



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 52/19

*I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the death of **Lorraine Jane HANSEN** with an inquest held at the **Perth Coroner's Court, Court 85, CLC Building, 501 Hay Street, Perth** from **24 - 25 September 2019** find that the identity of the deceased person was **Lorraine Jane HANSEN** and that death occurred on **29 June 2016** at **Fiona Stanley Hospital** as a result of **head injuries** in the following circumstances:*

**Counsel Appearing:**

Mr T Bishop assisted the Coroner.

Ms E Langoulant (Aboriginal Legal Services) appeared on behalf of Ms D Hart-Anderson, the deceased's mother.

Ms S Keighery (State Solicitor's Office) appeared on behalf of the Western Australian Police Force (WA Police).

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## **INTRODUCTION**

- 1.** Lorraine Jane Hansen (the deceased) died on 29 June 2016 at Fiona Stanley Hospital (FSH), as a result of head injuries. She was 25 years of age.
- 2.** I held an inquest into the deceased's death on 24 – 25 September 2019. Members of the deceased's family, including her mother, Ms Hart-Anderson, attended the inquest.
- 3.** The following witnesses gave oral evidence at the inquest:
  - i. Mr Wayne Garlett;
  - ii. Mr Uray Garlett;
  - iii. Mr Dylan Culbong;
  - iv. Ms Lo-Arna Pickett;
  - v. Ms Roisin Clarke-O'Reilly;
  - vi. Mr Preston Culbong;
  - vii. Dr Vicki Kueppers;
  - viii. Constable Jayden Elphick;
  - ix. Constable Regan O'Brien
  - x. Senior Constable Allan Mawdesley
  - xi. Mr Ryan Baxter; and
  - xii. Detective Senior Constable Grant Smith.
- 4.** The documentary evidence at the inquest included a report into the deceased's death prepared by WA Police,<sup>1</sup> expert reports, photographs and numerous witness statements. Together, the Brief comprised two volumes.
- 5.** The inquest focused on the cause of, and circumstances surrounding the deceased's death.

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<sup>1</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report

## **THE DECEASED**

### ***Background***

6. The deceased was born on 20 December 1990, and was 25 years of age when she died on 29 June 2016. She completed her schooling in Collie and was described as a happy-go-lucky person who got on well with everyone.
7. The deceased loved to play sport including softball, netball and basketball. She enjoyed swimming at the beach or the river and listening to music with friends. She had two children, a boy and a girl.
8. The deceased had been in a relationship with Mr Steven Pickett (Mr Pickett) for about two and a half years, although it appears that at the time of her death, Mr Pickett was on bail and his bail conditions required that he not have contact with her.<sup>2</sup>

## **THE EVENTS OF 28 – 29 JUNE 2016**

### ***Celebration at Willetton house***

9. At all relevant times, Mr Preston Culbong (Mr Culbong) lived in a house in Willetton (the Willetton house) with Mr Jason Wheelock and his younger brothers Dylan and Clynton.<sup>3</sup>
10. At about 5.30 pm on 28 June 2016, Mr Culbong was at the Willetton house watching a movie with his younger brothers. At about 6.30 pm, Mr Uray Garlett, Mr Michael Loyd and his partner Ms Sonia Turvey, Mr Steven Pickett, Mr Lars-Nila Corbett and the deceased (the Guests), who had stayed at the Willetton house the night before, arrived back from the local shops with some bottles of alcohol.<sup>4</sup>

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<sup>2</sup> Exhibit 1, Vol. 2, Tab 5-64, Record of Interview - Mr S Pickett, pp12-13

<sup>3</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 7 and ts 24.09.19 (Culbong, P), p73

<sup>4</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 9-11 and ts 24.09.19 (Culbong, P), p73

11. The Guests listened to music, drank alcohol and socialised as they celebrated the recent arrival of Mr Wheelock's baby.<sup>5</sup> Mr Culbong (who had work the next day) had two drinks and his brothers Dylan and Clynton were not drinking at all.<sup>6</sup>

### ***Arguments and fights***

12. As the evening progressed, the Guests became progressively more intoxicated and some of them began arguing with each other. After asking them to stop arguing and be quiet several times, Mr Culbong turned off the music because his younger brother Clynton had school the next day.<sup>7</sup>
13. In addition to verbal altercations between several of the Guests, some of them were also involved in physical fights. Mr Culbong became concerned that things were getting out of hand, and at about 10.00 pm, he called emergency services asking for police assistance to evict some of the Guests from the Willetton house.<sup>8</sup>
14. Before the police arrived, the deceased and Mr Pickett had a physical altercation in the kitchen of the Willetton house. Mr Pickett punched the deceased to the side of the head and the deceased kicked Mr Pickett.<sup>9,10</sup>

### ***Police arrive at the Willetton house***

15. Police arrived at the Willetton house at about 10.25 pm and spoke with Mr Culbong. He was polite and calm and did not appear to be intoxicated. He asked police to remove Mr Pickett, Mr Loyd and Ms Turvey from his home as they were no longer welcome. Police asked these three people to leave and they did so without incident.<sup>11,12,13,14</sup>

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<sup>5</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 11 and ts 24.09.19 (Culbong, P), p73 & p76

<sup>6</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 16

<sup>7</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 18-22 and ts 24.09.19 (Culbong, P), p73 & p76

<sup>8</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 23-48 and ts 24.09.19 (Culbong, P), p73

<sup>9</sup> Exhibit 1, Vol. 2, Tab 5-64, Record of Interview - Mr S Pickett, pp58-60

<sup>10</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 61-65 and ts 24.09.19 (Culbong, P), pp78-80

<sup>11</sup> Exhibit 1, Vol. 2, Tab 5-45, Statement - First Class Constable D Wood, paras 5-12, 14-23 & 30, 34-35

<sup>12</sup> Exhibit 1, Vol. 2, Tab 5-46, Statement - Constable P Borserini, paras 8, 10-15, 21-23, 25 & 27-30

<sup>13</sup> Exhibit 1, Vol. 2, Tab 5-47, Statement - Constable J Watt, paras 4, 6-8, 20-22, 31-32 & 42-44

<sup>14</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 51-53 and ts 24.09.19 (Culbong, P), p73

- 16.** One of the police officers saw the deceased, who appeared to be intoxicated, and asked Mr Culbong whether he wanted her to leave as well. Mr Culbong said he was happy for the deceased to stay.<sup>15</sup>
- 17.** As Mr Pickett was leaving the Willetton home, a police officer saw the deceased approach him and thought he overheard her say to Mr Pickett: “*Did you sleep with Sonia?*” This appears to have been a reference to Ms Turvey. The officer wasn’t sure what he had heard and asked if there were any problems, and both Mr Pickett and the deceased said “*no*” and the deceased said Mr Pickett was “*drunk*”. Mr Pickett denied having done so and left the Willetton house in company with Mr Loyd and Ms Turvey. The police officer told the deceased, who was wearing tracksuit pants and a hooded top, to go back inside the house and she did so.<sup>16</sup>
- 18.** Police saw no evidence of any antagonism between any of the three people being asked to leave and/or Mr Culbong.<sup>17,18</sup> Mr Loyd and Ms Turvey left the Willetton house on foot and did not return.<sup>19</sup> Later, Mr Loyd injured his head in an unrelated incident and was admitted to FSH for treatment.<sup>20,21</sup>
- 19.** Not long after police left the Willetton house, Mr Pickett and Mr Uray Garlett returned. Mr Pickett was upset because the police had been called and because he was on bail, he feared he might be returned to prison. Meanwhile, the deceased continued drinking with Mr Garlett and Mr Corbett.<sup>22</sup>
- 20.** Mr Pickett and the deceased began fighting and the deceased kicked Mr Pickett as he punched her shoulder. At about this time, Mr Corbett left the Willetton house in his car<sup>23</sup> and Mr Pickett and the deceased went into the lounge room while Mr Culbong went to bed.<sup>24</sup>

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<sup>15</sup> Exhibit 1, Vol. 2, Tab 5-45, Statement - First Class Constable D Wood, paras 33-40

<sup>16</sup> Exhibit 1, Vol. 2, Tab 5-47, Statement - Constable J Watt, paras 36-41

<sup>17</sup> Exhibit 1, Vol. 2, Tab 5-45, Statement - First Class Constable D Wood, para 40

