



LEGISLATIVE ASSEMBLY

Public Accounts Committee

Inquiry into the safety and quality of health services provided by Northern Beaches Hospital

Explanatory statement: Adherence to the sub judice convention and Committee interpretation of the terms of reference

1. Introduction

- 1.1. The Public Accounts Committee is conducting an inquiry into the audited financial statements of the Northern Sydney Local Health District and NSW Ministry of Health as they relate to the public health services delivered at Northern Beaches Hospital.
- 1.2. The Committee's Terms of Reference, referred by the Minister for Health on 12 March 2025, also require examination of safety, governance, staffing, and the implementation of prior parliamentary and audit recommendations.
- 1.3. Importantly, Clause 5 of the Terms of Reference requires:

That the Committee have regard to, and conduct its inquiry in a manner that does not prejudice:

- a. any inquest undertaken by the State Coroner in relation to the death of Master Joe Massa at Northern Beaches Hospital in September 2024*
- b. any internal investigation into the death of Master Joe Massa at Northern Beaches Hospital in September 2024.*

2. Application of the Sub Judice Convention

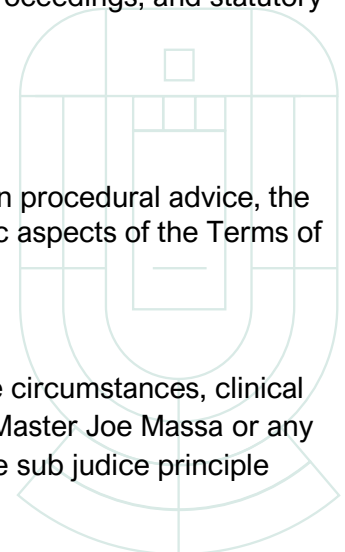
- 2.1. In addition to Clause 5, the Committee recognises the sub judice convention of the NSW Parliament. This convention seeks to prevent parliamentary commentary on matters before the courts or under judicial investigation, where such comment may prejudice proceedings or interfere with natural justice.
- 2.2. The convention extends to coronial inquests, civil and criminal proceedings, and statutory internal investigations with potential legal consequences.

3. Interpretation of Inquiry Scope

- 3.1. In line with Clause 5 and the sub judice convention, and acting on procedural advice, the Committee has resolved to curtail its inquiry in relation to specific aspects of the Terms of Reference, as follows:

(a) Matters Set Aside

- The Committee will not inquire into or receive evidence on the circumstances, clinical treatment, or investigatory responses relating to the death of Master Joe Massa or any matter under active coronial or other investigation to which the sub judice principle applies.



- No findings will be made concerning the actions of any individual clinician, staff member, or incident review body associated with that case.

(b) Systemic Matters Proceeding

- The Committee will continue to inquire into systemic issues such as:
 - Issues confronting public-private-partnerships, particularly in respect of the delivery of public health services;
 - The governance, operational and financial management of the Northern Beaches Hospital under the public-private-partnership;
 - The operation of hospital-wide safety and risk governance frameworks;
 - The implementation of escalation systems such as REACH;
 - The overall effectiveness of clinical incident reporting processes, excluding all reference to matters currently under inquest or investigation.

4. Procedural Protections

4.1. The Committee has adopted the following procedural safeguards to protect the integrity of related proceedings:

- Witnesses will be instructed not to comment on the facts of Master Joe Massa's case or any matter under active coronial or other investigation to which the sub judice principle applies;
- The Committee may receive evidence in camera (privately) where necessary;
- The Committee may defer publication or redaction of evidence deemed sensitive or potentially prejudicial, including submissions to the inquiry;
- The scope of the inquiry may be further adjusted should legal circumstances change.

5. Conclusion

5.1. This explanatory statement is tabled to ensure clarity and transparency regarding the Committee's respect for judicial processes and its decision to narrow its scope in accordance with established parliamentary convention and the Terms of Reference.

Mr Jason Yat-sen Li MP
Chair

