



Special Commission of Inquiry into the Drug 'Ice'

The Honourable Gladys Berejiklian MP
Premier of New South Wales
52 Martin Place
SYDNEY NSW 2000

21st May 2019

Dear Premier,

Re: Special Commission of Inquiry into the Drug 'Ice'
Request for Amendment of Letters Patent to Extend time to Report

The work of the Special Commission of Inquiry into the Drug 'Ice' is progressing very well, and the Commission's staff has been working tirelessly on the issues encompassed in the terms of reference.

You will be aware that our formal hearings commenced in Sydney a fortnight ago, and that we have held the first of a series of five regional hearings last week, in Lismore. I have obtained valuable evidence through these hearings so far. Over the next three months the Commission will hold hearings in Nowra, Dubbo, East Maitland and Broken Hill, as well as a series of hearings in Sydney on specific key topics, namely, corrective services, the health response to the ice problem, funding and innovative approaches to harm minimisation.

In response to the four very comprehensive Issues Papers produced by the Commission and its call for submissions, the Commission has to date received over 130 submissions from stakeholders, agencies and individuals. It has been necessary to grant time extensions in a number of cases, including to the Department of Premier and Cabinet, which has indicated that it expects to provide the Government's response on 28th May, in view of the large amount of information that is required to be drawn together to assist the Commission with the Inquiry.

As the work of the Commission has progressed, it has become clear to me that the current requirement that the Commission report by 28th October allows altogether insufficient time for the Commission to adequately address the many important matters raised by the terms of reference.

The evidence that is emerging, both in our hearings and in the submissions received by the Commission, raises important issues and further lines of inquiry that need proper exploration to enable the Commission to do justice to its terms of reference. Such issues include, by way of a few examples, the extent to which crystal methamphetamine use is impacting on child 'at risk of harm' reports and removals by Family and Community Services; the level of amphetamine use in custodial settings; the efficacy of school education programs regarding ATS; resourcing of important diversionary schemes such as the Drug Court and the Magistrates Early Referral into Treatment (MERIT) program; and data quality in both the health and justice sectors.

Further, it is clear from the submissions I have received from many important stakeholders, that a key issue for the Commission to inquire into is the question of the removal of criminal sanctions for the 'use' and 'possession' of amphetamine type stimulants (ATS) and other drugs. This issue is one that is currently being agitated not only in Australia, but also in many jurisdictions internationally; it is an issue that requires great care and thoroughness of approach by this Commission, if it is to make appropriate recommendations on this important question affecting the Justice sector and NSW's drug laws. The same can be said for appropriate approaches to harm minimisation (such as substance/pill testing) and to the question of redressing the significant barriers to treatment that arise from inappropriate stigmatisation of persons suffering from drug addiction, about which I have received important evidence, but which requires further exploration by the Commission.

I have been fortunate that the Commission, with the government's support, has assembled an outstanding staff of hard-working, dedicated lawyers as well as policy researchers drawn from a number of government agencies, who are working as a dynamic team and producing excellent work, such as our Issues Papers that have been extremely well received by stakeholders. We have in place a well-organised Project Plan and Hearings Schedule that will yield evidence and lines of inquiry of immense value.

I believe that the final report of this Commission has the potential to be a key resource for informing ATS policy in particular, and drug policy more generally, in NSW long into the future. However, I am firmly of the view that the Commission requires a six months extension of time in order to complete the complex task it has been set. The additional time will enable the Commission to adequately explore the many important issues that are coming to light during its proceedings, so that it can make specific, rather than general, recommendations that are properly researched and well targeted, both for the State as a whole and for the most seriously affected regional localities that we are visiting in particular.

Our current time frame has imposed considerable pressures not only upon my staff, but also upon stakeholders who have had difficulty meeting the timelines that the Commission has had to impose for the provision of statements from witnesses from government agencies, and for submissions.

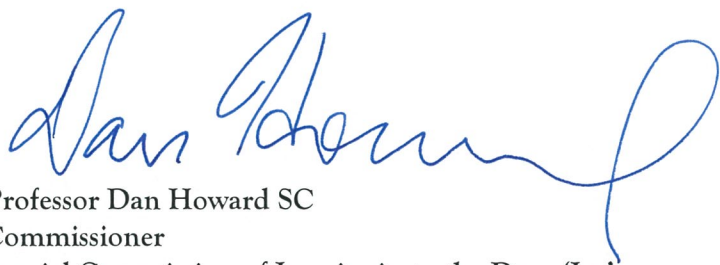
Although the Commission was established on 28th November 2018, I note that it did not have any premises until late January and that the Commission's full staffing complement was not in place until late February 2019. Whilst these delays were unavoidable (particularly with the Christmas period intervening and the level of organisation that such an enterprise requires), and whilst we were able to commence an amount of important preliminary work in December and January, it has meant that our effective working life at full establishment to date has been only four months.

Senior Counsel assisting the Commission, Sally Dowling SC, the Commission's Chief Operating Officer David McGrath, our Principal Solicitor assisting the Commission (from the Crown Solicitor's Office) Mr James Herrington, and our lead policy/research officer, Megan Smith (seconded from the Department of Premier and Cabinet) have each indicated to me that, in their opinion, the Commission requires a six months extension in order to properly report on its terms of reference, otherwise the scope of our work will need to be significantly narrowed and the result would inevitably be a significantly less comprehensive product. I agree with this assessment.

Accordingly, I request that the Letters patent be amended to provide for a reporting date of on or before 30th April, 2020. I have given consideration to the question of providing an interim report at an earlier date. However, this would be a serious imposition upon the Commission's time that would necessitate an even longer extension, and I believe it would be a serious and unhelpful distraction to the Commission's progress.

I would be very happy to meet with you to discuss this matter further, if necessary.

With kind regards,

A handwritten signature in blue ink that reads "Dan Howard". The signature is fluid and cursive, with a large loop at the end.

Professor Dan Howard SC
Commissioner
Special Commission of Inquiry in to the Drug 'Ice'