


# Bundaberg Hospital Commission of Inquiry

## STATEMENT OF ALEIDA JUDITH KEMPS

Aleida Judith ("Judy") Kemps makes oath and says as follows:

1. I was born on 19 September 1933 and I am the widow of Gerardus ("Gerry") Wilhelmus Gosewinus Kemps who died on ~~6 January 2005~~ 21 December 2004. 
2. I have provided a statement dated 6 May 2005 to Detective Sergeant Nixon of the Queensland Police. The statement sets out my knowledge of the circumstances surrounding my husband's death at the Bundaberg Base Hospital on 21 December 2004. I have perused that statement since I provided it. It is true and correct to the best of my knowledge, except for sentence 1, paragraph 4, page 3 thereof, which would be true and correct if it did not state, "to remove the cancer" and only stated, "Once the cancer was found the doctor who did the endoscope told me that Gerry was to be flown to Brisbane for keyhole surgery". The statement is now shown to me and marked "AJK1".
3. I have been provided with a copy of the death certificate for Gerry. Now produced and shown to me marked "AJK2" is a copy of that certificate.
4. The Certificate sets out the cause of death. I have no idea what is meant by the various terms set out there. It also sets out that the medical attendant was a doctor called A. Athanasiov. I don't know who that was. I was never introduced to such a person. There was a man I observed who used to come into the intensive care unit and gaze around without doing or saying anything for about half an hour. He looked to be Indian or Afghani but I don't know if that is the case. Perhaps that is Dr Athanasiov.

Page 1

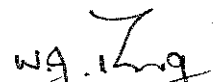
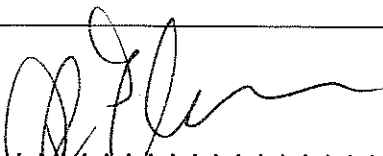
Signed: .....

Deponent

Taken by: .....

Solicitor/Justice of the Peace


5. There is one thing that I would add. The nurse, Ann Last, who I mention in the police statement is about 49 years old and we have known her since she was a teenager. Gerry went back to Hospital on the Sunday morning 19 December 2004 and he was operated on at about 8.30am on the following morning. Ann was working the Sunday night shift. She told me some time later (after Gerry's funeral) that she had been speaking with Gerry in the ward and he was very lucid. She said that she was very distressed when she found out that Dr Patel was to carry out the operation because she was well aware of his reputation but there was nothing she could do. I think this issue has caused her a lot of distress subsequently.
6. I confirm, as I say at page 3 of the police statement, that the doctor who did the endoscopy said that Gerry would be flown to Brisbane for keyhole surgery. I can remember now that the doctor was Australian and he had a name like Burger.
7. I confirm that I expected that Gerry would be flown down south until Dr Patel arrived in the ward. He introduced himself as the chief of surgery and said he would be doing an operation more substantial than keyhole surgery. He showed the family a drawing of what he intended to do. We didn't question him because he seemed to know what he was talking about.
8. I say that Dr Gerry FitzGerald subsequently told me that the notes of the operation had serious shortcomings. They lacked any detail as to what Dr Patel had found. He said they could have been written from a textbook. He said that Dr Patel should not have done this operation because the cancer had already spread so it didn't offer much. Dr Crane told me that Patel should not have carried out the operation because Bundaberg did not have the necessary support equipment.
9. I have been to hospitals down south like the RBH and I have observed that they have much more equipment than we do up here. I am, however, very proud of our Hospital and I am full of praise for the staff.



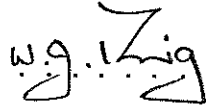
Affidavit sworn on 30 June 2005

at

in the presence of:



Deponent



Solicitor/Justice of the Peace  
(C. Dec.)

STATEMENT OF						
Name of Witness (in full)	Aleida Judith KEMPS				Age	
Occupation	Retired			Date of Birth:		
Police Officer taking Statement:	D J NIXON	Rank & Reg. No.	Detective Sergeant 6729	Station	Bundaberg CIB	

Aleida Judith KEMPS states;

On the 23<sup>rd</sup> of October 1954 I married Gerardus Wilhelmus Gosewinus KEMPS at St Patrick's Cathedral in Melbourne. We were both born in Holland where we formed a relationship with Gerry immigrating to Australia in 1953. I followed him to Australia in February 1954 where we got married later that year. In 1956 we moved to Brisbane which was the same years as the birth of our first child. I have three children. The eldest is Jacqueline who is now 48 years old, our middle child John is now 47 years old and the youngest Bernard is 46 years old.

