



Special Commission of Inquiry into LGBTIQ hate crimes

16 November 2023

Lisa Gaye Keet

By express post

Dear Ms Keet,

Special Commission of Inquiry into LGBTIQ hate crimes – Simon Blair Wark

I assist the Honourable Justice John Sackar (“the Commissioner”) in the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”).

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: <https://lgbtiq.specialcommission.nsw.gov.au/>.

Death of Simon Blair Wark

One of the matters the Commissioner is considering pursuant to category A of the Letters Patent is the death of Simon Wark. Mr Wark died on between 9 and 10 January 1990 in Sydney. The Inquiry understands that you were one of the officers in charge of the NSW Police Force (“NSWPF”) investigation into Mr Wark’s death.

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Documentary tender

On 22 May 2023, the Inquiry conducted a public hearing in relation to the death of Mr Wark. A bundle of documents was tendered into evidence in connection with the Inquiry's consideration of the matter. Those documents comprise Exhibit 23 and are publicly available at the following link:

<https://lgbtiq.specialcommission.nsw.gov.au/hearings/public-hearing-6-18-19-may-2023/>

Counsel Assisting made both written and oral submissions in relation to Mr Wark's death. Those submissions address, amongst other things, the steps taken during the initial NSWPF investigation. A copy of Counsel Assisting's written submissions are available at the following link:

<https://lgbtiq.specialcommission.nsw.gov.au/assets/lgbtiq/hearings/20230518/written-submissions/Submissions-of-Counsel-Assisting-in-relation-to-Simon-Blair-Wark-dated-22-May-2023.pdf>

On 1 June 2023, the Inquiry received written submissions on behalf of the Commissioner of the NSWPF in connection with the death of Mr Wark. Those submissions are publicly available on the Inquiry's website at the following link:

<https://lgbtiq.specialcommission.nsw.gov.au/assets/lgbtiq/hearings/20230518/written-submissions/Submissions-on-behalf-of-the-Commissioner-of-the-NSWPF-Cases-heard-on-18-and-19-May-2023.pdf>

For completeness, I note that the submissions filed on behalf of the Commissioner of the NSWPF also address the deaths of William Rooney, Richard Slater and Paul Rath, in which I understand you had no involvement.

Investigative Practices Hearing

In addition, on 4 to 7 July 2023 and 15 August 2023, the Inquiry conducted a public hearing dealing with changes to NSWPF investigative practices and procedures. A bundle of documents was tendered into evidence in relation to the Investigative Practices Hearing, which comprise Exhibits 51 to 55 respectively. That material is publicly available and accessible at the following link:

<https://lgbtiq.specialcommission.nsw.gov.au/hearings/public-hearing-13-4-7-july-and-15-august-2023/>

Submissions

In connection with the Investigative Practices Hearing, Counsel Assisting has made written submissions dated 15 September 2023. Those submissions address, amongst other things, exhibit management and investigative practices in the context of individual cases being considered by the Inquiry. The death of Mr Wark was examined in the context of the Investigative Practices Hearing, and addressed at Part D (at [583]-[588] and [798]-[813]) of Counsel Assisting's written submissions.

A copy of Counsel Assisting's written submissions can be found on the Inquiry's website at the following link:

<https://lgbtiq.specialcommission.nsw.gov.au/assets/lgbtiq/hearings/20230704/written-submissions/Submissions-of-Counsel-Assisting-Investigative-Practices-Hearing-SCOI.85649-Redacted.pdf>

On 10 October 2023, the Inquiry received written submissions on behalf of the Commissioner of the NSWPF in connection with the Investigative Practices Hearing.

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A copy of the Commissioner of the NSWPF's written submissions can be found on the Inquiry's website at the following link:

<https://lgbtiq.specialcommission.nsw.gov.au/assets/lgbtiq/hearings/20230704/written-submissions/Submissions-of-Counsel-Assisting-Investigative-Practices-Hearing-SCOI.85649-Redacted.pdf>

Response

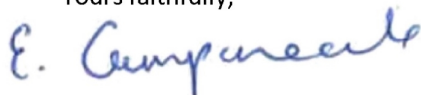
The NSWPF have advised the Inquiry they may not act for you, or *any* of the officers in charge of investigations that are being considered by the Inquiry pursuant to category A and B of the Letters Patent.

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*).

If you wish to make written submissions in respect of the death of Mr Wark and/or in relation to the Investigative Practices Hearing, please provide these to the Inquiry by no later than **4pm on 24 November 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 **24 November 2023**, the Commissioner may proceed on the basis that you do not wish to make any submissions in relation to the death of Mr Wark or the Investigative Practices Hearing.

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