown."⁵⁴

Features of /concerns with original police investigation

55. The death of Mr Jones is one of the earliest deaths which falls within the Inquiry's Terms of Reference. The records of the original investigation reflect that fact. Information is often recorded by running sheet rather than by a formal statement, and interviews are not electronically recorded nor, in most

⁵⁰ Report of Robert Goetz, 5 November 1976, 2-3 (SCOI.10495.00028).

⁵¹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 12-13 (SCOI.83626).

⁵² Exhibit 26, Tab 34, Expert Report of Dr Linda Iles (forensic pathologist), 26 October 2022, 8 (SCOI.82906).

⁵³ Report of Robert Goetz, 5 November 1976, 3 (SCOI.10495.00028);

⁵⁴ Inquest into the death of Barry Jones – Findings, 26 January 1978 (SCOI.10495.00002).

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cases, are they transcribed verbatim. The original investigative material therefore has some obvious limitations.

56. This would appear to reflect the standards of the day in relation to the recording to the results of investigative efforts, rather than a lack of effort. Generally speaking, it would appear that the police investigation at the time was extensive. In his statement summarising investigative efforts as at December 1977, Detective Sergeant Donald McCusker notes that thirty detectives were involved full-time on the investigation.⁵⁵
57. On the other hand, as discussed below, a major problem from the perspective of 2023 is that at some point after November 1976 all of the exhibits – including the murder weapon – have been lost. None is available to the Inquiry. As one consequence, no modern-day forensic testing of any of those exhibits is possible.

Crime scene and local area

58. There was a large amount of blood around Mr Jones' feet, and around his shoulders and chest. There was a continuous stream of blood running down the 16 steps of the grandstand. There were blood smears on the wall behind Mr Jones' right foot, at a height of 3'6".⁵⁶
59. There appeared to be bare footprints in the blood around Mr Jones' feet. Further such prints were located on the concrete path at the entrance to the grandstand. A partial impression of a shoeprint, most likely from a rubber thong, was also found in blood near the body.⁵⁷
60. On 28 September 1976, police identified graffiti at various locations in Five Dock Park, mostly written in chalk. This included the words "I KILLED THE JUY (sic) IN THE PARK" written in chalk on the path behind the Bowling Club.⁵⁸
61. Police extensively canvassed houses in the area around Five Dock Park.⁵⁹
62. A man by the name of Peter Kohlenberg was at home at ■■■ Park Road. About 10:20pm, he heard a scream. He got up and looked through his window. He saw a car about 50 yards further down the road towards the grandstand. He saw a female in the passenger seat and another person in the driver seat. He returned to bed. He saw persons coming and going from the vehicle. He saw a female enter the

⁵⁵ Statement of Detective Sergeant Donald McCusker, 6 December 1977 (SCOI.10495.00015).

⁵⁶ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 6 (SCOI.83626).

⁵⁷ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 7 (SCOI.83626).

⁵⁸ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 9 (SCOI.83626).

⁵⁹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 29-53 (SCOI.83626).

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front passenger seat and close the door. He stated that the vehicle was parked in the vicinity of 41 Park Avenue.⁶⁰

63. Ms Carmelia Calleja was also at home at ■ Park Road. She recalled hearing a woman scream at about 10:15pm. She looked out the window and saw nothing.⁶¹

Canvasses of pubs and clubs

64. Police conducted extensive canvassing of the pubs where Mr Jones drank. The evidence of the patrons provides a detailed, but somewhat conflicting picture of Mr Jones' movements prior to his death.
65. On the day before his death, Saturday, 25 September 1976, Mr Jones attended the Five Dock Hotel, where he drank with Jack Thornberry, Lorna Thornberry, Lil Adair, Lulu Booth and Betty Collins.⁶² It appears that he arrived at around 11:45am and left at closing time.⁶³
66. On Sunday, 26 September 1976, Mr Jones attended the Bowling Club, arriving before midday and leaving at around 2:00pm in accordance with his curfew. After leaving the Bowling Club, Mr Jones attended the Soccer Club, where he met Mr Grant. They were together at the Soccer Club until around 3:30pm: see above at [5].
67. Police running sheets record in detail the efforts of police in interviewing a very large number of patrons of the Soccer Club on the afternoon and evening of 26 September 1976. These include records relating to thirteen individuals who asserted that they saw Mr Jones either in or outside the club at times ranging between 3pm and 10:15pm.⁶⁴

Canvasses of taxi services and evidence in relation to Mr Jones' departure from the Soccer Club

68. Police also interviewed various cab drivers who picked up jobs from the Soccer Club on the evening of 26 September 1976.
69. William Fuller, a cab driver with Cumberland Cabs, recalled picking up a couple from Soccer Club at about 10:30pm on 26 September 1976. He recalled also calling out to another male, who he thought was also waiting to be picked up. He said that he thought this man was Barry Jones, however he recalled that this man waved his arms as if to indicate that he did not want to get into the cab. Mr Fuller

⁶⁰ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 37, 42 (SCOI.83626).

⁶¹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 37 (SCOI.83626).

⁶² Relevant Running Sheets, 27 September 1976 – 27 May 1977, 92-93, 133, 140-144 (SCOI.83626).

⁶³ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 94-95, 136-140 (SCOI.83626).

⁶⁴ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 134 (SCOI.83626).

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remarked that the man seemed “a bit full” and called over the radio that “the fare is an M6”. Mr Fuller explained that this was code for an unacceptable or drunk passenger.⁶⁵