<sup>18</sup> Exhibit 1, Vol. 2, Tab 5-46, Statement - Constable P Borserini, para 26

<sup>19</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 53 and ts 24.09.19 (Culbong, P), p74

<sup>20</sup> Exhibit 1, Vol. 1, Tab 5-20, Statement - Mr M Loyd, paras 33-35

<sup>21</sup> Exhibit 1, Vol. 1, Tab 5-15, Statement - Ms S Turvey, paras 56-59

<sup>22</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 54-56 & 60 ts 24.09.19 (Culbong, P), pp81-82

<sup>23</sup> Exhibit 1, Vol. 1, Tab 5-21, Statement - Mr L Corbett, para 33

<sup>24</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 61-64, 67 & 70

21. A short time after he had gone to bed, Mr Culbong heard the deceased and Mr Pickett arguing again. Mr Culbong went into the lounge room and saw Mr Pickett lying on top of the deceased, pressing the right side of her face into the carpet with his forearm across the left side of her face.<sup>25,26,27</sup>
22. Mr Culbong and his brother Dylan pulled Mr Pickett off the deceased and Mr Culbong told Mr Pickett and Mr Garlett (who had been asleep at the kitchen table) they needed to leave and that he (Mr Culbong) would drive them to the Bullcreek Station (the Station).<sup>28</sup>
23. As he was walking to Mr Culbong's car, Mr Pickett told the deceased he was going to sleep with the "*Farmer girls*". Given the verbal and physical fights they had been having, Mr Pickett presumably said this to antagonise the deceased.<sup>29</sup>
24. The deceased ran up to Mr Pickett and began punching and scratching him. As Mr Culbong guided Mr Pickett and Mr Garlett to his car, Mr Dylan Culbong attempted to restrain the deceased. However, she broke free and began punching Mr Pickett saying: "*Preston's coming back to sleep with me*". Mr Culbong said he didn't feel he needed to respond to this remark because: *I've known Steven... [Mr Pickett]...his entire life. He shouldn't feel any concern to not trust me.*<sup>30</sup>
25. Before leaving the Willetton house, Mr Culbong told his brother Dylan to direct the deceased to a nearby bus stop so she could leave the Willetton house as well.<sup>31,32</sup>

### ***Mr Culbong's trip to the Station***

26. CCTV footage confirms that Mr Culbong dropped Mr Pickett and Mr Garlett at the Station at 11.30 pm and that they travelled to Perth, getting off at the Esplanade station.<sup>33</sup>

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<sup>25</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 72-73 and ts 24.09.19 (Culbong, P), p83-85

<sup>26</sup> ts 25.09.19 (Kueppers), p131

<sup>27</sup> See also: Exhibit 1, Vol. 2, Tab 5-64, Record of Interview - Mr S Pickett, p31

<sup>28</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 74-76 and ts 24.09.19 (Culbong, P), pp84-86 & pp91-92

<sup>29</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 78

<sup>30</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 80-84 and ts 24.09.19 (Culbong, P), p92

<sup>31</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 89 and ts 24.09.19 (Culbong, P), p86

<sup>32</sup> ts 24.09.19 (Culbong, D), p52

<sup>33</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p18

- 27.** Mr Pickett says he and Mr Garlett ended up in James Street where they talked to some people they met on the street before making their way to Mr Wayne Garlett's home at about 5.00 am on 30 June 2016.<sup>34,35</sup>
- 28.** After dropping Mr Pickett and Mr Garlett at the Station, Mr Culbong drove back to the Willetton house in his dark grey Ford Falcon XR6 sedan.<sup>36,37</sup>

### ***Events at the Willetton house after Mr Culbong returned***

- 29.** When he arrived back at the Willetton house, Mr Culbong found the deceased was still there. He says he offered her a bed for the night, and although this is not referred to in his police statement of 30 June 2016, it is consistent with him not asking police to evict her when they attended the Willetton house earlier in the night.<sup>38</sup>
- 30.** Mr Culbong went to bed, but about 15 minutes later, the deceased began banging on doors looking for him and asking to be taken to the Station. She said she wasn't comfortable staying at the Willetton house without Mr Pickett.<sup>39</sup>
- 31.** Mr Culbong says that he wanted to get the deceased out of the Willetton house in order to avoid further disturbing his brother Clynton, who had school the next day. For that reason, he agreed to take the deceased to the Station, although he was unsure whether he would be able to get her there before the last train left for the night.<sup>40</sup>
- 32.** Mr Culbong was also unsure of whether the deceased had her handbag or mobile phone with her, or whether she had any money with which to purchase a train ticket.<sup>41</sup>

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<sup>34</sup> Exhibit 1, Vol. 2, Tab 5-64, Record of Interview - Mr S Pickett, pp70 & 74

<sup>35</sup> See also: Exhibit 1, Vol. 1, Tab 5-11, Statement - Mr U Garlett, paras 81-95

<sup>36</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 89 and ts 24.09.19 (Culbong, P), p93

<sup>37</sup> Exhibit 1, Vol. 1, Tab 4, Photographs of Mr Culbong's car and ts 24.09.19 (Culbong, P), p87

<sup>38</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 91 and ts 24.09.19 (Culbong, P), p93 & p94

<sup>39</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 92 and ts 24.09.19 (Culbong, P), p94

<sup>40</sup> ts 24.09.19 (Culbong, P), p95

<sup>41</sup> ts 24.09.19 (Culbong, P), p99 & p112



### ***What happened in Mr Culbong's car?***

- 33.** Mr Culbong says he and the deceased got into his car and he started driving her to the Station. A short time later when he was on Turret Road, Mr Culbong says the deceased said Mr Pickett had gone to see the “*Farmer girls*” and was “*acting like a dog*”.<sup>42</sup> Mr Culbong did not know who the Farmer girls were.<sup>43</sup>
- 34.** Mr Culbong says the deceased said that if Mr Pickett was “*being a dog*”, she was going to “*act like a dog too*” and sleep with Mr Culbong. Mr Culbong says he told the deceased to “*snap out of it*” and “*be quiet*” her response was “*I am telling him I fucked you anyway*”.<sup>44</sup>
- 35.** Mr Culbong said he was annoyed with what the deceased was saying when all he was trying to do was to help her. As a result, he says that he stopped his car on Vahland Avenue, two or three houses past the Collins Street intersection.<sup>45</sup>
- 36.** Mr Culbong says the deceased said she did not know where she was and that he told her how to get the Station before telling her to get out of his car. According to Mr Culbong, the deceased refused to do so.<sup>46</sup> This is hardly unsurprising, given that on Mr Culbong's evidence, the deceased was unsure where she was.
- 37.** It is unclear whether the deceased had her purse, or money or a mobile phone with her, and indeed her handbag was found at the Willetton house the following day.<sup>47</sup>
- 38.** Mr Culbong says he opened his door and either went to get out, or got out of the car and walked around to the passenger side door, with the intention of removing the deceased.<sup>48</sup>

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<sup>42</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 93-95 and ts 24.09.19 (Culbong, P), pp95-97

<sup>43</sup> ts 24.09.19 (Culbong, P), p93

<sup>44</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 93-95 and ts 24.09.19 (Culbong, P), pp95-97

<sup>45</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 96-97 and ts 24.09.19 (Culbong, P), pp96 & p99

<sup>46</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 98-100 and ts 24.09.19 (Culbong, P), pp98-99

<sup>47</sup> ts 25.09.19 (Smith), p200

<sup>48</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 101 and ts 24.09.19 (Culbong, P), pp98-99

- 39.** Mr Culbong says the deceased opened her door and ran around to the driver's side of the car and slammed his door. He locked the doors and drove off and says that when he last saw her, the deceased was at the rear of his car and looked as if she was searching for something to throw at the car as he drive off. Mr Culbong says he did not see any injuries on the deceased when she got out of his car.<sup>49,50</sup>
- 40.** According to Mr Culbong, after the deceased got out of his car, he drove along Vahland Avenue and turned into Apsley Street with the intention of calling in to Hungry Jacks to "*get some frozen drinks and stuff*" on the way home. However, he says he changed his mind and drove home along Burrendah Boulevard instead. In light of this evidence, it is surprising that Mr Dylan Culbong says Mr Culbong had had a sip of the frozen Coke that his brother Mr Culbong returned home with.<sup>51,52</sup>
- 41.** In his police statement, Mr Culbong says that he arrived home at 1.00 am. However, in his evidence at the inquest, he confirmed that this timing was an estimate and he was unclear of what time he arrived home, other than to say it was after midnight.<sup>53</sup>
- 42.** Mr Dylan Culbong says that Mr Culbong returned home about 5 minutes after leaving the Willetton house with the deceased. He says Mr Culbong told him that the deceased had "*arked up again*" and said she was going to tell Mr Pickett that she had slept with him (Mr Culbong). Mr Culbong said he had kicked the deceased out of his car and "*left her around the corner*", although he did not say where.<sup>54,55</sup>
- 43.** A police investigator later drove the route Mr Culbong says he took after leaving the Willetton house, dropping the deceased off and returning home and found that it took 10 minutes and 23 seconds, door to door.<sup>56</sup>