After the birth of Jacqueline we returned to Holland for nine years for family reasons. It was while we were living back in Holland that I had my two sons. We returned to Australia in 1965 where we decided to live in Bundaberg. It was in 1970 that both my husband and I were naturalized.

Before moving to Australia Gerry was employed as a navigator in the merchant navy. He was 26 years old when he first came to Australia where he worked as sales representative for a photographic company. When we moved to Brisbane he worked for the railways as a night officer at Enoggera railway station. When I came to Australia I worked for a photographic film company in Melbourne and after moving to Brisbane I had Jacky so didn't work any more.

This is Page 1 of a Statement comprising 8 Pages.		
Witness	Justice of the Peace (Qual) / Commissioner of Declarations	Police Officer

**CONTINUED STATEMENT OF:** Aleida Judith KEMPS

When we returned to Holland Gerry worked with his brother in the movie business distributing and making movies. When we returned to Australia in 1965 Gerry and I bought a photographic studio in Bundaberg. We operated this until 1975 when we sold it and Gerry got work at other photographic businesses in Bundaberg. He retired in 1992 where we remained at our house in \_\_\_\_\_ which we owned since 1966. It was only in April 2003 that we sold the house and moved into the

Gerry was one of these people that never had a sick day in his life and always seemed to be in good health. I am aware that he was diagnosed with high blood pressure about 20 years ago and took medication to control it. The medication worked in controlling the blood pressure which was regularly checked by our family doctor. For years we always saw Dr. David WHITE at the Burnett Medical Center and after his retirement we went to Dr. Jenny CRANE at the Burrum Street Medical Center.

The first time that Gerry ever started showing signs of sickness was in 2002 when he first complained of a pinched nerve in his neck. Because this soreness happened out of normal office hours he went to the Bundaberg Base Hospital to have it checked as it was causing him a fair bit of pain. The hospital did a full test on him and found that he had an aneurysm in his stomach. After we found this out we also found out that one of his brothers and a sister had been diagnosed with the same condition. Gerry has four sisters and three brothers with him being the youngest in the family. Two of his brothers died in their forties from heart attacks with his sisters all dying between 2003 and 2005. They were all in their 90's when they died, basically from old age.

After Gerry was diagnosed with the aneurysm he was operated on by Dr. Brian Thiele a vascular surgeon in the Bundaberg Base Hospital. After the operation Gerry contracted pneumonia and was flown to Brisbane for treatment. He recovered well from this treatment and remained in good health up until March 2004.

		This is Page 2 of a Statement comprising 8 Pages.
Witness	Justice of the Peace (Qual) / Commissioner of Declarations	Police Officer

CONTINUED STATEMENT OF: Aleida Judith KEMPS

At around March that year his blood pressure started to become a bit up and down, he got gout which he never had before, he started getting back pains and just generally started to slow down. It was at the same time that this was happening he got a letter from the State Government offering a free check up because of his age. This was a standard letter that any one over a certain age received. Because of that he had an appointment with Doctor Prerera who was the doctor designated to do these checks at the Burrum Medical Centre where we go. The appointment was made for the 24<sup>th</sup> of November 2004 and had to take a urine sample with him. Gerry had the appointment where the doctor did his checks. The following week Gerry got a call from the doctor to say there was something not quite right with the urine sample. An appointment was made for Thursday the 2<sup>nd</sup> December 2004 where Doctor Prerera got Gerry to have some more tests over the following week.

On the 3<sup>rd</sup> of December 2004 I was looking at Gerry while we were having lunch and I said to him "You look anemic". We decided to try and make an appointment with Doctor Crane for the following Monday which we did. He saw Doctor Crane on Monday the 6<sup>th</sup> of December who after seeing his test results sent him straight to the Base Hospital for a blood transfusion. Doctor Crane explained that he had internal bleeding but didn't know what was causing it. When he went to the hospital he was admitted through the casualty section and then to the general ward.

