LECC
Law Enforcement
Conduct Commission

LAW ENFORCEMENT CONDUCT COMMISSION
OPERATION MAKALU PRACTICE NOTE
9 OCTOBER 2026

1. Introduction

1.1 This Practice Note provides general guidance about the conduct of the examinations in the Law Enforcement Conduct Commission (the Commission) investigation Operation Makalu.

1.2 Operation Makalu is the Commission's investigation into the NSW Police Force (NSWPF) operation at Sydney Town Hall on the evening of 9 February 2026, including incidents of alleged serious misconduct on the part of officers against persons attending that location for a protest.

1.3 This Practice Note should be read in conjunction with the *Law Enforcement Conduct Commission Act 2016* (NSW) (the LECC Act). Nothing in this Practice Note limits the Commission's powers under the LECC Act.

1.4 This Practice Note outlines information about:

(a) providing material to the Commission in relation to the Operation Makalu investigation or the examinations;
(b) attendance at public examinations;
(c) procedure for the examination of witnesses;
(d) seeking leave to appear and for witnesses appearing at an examination, or persons who wish to be legally represented at an examination;
(e) provision of documents in advance of examinations;
(f) the tendering of documents during an examination;
(g) non-disclosure orders and orders for the use of pseudonyms;
(h) submissions at the conclusion of the examinations and notice of potential adverse findings.

1.5 This Practice Note may be updated, varied, or changed at any time.

2. Provision of material to the Commission by members of the public

2.1 The Commission opened a dedicated portal on 13 February 2026 to allow members of the public to provide information about the Town Hall protest. This portal remains open.

2.2 If you would like to submit new information to the Commission that you believe is relevant to the investigation, or you would like to make a complaint about an

allegation of serious misconduct at the Town Hall protest, where you were a direct witness to the alleged conduct, that information can be submitted via a portal on the Commission's website: **Dekko Secure hub**

2.3 If information or material is received at a late stage of the Commission's investigation, the Commission may not be able to consider it during this part of the investigation. However, all submissions will still be assessed in accordance with the Commission's complaint handling procedures.

3. Attendance at examinations

3.1 Examinations will form part of the Commission's investigation. Where the Commission decides to hold public examinations in Operation Makalu, it will issue a media statement in advance of the hearing. It will also update its website with details of the hearings including the date and time they will commence.

3.2 The Commission public examinations are held in the Hearing Room at the Commission's premises on Level 3, 111 Elizabeth Street, Sydney. Examinations will ordinarily run from 10:00 am to 4:00 pm, with a lunch adjournment from 1:00 pm to 2:00 pm.

3.3 Members of the public can attend the Commission's public examinations. However, there is limited seating in the Hearing Room. Transcripts of the public examinations will be available on the Commission website as soon as practicable. Where appropriate, public exhibits tendered into evidence will also be available on the Commission website.

3.4 Any members of the public wishing to attend the public examinations will be required to pass through security screening, including a metal detector. Bags and other personal belongings will be screened before entering the Hearing Room. The Commission may refuse entry to the Hearing Room for any reason, including a potential security risk, or if the Hearing Room seating area is full.

3.5 The Commission has CCTV cameras which are recording in areas on Level 3, 111 Elizabeth Street, Sydney including the Hearing Room and the lift and security areas.

3.6 The *Court Security Act 2005* applies to Commission hearings and the use of recording devices and the unauthorised transmission of proceedings from the Hearing Room are not permitted and may constitute an offence.

3.7 The Commission expects those attending any public hearings including public examinations will listen respectfully to the proceedings. The Commission's security officers may refuse a person entry to the Hearing Room or direct a person to leave the Hearing Room if they are behaving in a way that disrupts proceedings or obstructs another, or whose behaviour constitutes harassment

or intimidation or causes or is likely to cause fear to another person. Failure to comply with a direction may be an offence. The presiding Commissioner may also order any person to leave the Hearing Room for security reasons.

4. Examination of witnesses

4.1 In the conduct of examinations, the presiding Commissioner is not bound by the rules or practice of evidence and can inform himself or herself on any matter in such manner as the presiding Commissioner considers appropriate (s 70(1) LECC Act).

4.2 Subject to the direction of the presiding Commissioner, Counsel Assisting will determine what witnesses to call and the order in which they are called. It may be necessary to call some witnesses to give evidence on more than one occasion.