70. Yuri Shewchyk was a radio operator at Cumberland Cabs. He worked the evening shift on 26 September 1976. He called a job over the radio at 10:11pm to pick up a booking in the name of ‘McColl’ at the Soccer Club to take two passengers to Ashfield. At 10:14pm, he also called a job in the name of ‘Adair’ from the Soccer Club to Five Dock. According to Mr Shewchyk, Mr Fuller (driving car 303) acknowledged that he would do both jobs. Shortly after, Mr Fuller radioed back and said he could not locate Mr Adair. Mr Fuller said there was another fellow by the name of Jones who wanted to go to Haberfield but that he could not do the job because it was too wide a sweep from the route to Ashfield.⁶⁶
71. Police located Florence McColl and Fred Williams, a couple who had been the passengers in Mr Fuller’s cab. They did not recall the name of the person who tried to share their cab that night. Mr Williams said that he and this other person had used the telephone to book their cabs. He recalled that this other person was smoking (Mr Jones did not smoke) and wearing a grey suit, collar and tie (Mr Jones was wearing different clothes).⁶⁷
72. Mr Shewchyk recalled that, after Mr Fuller dropped the ‘McColl’ booking at Ashfield, at 10:22pm Mr Fuller acknowledged a job for ‘Jessing’ at the Bowling Club for two passengers to Burwood. According to Mr Shewchyk, Mr Fuller went to that club and there were no passengers waiting, and so at 10:28pm, Mr Shewchyk asked Mr Fuller if he wanted to return to the Soccer Club for Jones. He also gave Mr Fuller a job in the name of ‘Young’ to go to Summer Hill. Mr Fuller returned to the Soccer Club and collected Young. According to Mr Shewchyk, Mr Fuller told him that the passenger Young was unwilling to share the cab with Jones and that Jones was an ‘unacceptable passenger’.⁶⁸
73. The inconsistencies between the accounts of Mr Fuller and the radio operator are to some extent explained by the account given by Robert Adair Sr., who said that he was the person who had booked the cab to share with McColl, and had been refused service, which was consistent with Mr Williams’ description of the person and the records of Cumberland Cabs.⁶⁹
74. Trevor Calland was another cab driver at Cumberland Cabs. He recalled two jobs being called in on the radio on 26 September 1976 at about 10:30pm from the Soccer Club, one to Haberfield and one to the

⁶⁵ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 97 (SCOI.83626).

⁶⁶ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 99-100 (SCOI.83626).

⁶⁷ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 98 (SCOI.83626).

⁶⁸ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 99-100 (SCOI.83626).

⁶⁹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 98, 105 (SCOI.83626).

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Petersham area. He heard one driver offer to take the Petersham area. The operator said that a ‘Mr Jones’ had been waiting for a while and asked if that cab could take him as well and drop him at Haberfield. The driver said that would be ok. Mr Calland later heard the driver tell the operator that Mr Jones was “pretty full” and that the other party was not prepared to share the cab with him. Mr Calland said he recalled the incident because he had taken Mr Jones home a couple of times.⁷⁰

75. Marjorie Hayman attended the Soccer Club on 26 September 1976 from about 5:30pm to 10:30pm. She had known Mr Jones for the past two years. She told police she saw Mr Jones in the club on the Sunday night, but she could not recall which part of the club. She stated that when she left the club at about 10:30pm, she saw Mr Jones outside the club premises and she saw him get into a taxi alone.⁷¹
76. Conflicting with Ms Hayman’s account and potentially also some of the evidence from the taxi company witnesses was the account of Mr Alan Grimes, who had become acquainted with Mr Jones as a drinking companion over six years at the Five Dock Hotel. On 26 September 1976, Mr Grimes left home at 10:16pm to drive his wife to work. Shortly after departing, he saw Mr Jones outside Soul Pattinsons Pharmacy in Great North Road, Five Dock. Mr Jones was attempting to hitchhike at that time. Mr Grimes did not see Mr Jones when he drove past that location 20 minutes later.⁷²
77. At approximately 10.40pm a motorist, Lawrence McEnally, passed a man walking towards Haberfield, in Ramsay Road, Five Dock (near the Motor Vehicle Registry that then existed at 1 Ramsay Road). The man was hitchhiking and walking in the gutter, and Mr McEnally’s description of the man potentially matched that of Mr Jones.⁷³ The location of this sighting was en route towards Mr Jones’ home from the location of the potential sighting by Mr Grimes of Mr Jones at 10.16pm in Great North Road.

Canvasses of co-workers

78. Police interviewed Mr Jones’ co-workers at Drummoyne Municipal Council. None of Mr Jones’ co-workers could identify anyone who would have wished him harm. He was often referred to by terms such as “harmless” and “inoffensive”. He was also generally described as spending all his spare time outside of work drinking at different establishments and suffering from alcoholism.⁷⁴

⁷⁰ Statement of Trevor Calland, 11 October 1976 (SCOI.83625).

⁷¹ Statement of Marjorie Hayman, 2 October 1976 (SCOI.83624).

⁷² Statement of Alan Grimes, 27 September 1976 (SCOI.10495.00021).

⁷³ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 86 (SCOI.83626).

⁷⁴ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 17-28 (SCOI.83626).

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79. One co-worker, Reginald Mullins recalled Mr Jones recounting an incident where he was beaten by two youths in a laneway near his home. Mr Mullins considered him to be telling the truth. Mr Mullins thought that after the incident, Mr Jones would not go into a park at night.⁷⁵
80. Another co-worker, Francis Rowland, was a personal friend of Mr Jones. In September 1975, Mr Rowland, Mr Jones and Jim Riley went on holiday to Surfers Paradise. Mr Rowland said that he and Mr Riley noted that Mr Jones was carrying a large Bowie knife. Mr Jones told them that “it’s to protect myself”. Mr Riley took the knife from Mr Jones and said he would give it back when they returned to Sydney. Mr Rowland stated that before they went to Surfers Paradise, Mr Jones had been in a fight somewhere in Haberfield. Mr Jones had bruises on his body and had told them that he had been attacked by two men on his way home one night.⁷⁶ Mr Rowland was later shown the murder weapon and said that it was not the same knife.⁷⁷

Other investigative steps

81. In his statement in December 1977, Detective Sergeant McCusker outlined the range of investigative steps that were taken by police. Those steps included:
- a. Locating and interviewing all “local criminals”;
 - b. Checking all hospitals to see if any persons had been treated on the night in question, and interviewing those persons;
 - c. Contacting all dry cleaners in the Metropolitan area. This yielded some bloodstained clothing (including, it seems the raincoat which was examined by Mr Goetz) but none of items were considered to be relevant to the investigation;
 - d. Locating and interviewing all attendees at Mr Jones’ funeral;
 - e. Visiting local psychiatric hospitals;
 - f. In addition to the above inquiries, speaking to over 400 persons including Mr Jones’ drinking friends and patrons of the clubs and hotels he frequented. According to Detective McCusker, this established that Mr Jones had no known enemies, had never been seen to be engaged in fights or arguments, and that he had “no known female associates”;
 - g. Making appeals for information through the media; and

⁷⁵ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 28 (SCOI.83626).

⁷⁶ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 63 (SCOI.83626).

⁷⁷ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 68 (SCOI.83626).