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<sup>49</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 102-103 & 108

<sup>50</sup> ts 24.09.19 (Culbong, P), pp98-101

<sup>51</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 104 and ts 24.09.19 (Culbong, P), pp102-103

<sup>52</sup> ts 24.09.19 (Culbong, D), pp44-45

<sup>53</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, para 105 and ts 24.09.19 (Culbong, P), pp104-105

<sup>54</sup> Exhibit 1, Vol. 1, Tab 5-13, Statement - Mr D Culbong, paras 99-105

<sup>55</sup> ts 24.09.19 (Culbong, D), pp43-44 & pp46-51

<sup>56</sup> Exhibit 1, Vol. 1, Tab 1, Email - Detective Senior Constable J Dorrington (19.10.17)

## **FINDING THE DECEASED**

### ***How and where was the deceased found?***

- 44.** At about 10.00 pm on 28 June 2016, Mr Babu, was visiting his friend, Mr Moodley, at another friend's house in Willetton. Shortly after 12.15 am on 29 June 2016, Mr Babu and Mr Moodley left the friend's house to make their separate ways home.<sup>57</sup>
- 45.** Mr Babu was driving home on Apsley Avenue towards Karel Avenue. There were no other cars about and it was dark and raining. As he approached the intersection of Apsley Avenue and Brolga Promenade (the Intersection), Mr Babu noticed what he thought was clothing in the middle of the road. As he drove past the object, he realised it was a person.<sup>58</sup>
- 46.** Mr Babu stopped his car about 50 metres from the body and rang Mr Moodley but there was no answer. To his very great credit, Mr Babu ran back to the person lying on the road. He found the deceased lying on her back with her head facing towards Karel Avenue. She was wearing a dark coloured hooded jumper and light grey tracksuit pants, which were pulled down, exposing her genitals. She appeared to be choking on blood and was having breathing difficulties.<sup>59</sup>
- 47.** The deceased was bleeding from the right side of her mouth and Mr Babu rolled her into the recovery position. A passing Transperth bus stopped and the driver asked what had happened. Mr Babu assumed that the driver was calling emergency services, but realised the driver was instead, radioing his depot.<sup>60,61</sup> Mr Babu used his mobile to call emergency services, and as he was speaking to the operator, Mr Moodley arrived on the scene. As Mr Babu was on the phone to emergency services, Mr Moodley attended to the deceased.<sup>62</sup>

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<sup>57</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, paras 3-13

<sup>58</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, paras 16-25

<sup>59</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, paras 26-48 & 74

<sup>60</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, paras 49-52

<sup>61</sup> Exhibit 1, Vol. 2, Tab 5-32, Mr S Jeevarathinam, paras 7-13

<sup>62</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, paras 53-60

48. A short time later, ambulance officers arrived and began CPR, before taking the deceased to FSH.<sup>63,64</sup> Despite the efforts of Mr Babu, Mr Moodley, the ambulance officers and hospital staff, the deceased could not be revived. She was declared deceased at 1.25 am on 29 June 2016.<sup>65</sup>

### ***The observations made by the ambulance officers***

49. As they attended to the deceased, ambulance officers thought they could see lung tissue in the pool of blood next to the deceased's head. In fact, a post mortem examination conducted by Dr Kueppers (a forensic pathologist) confirmed there were no injuries to the deceased's lungs and the "tissue" the officers thought they saw was almost certainly congealed blood mixed with airway secretions.<sup>66,67</sup>
50. The ambulance officers also noted that the deceased's chest seemed flaccid, but the post mortem examination of the deceased's body confirmed there were no injuries to her chest. Dr Kueppers said that the deceased's chest was normal for a person of the deceased's age.<sup>68,69</sup>

### ***How did the deceased come to be where she was found?***

51. As noted, Mr Culbong says the deceased got out of his car on Vahland Avenue, two or three houses past the Collins Street intersection.<sup>70</sup> The obvious question is how the deceased came to be found at the Intersection?
52. CCTV footage from the Station shows Mr Culbong dropped Mr Garlett and Mr Pickett off at the Station at 11.30 pm.<sup>71</sup> Mr Culbong says it took him about 8 to 10 minutes to get home,<sup>72</sup> a timing confirmed by a police investigator who later drove the route taken by Mr Culbong.<sup>73</sup>

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<sup>63</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, para 68

<sup>64</sup> Exhibit 1, Vol. 2, Tab 5-7, Ambulance Officer S Williams, paras 21-31

<sup>65</sup> Exhibit 1, Vol. 1, Tab 5-4, Death in hospital form

<sup>66</sup> See for example: Exhibit 1, Vol. 1, Tab 5-7, Ambulance Officer S Williams, paras 14 & 20

<sup>67</sup> Exhibit 1, Vol. 2, Tab 5-66B, Post Mortem Report, p14 and ts 25.09.19 (Kueppers), p122

<sup>68</sup> See for example: Exhibit 1, Vol. 1, Tab 5-7, Ambulance Officer S Williams, para 24

<sup>69</sup> Exhibit 1, Vol. 2, Tab 5-66B, Post Mortem Report, p15 and ts 25.09.19 (Kueppers), p122

<sup>70</sup> ts 24.09.19 (Culbong, P), p98

<sup>71</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p18

<sup>72</sup> ts 24.09.19 (Culbong, P), p89

<sup>73</sup> Exhibit 1, Vol. 1, Tab 1, Email - Detective Senior Constable J Dorrington (19.10.17)

- 53.** Mr Culbong says he left to take the deceased to the Station about 15 minutes after he returned home.<sup>74</sup> This would mean Mr Culbong left the Willetton House at about 11.55 pm.
- 54.** A police investigator determined that the distance from the place where Mr Culbong says he left the deceased to the Intersection is about 1.8 – 1.85 kilometres (depending on the route taken). The police investigator said it would take 21 - 22 minutes to cover this distance on foot, at an average walking pace of 5 kilometres per hour.<sup>75</sup>
- 55.** Given that the deceased was found by Mr Babu shortly after 12.15 am<sup>76</sup>, she would have to have travelled 1.8 kilometres in about 20 minutes.<sup>77</sup> This is at least theoretically possible, especially if Mr Culbong left the Willetton house to drop the deceased at the Station less than 15 minutes after he returned home (i.e.: meaning he left home before 11.55 pm).
- 56.** However, given the deceased's level of intoxication at the relevant time<sup>78</sup> it seems unlikely that she would have been able to maintain an average walking speed of 5 kilometres per hour. Further, given her apparent unfamiliarity with the Willetton area,<sup>79</sup> it seems somewhat improbable that she could have walked the relevant distance in about 20 minutes. That said, I cannot exclude this possibility, based on the evidence before me.

### ***Brolga Promenade CCTV***

- 57.** Black and white CCTV footage from a house on Brolga Promenade near the Intersection (the Brolga CCTV footage) was viewed by two police officers shortly after the deceased was found.<sup>80,81</sup> I was unable to view the Brolga CCTV footage because it was inadvertently erased, in circumstances I will describe later in this Finding.

