

Adriana Cascaes

From: Jon Grayson
Sent: Wednesday, 20 March 2013 1:22 PM
To: Christine Castley
Cc: Anthony Crack; Rebecca McGarrity; Tina Davey
Subject: Re: Child Protection Commission of Inquiry

No problem - I expected it

Sent from my iPhone

On 20/03/2013, at 12:10 PM, "Christine Castley" <Christine.Castley@premiers.qld.gov.au> wrote:

> Hi Jon

>

> See below - Tim Carmody has written to the AG asking for an amendment to his Terms of Reference, so he can more fully consider evidence relating to the Heiner inquiry. Commissioner Carmody has indicated that this will not impact on timing or funding for the Commission of Inquiry, but will enable him to fully consider all submissions received to date. I understand the AG is inclined to agree to the request.

>

> In the interests of progressing this as quickly as possible, JAG is proposing a letter from AG to Premier, Exempt Sch.3(2)(1)(b) Reveal Cabinet consideration Exempt Sch.3(3)(1)(e) Disclosure of c I have no concerns with this approach but wanted to check if you had any issues?

>

> Regards
> Christine

>

> Christine Castley
> Executive Director, Law and Justice Policy, Policy Division,
> Department of the Premier and Cabinet
> Telephone: 34062120
> Mobile: S.73 Telephone
> Email: christine.castley@premiers.qld.gov.au

>

>

> -----Original Message-----

> From: Jennifer Lang
> Sent: Wednesday, 20 March 2013 11:56 AM
> To: Christine Castley
> Cc: Natalie Parker (Justice); Victoria Moore (Justice)
> Subject: Child Protection Commission of Inquiry

>

> Hi Christine

>

> As discussed, Mr Carmody has written to the Attorney-General about the appropriateness of term of reference 3 (e) which refers to the Heiner inquiry (without naming it as such).

>

> As you may be aware, Mr Carmody has sought submissions on the scope of term of reference 3 (e). He advises that some of those submissions, if he were to accept them, would prevent him from continuing to hear evidence about related facts or circumstances unless he concludes that there was historic child sexual abuse. It now appears that the Heiner matter was unrelated to child sexual abuse.

>

> Mr Carmody has recommended an amendment to his terms of reference to the effect of:

>
> ' to make full and careful inquiry in an open and independent manner
> of Queensland's child protection system, with respect to:
> (e) reviewing the adequacy and appropriateness of any response of, and
> action taken by, the executive government between 1 January 1998 and
> 30 December 1990 in relation to allegations (including any allegations
> of criminal conduct) associated with:
> (i) child sexual abuse in youth detention centres, or like facilities;
> and/or
> (ii) investigations or inquiries into industrial disputes in youth
> detention centres or like facilities.
>
> Mr Carmody indicates that expressing 3(e) in this way will enable him
> to fully consider the totality of the subject matter that appears to
> lie at the heart of 3(e). He also indicates that this will require no
> further resources or time.
>
> It appears that the Attorney-General is minded to agree to this
> suggestions.
>
> As discussed, we will prepare a letter from the AG to the Premier
> about the proposal Exempt Sch.3(2)(1)(b) Reveal Cabinet consideration
> Exempt Sch.3(3)(1)(e) Disclosure of consideration of Executive Council
> [Redacted]
> [Redacted]
> [Redacted]
> [Redacted]
> Please advise if this causes any concern.
>
> Kind regards
> Jenny
> Jenny Lang
> Assistant Director-General
> Strategic Policy, Legal and Executive Services Department of Justice
> and Attorney-General Ph 3898 0161 (81361)
>
> *****
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>

Adriana Cascaes

From: Christine Castley
Sent: Wednesday, 20 March 2013 12:21 PM
To: Rebecca McGarrity; Tina Davey; Sally Badcock; Patrick Vidgen; Leighton Craig
Subject: FW: Child Protection Commission of Inquiry
Attachments: JAG-#2139932-v1-Carmody_Tim_SC_of_Queensland_Child_Protection_Commission_of_Inquiry.PDF

Letter from Carmody (as per my last email)

Christine Castley
Executive Director, Law and Justice Policy, Policy Division, Department of the Premier and Cabinet
Telephone: 34062120
Mobile: [S.73 Telephone N] [REDACTED]
Email: christine.castley@premiers.qld.gov.au

-----Original Message-----

From: Jennifer Lang
Sent: Wednesday, 20 March 2013 12:15 PM
To: Christine Castley
Subject: RE: Child Protection Commission of Inquiry

Hi

Letter attached.