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- h. Offering a reward of \$10,000.⁷⁸
82. On 30 September 1976, Police made inquiries about the murder weapon. They spoke to Bruce Angus and Douglas Angus, the managing directors of Sheldon and Hammond Pty Ltd, which reportedly imported 90% of all sporting knives into Australia. They identified the knife as a “Black Eagle”, made by J Nowill & Sons, Sheffield England. On inspection of the knife, Bruce Angus stated that it had seen a lot of use and was between 15 and 25 years old.⁷⁹
83. On 7 October 1976, Bruce Angus further stated his firm had imported the knife up until 1964 and at that time, it had been the sole importer from the knife manufacturers. Sheldon and Hammond stopped dealing with the manufacturers in 1972. He could not say if the knife was imported by any other firm since 1964.⁸⁰
84. Police received many reports of people who reportedly possessed knives similar to the murder weapon. Investigation of those reports did not result in police identifying any persons of interest.

Investigation of NP247

85. As outlined above at [41]-[47] police received intelligence to suggest that NP247 was a potential person of interest. Various matters relating to NP247 suggest that he should appropriately have been regarded as a person of interest. In particular, the following matters are of note:
- a. a reported propensity to threaten violence and an interest in knives and swords;
 - b. evidence that he had previously had sex with another male and that he experienced some conflict about his sexuality;
 - c. evidence that he knew Mr Jones from local pubs and clubs;
 - d. his known practice of going about either barefoot or in thongs;
 - e. his history of experiencing psychotic episodes in the context of alcohol use; and
 - f. the potentially self-serving approach he made to police the day after being interviewed by them, when he indicated that he had remembered seeing Mr Jones two weeks prior to his death in circumstances where two other men were “acting strangely”.

⁷⁸ Statement of Detective Sergeant Donald McCusker, 6 December 1977, [12]-[18] (SCOI.10495.00015). See also Reward for information, 10 October 1977 (NPL.2015.0001.1125).

⁷⁹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 91 (SCOI.83626).

⁸⁰ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 91 (SCOI.83626).

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86. The record of the two occasions on which police interviewed [NP247] consists of a one-page typed occurrence pad entry.⁸¹ Unfortunately that entry does not disclose whether [NP247] had been asked about his sexuality, or his familiarity with Five Dock Park and its status as a beat. Nor does it indicate whether he was asked about the instances of threatening behaviour that his uncle had referred to, or his habit of going about barefoot. There is no record of any attempt to ascertain his shoe size or to obtain his footprints.
87. It appears that investigating police accepted [NP247] as credible and did not regard him as a serious suspect in Mr Jones' death. While such a decision may have been justified, the limited manner in which the police interviews were recorded and, in particular, the lack of any record that police investigated the possibility that his footprint or thong print had been left at the scene is cause for concern about the level of thoroughness with which police approached the possibility that [NP247] may have been involved.
88. Regrettably, as [NP247] is now deceased, any opportunity to pursue this possibility further has now been lost.

Investigation of [NP246]

89. As referred to above at [33]-[40] and below at [95]-[97], over time there have been three separate reports suggesting the possible involvement of [NP246], then aged 15, in the murder.
90. [NP246] was interviewed by police on 10 October 1976, after a report had been made of him boasting that he knew who had committed the murder. When subsequently, on 24 November 1976, police received a report alleging that a young person named [I395] had said that [NP246] was responsible for the murder, a note was made that [NP246] was to be further interviewed. There is no record that such an interview took place. Nor is there any record indicating that police sought to interview [I395] in order to obtain details of the source of his understanding.
91. The fact that information suggesting knowledge of the involvement of [NP246] in the murder again surfaced in 1998 (see below) serves to highlight that it is unfortunate that, apparently, the matter was not followed up with [I395] in 1976, and [NP246] was not reinterviewed as had been planned.
92. After interviewing [NP246] on 10 October 1976, police did take further steps to corroborate [NP246] account of his whereabouts on the day of the murder, by interviewing [I390] and [I391]. However, the information they provided to police only accounts for [NP246] whereabouts up until 8:30pm on the evening of 26 September 1976 (i.e. approximately two hours or

⁸¹ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 154 (SCOI.83626).

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more prior to the murder). The fact that [NP246] had been at their homes earlier in the evening does not preclude him being involved in Mr Jones' murder later that night. His family home in Minnesota Avenue was only a short walk from Five Dock Park.

93. The only support for [NP246] claim that he remained at home from approximately 8:45pm onwards came from his parents. The circumstances in which this information was received from [NP246] parents is ambiguous in the relevant occurrence book entry. It is quite possible that they simply adhered to an account that [NP246] had provided to police in their presence.
94. The reliability of the alibi provided to police by [NP246] parents would be easier to assess had the relevant police record made clear who was present when [NP246] was spoken to by police. His parents potentially had an additional motivation to indicate that their son was at home later that night, regardless of how certain they may have been of the matter, given that [NP246] was under the supervision of the Child Welfare Department and was not supposed to be out at night after 8:00pm.

1998 – further report relating to [NP246]

95. On 5 May 1998, Patrick Syron attended Five Dock Police Station. He said that he had been talking to an acquaintance, [I392] at the Drummoyne RSL Club. [I392] reportedly claimed that [NP246] was responsible for the murder and that he had subsequently died as a result of jumping out of a hospital window.⁸²
96. The materials produced to the Inquiry by the NSWPF do not record whether Mr Syron provided a formal statement to police. Nor do they record whether any attempt was made to locate and speak to [I392] the source of Mr Syron's information. The related COPS Event is marked "No Further Investigation" as at 14 June 1999.⁸³
97. The Inquiry has endeavoured to further consider the possible involvement of [NP246] as outlined later in this submission. Among other matters, it has been established that [NP246] passed away in 1983 and that [I392] was spoken to by police following the 1998 report made by Mr Syron. [I392] has told the Inquiry that he attended Burwood Police Station to "provide further information and explain what he had heard", though he cannot now recall the details of what he then told police. Materials provided to the Inquiry by the NSWPF do not record what [I392] told them at that time.

⁸² COPS Event E499934, 8 May 1998, 1 (SCOI.11032.00002).

⁸³ COPS Event E499934, 8 May 1998, 1 (SCOI.11032.00002).