4.3 Where a witness is required to appear at an examination, the witness will be issued with a summons to attend and give evidence. The general scope and purpose of the examination will be set out in the summons served on the witness required to attend.

4.4 The witness will be given reasonable notice to prepare for, and participate in, the examination, including a reasonable opportunity to seek legal advice or arrange legal representation.

4.5 A witness may seek leave to be legally represented under s 66 of the LECC Act. Free legal representation is available for witnesses through the NSW Department of Communities and Justice. Details of how to obtain legal representation will be provided with the summons.

4.6 All witnesses who appear at an examination are required to answer any questions, or produce documents as required by the Commission, even if the answer, or the document, may incriminate the witness. If the witness objects to answering a question, or producing a document, the answer or document cannot then be used in any proceedings against the witness except in limited circumstances set out in s 74(3) of the LECC Act. The presiding Commissioner can make a declaration under s 75 of the LECC Act at the commencement of an examination that all answers given during the examination, and any documents produced during an examination, will be regarded as having been given or produced on objection by a witness, so that they do not have to make an objection for each answer or document.

4.7 It is the Commission's common experience that a declaration will be sought and made under s 75 of the LECC Act for witnesses required to appear at an examination of the Commission, and no adverse inference arises in relation to the witness' evidence where such a declaration is sought and made.

4.8 If a witness is unavailable on the date of the proposed examination, they are required to give the Commission notice of that unavailability at the earliest possible opportunity.

4.9 All witnesses will be called to give evidence by Counsel Assisting and then examined by Counsel Assisting. If leave is granted by the presiding Commissioner, the witness may then be cross-examined by or on behalf of any person considered by the presiding Commissioner to have sufficient interest to do so on any matter that the presiding Commissioner considers relevant. The witness may then be examined by their own legal representative, and Counsel Assisting may then re-examine the witness.

4.10 The Commission will seek to ensure that an affected person has a reasonable opportunity to address material on which the Commission may rely which is adverse to his or her interests.

5. Providing documents in advance of the examination

5.1 The Commission may provide a witness, or their legal representative, with access to relevant documents before the witness is examined. A decision as to whether relevant documents will be disclosed to a witness, the extent of the disclosure, and the method and timing of the disclosure, will be determined by the presiding Commissioner.

5.2 Any document that is to be disclosed may be redacted to limit the disclosure of information of a private or personal nature that is not relevant to the investigation.

5.3 If the information is relevant to the investigation, but its disclosure would adversely affect the privacy or reputation of a person who is not the subject of the investigation, the Commission will consider what measures should be taken to protect the privacy or reputation of that person, including whether any directions under s 176 of the LECC Act should be made, before the information is disclosed to the witness.

5.4 A copy of any document proposed to be put to a witness in cross-examination must be provided to Counsel Assisting as soon as possible after a decision is made to use the document for such a purpose. The document must be provided to Counsel Assisting a reasonable time prior to the commencement of the cross-examination (and no less than 2 business days prior).

6. Leave to appear

6.1 The Commission's investigation is limited to the conduct of NSWPF officers, and in particular any conduct which amounts to, or could amount to, serious misconduct or serious maladministration. The Commission has granted the

Commissioner of Police leave to appear at all examinations to be conducted as part of its investigation.

6.2 The Commission's usual practice is for each witness who seeks to be legally represented to have separate and independent representation. However, the Commission will consider any applications by legal representatives for leave to appear for more than one witness in appropriate circumstances. Leave to appear may be granted subject to any conditions or limitations as the presiding Commissioner determines. Leave to appear may be varied or withdrawn at any time by the presiding Commissioner or may be subject to altered or additional conditions or limitations.

6.3 The presiding Commissioner may authorise a person to appear at the public examination of another person if the presiding Commissioner is satisfied that they are substantially and directly interested in the subject matter of the examination (see s 65 of the LECC Act).

6.4 Any application for leave to appear before the presiding Commissioner should be made in writing through the Commission's solicitor via the email address makalu-legal@lecc.nsw.gov.au at least 3 business days prior to the day on which the person seeking leave wishes to appear. The application should state the nature of the interest in the subject matter of the examination, including reasons why the person should be given leave to appear, bearing in mind the substantial role of Counsel Assisting in the Commission's examination, and whether the applicant seeks leave to appear at a whole examination or a specified part only. The application will be determined on the papers in advance of the examination and the outcome of the application communicated to the applicant.