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<sup>74</sup> ts 24.09.19 (Culbong, P), p94

<sup>75</sup> Exhibit 1, Vol. 1, Tab 1, Email - Detective Senior Constable J Dorrington (19.10.17)

<sup>76</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, paras 3-25

<sup>77</sup> Exhibit 1, Vol. 1, Tab 1, Email - Detective Senior Constable J Dorrington (19.10.17)

<sup>78</sup> Exhibit 1, Vol. 2, Tab 5-66, Supplementary Post Mortem Report, p1

<sup>79</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 98-100 and ts 24.09.19 (Culbong, P), p98

<sup>80</sup> Exhibit 1, Vol. 2, Tab 5-48, Statement - Constable J Elphick, paras 15-25

<sup>81</sup> Exhibit 1, Vol. 2, Tab 5-49, Statement - Constable R O'Brien, paras 29-34

- 58.** Constable Elphick was one of the police officers who viewed the Brolga CCTV footage four to five times in the early hours of 29 June 2016. In a statement he made on 4 July 2016, he said he saw a dark coloured vehicle which he believed was a Ford Falcon sedan pass the camera's location in a westerly direction along Apsley Road. The vehicle went out of the camera's frame and Constable Elphick believed it stopped just past a bus stop adjacent to the camera, because the car's brake lights illuminated the bus stop for about 10-15 seconds before driving off. Constable Elphick said he was "*reasonably confident*" that the vehicle he saw was a Ford Falcon sedan.<sup>82</sup>
- 59.** As he was viewing the Brolga CCTV footage, Constable Elphick noticed that the time/date stamp on the screen was incorrect (i.e.: 14:24 on 30.04.11). An IT consultant subsequently confirmed that the footage had been captured at 12.05 am on 29 June 2016.<sup>83</sup> The homeowner told Constable Elphick that this discrepancy was due to police having seized the CCTV recorder on a previous occasion and downloaded footage. The homeowner also said that the CCTV recorder would store footage for approximately six months.<sup>84,85</sup>
- 60.** At the inquest, Constable Elphick said he had viewed CCTV footage from the Station known to depict Mr Culbong's vehicle. Constable Elphick said that the car he saw in the Brolga CCTV footage was a dark coloured Ford Falcon and he believed it to be the same as the car he had seen in the Station CCTV footage. He said the shape of the brake lights on both cars matched and they both appeared to be dark coloured, although he agreed that there were no other distinguishing features on either car.<sup>86</sup>
- 61.** On further questioning from me, Constable Elphick properly conceded that he could not be 100% confident that the vehicles in the Station CCTV footage and the Brolga CCTV footage were in fact the same. Constable Elphick agreed that Falcon sedans are common and that there was nothing distinctive about either vehicle.<sup>87</sup>

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<sup>82</sup> Exhibit 1, Vol. 2, Tab 5-48, Statement - Constable J Elphick, paras 22-25

<sup>83</sup> Exhibit 1, Vol 2, Tab 5-71, Report - Mr D Etezadi (IT Consultant), p2

<sup>84</sup> Exhibit 1, Vol. 2, Tab 5-48, Statement - Constable J Elphick, paras 18 & 29-30

<sup>85</sup> See also: Exhibit 1, Vol. 2, Tab 5-49, Statement - Constable R O'Brien, paras 36

<sup>86</sup> ts 25.09.19 (Elphick), pp144-145

<sup>87</sup> ts 25.09.19 (Elphick), p144 & p148

- 62.** Constable O'Brien was Constable Elphick's partner and also observed the Brolga CCTV footage. In a statement dated 4 July 2016, Constable O'Brien said the footage showed a "*dark coloured sedan*" that appeared to stop near a bus stop adjacent to the camera. Although the vehicle was out of the camera frame, its lights illuminated the side of the bus stop for approximately 15-30 seconds before it drove off.<sup>88</sup>
- 63.** Constable O'Brien said that during the time that the dark coloured sedan was stopped it was "*always off screen*" and at no stage was he able to see its registration plates or how many people were inside. Constable O'Brien took two images of the vehicle depicted in the Brolga CCTV footage using his mobile phone. He did so because he believed that "*the vehicle had acted suspiciously*" and had stopped close to where the deceased had been found.<sup>89</sup>
- 64.** At the inquest, Constable O'Brien said he had recently viewed the footage from the Station CCTV and thought it showed a dark coloured XR6 Falcon, namely, Mr Culbong's car. Constable O'Brien said he compared that footage to his memory of the vehicle he had seen in Brolga CCTV footage some 3½ years before, and concluded that the two vehicles were the same.<sup>90</sup>
- 65.** However, on further questioning from me, Constable O'Brien properly conceded that he was unable to say for certain whether the vehicles depicted in the Station CCTV and the Brolga CCTV footage were the same. There was nothing distinctive about either vehicle, it was just that both appeared to him to be XR6 Falcon sedans.<sup>91</sup>
- 66.** The two digital images taken by Constable O'Brien were tendered into evidence at the inquest.<sup>92</sup> The images, which are of poor quality, appear to show a car, stopped at a bus stop adjacent to the camera's location. Scene photographs, taken by police investigators, establish that the bus stop is located on Apsley Road, a short distance east of the Intersection.<sup>93</sup>

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<sup>88</sup> Exhibit 1, Vol. 2, Tab 5-49, Statement - Constable R O'Brien, paras 24-31

<sup>89</sup> Exhibit 1, Vol. 2, Tab 5-49, Statement - Constable R O'Brien, paras 32-34

<sup>90</sup> ts 25.09.19 (O'Brien), pp159-160

<sup>91</sup> ts 25.09.19 (O'Brien), pp160-161 & 165

<sup>92</sup> Exhibit 1, Vol. 2, Tab 5-69, Digital images of Brolga Promenade CCTV

<sup>93</sup> Exhibit 1, Vol. 2, Tab 5-67, Digital images of incident scene

- 67.** Constable O'Brien told the homeowner that police would require a copy of the Brolga CCTV footage, but the homeowner was unsure how to download it. Constable O'Brien said because of the nature of the inquiry, he did not want to "*play around with the computer*" and he asked the homeowner and his family not to do so either and told them someone would come back and "*seize the hard drive*" and the family agreed not to touch it.<sup>94</sup>
- 68.** At about 7.25 am on 29 June 2016, the homeowner attempted to show the Brolga CCTV footage to Senior Constable Mawdesley, who had attended his premises. Due to unfamiliarity with the system, the homeowner was unable to do so and Senior Constable Mawdesley told him to turn the CCTV recorder off.<sup>95,96</sup>
- 69.** At 9.35 am, following a request by a police investigator, Senior Constable Mawdesley enlisted the help of the homeowner and his son and a further attempt was made to view the Brolga CCTV footage. Senior Constable Mawdesley was concerned that restarting the CCTV recorder may cause an issue, but in any event the footage could still not be viewed, and so he seized the CCTV recorder.<sup>97,98</sup>
- 70.** The Brolga CCTV footage captured only one other vehicle (a BMW) heading towards the Intersection prior to the vehicle that was described as similar to Mr Culbong's. Police were able to establish that the BMW passed through the Intersection at about midnight on 29 June 2016.<sup>99</sup>
- 71.** According to the driver of the BMW, the deceased's body was not lying on the road at that time.<sup>100</sup> This means that the deceased must have ended up on the roadway at the Intersection between about midnight and about 12.15 am on 29 June 2016.

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<sup>94</sup> Exhibit 1, Vol. 2, Tab 5-49, Statement - Constable R O'Brien, paras 42-44

<sup>95</sup> Exhibit 1, Vol. 2, Tab 5-56, Statement - Senior Constable A Mawdesley, paras 15-18

<sup>96</sup> ts 25.09.19 (Mawdesley), pp170-171

<sup>97</sup> Exhibit 1, Vol. 2, Tab 5-56, Statement - Senior Constable A Mawdesley, paras 19-22

<sup>98</sup> ts 25.09.19 (Mawdesley), pp171-173

<sup>99</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p16

<sup>100</sup> Exhibit 1, Vol. 2, Tab 5-40, Statement - Ms L-A Wolstenholme, paras 37-38