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Unsolved Homicide Team (UHT)

98. In August 2005, according to email correspondence, Inspector Robert Jarrett of the Unsolved Homicide Team (UHT) “reviewed the brief”, which indicated to him that there were “no real suspects”.⁸⁴
99. On 31 August 2005, Inspector Jarrett made a request of the Major Crime Fingerprints section, that the fingerprint evidence in the original brief be reviewed. His understanding was that this principally consisted of some prints located on two posts within the grandstand, and he noted that the utility of any positive match might be limited, as there was no indication in the brief that associated the prints with the offender (as opposed to them belonging to any person who may have attended the grandstand at some time prior to the murder).
100. The results of the analysis, provided by email on 23 September 2005, included two prints from the grandstand identified to the deceased, and one additional print from the grandstand not identified. That print was not a match to NP246 and more generally could not be matched to any known individual via the NAFIS fingerprint database.⁸⁵
101. There is no indication in the material produced to the Inquiry that any further steps were taken by the UHT in 2005 after receipt of these fingerprint results.
102. A record created on 7 July 2010 by Detective Chief Inspector Dennis Bray indicates that on that date a review of the investigation of Mr Jones’ death, conducted by Detective Sergeant Connie Tse, “was considered”. This was presumably to have been a “review” conducted by the Unsolved Homicide Team (UHT) as both of those officers are known by the Inquiry to have been deployed to that unit at around that time. It was concluded, according to DCI Bray’s note, that “There are no further lines of investigation that can be undertaken to progress this investigation. The deceased had not married and has no surviving relatives.”⁸⁶ The material produced to the Inquiry contains no further details which would allow the substance of any such “review”, if it did take place, to be ascertained.
103. A further record created on 19 October 2012, states that the matter was to be assigned to the UHT for review and allocation.⁸⁷
104. The materials produced to the Inquiry by NSW Police include an undated, unsigned, partially filled in UHT Case Screening Form, presumably following the allocation of the matter in 2012. The partially

⁸⁴ Email from Rob Jarrett to Fiona West requesting fingerprint analysis, 31 August 2005 (SCOI.11028.00002);

⁸⁵ Email from Rob Jarrett to Fiona West requesting fingerprint analysis, 31 August 2005 (SCOI.11028.00002); Email from Fiona West to Rob Jarrett providing results (SCOI.11028.00001); Major Crime Running Sheet – M/C76/45, 23 September 2005, 1-2 (SCOI.11027.00003).

⁸⁶ Eagle.I – Product IN2443 Details, 7 July 2010 (SCOI.62865).

⁸⁷ CNI Profile – Barry Jones, 1 August 2022, 2 (SCOI.62860).

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completed form summarises some of the information available from the original case file. It does not refer to the information provided by Mr Syron. It does not contain any recommendations.⁸⁸

105. This partially completed form may indicate that a triage process was begun at some time in or after 2012. Whether or not that is so, the material produced by the NSWPF to the Inquiry contains no suggestion that any actual review of the case occurred in response to its proposed assignment to the UHT in 2012.

2018 – Information provided by Allan Adair

106. In early 2018, Mr Allan Adair contacted the New Zealand emergency services number to provide information in relation to the murder of Mr Jones.⁸⁹ He subsequently provided a statement to New Zealand Police, signed on 4 February 2018, that gave the following account.⁹⁰
107. Allan Adair lived in Five Dock with his parents at the time of the murder. He recalled attending the Five Dock Hotel at around 12:30pm-1:00pm on a Saturday before the murder. He went with his father (Robert Adair Sr), his brother (Robert Adair Jr), and three of his father’s friends: “John Wylie, a big guy called Paddy, and an English guy called Jimmy”.⁹¹
108. Mr Adair recalled hearing a loud noise, looking outside and seeing a light blue car stopped at the lights belching smoke, backfiring and stalling. The car was then driven around the corner and parked at the back of the pub.⁹²
109. Two men then walked into the pub: “one was short and squat with black hair, and the other was taller and skinnier with long blonde hair”. They were younger than Mr Adair.⁹³ Mr Adair recalled that he was 20 at the time but, in fact, he would have been 24.
110. According to Mr Adair the two men approached the table and spoke to Jimmy, saying “long time no see, what you been up to”. Mr Adair did not know the men. He asked them where they came from and they said they were from Parramatta, and that they had driven there in the car that was backfiring.⁹⁴
111. The two men saw Mr Jones sitting underneath the windows at the far side of the bar. Mr Adair recalled: “They knew Barry because they kept saying, ‘that bastard he’s a queer, he’s a poof.’” Mr Adair recalled

⁸⁸ Review of an unsolved homicide case screening form (SCOI.62861).

⁸⁹ 111 Emergency Call – Transcript (SCOI.62863).

⁹⁰ Statement of Allan Adair, 4 February 2018 (SCOI.62862).

⁹¹ Statement of Allan Adair, 4 February 2018, [6]-[14] (SCOI.62862).

⁹² Statement of Allan Adair, 4 February 2018, [15]-[16] (SCOI.62862).

⁹³ Statement of Allan Adair, 4 February 2018, [17]-[18] (SCOI.62862).

⁹⁴ Statement of Allan Adair, 4 February 2018, [19]-[22] (SCOI.62862).

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that it was mostly the skinny blonde man making these comments.⁹⁵ Mr Adair appeared to indicate in the call he made to New Zealand Emergency Services his own understanding that Mr Jones was gay, stating “that man was a homosexual man but it didn’t bother us ...”.⁹⁶

112. The blonde man took a knife out of his jeans and showed it around. He discussed its merits with Mr Adair. Mr Adair said, “that’s no good, it’s not even sharp”. The blonde man said that it would be no good for slashing but would be really good for stabbing. Mr Adair said something like, “rubbish, put it away mate”. Eventually the blonde man put the knife away. Mr Adair described the knife as having “a handle shaped like a deer’s hoof at the end”.⁹⁷
113. The two men were with the group for “another hour or two”, after which Allan Adair never saw them again.⁹⁸
114. Mr Adair stated that he found out about the murder when his father came home and told the family that “Barry from our local” had been found murdered. He recalled that at the time, in 1976, he had been interviewed by the police in relation to the murder.⁹⁹
115. Weeks or months later, Mr Adair recalled seeing a newspaper article about the murder with an accompanying photograph of the knife that he had seen in the pub. Allan Adair asked his father if he remembered the incident with the knife, and reminded him that they had all handled the knife at the table in the pub. Robert Adair Sr. said, “no, you didn’t bloody see nothing, you didn’t hear nothing”. He told Allan not to let Jimmy hear him saying such things, that Jimmy used to be in the SAS, that he was a hard man, that he had been done for manslaughter and that he had got off the charge.¹⁰⁰
116. Mr Adair did not report the information at the time as a result of these comments made by his father to him.¹⁰¹
117. New Zealand Police forwarded Mr Adair’s information to NSW Police. Detective Sergeant Peter Costello recalled the relevant materials from archives and reviewed them. Detective Sergeant Costello correctly concluded that, despite extensive canvassing of patrons who were at the Five Dock Hotel on 25 September 1976, there was no mention of Allan Adair being present at the Hotel on that occasion, and that there was no mention of any person being in possession of a knife. Detective Sergeant Costello