7. Tendering of documents

7.1 Counsel Assisting will determine which documents are tendered as exhibits during examinations, and the time at which they are tendered. Exhibits may also be tendered in chambers. To assist the progress of the investigation, it is expected that a bundle of exhibits may be tendered in chambers before private examinations commence and again before public examinations commence.

7.2 Subject to the exercise of discretion by the presiding Commissioner, and any non-disclosure direction under s 176 of the LECC Act, any person (or the legal representative of that person) who has been granted leave to appear at a public examination will be granted access to a public exhibit.

7.3 If the presiding Commissioner considers it appropriate to do so, any exhibits tendered as public exhibits will be made available on the Commission's website (subject to any necessary redactions).

7.4 Any witness who wishes to have a document or other material considered by the Commission in an examination must provide the document or other material to the Commission no less than 2 business days before the witness is due to appear at an examination. If a witness seeks to have footage tendered, this must be provided to the Commission a week prior to the examination. The Commission will then take steps to review and assess the document or material, and the presiding Commissioner may require the person to produce additional documents or material.

7.5 Counsel Assisting will then decide whether to tender the document or other material, which a witness seeks to tender. If Counsel Assisting has refused to tender the document or other material after following the procedure in [7.4], an application may be made directly to the presiding Commissioner to tender the document or other material.

8. Non-Disclosure orders and orders for the use of pseudonyms

8.1 Non-disclosure orders or orders for the use of pseudonyms may be made relating to names or identifying information where it is in the public interest to do so. An application for a non-disclosure order or orders for the use of pseudonyms will be determined by the presiding Commissioner.[1]

8.2 Persons who have been granted access to documents before an examination and who consider that a non-disclosure order or the use of a pseudonym is warranted should make an application in writing to the Commission as soon as possible. The application should clearly identify the material to be the subject of the non-disclosure order, and the reasons why the material should not be disclosed.

8.3 It may be an offence under the LECC Act to publish any information that is the subject of a non-disclosure order. Those wishing to publish material may clarify the scope of any non-disclosure orders with the Commission by contacting the Commission solicitors on makalu-legal@lecc.nsw.gov.au.

9. Submissions and notice of potential adverse findings

9.1 At the conclusion of the examinations, orders will be made for written or oral submissions.

9.2 Counsel Assisting should bring to the attention of any affected person, either through the process of examination of the affected person or other witnesses, the tendering of documentary or other evidence during the examination, or by

[1] For further information, see the Commission's 'Guidelines on the use of pseudonym and non-publication orders in Commission reports' https://www.the Commission.nsw.gov.au/pdf-files/guidelines-on-the-use-of-pseudonyms-and-non-publication-orders-in-commission-reports-november-2023.pdf.

way of submissions, potential adverse findings against the affected person that Counsel Assisting contends should be made by the Commission, and the substance of the evidentiary grounds for such findings.

9.3 Persons who have been granted leave to appear at an examination will be given an opportunity to provide submissions to the Commission after the conclusion of the examination, but the submissions will be limited to the subject matter giving rise to a person's interest in the examination.

9.4 If any further potential adverse findings are identified during the drafting of the investigation report that were not identified in Counsel Assisting's submissions, the Commission will notify the relevant affected person(s) of the potential adverse finding and provide the person(s) with an opportunity to make submissions in relation to the potential adverse finding.

9.5 Where Generative Artificial Intelligence (Gen AI) has been used in the preparation of written submissions, the author must verify in the body of the submissions, that all citations, legal and academic authority and case law and legislative references:

(a) exist,
(b) are accurate, and
(c) are relevant to the proceedings,

and make similar verification in relation to references to evidence (whether the evidence be contained in statements or transcript).[2] Such verification must not be solely carried out by using a Gen AI tool or program.

9.6 Information subject to a suppression order must not be entered into any Gen AI program under any circumstances. Should this occur, the person responsible must notify the Commission as soon as possible.

[2] For more information on the use of Gen AI, see 'Supreme Court Practice Note SC GEN 23 – Use of Generative Artificial Intelligence (GEN AI)', https://supremecourt.nsw.gov.au/documents/Practice-and-Procedure/Practice-Notes/general/current/PN_SC_Gen_23.pdf.