## ***Was Mr Culbong involved in the deceased's death?***

- 72.** Because of the low quality of the Brolga CCTV footage and the angle of the camera and noting that the police officers who viewed it, did so 3½ years ago, it cannot be positively established that any of the vehicles seen by police officers in that footage was the car Mr Culbong was driving on the night the deceased was found.<sup>101</sup>
- 73.** Although Mr Culbong agreed that he had driven his car on Apsley Road that night (a fact which appears to be established by CCTV from another house on Apsley Road<sup>102</sup>), he flatly denied he had stopped his vehicle anywhere along Apsley Road in general or at the intersection of Apsley Road and Brolga Promenade in particular.<sup>103</sup>
- 74.** Mr Culbong specifically denied that his car had ever come into contact with the deceased, either deliberately or accidentally. He also denied pushing the deceased when she got out of his car and he said he knew nothing about how she sustained her injuries.<sup>104</sup>
- 75.** Although it is possible that the deceased made her way on foot from where Mr Culbong says he dropped her, to where she was found, for the reasons I have expressed, this seems unlikely. This leaves open the possibility that Mr Culbong is mistaken about where he dropped the deceased off, and that the vehicle depicted in the Brolga CCTV footage is in fact Mr Culbong's car. It is also possible that what the Brolga CCTV footage depicts is the prelude to Mr Culbong dropping the deceased off near the Intersection.
- 76.** However, Mr Culbong specifically denied stopping at the Intersection when this was put to him. He also denied that he was mistaken about where he dropped the deceased off. He said he remembered the location because he went past the bus stop that he "*would get off to cut through for work*".<sup>105</sup>

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<sup>101</sup> See for example: Exhibit 1, Vol. 2, Tab 5-48, Statement - Constable J Elphick, paras 22-25

<sup>102</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p17

<sup>103</sup> ts 24.09.19 (Culbong, P), pp103-104, pp105-106 & p114

<sup>104</sup> ts 24.09.19 (Culbong, P), p101, p109 & p113

<sup>105</sup> ts 24.09.19 (Culbong, P), p103, p104 & p106

- 77.** Neither of the police officers who viewed the Brolga CCTV footage were certain that the car depicted in that footage was Mr Culbong's. It is therefore possible that a person or persons unknown (perhaps driving a car similar to Mr Culbong's) picked the deceased up after Mr Culbong had dropped her off where he said he did and drove her to the vicinity of the Intersection.
- 78.** Given the state of the evidence and in particular, in the face of Mr Culbong's denials, I have been unable to establish which of these possibilities is more likely.
- 79.** I have therefore been unable to come to any conclusion about how the deceased came to be found lying on the roadway at the Intersection.
- 80.** Specifically, I have been unable to conclude that Mr Culbong was involved in the deceased's death.
- 81.** All that can be said with certainty is that the deceased was found at the Intersection by Mr Babu a short time after 12.15 am on 29 June 2016.<sup>106</sup>

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<sup>106</sup> Exhibit 1, Vol. 1, Tab 5-16, Mr A Babu, paras 12-25 & 32

## **CAUSE AND MANNER OF DEATH**

**82.** Dr Kueppers conducted a post mortem examination of the deceased's body on 29 June 2016 and 1 July 2016.<sup>107</sup>

### ***Overview of findings***<sup>108,109</sup>

**83.** Dr Kueppers noted that the deceased's body showed signs of medical resuscitative efforts. There was blunt force trauma injury to the deceased's head with abrasions, lacerations and bruising to the deceased's face and scalp. There were also skull and facial fractures and some bleeding over the surface of the deceased's brain.

**84.** Minor soft tissue injuries were noted to the deceased's limbs and torso and there was evidence she had inhaled blood into her lungs. There was no evidence of injury or other abnormalities to the deceased's internal or external genitals or rectum. There was also no evidence of underlying natural disease.

**85.** Microscopic examination of the deceased's lungs showed changes related to smoking and confirmed the inhalation of blood. A pregnancy test was negative and neuropathological examination of the deceased's brain confirmed the presence of a traumatic brain injury.

**86.** Dr Kueppers said that in some cases, examining the deceased's clothing can be helpful in determining how the deceased died. In this case, Dr Kueppers was not provided with either the deceased's clothing, or photographs of that clothing.<sup>110</sup>

### ***Toxicology***

**87.** Toxicological testing found high levels of alcohol in the deceased's system, namely 0.254% in her blood and 0.318% in her urine.<sup>111</sup>

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<sup>107</sup> Exhibit 1, Vol. 2, Tab 5-66A, Supplementary Post Mortem Report, p1

<sup>108</sup> Exhibit 1, Vol. 2, Tab 5-66B, Post Mortem Report

<sup>109</sup> Exhibit 1, Vol. 2, Tab 5-66B, Post Mortem Report, pp15-16

<sup>110</sup> ts 25.09.19 (Kueppers), p138

<sup>111</sup> Exhibit 1, Vol. 2, Tab 5-66A, Supplementary Post Mortem Report, p1

88. The higher level of alcohol in the deceased's urine is an indication that she had stopped drinking sometime prior to her death and that her body had started to breakdown the alcohol in her blood and concentrate it in her urine.<sup>112</sup>
89. Tetrahydrocannabinol (cannabis) and low levels of diazepam and paracetamol were also found in the deceased's system, but other common drugs were not detected.<sup>113</sup>

### ***Injuries to the right side of the head and face***

90. Dr Kueppers found bruising on the deceased's right cheek to the right of her nose and in front of, and covering her right ear. There was an abrasion associated with the bruising in front of the deceased's right ear.<sup>114</sup> Dr Kueppers also noted "*very, very fine small punctate abrasions*" within the areas of bruising that were "*very non-specific*" and some very thin scratches to the deceased's right cheek.<sup>115,116,117</sup>
91. Dr Kueppers expressed the opinion that the injuries to the right side of the deceased's face were consistent with blunt force injury, but could also have occurred if the deceased had fallen onto a hard surface from either a standing or a crouching position, without bracing herself.<sup>118</sup> If the deceased had fallen onto a surface, Dr Kueppers said there was nothing in the evidence before her to indicate what it may have been, although a bitumen road could not be excluded.<sup>119</sup>

### ***Injuries to the left side of the head and face***

92. Dr Kueppers found bruising, lacerations and abrasions to the left side of the deceased's face which were consistent with blunt force trauma. Some of the abrasions were "*brush type abrasions*" meaning that there was a sliding component to the injury, perhaps in a diagonal direction towards the top of the deceased's head.<sup>120</sup>

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<sup>112</sup> ts 25.09.19 (Kueppers), pp135-136

<sup>113</sup> Exhibit 1, Vol. 2, Tab 5-66A, Supplementary Post Mortem Report, p2

<sup>114</sup> ts 25.09.19 (Kueppers), pp123-124

<sup>115</sup> Exhibit 1, Vol. 2, Tab 5-66B, Post Mortem Report, pp8-11

<sup>116</sup> ts 25.09.19 (Kueppers), pp123-124

<sup>117</sup> Exhibit 2, Dr Kueppers - Sketches of injuries to deceased's head/face

<sup>118</sup> ts 25.09.19 (Kueppers), p124

<sup>119</sup> ts 25.09.19 (Kueppers), p125

<sup>120</sup> ts 25.09.19 (Kueppers), p126

- 93.** Dr Kueppers explained that these injuries were in keeping with the left side of the deceased's head having impacted and slid for a short distance on a rough surface, such as a bitumen road. The appearance of the brush type injuries led Dr Kueppers to favour the view that they were caused by the deceased impacting with the ground rather than from being struck with an object.<sup>121</sup>
- 94.** The left side of the deceased's skull sustained some indentation and there were fractures through the base of her skull, transversely through the middle fossa with some fracturing of the left orbital roof. These fractures were consistent with a single impact and were associated with some bleeding over the surface of the deceased's brain.<sup>122</sup>

### ***The deceased's other injuries***

- 95.** The deceased had a grazed right knee and some minor bruising to her upper left calf. She also had some bruising to the backs of her hands and a finger knuckle consistent with either a fall onto a hard surface or a physical altercation. If the injuries did arise by way of an altercation, based on the evidence before her, Dr Kueppers was unable to say whether those injuries were defensive or combative in nature.<sup>123</sup>
- 96.** The deceased had superficial injuries to the skin of her left shoulder and left elbow and a parchmented, superficial abrasion to her left hip.<sup>124</sup>

### ***Possible explanations for the deceased's injuries***

- 97.** The precise mechanism by which the deceased sustained her injuries remains unclear. On the basis of the evidence she assessed, Dr Kueppers said a number of scenarios were possible, although some were less likely than others.<sup>125</sup>

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<sup>121</sup> ts 25.09.19 (Kueppers), pp126-127

<sup>122</sup> Exhibit 1, Vol. 2, Tab 5-66B, Post Mortem Report, p15 and ts 25.09.19 (Kueppers), pp130-131