⁹⁵ Statement of Allan Adair, 4 February 2018, [23]-[25] (SCOI.62862).

⁹⁶ 111 Emergency Call – Transcript, 7 (SCOI.62863).

⁹⁷ Statement of Allan Adair, 4 February 2018, [26]-[30] (SCOI.62862).

⁹⁸ Statement of Allan Adair, 4 February 2018, [31] (SCOI.62862).

⁹⁹ Statement of Allan Adair, 4 February 2018, [36]-[38] (SCOI.62862).

¹⁰⁰ Statement of Allan Adair, 4 February 2018, [39]-[41] (SCOI.62862).

¹⁰¹ Statement of Allan Adair, 4 February 2018, [32]-[35] (SCOI.62862).

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therefore reasoned that if Mr Adair did see Mr Jones at the Five Dock Hotel, it was two or more weeks before the murder.¹⁰²

118. Detective Sergeant Costello sought to make contact with Mr Adair, and eventually spoke to him by telephone on 22 May 2018. Detective Sergeant Costello tested Mr Adair’s account of events. Mr Adair accepted that aspects of his recollection must be muddled – he claimed that he had moved to New Zealand in June 1976, three months before the murder. However, on the whole, Detective Sergeant Costello concluded: “Adair was coherent, polite, rational and sounded sober. He came across as believable.”¹⁰³
119. Mr Adair was not able to provide any more detailed description of the knife or the two men. He could not identify anyone who was alive and could corroborate his account, except his brother, Robert Adair Jr. Detective Sergeant Costello provided Mr Adair with his contact details and advised him to contact him or the Unsolved Homicide Team if he had any further information.¹⁰⁴
120. The materials produced to the Inquiry do not record any further action taken by NSW Police following the information provided by Mr Adair.

Investigative and other steps undertaken by the Inquiry, and their outcomes

Attempts to locate and contact family members

121. As noted above, police had concluded in 2010 that Mr Jones had no surviving family members.

Request for coronial file

122. On 15 June 2022, the Inquiry requested the coronial file in relation to Mr Jones from the Coroners Court. On 4 July 2022, the Coroners Court provided the coronial file to the Inquiry.¹⁰⁵

Summonses issued

123. On 21 July 2022, the Inquiry issued a summons to NSW Police (NSWPF3), returnable on 5 August 2022, for all NSW Police and UHT documents in relation to various deaths, including that of Mr Jones.
124. On 12 August 2022, NSW Police produced 53 documents in response to NSWPF3 that related to the death of Mr Jones.

¹⁰² Investigator’s Note – Information of Allan Adair provided via New Zealand Police, 23 May 2018, 1-4 (NPL.0120.0001.0001).

¹⁰³ Investigator’s Note – Information of Allan Adair provided via New Zealand Police, 23 May 2018, 4-5 (NPL.0120.0001.0001).

¹⁰⁴ Investigator’s Note – Information of Allan Adair provided via New Zealand Police, 23 May 2018, 5-6 (NPL.0120.0001.0001).

¹⁰⁵ Statement of Tom Allchurch, 26 June 2023, [4]-[5] (SCOI.83979).

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125. On 20 December 2022, the Inquiry wrote to NSW Police, noting that it appeared likely that there was further material that had not been produced.¹⁰⁶
126. On 13 January 2023, Detective Sergeant Neil Sheldon provided a statement to the Inquiry, outlining the searches undertaken by NSW Police for documents relating to the death of Mr Jones. Detective Sheldon's statement concluded that "I consider the above searches and enquiries to be an exhaustive search for the Documents and no further avenues of enquiry are available to locate the Documents. Therefore, I do not expect any further Documents to be provided to the Inquiry in relation to the death of Barry Richard JONES."¹⁰⁷ At that time, NSW Police produced the Investigator's Note prepared by Detective Sergeant Costello in 2018. The Investigator's Note referred to a box of material which had not been produced to the Inquiry, reference number REPO/B/2003/17409.¹⁰⁸
127. On 21 February 2023, the Inquiry wrote to NSW Police regarding the absence of that box of material.
128. On 22 February 2023, NSW Police produced that box of material to the Inquiry, which contained the original investigative file for the death of Mr Jones.¹⁰⁹ The original investigative file ran to over a thousand pages and was significantly more voluminous than the material that had previously been produced to the Inquiry.
129. The delay in producing this material appears to have been the result of a failure of document management by NSW Police. The absence of the original investigative file from the limited material produced to the Inquiry in August 2022 hindered the Inquiry's review of this matter, and its ability to undertake investigative steps, until late February 2023.

Further searches for exhibits

130. On 30 January 2023, the Inquiry held a conference with the Forensic & Analytical Science Service ("FASS"). FASS advised that it would not hold any DNA extracts or samples, as FASS (and its predecessor organisations) did not begin storing samples until 1985. FASS also advised that it did not hold the forensic exhibits for the death of Mr Jones.¹¹⁰
131. On 2 February 2023, the Inquiry issued a summons to NSW Police (NSWPF53) for the forensic exhibits. On 21 February 2023, NSW Police advised that they could not locate the exhibits. Detective Inspector Warren provided a statement to the Inquiry outlining the searches that had been undertaken.¹¹¹

¹⁰⁶ Statement of Tom Allchurch, 26 June 2023, [6]-[8] (SCOI.83979).

¹⁰⁷ Statement of Detective Sergeant Neil Sheldon, 13 January 2023, [10] (SCOI.83072).