Over the next few days Gerry was subjected to quite a lot of tests to try and find out the cause of his bleeding. I recall in particular he had a CAT scan which showed a lump in his esophagus. After that they did an endoscope procedure where they found he had cancer in the lower esophagus going into the stomach.

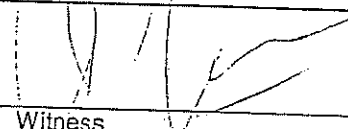
Once the cancer was found the doctor who did the endoscope told me that Gerry was to be flown to Brisbane for keyhole surgery to remove the cancer. I just can't recall the name of that doctor at the moment but do have his name written down at home. Gerry stayed at hospital for a few days and we didn't seem to be told what was going on. I assumed it was just the time that it took to make the necessary arrangements to get Gerry booked into a hospital in Brisbane. I think it was two days before we were spoken to by Doctor PATEL.

		This is Page 3 of a Statement comprising 8 Pages.
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Doctor PATEL introduced himself to Gerry and I in the ward that he was the chief of surgeons at the hospital and that a decision had been made that Gerry would be operated on in Bundaberg. When he told us that Gerry was being operated on here he used the word "we" but did not say who were the persons responsible for making that decision but it was quite obvious to me that he was involved in that decision. He went on to say that he would do the surgery but not undertake keyhole surgery as that was only 'patch up work'. He advised that Gerry would have to have part of the stomach and esophagus taken away and then join them back together. He did say, "It is a big operation but it is nothing because I've done hundreds of them". When he spoke to us he was very nice and we had no reason to have any doubts about him or the surgery even though it had changed from being done in Brisbane through keyhole procedure. This conversation occurred on Thursday the 16<sup>th</sup> of December. He also told us that Gerry could go home for the Friday and Saturday to spend at home and had to be back in hospital again on Sunday the 19<sup>th</sup> December at 9.00am. He said that Gerry was to be operated on in the morning of Monday the 20<sup>th</sup> December.

I took Gerry home for the Friday and Saturday before getting him back to the hospital on the Sunday. Over those two days we had a lot of visitors of both family and friends. Gerry had a great time and was at peace with the circumstances. I think both of us knew that this was a very big operation and that there were risks involved. Because of his surgery last time and him contracting pneumonia I was worried that something might happen like that again which nearly cost him his life then. There was never any concern by me that he wouldn't make it through the operation. Doctor PATEL did discuss risks associated with the operation as all doctors do before an operation but there was nothing said which made me have any concerns about the operation itself. I think this was the same for Gerry who like me was more worried about any complications afterwards. We did speak about the operation and like anyone were worried about it but I think on a whole we were pretty optimistic about it all. He did tell me not to come in early on the Monday morning as there was nothing I could do but he would call me as soon as the operation was over. He said that by the time I got into town Gerry would be coming out of the surgery.

When I say Doctor PATEL spoke about risks I recall him telling us that there are always risks associated with operations and that this was a big operation. But from memory I can't recall him being specific about anything in particular. Later on someone said to me did you ever sign a piece of paper acknowledging the risks involved in the operation. I can't recall signing anything about the operation and I'm not sure if there is even such a form.

	This is Page 4 of a Statement comprising 8 Pages.	
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I can't recall who it was that said this to me but it was a friend and not someone involved with the hospital.

On the Monday morning the surgery was scheduled for 7.30am but was later told by one of the nurses that they were running a little bit late. Doctor PATEL rang me at about 2.00 o'clock which was later than I thought that he would ring. When he called he said, "The operation was a total success only a little bit of bleeding but that was nothing". After getting the call all the people with me were very happy with the result. I then went into the hospital on my own and went to intensive care where Gerry was. The nurse there took me aside straight away and said to me, "Gerry is a very sick man and he is on life support". I was then taken to him where I saw another nurse was pumping a bag of blood into him. It was on one of those drips but with blood in it and she was squeezing it to try and make the blood go through quicker. Later the nurses told me that they used 27 bags of blood on him which is a lot.

I know that not long after I arrived there my son John arrived and he sat there as well. At one stage Gerry started to gain consciousness and tried to sit up. The nurse straight away gave him a needle and we got him to lay back down. I gave him a kiss and told him I loved him which is when John said to me that he was smiling. After that he went back into a deeper coma.

