



## Special Commission of Inquiry into LGBTIQ hate crimes

23 August 2023

Keith Thoms

### By express post

Dear Mr Thoms,

### Special Commission of Inquiry into LGBTIQ hate crimes: Mark Stewart

I refer to our previous correspondence in relation to the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”), in which I assist the Honourable Justice John Sackar (“the Commissioner”).

### The Inquiry

On 13 April 2022 the Governor of NSW, by Letters Patent, issued a commission to the Commissioner to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require the Commissioner to inquire into and report to the Governor and Premier on the following matters by 15 December 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.

Further information in relation to the background and conduct of the Inquiry can be found on the Inquiry’s website: [www.specialcommission.nsw.gov.au](http://www.specialcommission.nsw.gov.au).

### Death of Mark Stewart

As you are aware, one of the matters the Commissioner is considering pursuant to category A of the Letters Patent is the death of Mark Stewart (formerly Mark Spanswick). Mr Stewart died on 10 or 11 May 1976 at the Fairy Bower headland in Manly. As per our previous correspondence, the Inquiry understands that you were the officer in charge of the NSW Police Force (“NSWPF”) investigation into Mr Stewart’s death.

## Special Commission of Inquiry into LGBTIQ hate crimes

---

### Documentary tender

On 30 March 2023, the Inquiry conducted a public hearing in relation to Mr Stewart's death. A bundle of documents was tendered into evidence in connection with the Inquiry's consideration of the matter. Those documents comprise Exhibit 19 and are publicly available at the following link: <https://www.specialcommission.nsw.gov.au/hearings/public-hearing-4-29-30-march-2023/>

Counsel Assisting made both written and oral submissions in relation to Mr Stewart's death. Those submissions address, amongst other things, the steps taken during the initial NSWPF investigation. A copy of Counsel Assisting's written submissions is **enclosed** and can also be found on the Inquiry's website.

On 12 April 2023, the Inquiry received written submissions on behalf of the Commissioner of Police, NSWPF, in connection with the death of Mr Stewart. For ease of reference, a copy of those submissions is also **enclosed** and publicly available on the Inquiry's website. For completeness, I note that the submissions on behalf of the Commissioner of Police also address the matters of Gerald Cuthbert, Samantha Raye and Carl Stockton.

### Submissions

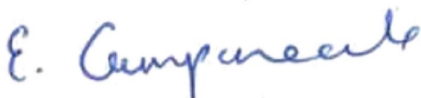
The NSWPF have advised the Inquiry they may not act for you, or *any* of the officers in charge of investigations that are being considered by the Inquiry pursuant to category A and B of the Letters Patent.

The *Special Commissions of Inquiry Act 1983* (NSW) ("*SCOI Act*") allows for a person who is substantially and directly interested in any subject-matter of the Inquiry to seek authorisation from the Commissioner to appear before the Inquiry, and to be represented by counsel or a solicitor should they wish (see s. 12 of the *SCOI Act*).

Accordingly, if you wish to make written submissions beyond those made by the NSWPF in respect of the death of Mr Stewart, please provide these to the Inquiry by no later than **4pm on 8 September 2023**. You are not required to make such written submissions, or otherwise to participate in the Inquiry, if you do not wish to do so. However, if the Inquiry does not receive any contact from you by 8 September 2023, the Commissioner may proceed on the basis that you do not wish to make any submissions in relation to the death of Mr Stewart.

If you have any queries in relation to this matter, please do not hesitate to contact Caitlin Healey-Nash at

[REDACTED]  
Yours faithfully,



Enzo Camporeale  
Director, Legal  
**Solicitor Assisting the Inquiry**

Encl. (2)