Jenny

Jenny Lang
Assistant Director-General
Strategic Policy, Legal and Executive Services
Department of Justice and Attorney-General
Ph 3898 0161 (81361)

-----Original Message-----

From: Christine Castley [mailto:Christine.Castley@premiers.qld.gov.au]
Sent: Wednesday, 20 March 2013 12:03 PM
To: Jennifer Lang
Subject: RE: Child Protection Commission of Inquiry

Hi Jenny

Would it be possible for us to see a copy of the letter?

Regards
Christine

Christine Castley
Executive Director, Law and Justice Policy, Policy Division, Department of the Premier and Cabinet
Telephone: 34062120
Mobile: [S.73 Teleph] [REDACTED]
Email: christine.castley@premiers.qld.gov.au

-----Original Message-----

From: Jennifer Lang

Sent: Wednesday, 20 March 2013 11:56 AM
To: Christine Castley
Cc: Natalie Parker (Justice); Victoria Moore (Justice)
Subject: Child Protection Commission of Inquiry

Hi Christine

As discussed, Mr Carmody has written to the Attorney-General about the appropriateness of term of reference 3 (e) which refers to the Heiner inquiry (without naming it as such).

As you may be aware, Mr Carmody has sought submissions on the scope of term of reference 3 (e). He advises that some of those submissions, if he were to accept them, would prevent him from continuing to hear evidence about related facts or circumstances unless he concludes that there was historic child sexual abuse. It now appears that the Heiner matter was unrelated to child sexual abuse.

Mr Carmody has recommended an amendment to his terms of reference to the effect of:

' to make full and careful inquiry in an open and independent manner of Queensland's child protection system, with respect to:

(e) reviewing the adequacy and appropriateness of any response of, and action taken by, the executive government between 1 January 1998 and 30 December 1990 in relation to allegations (including any allegations of criminal conduct) associated with:

- (i) child sexual abuse in youth detention centres, or like facilities; and/or
- (ii) investigations or inquiries into industrial disputes in youth detention centres or like facilities.

Mr Carmody indicates that expressing 3(e) in this way will enable him to fully consider the totality of the subject matter that appears to lie at the heart of 3(e). He also indicates that this will require no further resources or time.

It appears that the Attorney-General is minded to agree to this suggestions.

As discussed, we will prepare a letter from the AG to the Premier about the proposal

Exempt Sch.3(2)(1)(b) Reveal Cabinet consideration
Exempt Sch.3(3)(1)(e) Disclosure of consideration of Executive Council

Please advise if this causes any concern.

Kind regards
Jenny
Jenny Lang
Assistant Director-General
Strategic Policy, Legal and Executive Services
Department of Justice and Attorney-General
Ph 3898 0161 (81361)

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Our reference: #2138504

The Hon Jarrod Bleijie, MP
Attorney-General and Minister for Justice
Level 18, State Law Building
50 Ann Street
BRISBANE Q 4000

Dear Mr Attorney,

I write in relation to the Order in Council, *Commissions of Inquiry Order (No. 1) 2012*, that was made by the Governor-in-Council on 28 June 2012, appointing me to make full and careful inquiry into certain matters.

One of the terms of reference in the Order in Council, 3(e), refers to:

- e) reviewing the adequacy and appropriateness of any response of, and action taken by, government to allegations, including any allegations of criminal conduct associated with government responses, into historic child sexual abuse in youth detention centres.

Senior Counsel Assisting and some of the parties with authority to appear contend that the incorporation of the words "into historic child sexual abuse in youth detention centres" in 3(e) is a jurisdictional precondition to the making of any findings about "government responses".

The practical effect of this, so those parties say, is to prevent me from continuing to hear evidence, or make findings about related facts or circumstances, unless I am able to confidently conclude that there was "historic child sexual abuse".

To help resolve the jurisdictional issue, the parties were directed to file written outlines of submissions as to the construction of term of reference 3(e). Oral arguments were heard on 14 March 2013 about what 3(e) could and should be interpreted to mean for the further consideration of matters arising from the evidence.

The transcript of proceedings recording the competing considerations and constructions concerning the scope of 3(e) is attached for your information.

I am yet to form a definitive view or make a decisive ruling on these submissions.