¹⁰⁸ Investigator's Note – Information of Allan Adair provided via New Zealand Police, 23 May 2018, 2 (NPL.0120.0001.0001).

¹⁰⁹ Statement of Tom Allchurch, 26 June 2023, [11]-[12] (SCOI.83979).

¹¹⁰ Statement of Tom Allchurch, 26 June 2023, [13]-[14] (SCOI.83979).

¹¹¹ Statement of Detective Inspector Nigel Warren, 21 February 2023 (SCOI.83075).

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132. The loss of the exhibits is unfortunate, particularly the loss of the murder weapon. Given the significant advances in forensic technology that have occurred since 1976, if the exhibits were available, forensic testing of items including the murder weapon, Mr Jones' clothing and the torch from Mr Grant's car would almost certainly be possible. That possibility is now foreclosed.
133. The material produced to the Inquiry does not disclose whether, upon the receipt of information from Mr Syron in 1998, or during the course of the UHT's consideration of the case in 2005, 2010 and/or about 2012, consideration was given to locating exhibits for potential DNA testing (or fingerprinting, in the case of the murder weapon). If this did not occur, it should have, and may have yielded valuable evidence.

Records obtained in relation to **NP246**

134. On 9 December 2022, the Inquiry issued a summons to NSW Police (NSWPF44) for the criminal history and holdings in relation to **NP246**. On 17 February 2023, NSW Police produced eight documents relating to **NP246**.
135. Those documents recorded that, as of 10 June 1976, **NP246** was 155-160cm tall, with a medium slim build and brown/blond hair.¹¹²
136. These documents also recorded that **NP246** had distinctive tattoos on his left inside forearm as of 10 June 1976. Those tattoos included a crescent and star, the letters "FDD" and a shark with a dagger through it.¹¹³
137. On 13 February 2023, the Inquiry requested a copy of the coronial file for **NP246**. On 14 February 2023, the Coroners Court produced the coronial file to the Inquiry.
138. The coronial file established that **NP246** died of an overdose of anti-psychotic medication at home on 21 December 1983.¹¹⁴ It also notes his height as 155cm.
139. On 20 December 1983, the day before his death, **NP246** had been released from Gladesville Psychiatric Hospital where he was treated for chronic schizophrenia. His symptoms included auditory hallucinations, experiencing electric shocks through his body, disorientation, gross thought disorder, bizarre behaviour and suicidal thoughts. He had been suffering from schizophrenia since at least 1981.¹¹⁵

¹¹² **NP246** – Criminal History, 10 June 1976 (NPL.0121.0002.0013).

¹¹³ **NP246** – Criminal History, 10 June 1976 (NPL.0121.0002.0013).

¹¹⁴ **NP246** – Coronial File, 23 December 1983 – 19 March 1984, 3, 8 (SCOI.83630).

¹¹⁵ **NP246** – Coronial File, 23 December 1983 – 19 March 1984, 5, 13 (SCOI.83630).

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140. The coronial file suggests that [NP246] had been expelled from Drummoyne Boys High School in his second year. If accurate, this would or might call into question [NP246] claim that he heard about the murder of Mr Jones from another young person while he was on the bus to school, given that [NP246] was 15 years old at the time of Mr Jones' death. However, it is not suggested that this is sufficient basis to conclude that [NP246] was lying to police at the time. It is possible, for example, that the information in the coronial file is mistaken, or that [NP246] was old for his year, or that [NP246] had started attending another school, or that he would travel on the school bus despite having been expelled.
141. On 9 June 2023, the Inquiry issued a summons to North Sydney Local Health District (NSLHD3) for records relating to the treatment of [NP246] prior to his death in 1983. On 15 June 2023, the Inquiry received a copy of records from Gladesville Psychiatric Hospital, which contain details of his treatment for schizophrenia over the period from 1981 to 1983.¹¹⁶

Other sources of information

142. On 3 April 2023, the Inquiry spoke to Allan Adair by telephone. Allan Adair generally confirmed the account that he had provided to New Zealand Police and NSW Police in 2018.¹¹⁷
143. His account differed in one respect. In 2018, he told New Zealand Police that he had seen the knife in a newspaper sometime after the murder of Mr Jones. In 2023, he told the Inquiry that he had attended the Royal Easter Show with his brother, and that he had seen the knife on display at a police tent.¹¹⁸
144. Allan Adair provided some further information to the Inquiry in relation to the two young men who attended the Five Dock Hotel:
- a. He thought that they were “pretty young” and would have been around 18 or 19 years old;
 - b. The shorter man looked Greek or Italian. He had curly hair and was wearing a black t-shirt, black shorts and black “jandals”;
 - c. The taller man had blonde hair that was straight and scraggly. It looked like it hadn't been washed in weeks. He was wearing a light blue t-shirt and “jandals”; and

¹¹⁶ Statement of Tom Allchurch, 26 June 2023, [36]-[37] (SCOI.83979).

¹¹⁷ Statement of Tom Allchurch, 26 June 2023, [19] (SCOI.83979).

¹¹⁸ Statement of Tom Allchurch, 26 June 2023, [20] (SCOI.83979).

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- d. He did not see tattoos on either man. Allan Adair noted that he had tattoos himself and that both men were wearing t-shirts, so he thought he would have noticed any tattoos, including on their arms.¹¹⁹
145. Allan Adair was not otherwise able to provide any information to assist the Inquiry.
146. On 14 April 2023, the Inquiry spoke to Robert Adair Jr by telephone. He confirmed, in general terms, his brother's account of the events at the Five Dock Hotel.¹²⁰ He was unable to provide any specific details in relation to the two men that added to the detail provided by his brother. He was reluctant to provide a written statement due to his lack of recollection of specific detail.
147. The Inquiry was able to locate [I392] and on 9 May 2023 a conference was held with him. [I392] confirmed that he was the source of the information that evidently prompted Patrick Syron to make his report to police in 1998. He indicated that he subsequently attended Burwood police station where he provided information to police about the "rumour" he had heard concerning the potential involvement of [NP246] in the murder. He could not recall who had told him that [NP246] [NP246] was involved, and said that he was not aware of any further details concerning the possible involvement of [NP246], merely that it had been asserted that [NP246] was responsible. [I392] had grown up in the Five Dock area and was a similar age to [NP246]. He recalls [NP246] as someone who was frequently in trouble as a young person.¹²¹
148. [I392] provided the Inquiry with details of some of the associates of [NP246] at around the time of Mr Jones' death.¹²² The Inquiry is presently following up on this information. Should this result in any material that alters the conclusions presently advanced by these submissions, it will be the subject of further brief additional submission.

