

STATUTORY DECLARATION

QUEENSLAND)
TO WIT)

I, Susan Jane Hedge of Byth Chambers, Level 34, 300 George Street, Brisbane, Barrister, do solemnly and sincerely declare that:

- 1 I am a barrister practising primarily in Queensland. I have a Bachelor of Laws (First Class Honours) and a Bachelor of Applied Science (Mathematics) from QUT. I received the university medal for law. I also hold a Bachelor of Civil Law from the University of Oxford.
- 2 I was admitted as a legal practitioner in 2009, after which I worked as a solicitor in a law firm. Between February 2011 and March 2012, I was a senior solicitor assisting the Queensland Floods Commission of Inquiry.
- 3 I was first called to the bar in 2013 and was a Crown Prosecutor and Senior Crown Prosecutor at the Office of the Director of Public Prosecutions between 2013 and 2021. I commenced practice at the private bar in 2021. I have experience in appearing in hearings, trials and appeals in courts at all levels.
- 4 In June 2022, I was appointed one of the counsel assisting Commissioner Walter Sofronoff KC (**Commissioner**) for the Commission of Inquiry into Forensic DNA Testing in Queensland (**DNA Inquiry**). The other counsel assisting appointed were Mr Michael Hodge KC, Mr Joshua Jones and Ms Laura Reece. References to exhibits in this statement are to exhibits tendered at the DNA Inquiry.
- 5 I was engaged by the DNA Inquiry until 13 December 2022, the day on which the final report of the DNA Inquiry (**Report**) was delivered to the Premier of Queensland.

Notice to Give Written Statement

- 6 I provide this statement in response to the Notice to Give Information in a Written Statement dated 24 October 2023 (**Notice**) issued by the Commissioner appointed to conduct the Commission of Inquiry into DNA Project 13 (**Project 13 Inquiry**). The Notice requires me to provide a statement that covers:

“... ”

Declarant: ...

Witness: ...

4. Your recollection of any conversations or conferences with Professor Linzi Wilson-Wilde regarding:
 - a. Instructions given regarding the matters to be addressed in her expert report dated 20 October 2022;
 - b. The identification of any matters in addition to those enumerated in the instructions given for her report of 20 October 2022 including in relation to the Report titled: "Project 13: Report on the Verification of an Automated DNA IQ Protocol using the MultiPROBE II PLUS HT EX with Gripper Integration Platform" (**Project 13 Report**);
 - c. The Project 13 Report.
5. Your recollection of any conversations or conferences with: (i) Dr Bruce Budowle, (ii) Ms Johanna Veth, and (iii) Professor Linzi Wilson-Wilde, in relation to the quantity of DNA extracted via each of the manual and automated procedures used in the Queensland Health and Forensic and Scientific Services laboratory between 2007 to 2022."

7 In my role as Counsel assisting the DNA Inquiry, I conferred with various witnesses, including those witnesses referred to in paragraph 5 of the Notice. At most if not all such conferences, a legal officer, being an appointed staff member of the secretariat assisting the Commissioner, was in attendance and made contemporaneous notes of those conferences. I understand that those conference notes, as well as various emails and correspondence with those witnesses, were delivered to the Queensland State Archives at the conclusion of the DNA Inquiry.

8 I did not keep a copy of any those notes, emails or correspondence related to the Notice and I have not been able to access those documents to assist me in making this statement. My recollection of events would be greatly assisted by reviewing those documents. I reserve the right to revisit and amend or add to any of the matters I declare below should the contemporaneous documents become available to me.

Professor Linzi Wilson-Wilde

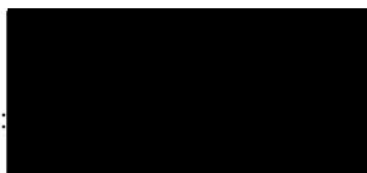
9 I first met Professor Wilson-Wilde in a video conference in approximately July 2020. At that time I was aware (although I do not remember how) that Queensland Health had intended to have Professor Wilson-Wilde (and Dr Rebecca Kogios) conduct the internal review of the DNA laboratory that was planned before the DNA Inquiry was established.

10 I spoke to Professor Wilson-Wilde about what areas she was planning to look into in the internal review and how she might have gone about investigating whether there were any scientific or technical problems at the laboratory.