However, as I read and understand it, the purpose of term of reference 3(e) is to allow me to examine allegations of child sexual abuse (believed to arise from or be associated with an industrial dispute at the John Oxley Youth Centre in 1989) and any related action by or response of executive government in 1990.

The evidence presented by the Counsel Assisting, as well as the questioning and submissions by the other parties with authority to appear, point in this direction, and reveal a common understanding of the subject matter to be inquired into under 3(e). No party with authority to appear has submitted to me that 3(e) refers to any different subject matter.

To date the Commission has heard from 135 witnesses and admitted 348 exhibits relating to term of reference 3(e).

However, I do not believe that it is prudent to continue to consider matters that might be said or expected to fall within 3(e) without putting the question of the Commission's jurisdiction beyond doubt.

One of the parties with authority to appear has submitted that I ought, in resolving construction and jurisdictional concerns, seek clarification of the language in term of reference 3(e), to make it clear that I am to examine (and make findings about) those matters clearly falling within the current wording of 3(e), as well as any other matters that have been the subject of evidence but which may not be unambiguously linked to allegations of "historic child sexual abuse".

To this end, I request that you recommend to Her Excellency the Governor a recasting or refinement of the *Commissions of Inquiry Order (No. 1) 2012*, so that term of reference 3(e) reads:

... to make full and careful inquiry in an open and independent manner of Queensland's child protection system, with respect to:

- e) reviewing the adequacy and appropriateness of any response of, and action taken by, the executive government between 1 January 1988 and 30 December 1990 in relation to allegations (including any allegations of criminal conduct) associated with:
 - (i) child sexual abuse in youth detention centres, or like facilities; and/or
 - (ii) investigations or inquiries into industrial disputes in youth detention centres, or like facilities.

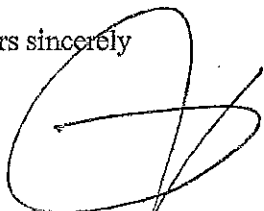
Expressing 3(e) in this way would allow me to fully consider the totality of the subject matter that appears to lie at the heart of 3(e) and to make relevant findings of fact without fear of the Inquiry being thought to be 'off course'.

I would ask that you give early consideration to this recommendation and provide advice to Her Excellency as soon as possible so that I can proceed accordingly without delay.

Notably, the suggested modification to 3(e) will not increase the cost or length of the Inquiry.

I am, of course, available to discuss this matter should you wish.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Tim Carmody', written over a circular scribble.

The Hon Tim Carmody SC
Commissioner
Queensland Child Protection Commission of Inquiry

18 / 03 / 2013

Released under RTI - DPC

Adriana Cascaes

From: Sandra Pelusi
Sent: Wednesday, 27 March 2013 8:59 AM
To: Michele Rice
Cc: Jan Hatton; Sally Badcock
Subject: *SUPER URGENT*: Letter to the Premier re amending QCPCoI's ToR 3(e)
Attachments: JAG-#2145518-v1-Let_dated_26_Mar_to_Premier-terms_of_ref__child_protection_.pdf.PDF; 20130325101125464.pdf

Importance: High

Hi Michelle

Have we received the attached letter? If not, can we please arrange for it to be registered urgently and assigned out to Sally Badcock ASAP?

Thank you.

Sandra

Sandra Pelusi | Senior Information Officer | Executive Correspondence Unit Level 4 | Executive Building | 100 George Street Brisbane
Phone: (07) 3237 1086 | Extension: 71086 | Fax: (07) 3221 0204
Email: sandra.pelusi@premiers.qld.gov.au P Please consider the environment before you print this email or any attachments.

-----Original Message-----

From: Sally Badcock
Sent: Wednesday, 27 March 2013 8:56 AM
To: Sandra Pelusi
Subject: FW: Letter to the Premier re amending QCPCoI's ToR 3(e)
Importance: High

-----Original Message-----

From: Victoria Moore (Justice)
Sent: Tuesday, 26 March 2013 5:35 PM
To: Sally Badcock; Rebecca McGarrity
Cc: Christine Castley; Natalie Parker (Justice); Jennifer Lang
Subject: Letter to the Premier re amending QCPCoI's ToR 3(e)
Importance: High

Dear Sally and Rebecca

Exempt Sch.3(2)(1)(b) Reveal Cabinet consideration

Exempt Sch.3(3)(1)(e) Disclosure of consideration of Executive Council

The Commission provided further advice on 24 March on the requested wording for the Amendment Order (letter attached). We are proposing to adopt the exact form of words recommended by the Commissioner in the Amendment Order.