At about 6.00pm that evening Gerry's condition hadn't changed and was still bleeding profusely internally. By this time John was still with me and Bernie had arrived as well. Doctor PATEL approached us and discussed Gerry's condition. He explained that he was bleeding internally and that he had to be operated on again. He said words to the effect of, "I have to take him back into theatre again. It can only be the spleen. I'll take it out because he doesn't need it any way." I particularly remember that part of the conversation because of the mention of removing the spleen.

During this meeting it was mentioned that the boys and I would go and get something to eat while the surgery was going on. I gave Doctor my mobile phone number for him to call me if there was a need.

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After the meeting we left Gerry when he was being taken into theatre and went to Subway at Sugarland to get something to eat. We were only there for five minutes when the phone rang and Doctor PATEL told us to come straight back. Within 5 minutes we were back at the hospital and went to the intensive care ward where we were met by Doctor PATEL. He took us to the area where the theatres are and told us there, "I have taken the spleen out but it was all right. I had a look at the lungs and they were all right so the bleeding must have come from the heart." He went on to say, "I can't do anything about it but he will be lucky to last the night." Not long after saying that to us Doctor PATEL left and I stayed with Gerry all night with John.

It was about 10:00 o'clock the following morning that Gerry died in intensive care. That morning his blood pressure was progressively getting lower and the nurses were getting rid of the blood that was draining from out of his body. I had been told that he was going deeper and deeper into a coma which would eventually lead to his death. Over the course of the morning it was very clear that Gerry was dying. The equipment used on him in the intensive care ward had been largely removed except for the monitor attachments he had on him. He hadn't been given any drips or blood for some time so I guess he eventually bled to death.

After he died John and I left the hospital. John went to the funeral directors and I went home to where the rest of the family were. Gerry died on the 21<sup>st</sup> of December so family were already home for Christmas.

At no time was there ever any discussion about the holding of an autopsy by any of the medical staff at the hospital. This was only raised when someone from the family inquired if one was done. No one knew so Bernie rang the hospital and was told that there wasn't. This occurred some time after the funeral possibly even into the new year.

We had Gerry's funeral on the 23<sup>rd</sup> of December where he was buried

This is Page 6 of a Statement comprising 8 Pages.		
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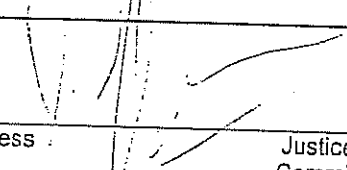
Since meeting with Doctor PATEL after Gerry's second operation I have had no further contact with him at all.

Even though Gerry died from this operation it never occurred to me at first that there was ever an issue of Doctor PATEL. I had no reason to question his ability and was always of the belief that any doctor working in Queensland was properly qualified. Even for the months following his death I had no reason to question that his death was anything other than a very unfortunate result. In hindsight there were some things that were said to my family during the period after his death that questioned Doctor PATELS capabilities.

In one instance a nurse who was getting John to build a house for her asked what we were going to do about it. We didn't pick up on things that she had concerns about this doctor. I don't know the name of this nurse but John would. Another nurse I have known for years, Ann LAST said to Jacky if she had known that Dr. PATEL was going to do this operation on Gerry she would have tried to stop it. As far as I know she didn't say why and guess we didn't take that much notice at the time because we didn't realise there was a problem with that doctor.

We first started realising that Gerry's death might have been prevented when the local Member of Parliament Rod MESSENGER mentioned Doctor PATELS name in parliament. After that was done there was a lot of media attention placed on this which got us to thinking about Gerry and his operation by Doctor PATEL.

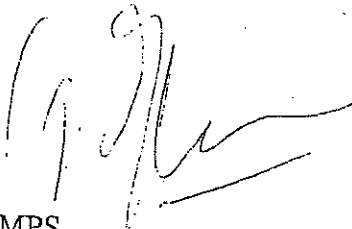
As a result of all that has happened I have met with Doctor FITZGERALD at the Bundaberg Base Hospital who has reviewed the treatment of Gerry. He has told me that the cancer in Gerry was not confined to his stomach and esophagus but they had also found a few spots on his lungs. His belief was that had Gerry been taken to Brisbane he wouldn't have been operated on about rather given chemotherapy or radium treatment. He said that looking at Gerry's file he would have given him about 12 months to live. He told me this information from reading Gerry's chart which means Doctor PATEL must have know about the cancer on the lungs before he operated.