<sup>123</sup> ts 25.09.19 (Kueppers), pp129-130

<sup>124</sup> ts 25.09.19 (Kueppers), p129

<sup>125</sup> ts 25.09.19 (Kueppers), p135

- 98.** Dr Kueppers said that the soft tissue injuries to the deceased's legs and shoulder were consistent with the left side of her body impacting with the ground. Dr Kueppers also said that the abrasion to the deceased's hip was of a type sometimes seen in pedestrians hit by cars or in people who fell onto a hard surface.<sup>126</sup>
- 99.** The injuries to the left side of the deceased's head were consistent with a forceful impact with a rough surface, such as a bitumen road. Dr Kueppers said that the forceful impact would have to have been accompanied by some form of acceleration or forward momentum, so as to result in a propelled motion, or accelerated fall.<sup>127</sup>
- 100.** Possible explanations for how this propelled motion or accelerated fall may have occurred include:
- i. a glancing blow from a vehicle with the deceased in either a standing or a crouching position;<sup>128</sup>
  - ii. a blow from a blunt object (such as a piece of wood, concrete or a baseball bat);<sup>129</sup> or
  - iii. the deceased tripping and falling whilst trying to avoid a collision with a vehicle.<sup>130</sup>
- 101.** Given the extent of the deceased's head injury, Dr Kueppers considered it less likely that the deceased had merely staggered and fallen. For the same reason, it was unlikely that the deceased had fallen from a crouched position without the application of an external force.<sup>131</sup>
- 102.** Although Dr Kueppers could not entirely exclude the possibility that the deceased had been struck by a car whilst standing, the absence of "bumper type" injuries to the deceased's lower limbs, made this scenario less likely. Bumper injuries include fractures or "*big, gaping skin defects*" and in the deceased's case, these types of injuries were not present.<sup>132</sup>

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<sup>126</sup> ts 25.09.19 (Kueppers), pp128-129

<sup>127</sup> ts 25.09.19 (Kueppers), pp133-134

<sup>128</sup> ts 25.09.19 (Kueppers), pp133-134

<sup>129</sup> ts 25.09.19 (Kueppers), p124

<sup>130</sup> ts 25.09.19 (Kueppers), p134

<sup>131</sup> ts 25.09.19 (Kueppers), pp133-134

<sup>132</sup> ts 25.09.19 (Kueppers), p129

- 103.** The police investigator, Detective Senior Constable Smith, also concluded that it was unlikely that the deceased had been struck by a car whilst standing and did not consider that her injuries were consistent with that scenario. He agreed it was possible that the deceased's injuries may have been caused by her falling to the road after receiving a glancing blow from a vehicle. He also agreed that it was possible that the deceased had sustained her injuries as a result of having tripped and fallen over or by reason of having been assaulted.<sup>133</sup>
- 104.** Whilst it was possible that the deceased was pushed to the ground, Dr Kueppers expressed the view that in order for her to have sustained the head injury she had, the deceased would have to have been pushed in a very forceful manner.<sup>134</sup>
- 105.** Dr Kueppers said that some of the superficial injuries to the deceased's face may have been caused by her being assaulted by Mr Pickett. However, the fractures to the deceased's skull could not have been caused by those assaults. This is because the force required was too great and the fact that the deceased would have been rendered unconscious immediately,<sup>135</sup> which is inconsistent with the evidence of the deceased walking around.<sup>136</sup>
- 106.** Dr Kueppers said she did not favour a scenario in which the deceased's head had been run over by a car, because the deceased's head injuries did not appear to be severe enough.<sup>137</sup>
- 107.** Further, Dr Kueppers said there was nothing about the overall pattern of the deceased's skull injuries which made her favour a scenario where those injuries were caused by blows from fists. Nevertheless, on the basis of her examination, it was a scenario she could not entirely exclude.<sup>138</sup>

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<sup>133</sup> ts 25.09.19 (Smith), pp196-198

<sup>134</sup> ts 25.09.19 (Kueppers), p137

<sup>135</sup> ts 25.09.19 (Kueppers), pp131-132

<sup>136</sup> See for example: Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 80-84

<sup>137</sup> ts 25.09.19 (Kueppers), p131

<sup>138</sup> ts 25.09.19 (Kueppers), p136

**108.** During the inquest, Detective Senior Constable Smith said a view he kept returning to was that the deceased had been involved in an altercation of some kind at the Intersection.<sup>139</sup>

**109.** However, when pressed by me as to how likely that scenario was, Detective Senior Constable Smith replied:

Well, that's a hard one to answer, Sir. I've got no direct evidence that could point me in the direction of that definitely happening...In my experience, and looking at the whole investigation, I believe something more happened there, but I can't say more than that.<sup>140</sup>

### ***Cause of death***

**110.** At the conclusion of her examination, Dr Kueppers expressed the opinion that the cause of death was head injury.<sup>141</sup> I accept and adopt that conclusion.

### ***Manner of death***

**111.** Taking into account the circumstances in which the deceased was found and the evidence of Dr Kueppers, I find that the injuries to the deceased's face and head were predominantly caused by blunt trauma.

**112.** Although it seems likely that the deceased's skull was fractured when her head impacted with a hard surface, most probably the road, the available evidence does not enable me to make a finding as to the precise mechanism by which the deceased sustained her injuries.

**113.** Given that I am unable to determine the manner of the deceased's death, I make an open finding as to how her death occurred.

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<sup>139</sup> ts 25.09.19 (Smith), pp198-199

<sup>140</sup> ts 25.09.19 (Smith), pp198-199

<sup>141</sup> Exhibit 1, Vol. 2, Tab 5-66A, Supplementary Post Mortem Report, p1



## **THE POLICE INVESTIGATION**

- 114.** A comprehensive police investigation was conducted into the deceased's death (the Investigation).<sup>142</sup> As a result of what were described as "*inconsistencies*" in his statement to police, Mr Culbong was arrested on suspicion of manslaughter on 30 August 2016. By that time, Mr Culbong had already given police a voluntary statement.<sup>143</sup>
- 115.** According to the Investigation, the inconsistencies in Mr Culbong's statement relate to the fact that he denied stopping on Apsley Road at the relevant time, whereas the Brolga CCTV footage showed what appeared to be a dark coloured Ford sedan that was at least similar to his car, doing just that. I canvassed this issue earlier in this Finding.<sup>144</sup>
- 116.** On the basis of legal advice he received, and as he is entitled to do, Mr Culbong declined to answer police questions relating to the deceased or his movements on the evening of 28-29 June 2016 during his police interview.<sup>145,146</sup>
- 117.** Mr Culbong said he was troubled by the legal advice he had received (i.e.: to not answer police questions) because by not doing so, it: "*made it seem as if he was guilty*".<sup>147</sup>

### ***Possible involvement of other vehicles***

- 118.** During the Investigation, Detective Senior Constable Smith considered the potential involvement of two other vehicles in the deceased's death, but were able to discount both vehicles.<sup>148</sup>
- 119.** One of the cars was involved in a hit and run incident some distance from the Intersection and the other vehicle was the BMW referred to earlier, that had passed through the Intersection prior to the deceased being found there.<sup>149</sup>

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<sup>142</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p51

<sup>143</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong

<sup>144</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p54 and ts 25.09.19 (Smith), p195

<sup>145</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p51

<sup>146</sup> Exhibit 1, Vol. 2, Tab 5-75, Record of Interview - Mr P Culbong (30.08.16)

<sup>147</sup> ts 24.09.19 (Culbong, P), p108

<sup>148</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, pp38-43

<sup>149</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, pp38-43

## ***DNA and forensic evidence***

- 120.** During the Investigation, Mr Culbong's car was subjected to extensive DNA and forensic testing. Although Mr Culbong had taken his car to a repair shop on 29 June 2016 to have a broken fan belt fixed,<sup>150</sup> when the car was examined by police, it was found to be dirty and showed no signs of having had any parts replaced.<sup>151</sup>
- 121.** There was no debris in the Intersection, such as might be expected if the deceased had been struck by a car.<sup>152,153</sup> The police examination of Mr Culbong's car found no evidence that it had been involved in a collision with any person, and indeed concluded that the likelihood of it having been involved in the deceased's death was "*very low*".<sup>154</sup>
- 122.** For example, a fabric impression taken from the front bumper of Mr Culbong's car was found to be consistent with jeans, whereas the deceased was found wearing tracksuit pants. Further, blood found on a seatbelt buckle in the car was found to belong to Mr Pickett, who had been in the vehicle earlier that night and who had been involved in physical altercations.<sup>155</sup>
- 123.** The extensive DNA and forensic testing found nothing that was inconsistent with the evidence provided by Mr Culbong and other witnesses, and in particular nothing of a sinister nature related to the deceased's death was identified.<sup>156</sup>