Submission as to the evidence now available

The uncertain state of the evidence concerning Mr Jones' movements after leaving the Soccer Club

149. The evidence in relation to Mr Jones' departure from the Soccer Club is outlined above at [67]-[77].
150. Although the accounts of some witnesses (Calcott, Paull, Wilson and Robert Adair Sr.) suggest that Mr Jones might have left the soccer club as early 7:00pm to 7:30pm,¹²³ it is possible either that Mr Jones was at the Soccer Club and that they did not see him, or that he left and returned later in the evening.

¹¹⁹ Statement of Tom Allchurch, 26 June 2023, [21] (SCOI.83979).

¹²⁰ Statement of Tom Allchurch, 26 June 2023, [22]-[23] (SCOI.83979).

¹²¹ Statement of Tom Allchurch, 26 June 2023, [40]-[46] (SCOI.83979).

¹²² Statement of Tom Allchurch, 26 June 2023, [47]-[49] (SCOI.83979).

¹²³ Relevant Running Sheets, 27 September 1976 – 27 May 1977, 134 (SCOI.83626).

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The preponderance of the evidence suggests that Mr Jones was at the club until at least 9.30pm and possibly later still (including the witness accounts of Cashman and Mann).

151. There is conflicting evidence in relation to whether or not Mr Jones was present outside the Soccer Club as late as 10:15 to 10:30pm, seeking a taxi. On the account of Mr Grimes (see [76] above) this was not possible. The potential reliability of Mr Grimes' account, of seeing Mr Jones hitchhiking on Great North Road at around 10.16pm, is supported by the fact that it was given to police less than 48 hours later, his familiarity with Mr Jones, his description of the clothing worn by the person he saw, the good reason he had for being aware of the precise time, and the consistency of Mr Jones' location and actions with his known practice (attempting to hitch a lift home from a location on his likely walking route).
152. However, there are a number of references in police running sheets to a man by the name of "Jones" being present outside the Soccer Club and seeking a taxi in the time period of 10:15 to 10:30pm (see above at [69]-[74]). If these accounts are erroneous, a possible explanation may be that the two jobs that the taxi driver, Mr Fuller, picked up from the Soccer Club that evening after 10pm had become conflated in his memory by the time the police spoke with him several days later. He incorrectly described the intoxicated person he anticipated picking up along with the "McColl" booking as Mr Jones, when it was evidently Mr Adair Sr. The basis for the radio operator, Mr Schewchyk having an understanding that there was a "Mr Jones" who required a cab was Mr Fuller, who had told him this. There was no record that Mr Jones had himself requested such a booking directly with the operator.
153. It remains possible, therefore, that the impression that the radio operator and other drivers were under, that there was a passenger in the name of Jones who was seeking a lift at around 10:15-10:30pm, emanated from information incorrectly passed on by Mr Fuller, who had incorrectly assumed Mr Adair to be Mr Jones. Such an explanation is not entirely satisfactory, however, as it appears that Mr Fuller referred to the relevant passenger as someone who was seeking a lift to the suburb of Haberfield. This was the suburb where Mr Jones, rather than Mr Adair, lived. This might possibly be explained by Mr Fuller having known where Mr Jones lived and, incorrectly assuming the prospective passenger to be Mr Jones, thereby making the reference to Haberfield.
154. Regrettably, as was the position reached by the investigating police at the time, the situation remains that it is not possible to reconcile or prefer one or other of the conflicting accounts of Mr Grimes on the one hand, and the evidence suggesting the possibility that Mr Jones remained in the vicinity of the Soccer Club until some time after 10:15pm.

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155. It does seem clear, however, that Marjorie Hayman's account of seeing Mr Jones get into a cab at the Soccer Club was mistaken. There is no other evidence to suggest he did so, including in the extensive checks that were conducted with taxi companies.
156. If Mr Jones had taken a taxi, it is likely that he would have made it home. Mr Grant went to bed at 11:00pm and went to sleep at 12:30am-1:00am. To his knowledge, Mr Jones was not home at the time. It is highly unlikely that Mr Jones would have returned home (unnoticed by Mr Grant) and then left again. It seems likely then that Mr Jones left the Soccer Club on foot.
157. Just how Mr Jones came to be at Five Dock Park remains a mystery. It was not on the logical walking route home from the Soccer Club.
158. The logical walking route home would have taken Mr Jones in an easterly direction from the Soccer Club and reached Great North Road, where he may have been seen attempting to hitchhike by Mr Grimes. If Mr Grimes' sighting was of Mr Jones, it may also be the case that the person seen by Mr McEnally further south at around 10.40pm (in the direction of Walker Avenue) was Mr Jones. Had Mr Jones made it that far, it seems unlikely that he then would have made his way to Five Dock Park without the intervention of a third party.
159. Alternatively, from Great North Road, Mr Jones may have continued walking to Five Dock Park. It is also possible that he was successful in his attempts to hitchhike and that he was driven from Great North Road to Five Dock Park. There is no evidence to suggest that this occurred, but the possibility cannot be excluded.
160. On either account, the timing is such that it is unlikely that the scream heard by Mr Kohlenberg and Ms Calleja at around 10:15pm to 10:20pm (see above at [62]) related to the murder of Mr Jones.
161. The extensive canvassing of local residents did not uncover evidence suggesting anyone heard or witnessed an event consistent with Mr Jones having been taken to the location forcibly. While it is possible he could have been forcibly taken to the location by car, it would seem more likely that Mr Jones made his way to the park on foot either alone or (initially at least) in willing company with another person. He may have been trying to reach the Bowling Club, which was located in the north-east corner of the park. He may have been searching for a place to urinate. He may have been seeking a sexual encounter.

The accounts of Allan Adair and Robert Adair Jr

162. On balance, and allowing for some uncertainty as to just when the relevant event occurred and some of the surrounding circumstances, it is submitted that the account given to police by Allan Adair should

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be accepted as likely to be reliable in its core features: namely that on a weekend not long before Mr Jones' death, Mr Adair encountered two young men at the Five Dock Hotel who were in possession of a knife with the same distinctive features as the murder weapon, and that they made disparaging remarks about Mr Jones and his presumed sexuality.