Declarant




Witness:



- 11 Professor Wilson-Wilde was subsequently commissioned by the DNA Inquiry to provide expert reports on:
- (a) The reporting and suitability for DNA profiling of a sample with a quantitation result between 0.001 ng/uL and 0.0088 ng/uL (the DIFP range) (31 July 2022, Annexure 2 to the DNA Inquiry's interim report dated 15 September 2022)
 - (b) The accuracy of statements made by reporting scientist in formal witness statement regarding samples that are reported as "no DNA detected" (Exhibit 89.34, 25 August 2022)
 - (c) The appropriateness of not performing micro-concentration where quantification is between 0.001 ng/uL and 0.0088 ng/uL (Exhibit 27, 7 August 2022)
 - (d) The QHFSS Options Paper (Exhibit 26, 20 September 2022)
 - (e) DNA IQ Contamination (Exhibit 129.5, 20 October 2022)
 - (f) Rayon swabs and ethanol (Exhibit 225, 18 November 2022)
 - (g) QHFSS DNA profile generation success rates (Exhibit 225b, 24 November 2022).
- 12 I briefed Professor Wilson-Wilde in relation to the reports into DIFP, No DNA detected, micro-concentration, DNA IQ Contamination and DNA profile generation success rates (see subparagraphs 9a, b, c, e and g above).
- 13 I took oral evidence from Professor Wilson-Wilde at public hearings of the DNA Inquiry in relation to her reports on micro-concentration and the Options Paper on 28 September 2022 and DNA profile generation success rates on 25 November 2022.

Paragraph 4 of the Notice – Conversations and conferences with Professor Wilson-Wilde regarding report dated 20 October 2022 (Exhibit 129.5) and the Project 13 Report (Exhibit 129.95)

- 14 The issue of contamination after the introduction of the DNA IQ system in about 2007/2008 had been raised by some of the scientist witnesses (for example see Exhibit 77, Statement of Ingrid Moeller at paragraphs [56] to [71]; Exhibit 78, Statement of Kylie Rika at paragraphs [48]-[59]). The Commissioner approved my obtaining an expert report on that topic.
- 15 I supervised the drafting of the instructions to Professor Wilson-Wilde and settled the content about the DNA IQ contamination issue (Appendix 1 to Exhibit 129.5). The instructions appended to the

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report are amended. I believe the original instructions are those parts of that document which are not underlined.

16 I note the timeframes identified on the third page of Appendix 1, and that they were also amended.

17 To the best of my recollection, I spoke to Professor Wilson-Wilde on the telephone about the potential to brief her to produce a report on this topic. I do not now remember what was said in that conversation. In accordance with my usual practice when speaking to experts for the first time about a topic, I expect I would have described the topic as DNA IQ contamination and explained it in terms of contamination events found after the introduction of DNA IQ as an automated process.

18 My best recollection is that I sent an email to Professor Wilson-Wilde with a link to the material, an index and the instructions in a OneDrive folder for her to review and consider whether she had capacity to take on the task. One of the legal officers in my team at the Commission prepared the electronic folder with the material in it. I do not now remember the date, but expect this would have been not after the phone call in paragraph 17.

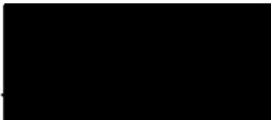
19 My best recollection is that I spoke to Professor Wilson-Wilde in the few days after sending the email with the material, and she confirmed she had capacity to do the task and we discussed timeframes. I do not remember what was agreed, but I believe we would have discussed when she thought she could deliver a report and set the timeframes in the instructions on that basis.

20 I do not now precisely remember why the instructions were amended, although my recollection is that I discussed the amendments with Professor Wilson-Wilde. I remember reviewing a draft of the amendments and settling the content.

21 I remember receiving a draft of the report from Professor Wilson-Wilde. I do not remember precisely when this was, but I expect it was less than a week before Professor Wilson-Wilde issued her final report.

22 I remember having a video conference or phone call with Professor Wilson-Wilde after receiving the draft report. That took place in my office at the DNA Inquiry. To the best of my recollection, two legal officers who worked in my team were present in the room. In accordance with my usual practice, and in accordance with my observations of the ordinary practice of my team at the DNA Inquiry:

(a) I believe one of those legal officers would have taken a note of the conference.