			This is Page 7 of a Statement comprising 8 Pages.		
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He also told me that the Bundaberg Base Hospital wasn't equipped to provide the standard of treatment required for the operation performed on Gerry by Doctor PATEL.

I have a 2004 diary in which I have referred to when providing dates of appointments and so forth in this statement. The diary does not contain conversations or anything of that nature but was just something I use so I don't forget appointments and other important dates.

Out of all of this I just want to see Doctor PATEL stand trial for what he has done. I know Gerry was a sick man but had Doctor PATEL not been involved I believe he would have had another year of life.



A J KEMPS

**Justices Act Acknowledgement**

**Justices Act 1886**

I acknowledge by virtue of section 110A(5)(c)(ii) of the Justices Act 1886 that:

- (1) This written statement by me dated 06.05.2005 and contained in the pages numbered 1 to 8 is true to the best of my knowledge and belief; and
- (2) I make this statement knowing that, if it were admitted as evidence, I may be liable to prosecution for stating in it anything that I know is false.

.....Signature

Signed at Bundaberg his 6<sup>th</sup> day of May 2005

This is Page 8 of a Statement comprising 8 Pages.

Witness

Justice of the Peace (Qual) /  
Commissioner of Declarations

Police Officer

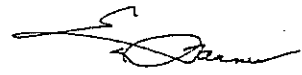
# Queensland DEATH CERTIFICATE

REGISTRATION NUMBER  
2005/ 50252

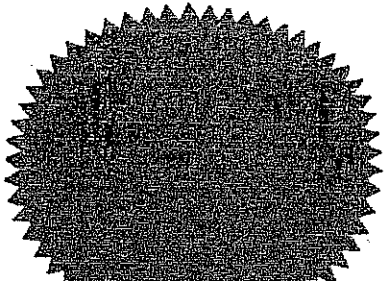
CAUTION: Whosoever shall unlawfully alter any Certified Copy of an entry in any Register of Births, Marriages, or Deaths, whether by erasure, obliteration, removal, addition or otherwise is guilty of a CRIME, and liable to the punishment by law provided in that behalf. (See Section 6 and 488 of the "Criminal Code".)

<b>DECEASED</b> Name and surname . . . . . Occupation . . . . . Sex, Age and Marital Status at time of death . . . . . Date of Death . . . . . Place of Death . . . . . Where born and, if not born in Australia, period of residence in Australia . . . . .	<i>Gerardus Wilhelmus Gosewinus Kemps</i> <i>Photographer</i> <i>Male 77 years Married</i> <i>21 December 2004</i> <i>Bundaberg Hospital, Bundaberg</i> <i>-, Holland 39 years</i>
<b>PARENTS</b> Name and surname of father . . . . . Occupation . . . . . Name and maiden surname of mother . . . . . Occupation . . . . .	<i>Joannes Antonius Wilhelmus Kemps</i> <i>Butcher</i> <i>Johanna Berdina Maria Van Hilst</i> <i>Home Duties</i>
<b>MARRIAGE(S)</b> Where, at what age and to whom deceased was married	<i>Melbourne, Victoria, - Alada Judith Schregal</i>
<b>CHILDREN</b> Names and ages	
<b>MEDICAL</b> Cause of death . . . . . Duration of last illness . . . . . Medical attendant by whom certified . . . . .	<i>(a) Refractory shock (b) Aortic bleeding post operative (c) Resection of oesophageal cancer (d) Primary oesophageal cancer</i> <i>(a) 12 hours (b) 20 hours (c) 24 hours (d) diagnosed 2 weeks ago</i> <i>A. Athanasiov</i>
<b>BURIAL or CREMATION</b> When and where buried or cremated . . . . . By whom certified . . . . . Name and religion of minister . . . . .	<i>23 December 2004</i>
<b>INFORMANT</b> Name, description or relationship, and residence	
<b>REGISTRAR</b> Name, date and place of registration	<i>D.B. Tanner, 6 January 2005, Brisbane</i>
<b>NOTES (if any)</b>	