163. There is nothing to suggest that either of the Adair brothers had any reason to fabricate their accounts, particularly considering that Allan Adair contacted authorities in New Zealand unprompted and voluntarily. Detective Sergeant Costello formed the view that Allan Adair came across as believable. Both men came across as believable in their dealings with the Inquiry. Albeit at a level of generality, Robert Adair Jr corroborated his brother's account.
164. One curiosity about their account is the question of why it was not reported to the authorities at some earlier point in time. A possible explanation for this may lie in Allan Adair's account that his father had cautioned him against doing so on the basis that one of the other (older) men present at the pub on the relevant occasion would not take kindly to this occurring. It may be that Mr Adair felt more comfortable raising the matter in 2018, by which time his father and his father's associates had passed away.
165. On the basis that their accounts appear to be reliable in their core features, given the similarity between the knife described by Allan Adair and Robert Adair Jr and the distinctive murder weapon, and the disparaging remarks made about Mr Jones, it is submitted that it is likely that one or both of the two young men who attended the Five Dock Hotel were involved in Mr Jones' murder.
166. As referred to earlier, there is no evidence in the original investigative file that suggests that either of the Adair brothers was present at the Five Dock Hotel on Saturday, 25 September 1976. Nor is there any evidence that the people who were present recalled a knife being handed around at that time. It is likely that the two young men attended the Five Dock Hotel a week or more prior to Mr Jones' murder, and that the attack may therefore have been premeditated over a period of some time.

NP246

167. Given that the suggestion that **NP246** may have been involved in the murder was derived from more than one source, the Inquiry has kept an open mind to the possibility of his involvement. Ultimately, however, the material presently available to the Inquiry does not elevate evidence implicating **NP246** beyond mere rumour.

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168. One question that arises is whether or not the possible involvement of [NP246] could be reconciled with the proposition that Mr Jones was murdered by one or both of the two young men who attended the Five Dock Hotel. The following matters are noted:
- a. [NP246] (15 at the time) was younger than the ages estimated by Allan Adair and Robert Adair Jr in relation to those two young men (18 or 19 years old);
 - b. [NP246] physical description (see above at [135]) does not easily match the description of either of the two young men provided by Allan Adair (see above at [144]). Although short, and of Greek descent, [NP246] was not (in 1976) of stocky build and his hair colour appears to be lighter than that of the shorter man remembered by Allan Adair; and
 - c. [NP246] had distinctive tattoos which would have been visible to Allan Adair. Allan Adair did not recall seeing any tattoos on either of the young men, who, on his account, were both wearing t-shirts.
169. Though unlikely, the possibility exists that [NP246] could have been the shorter of the two men remembered by the Adairs. Another possibility is that he could have had an association with the two men, although such a possibility is speculative.

Other possible suspects

170. As outlined above, the Inquiry has given consideration to the possibility that either [NP247] or Kenneth Grant may have been involved in Mr Jones' death. Neither of these individuals matches the descriptions of the two men provided by Allan Adair, both being considerably older.
171. Although a potential financial motive could be surmised in relation to Kenneth Grant, who stood to inherit Mr Jones' house, the gruesome nature of the death is not in keeping with such a motive.
172. [NP247] does appear to be someone who should have been given closer consideration by investigating police at the time. It is regrettable that a footprint analysis was not undertaken in order to rule out his possible involvement, and that he was not more extensively questioned. Nevertheless, particularly in view of the information subsequently received from the Adair brothers, it is not considered that [NP247] should be regarded as a likely perpetrator.

Submission as to bias

173. Notwithstanding that the Inquiry is not able to identify the perpetrator of Mr Jones' murder, it is submitted that on the available evidence it is probable that Mr Jones' death was one in which LGBTIQ bias was a factor.

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174. First, Mr Jones' presence at the park may have been for the purpose of engaging in sexual activity with another male, having regard to the following:
- a. Five Dock Park was or had been a beat or "a regular meeting place for homosexuals" in the words of 1375¹²⁴
 - b. There is strong evidence that Mr Jones was not sexually attracted to women, as well as some evidence that he may have been gay (including, more recently, from Allan Adair); and
 - c. The presence and age of the semen on Mr Jones' penis and clothing is potentially consistent with him having engaged in sexual activity at a time proximate to his death (though it is also acknowledged that this may have been a post mortem artefact).
175. If Mr Jones were a gay man, it would not be surprising if he were not out in 1976, given the social and legal treatment of the LGBTIQ community at the time.
176. Secondly, the frenzied nature of the attack on Mr Jones, including wounds that were inflicted after death is consistent with Mr Jones' murder being a hate crime. In her expert report to the Inquiry, Professor Nicole Asquith opined that an extreme level of violence "is [an] appropriate [indicator] for assessing some hate crimes, especially those involving interpersonal violence".¹²⁵
177. Other than the account given by Allan Adair, there is no evidence that any person had significant personal animus towards Mr Jones that might have motivated such a frenzied attack.
178. Thirdly, there is the evidence of Allan Adair that one of the young men in the Five Dock Hotel expressed hate towards Mr Jones and used homophobic slurs to do so.¹²⁶ Whether or not Mr Jones was actually gay, the evidence is that he was perceived to be gay by one of his likely attackers.

Submission as to manner and cause of death

179. Coroner Parnell found that Mr Jones died on 26 September 1976 in the grandstand of Five Dock Park, Park Road, Five Dock "from haemorrhage and respiratory failure due to multiple stab wounds to the chest and abdomen inflicted by a person or persons unknown."¹²⁷

¹²⁴ See Exhibit 6, Tab 255, Expert Report of Professor Nicole Asquith, 25 January 2023, [D111(p)] (SCOI.82368.0001).

¹²⁵ Exhibit 6, Tab 255, Expert Report of Professor Nicole Asquith, 25 January 2023, [D100] (SCOI.82368.0001).

¹²⁶ See Exhibit 6, Tab 255, Expert Report of Professor Nicole Asquith, 25 January 2023, [D111(e)-(f)] (SCOI.82368.0001).

¹²⁷ Inquest into the death of Barry Jones – Findings, 26 January 1978 (SCOI.10495.00002).

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180. It is submitted that the Inquiry should make a finding in the same terms. The evidence does not permit the Inquiry to identify the person or persons who killed Mr Jones.

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