We are running out of time to lodge this material in time to have it considered, and would appreciate your efforts in liaising with the Premier's Office to seek an urgent response.

Please don't hesitate to call if you have any questions or wish to discuss.

Kind regards,

Victoria

Victoria Moore
Principal Policy Officer
Strategic Policy
Department of Justice and Attorney-General Level 17 - 50 Ann St, Brisbane Qld 4000
p:(07) 323 93414 (Quick Dial 93414)
e: victoria.moore@justice.qld.gov.au

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Released under the Official Information Act 2009
RTID196



The Hon Jarrod Bleijie MP
Attorney-General and Minister for Justice

In reply please quote: 550472/1; 214029

26 MAR 2013

Level 18 State Law Building
50 Ann Street Brisbane 4000
GPO Box 149 Brisbane
Queensland 4001 Australia
Telephone +61 7 3247 9068
Facsimile +61 7 3221 4352
Email attorney@ministerial.qld.gov.au

The Honourable Campbell Newman MP,
Premier
Member for Ashgrove
PO Box 15185
CITY EAST QLD 4002

Dear Premier

On 18 March 2013, the Commissioner of the Queensland Child Protection Commission of Inquiry, the Honourable Tim Carmody SC, wrote to me to bring to my attention issues that have arisen in relation to Term of Reference 3(e). A copy of this letter is enclosed.

Term of Reference 3(e) was drafted with the intention of enabling the Commission to investigate what is commonly referred to as "the Heiner Affair". The Heiner Affair concerns the destruction of documentation and evidence relating to investigations conducted by retired magistrate Mr Noel Heiner during 1989 at the John Oxley Youth Centre. There is a common understanding by Counsel Assisting the Inquiry and parties with leave to appear that this is the matter that is intended to be inquired into under this Term of Reference.

The Commissioner has requested that the Commission's Terms of Reference be amended to clarify the Commission's jurisdiction in relation to this Term of Reference to allow him to continue to hear evidence and to make relevant findings. The problem with the current wording is that it contemplates only actions taken by government in response to allegations of child sexual abuse in youth detention centres. Evidence before the Commission to date supports the view that the Heiner Inquiry concerned an industrial dispute and that allegations of sexual abuse were not considered as part of this inquiry. As a consequence, the Commissioner is concerned that he could be prevented from taking his investigations any further.

The Commissioner has recommended a form of wording that would more clearly allow him to continue his investigations into the Heiner Inquiry and action taken by the executive government in response during the relevant time period. The Commissioner advises that no further resources or time will be required to consider the revised Term of Reference.

R

(2)

Given the extent of the Commission's investigations to date and that the Commission has already heard from 135 witnesses and admitted 248 exhibits into evidence in relation to this matter, I consider it appropriate to ensure that the Commission is not hampered in completing its task by the unintentional, but apparently limited scope of this Term of Reference.

Accordingly, I am proposing that the amendments proposed by the Commissioner be made to the Commission's Terms of Reference by way of an amendment order to be approved by the Governor in Council.

I am seeking your approval for this course of action.

Exempt Sch.3(2)(1)(b) Reveal Cabinet consider

To ensure the Commissioner can complete his investigations without further delay, I

Exempt Sch.3(3)(1)(e) Disclosure of consideration of Executive Council

Thank you for considering this request. I look forward to receiving your advice.

Yours sincerely



JARROD BLEIJIE MP
Attorney-General and Minister for Justice

Enc.

Released under RTI

Our reference: JD/2143495

Ms Natalie Parker
Acting Director
Strategic Policy
Department of Justice and Attorney-General
State Law Building, 50 Ann Street
BRISBANE QLD 4000

Dear Ms Parker,

The Commissioner has considered the draft amendment to the Order in Council.

Commissioner Carmody has reflected carefully on the precise wording of term of reference 3(e). The Commissioner has formed the view that clause 3(e) should be further refined, to read:

- (e) reviewing the adequacy or appropriateness of (including whether any criminal conduct was associated with) any response of, or action taken by, the executive government between 1 January 1988 and 31 December 1990 in relation to:
 - (i) allegations of child sexual abuse, and/or
 - (ii) industrial disputes
- In youth detention centres, or like facilities.

The Commissioner has asked that the Attorney recommend the use of the above-mentioned language. The Commissioner would be happy to view a further version of the Amendment Order before it was sent to Her Excellency the Governor.