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(b) I believe that note would have been sent to my DNA Inquiry email address after the conference, and saved into a folder for conference notes in the DNA Inquiry's folder system.

23 I remember Professor Wilson-Wilde talking about aspects of the draft report during the discussion referred to in paragraph 22. I remember that Professor Wilson-Wilde mentioned some things in the conference that were not in the draft report. One example that I believe was in this category was the limitations of the cleaning procedures and records identified in paragraphs 47 and 48 of the final report. I remember there was more than one thing that she told me that was not in the draft report, but without the contemporaneous documents, I cannot presently identify the other things.

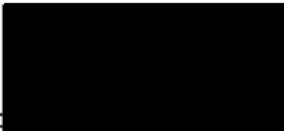
24 I remember that Professor Wilson-Wilde mentioned the Project 13 report in the same conference after we had received her draft report. I am not sure if she called it the Project 13 report or something else. I remember her explaining the content that became paragraph 32 of her final report regarding the invalidation of one of the runs due to the presence of an unknown profile. I remember Professor Wilson-Wilde talking me through the checkboard and zebra stripe patterns shown on page 7 of the Project 13 report (Exhibit 129.95). I remember that Professor Wilson-Wilde drew my attention to Table 4 on page 9 of the Project 13 report to show me the invalidated extraction that is referred to in paragraph [32] of her final report. I think Professor Wilson-Wilde also mentioned the elution volume aspect of Project 13 that is referred to in paragraph [26] to [28] of her final report. My best recollection is that Professor Wilson-Wilde did not draw my attention to, make any comments about or express any opinions regarding any other aspect of the Project 13 report.

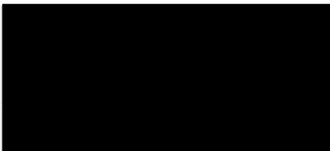
25 I remember writing an email to Professor Wilson-Wilde after the conference setting out some of what we had discussed and asking her to include certain aspects of our discussion in her final report. Subsequently, Professor Wilson-Wilde provided her final report. To the best of my recollection, she did include the things I asked of her in my email.

26 I believe I would have Outlook calendar entries for most if not all of these conferences and conversations in my DNA Inquiry email account, which I was told would become part of the Queensland State Archives.

Paragraph 5 of the Notice

27 In answering paragraph 5, I have limited my response to conversations with Dr Budowle, Ms Veth and Professor Wilson-Wilde about any differences between automatic and manual extraction

Declarant: 

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procedures and the quantity of DNA extracted in each, as opposed to conversations about extraction processes generally.

Paragraph 5 of the Notice – Conversations and conferences with Dr Bruce Budowle in relation to the quantity of DNA extracted via each of the manual and automated procedures used in the Queensland Health and Forensic and Scientific Services laboratory between 2007 to 2022

28 I do not remember Dr Budowle raising a difference in DNA yield between the manual and automated methods. I do not remember discussing the issue with him at all.

Paragraph 5 of the Notice – Conversations and conferences with Ms Johanna Veth in relation to the quantity of DNA extracted via each of the manual and automated procedures used in the Queensland Health and Forensic and Scientific Services laboratory between 2007 to 2022.

29 Johanna Veth was a scientist employed by ESR in New Zealand. She was engaged by the DNA Inquiry with Dr Bruce Budowle to conduct a review of matters relating to the Blackburn case and two validations that occurred in 2012 (PowerPlex 21 and STRMix v1.05) which resulted in Exhibit 218 and 219. Laura Reece was the counsel assisting who briefed and instructed Ms Veth and Dr Budowle for these reports.

30 In November 2022 Laura Reece raised a yield issue with me that I understood Ms Veth had raised with her.

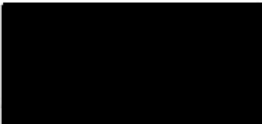
31 My best memory is that the issue raised concerned the fact that amongst positive extraction controls processed at the same time as samples related to the Blackburn case, those which had been processed using an automated extraction method had generally had a lower quantitation value than those that had been processed using the manual extraction method, suggesting a difference in yield between those two methods. Ms Veth was interested in ascertaining whether this was a wider issue, or just related to the Blackburn samples' associated positive controls.