I, Desmond Barry Tanner, Registrar-General, certify that the above is a true copy of particulars recorded in a Register kept in the General Registry at Brisbane



Dated: 12 January 2005 Registrar-General



**N.B.** Not Valid Unless Bearing the Authorised Seal and Signature of the Registrar-General



Queensland Government

Department of Justice and Attorney-General

Form 9

Births, Deaths and Marriages Registration Act 2003 (Section 30)

CAUSE OF DEATH CERTIFICATE

Please print clearly, using BLOCK letters To the Registrar-General, Brisbane

Office Use Only

TB:

50252

Date Rec:

District Code:

Registration No:

(Note: This certificate shall not be given without authorisation of the Coroner in relation to a reportable death. This certificate must also be completed for a stillborn child (see Note below). If particulars are unknown, write "UNKNOWN". All items marked with an asterisk (\*) are for statistical or administrative purposes only and will not appear in the Register of Deaths. Form distribution: Original (white) to the Registrar-General or the person arranging for the disposal of the body; Duplicate (blue) to the person arranging for the disposal of the body; Triplet (yellow) to be retained by Doctor. Form should be completed within 2 working days of the death.)

I, Anthony Athanasion, a registered Doctor:

(a) For a stillborn child:

- was present at the stillbirth; or
examined the stillborn child's body.

(b) For any other deceased person (including a neonatal death):

- attended the deceased person when alive; or
examined the deceased's body; or
considered the deceased's medical history and the circumstances of the death

and certify that Gerard William Kempf was aged: 77 Y 4 M 1 D

and born on: 14/8/27 (if known) sex: M F and I believe that he/she died on: 21/12/04
at: B'BEAN 0950 hrs For stillborn or neonate: time of birth\* time of death\*

In my opinion, the probable cause of death is as stated below in section 'A' or 'B':

'A' - (for a stillborn child or neonate):

- 1(a) Main disease or condition in foetus or neonate
1(b) Other diseases or conditions in foetus or neonate
1(c) Main maternal disease or condition affecting foetus or neonate
1(d) Other maternal diseases or conditions affecting foetus or neonate
2 Other relevant circumstances
Underlying Cause of Death\*: BRISBANE

MAGISTRATES OFFICE

7 DEC 2004

'B' - (for any other deceased person):

Disease or condition directly leading to death: (This means the final disease or condition which caused death - NOT the mode of dying such as heart failure, respiratory failure, etc. UNLESS explained by Antecedent Causes below.)

Duration of last illness (approximate interval between onset and death)

- 1(a) refractory shock due to, or as a consequence of 12 hours
1(b) aortic bleeding post operative due to, or as a consequence of 20 hours
1(c) Primary oesophageal cancer Diagnosed 2 weeks ago
1(d) Resection of oesophageal cancer due to, or as a consequence of 24 hrs
1(e)

Antecedent Causes - morbid conditions, if any, giving rise to the above cause, stating the underlying condition last.

Other Significant Conditions - contributing to the death, but not related to the underlying cause given in Part 1.

Date and type of operation in the last 4 weeks: 20/12/04

Pregnancy: Was the deceased pregnant within 6 weeks of death? No Yes
Was the deceased pregnant between 6 weeks and 12 months of death? No Yes

Does the body of the deceased pose a cremation risk under the Cremations Act 2003? No Yes

Is the death a reportable death under the Coroners Act 2003 (CA)?

- No
No, Coroner has advised death not reportable under s.25(5)(a) of CA.
Yes, issue of this certificate was authorised under s.12(2)(b) of the CA.

Note: Please complete a Perinatal Supplement (to Cause of Death Certificate) (Form 9A) if the above information relates to a child who was stillborn (of at least 20 weeks gestation or 400 grams weight at birth) or who died within 28 days after birth (neonate).

Doctor's Signature

Date 21/12/04

Initials and Surname A. ATHANASION

Professional Qualification(s) MBBS

Address c/- Dept of Surgery Bundaberg

(Insert name of Coroner who advised or who authorised this Certificate and Date)

Non-Coronial Autopsy Consented by Next of Kin

- Carried out To be carried out Not to be carried out

Was the deceased of Aboriginal or Torres Strait Islander origin?

(If of both Aboriginal and Torres Strait Islander origin, tick both 'Yes' boxes)