## ***Mr Culbong's statements after the incident***

- 124.** Following the incident, Mr Culbong spoke to several people about the events of 28-29 June 2016. The account of events he gave to those people was broadly consistent with the account he gave police when he provided a statement to police on 30 June 2016 prior to his arrest.<sup>157</sup>

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<sup>150</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong, paras 109-114

<sup>151</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, pp11-14 & 53 and ts 25.09.19 (Smith), p195

<sup>152</sup> ts 25.09.19 (Elphick), p140 and ts 25.09.19 (O'Brien), pp155-156

<sup>153</sup> See also: Exhibit 1, Vol. 1, Tab 5-6, Statement - Ambulance Officer S Young, para 23

<sup>154</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, pp11-14 & 53 and ts 25.09.19 (Smith), pp194-195

<sup>155</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p12 & p13 and ts 25.09.19 (Smith), p193-194

<sup>156</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, pp11-14 & 53-54 and ts 25.09.19 (Smith), pp192-193

<sup>157</sup> Exhibit 1, Vol. 1, Tab 5-12, Statement - Mr P Culbong

## ***Ms Clinch-Ring***

- 125.** Ms Clinch-Ring said that on 29 June 2016, she spoke to Mr Pickett's sister who was trying to track him down. Ms Clinch-Ring decided to contact Mr Culbong. She sent him a Facebook message at 10.42 pm on 29 June 2016 asking where Mr Pickett was. There was no immediate reply and she sent further messages, eventually receiving a response from Mr Culbong at 11.09 pm.<sup>158</sup>
- 126.** Mr Culbong confirmed he had dropped Mr Pickett and Mr Garlett off at the Station the night before. Ms Clinch-Ring sent several messages saying she needed to speak to Mr Culbong urgently and after she sent a message saying she needed to speak with him about "*that body they found in Willetton*" he sent her a message saying "*Do you think it was her*".<sup>159</sup>
- 127.** When they spoke on the phone a short time later, Mr Culbong asked Ms Clinch-Ring if the body that had been found in Willetton was the deceased's and seemed shocked when Ms Clinch-Ring said it was.<sup>160</sup>
- 128.** Mr Culbong then gave her an account of events consistent with what he had told police. He told Ms Clinch-Ring that the deceased was "*pretty intoxicated*" and after he dropped her off, he didn't see her again.<sup>161</sup>
- 129.** Mr Culbong also said he "*should have dropped her...[the deceased]...at the train station*" and that he "*felt bad about it*". Mr Culbong said he "*couldn't believe it*" (i.e: that the deceased had died) and Ms Clinch-Ring said he sounded really shocked and she could tell this from the change in tone of his voice.<sup>162</sup>

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<sup>158</sup> Exhibit 1, Vol. 1, Tab 5-22, Statement - Ms M Clinch-Ring, paras 8-15

<sup>159</sup> Exhibit 1, Vol. 1, Tab 5-22, Statement - Ms M Clinch-Ring, paras 16-27

<sup>160</sup> Exhibit 1, Vol. 1, Tab 5-22, Statement - Ms M Clinch-Ring, paras 29-34

<sup>161</sup> Exhibit 1, Vol. 1, Tab 5-22, Statement - Ms M Clinch-Ring, para 51

<sup>162</sup> Exhibit 1, Vol. 1, Tab 5-22, Statement - Ms M Clinch-Ring, paras 52-54

## **Ms Clarke-O'Reilly**

**130.** At the relevant time, Ms Clarke-O'Reilly's partner was Mr Culbong's cousin and she had known Mr Culbong for about 10 years. As Ms Clinch-Ring was messaging Mr Culbong in the manner I have just described, Ms Clarke-O'Reilly was assisting her with the wording of those messages. When Ms Clinch-Ring spoke to Mr Culbong on the phone, Ms Clarke-O'Reilly was able to hear their conversation, because Ms Clinch-Ring had two mobiles and had called her on one, whilst using the other to speak to Mr Culbong on speaker.<sup>163</sup>

**131.** The only aspect of Ms Clarke-O'Reilly's version of events that is of note is that she recalled Mr Culbong repeating the location where he had dropped the deceased off a number of times, and she thought this was strange.<sup>164</sup>

## **Ms Pickett**

**132.** Ms Lo-Arna Pickett is Mr Pickett's sister and knew both the deceased and Mr Culbong. On the morning of 30 June 2016, she sent Mr Culbong a text message, asking him to call her. Mr Culbong did so later that day, and during their phone call, Mr Culbong told Ms Pickett that he dropped the deceased off on the way the train station because she was "*acting weird*" and trying to "*crack on to him*" and he'd had enough of her behaviour. Mr Culbong told Ms Pickett that the last time he saw the deceased she was alive and drunk.<sup>165</sup>

## **Mr Wayne Garlett**

**133.** Mr Wayne Garlett is Mr Culbong's uncle. He recalls speaking to Mr Culbong and his brother Dylan about the deceased's death in November 2016. Mr Wayne Garlett said Mr Culbong told him that as he (Mr Culbong) was taking the deceased to the train station she "*played up*" in his car and he kicked her out. Mr Culbong said that after the deceased got out of his car, he went straight home.<sup>166</sup>

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<sup>163</sup> Exhibit 1, Vol. 1, Tab 5-23, Statement - Ms R Clarke-O'Reilly, paras 8-21 and ts 24.09.19 (Clarke-O'Reilly), p64-66

<sup>164</sup> Exhibit 1, Vol. 1, Tab 5-23, Statement - Ms R Clarke-O'Reilly, paras 31-32 and ts 24.09.19 (Clarke-O'Reilly), p69-71

<sup>165</sup> Exhibit 1, Vol. 1, Tab 5-24, Statement - Ms L-A Pickett, paras 19-25 and ts 24.09.19 (Pickett, L), 59

<sup>166</sup> ts 24.09.19 (Garlett,W), p9-11

- 134.** Mr Wayne Garlett gave evidence about what Mr Culbong told him about the events of 28-29 June 2016. The account he says he was given, though not particularly detailed, was consistent with what Mr Culbong had told police on 30 June 2016.<sup>167</sup> The only thing Mr Wayne Garlett thought was strange was that when he was discussing the deceased's death with Mr Culbong and his brother, Dylan, they seemed to give some information but would then change the subject.<sup>168</sup>
- 135.** One interpretation of Mr Culbong's reported reluctance to share information with Mr Wayne Garlett may be that he had something to hide.
- 136.** Another explanation is simply that Mr Culbong was reluctant to discuss the matter because he felt guilty about not dropping the deceased off at the train station, particularly given her subsequent death.
- 137.** In any case, Mr Culbong denied that there was anything he wasn't comfortable telling Mr Wayne Garlett about what happened to the deceased.<sup>169</sup>

### ***Mr Anderson and Mr Farrell***

- 138.** On 29 June 2016, Mr Anderson (a friend of Mr Culbong's) met him and his brother Dylan in Fremantle. When they met up, Mr Culbong was drunk and at the end of the night, they went to the Willetton house. Mr Anderson stayed the night and the next morning, he heard Mr Culbong and Mr Jason Wheelock taking about "*a girl and a boy fighting*" the previous night.<sup>170</sup>
- 139.** A short time later, police arrived and Mr Culbong and Mr Wheelock left to give statements to the Police. Mr Dylan Culbong had been in his bedroom when the police arrived and Mr Anderson said he (Dylan) seemed shocked when told his brother and Mr Wheelock had left with police.<sup>171</sup>

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<sup>167</sup> ts 24.09.19 (Garlett,W), pp9-14

<sup>168</sup> ts 24.09.19 (Garlett,W), pp13-14

<sup>169</sup> ts 24.09.19 (Culbong, P), p108

<sup>170</sup> Exhibit 1, Vol. 1, Tab 5-25, Statement - Mr A Anderson, paras 22-38 & 44-50

<sup>171</sup> Exhibit 1, Vol. 1, Tab 5-25, Statement - Mr A Anderson, paras 22-38 & 44-50