32 I drafted, or settled (I do not recall which) a requirement to Queensland Health requiring them to provide data in relation to this issue. I believe the data required was the quantitation values of all positive controls processed by the laboratory in 2012 and 2013. This led to the commentary in Ms Veth & Dr Budowle's report in paragraph [41] to [45] (Exhibit 218).

Declarant:

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- 33 Laura Reece and I agreed that our teams would collaborate on this issue because of the overlap between the Blackburn case and the scientific / technical issues which my team was investigating. I assigned one of the legal officers on my team to the investigation of this issue under my supervision.
- 34 I remember being present in a video conference the DNA Inquiry set up for Ms Veth to discuss the issue about the automated and manual extraction methods with Mr Allan McNevin at the laboratory. I believe the video conference occurred in the early afternoon. I believe Ms Reece was also at the conference. I believe Mr McNevin's lawyers were at the video conference. Dr Budowle was not at the video conference. I am not sure if Dr Kirsty Wright was at the video conference. I attended the conference in my office with one of my legal officers and I expect that notes were taken in accordance with the usual practice I have described above. I am not sure whether Ms Reece was in my office, or in another office. I remember reviewing an excel spreadsheet of data on my computer and performing some functions (such as sorting and averaging data) to confirm for myself that there was a discrepancy. I remember I was satisfied there was a discrepancy. I remember Mr McNevin answering questions from Ms Veth about the automated method. I remember Mr McNevin positing potential answers to why there was a discrepancy between the DNA yield from the automated method and the manual method. He and Ms Veth discussed these potential answers. I do not remember any further details of this conference at this time.
- 35 I believe this conference occurred in the 2 or 3 days before Ms Veth and Dr Budowle gave evidence on 24 November 2022.
- 36 I believe there was another video conference attended by Johanna Veth, Laura Reece and I. We discussed the issue, how it could be investigated by the DNA Inquiry, and by the laboratory after the end of the DNA Inquiry. I believe a legal officer was present. I do not now remember whether this conversation preceded the conference with Allan McNevin or was after it.
- 37 I believe I would have Outlook calendar entries for these conferences in my DNA Inquiry email account, which I was told would become part of the Queensland State Archives
- 38 As Ms Veth & Dr Budowle said in paragraph 41 of Exhibit 218, they were not able to investigate this issue further due to time constraints. This area of investigation led to section 5.2 of the

Declarant:.. 

Witness: 

Commission's report: Multiprobe II Instrument: 2012-2013, and to recommendation 105 which states:

Rec 105 The laboratory should conduct a retrospective review of positive control extraction batches processed by the MultiProbe® II instrument to determine if this extraction method was performing sub-optimally, and if so, the period of time in which a sub-optimal method was used and whether there is utility in re-testing or re-analysing any potentially affected sample

Paragraph 5 of the Notice – Conversations and conferences with Professor Linzi Wilson-Wilde in relation to the quantity of DNA extracted via each of the manual and automated procedures used in the Queensland Health and Forensic and Scientific Services laboratory between 2007 to 2022.

- 39 The only conversations or conferences I can recall with Professor Wilson-Wilde about the DNA IQ extraction method relating to the period of its introduction in 2007-2009 is in relation to the DNA IQ Contamination topic set out above in answer to question 4.
- 40 I do not have a recollection at this time of any conversation or conference with Professor Linzi Wilson-Wilde dealing with any difference in the quantity of DNA extracted by the manual and automated extraction procedures between 2007 and 2022.

Declarant:.....

Witness:

AND I MAKE this statutory declaration conscientiously believing the same to be true and by virtue of the Oath Act 1867

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

DECLARED by

Susan Jane Hedge

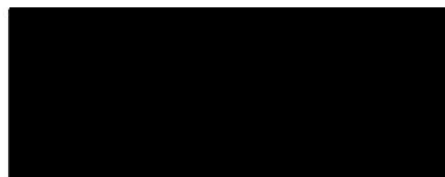


27 October 2023

at Brisbane

In the presence of:

Katherine Jem Buckley
Barrister
Byth Chambers, Brisbane



27 October 2023