The Commissioner has considered the matter in relation to an incident on 4 April 1991, and is not minded to include that date within the date range.

If you have any questions, please contact me.

Yours sincerely



Julia Duffy
Executive Director and Official Solicitor
Queensland Child Protection Commission of Inquiry

25 / 03 / 2013

For reply please quote: *LJP/SB – TF/13/6460 – DOC/13/50268*
Your reference: *550472/1, 214029*

The Honourable Jarrod Bleijie MP
Attorney-General and Minister for Justice
GPO Box 149
BRISBANE QLD 4001

Dear Attorney-General

Thank you for your letter of 26 March 2013 seeking approval to amend Term of Reference 3(e) in relation to the Child Protection Commission of Inquiry (the commission).

Based on the reasons provided in your letter, I support the proposed amendment to Term of Reference 3(e) in relation to the commission. I also note the Commissioner's advice that no further resources or time will be required to consider the revised Term of Reference.

Exempt Sch.3(2)(1)(b) Reveal Cabinet consideration

Exempt Sch.3(3)(1)(e) Disclosure of consideration of Executive Council

Thank you for bringing this important matter to my attention.

Yours sincerely

CAMPBELL NEWMAN



Premier of Queensland

For reply please quote: LJP/SB - TF/13/6460 - DOC/13/50268
Your reference: 550472/1, 2/4029

Executive Building
100 George Street Brisbane
PO Box 15185 City East
Queensland 4002 Australia
Telephone +61 7 3224 4500
Facsimile +61 7 3221 3631
Email: ThePremier@premiers.qld.gov.au
Website www.thepremier.qld.gov.au

27 MAR 2013

The Honourable Jarrod Bleijie MP
Attorney-General and Minister for Justice
GPO Box 149
BRISBANE QLD 4001

Dear Attorney-General

Jarrod

Thank you for your letter of 26 March 2013 seeking approval to amend Term of Reference 3(e) in relation to the Child Protection Commission of Inquiry (the commission).

Based on the reasons provided in your letter, I support the proposed amendment to Term of Reference 3(e) in relation to the commission. I also note the Commissioner's advice that no further resources or time will be required to consider the revised Term of Reference.

| |
|--|
| Exempt Sch.3(2)(1)(b) Reveal Cabinet consideration |
| Exempt Sch.3(3)(1)(e) Disclosure of consideration of Executive Council |

Thank you for bringing this important matter to my attention.

Yours sincerely

CAMPBELL NEWMAN

Pages 16 through 22 redacted for the following reasons:

Exempt Sch.3(2)(1)(a) Consideration of Cabinet

Exempt Sch.3(3)(1)(b) Prepared for submission to Executive Council

Released under RTI - DPC

Adriana Cascaes

From: Victoria Moore (Justice)
Sent: Thursday, 28 March 2013 12:04 PM
To: Sally Badcock
Cc: Natalie Parker (Justice); Rebecca McGarrity
Subject: RE: CPCOI letter
Attachments: JAG-#2145616-v1-20130324
_Letter_from_DUFFY_Julia_(QCPCol)_to_PARKER_Natalie_re_revised_ToR_pdf.PDF

Thanks Sally

We have provided this advice on to the Attorney and are seeking approval his approval for lodgement of the ECM.

The terms of the Amendment Order have been settled with the Crown Solicitor and are as per the Commissioner's advice in the Commission's most recent letter to us (copy attached).

Regards,

Victoria

Victoria Moore
Principal Policy Officer
Strategic Policy
Department of Justice and Attorney-General Level 17 - 50 Ann St, Brisbane Qld 4000
p:(07) 323 93414 (Quick Dial 93414)
e: victoria.moore@justice.qld.gov.au

-----Original Message-----

From: Sally Badcock [<mailto:Sally.Badcock@premiers.qld.gov.au>]
Sent: Thursday, 28 March 2013 9:09 AM
To: Victoria Moore
Cc: Natalie Parker; Rebecca McGarrity
Subject: CPCOI letter

Hi Victoria

Attached is the signed letter from the Premier approving the proposed change to the ToR for the commission.

Thanks
Sally

Sally Badcock
Senior Policy Officer | Law & Justice Policy | Department of the Premier and Cabinet Level 14, Executive Building, 100 George Street, BRISBANE QLD 4000 | PO Box 15185, CITY EAST QLD 4002.
07 3227 7941 (Extension 77941) | sally.badcock@premiers.qld.gov.au P Please consider the environment before printing this email