- 140.** On 20 July 2016, Mr Anderson and Mr Farrell (another friend of Mr Culbong’s) went to the Willetton house to catch up with Mr Culbong. The three of them later went to Fremantle to socialise and Mr Anderson and Mr Farrell both told Mr Culbong that the police wanted to interview them. They asked Mr Culbong if he knew what police wanted to talk to them about. Mr Culbong said the police were “*trying to build a case against him*” because he was the last person to see the deceased alive.<sup>172</sup>
- 141.** Mr Culbong then gave an account of the events of 28 - 29 June 2016 that was consistent with his statement to police. Mr Anderson said that Mr Culbong seemed angry about police speaking to people because he, (Mr Culbong), had been co-operating with the police but they were “*going behind his back*”.<sup>173</sup>
- 142.** When interviewed by police, Mr Farrell said he had problems with his memory. However, with one exception, his version of events is broadly the same as Mr Anderson’s. The only discrepancy is that Mr Farrell thought that the conversation he had with Mr Culbong about the incident had occurred a few nights after he (Mr Farrell ) had seen a news report about the deceased’s death.<sup>174</sup>

### ***Conclusion about Mr Culbong’s conversations***

- 143.** The evidence establishes that on a number of occasions, Mr Culbong discussed the events of 28-29 June 2016 with relatives, friends and acquaintances. Mr Culbong’s version of events in these various conversations was broadly consistent with what he told police on 30 June 2016, when they took a statement from him.

### ***What happened to the Brolga CCTV footage?***

- 144.** In my view, the Investigation was significantly hampered by the fact that the Brolga CCTV footage was inadvertently erased.

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<sup>172</sup> Exhibit 1, Vol. 1, Tab 5-25, Statement - Mr A Anderson, paras 62-80

<sup>173</sup> Exhibit 1, Vol. 1, Tab 5-25, Statement - Mr A Anderson, paras 62-81

<sup>174</sup> Exhibit 1, Vol. 1, Tab 5-26, Statement - Mr J Farrell, para 9

- 145.** As I have outlined, after viewing the footage, police were unsure of how to download it. Police instructed the homeowner to switch off the recorder and unplug it and told the homeowner they would return to seize it later that morning. The next morning, two unsuccessful attempts were made to view the footage and the CCTV recorder was seized.
- 146.** When the CCTV recorder was subsequently examined by WA Police's Technology Crime Services (TCS), it was found that a small battery in the recorder, the purpose of which was to preserve time/date information when the recorder was disconnected from power, had failed.<sup>175</sup> This had the effect of causing the CCTV recorder to revert to its "factory default" settings (i.e.: 00.00 h on 01.01.11), every time it was turned off and turned back on again.<sup>176</sup>
- 147.** It appears that in effort to assist the Investigation, the homeowner (or some other person) may have attempted to change the CCTV recorder's date and time to the correct settings. That attempt, whilst no doubt done with the best of intentions, probably caused the CCTV recorder to overwrite the footage critically relevant to this case.<sup>177</sup>
- 148.** The other explanation for why the critical footage was overwritten is the fact that the CCTV recorder was powered off and powered on several times. As Mr Baxter, a digital evidence examiner with TCS, pointed out, because its internal battery was faulty, the CCTV recorder reverted to its factory date/time settings and assumed that the Brolga CCTV footage (which had a later time/date stamp) was surplus to requirements. That footage therefore became the CCTV recorder's prime target for overwriting.<sup>178</sup>
- 149.** Mr Baxter confirmed that the erased footage could not be recovered.<sup>179</sup> He further confirmed that had the CCTV recorder been seized immediately after it had been turned off, it was "*very highly probable*" that the Brolga CCTV footage would have been able to be recovered.<sup>180</sup>

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<sup>175</sup> ts 25.09.19 (Baxter), pp181-182

<sup>176</sup> Exhibit 1, Vol 2, Tab 5-71, Report - Mr D Etezadi (IT Consultant), p4

<sup>177</sup> ts 25.09.19 (Baxter), pp182-183

<sup>178</sup> ts 25.09.19 (Baxter), p182

<sup>179</sup> ts 25.09.19 (Baxter), p180 and Exhibit 1, Vol 2, Tab 5-71, Report - Mr D Etezadi (IT Consultant), p3

<sup>180</sup> ts 25.09.19 (Baxter), p183

**150.** Had the Brolga CCTV footage survived, it may have been possible to have subjected it to detailed analysis and thereby have more positively identified the dark coloured car depicted in that footage.

**151.** The COPS Manual (the Manual) deals with the seizure of CCTV footage and relevantly provides:

If CCTV footage is required, a risk assessment is recommended. Generally all data on CCTV equipment has a very short life span, it may be wiped or recorded over if the device remains active. Immediate action may be required to preserve the evidence. It is recommended enquiries are conducted with the owner or normal operator to determine urgency and the action required.<sup>181</sup>

**152.** The Manual also provides advice about obtaining downloads of footage by working with the owner and/or seizing the CCTV recorder. Where a download cannot be obtained due to technical or other reasons, the Manual notes that Computer Crime Squad (presumably TCS) can provide assistance, however, because of limited resources, the Manual notes: “*Requests will only be considered after all other efforts to obtain the data have been exhausted*”.<sup>182</sup>

**153.** The Manual states that when seizure of CCTV equipment is being considered, advice should be sought from TCS.<sup>183</sup> Mr Baxter confirmed that although TCS’s 24-hour technical advice service had been discontinued on the basis that it was not required, officers could call the OIC of TCS at any time if advice was required.<sup>184</sup>

**154.** I accept that police may be reluctant to seize CCTV equipment, especially from business premises. However, given the potential importance of the images captured by the Brolga CCTV footage, it is very unfortunate that the CCTV recorder was not seized immediately after the footage had been viewed, especially because the footage could not be downloaded by the homeowner.

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<sup>181</sup> Exhibit 4, Extract from COPS Manual, Section 6.4.2, para 6

<sup>182</sup> Exhibit 4, Extract from COPS Manual, Section 6.4.2, para 6

<sup>183</sup> Exhibit 4, Extract from COPS Manual, Section 6.4.2, para 6

<sup>184</sup> ts 25.09.19 (Baxter), p183



- 155.** Although police were aware that the date/time stamp in the Brolga CCTV footage was incorrect when they viewed it, it appears that the significance of this discrepancy was not fully appreciated at the time.<sup>185,186</sup> Both attending officers conceded that, with the benefit of hindsight, it would have been preferable to have seized the Brolga CCTV recorder.<sup>187</sup>
- 156.** In my view, in circumstances where potentially relevant CCTV footage cannot be immediately downloaded, police should consider seeking technical advice from TCS personnel, and where this is not possible, they should seize the CCTV equipment for further analysis.
- 157.** Adopting this cautious approach should ensure that the risk of losing access to highly relevant evidence (such as the Brolga CCTV footage) will be significantly reduced.

### ***Conclusion reached by the police investigation***

- 158.** The Investigation considered whether the deceased's death had occurred by means of an unlawful assault, and concluded:
- [T]here is evidence to suggest the deceased was the victim of an assault at the time of her death. The elements of this offence can be satisfactorily met but there is insufficient evidence to prefer charges against any person.<sup>188</sup>

- 159.** In actual fact, although the forensic evidence concluded that some of the deceased's injuries could have been caused by an assault, this was one of a range of possibilities.
- 160.** As noted, Dr Kueppers did not favour a scenario in which the deceased's injuries were caused by blows from fists although she agreed that it was possible that the deceased's more serious injuries had been caused by a blow from a blunt object. Without labouring the point, a blow from a blunt instrument is only one of a number of possibilities explaining how the deceased sustained her injuries.<sup>189</sup>

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<sup>185</sup> Exhibit 1, Vol. 2, Tab 5-48, Statement - Constable J Elphick, paras 18 & 29-30

<sup>186</sup> See also: Exhibit 1, Vol. 2, Tab 5-49, Statement - Constable R O'Brien, paras 36

<sup>187</sup> ts 25.09.19 (Elphick), p146 and ts 25.09.19 (O'Brien), p163

<sup>188</sup> Exhibit 1, Vol. 1, Tab 5, Police investigation report, p53

<sup>189</sup> Ts 25.09.19, (Kueppers), pp136-137

**161.** Others including that the deceased fell heavily onto the road surface, either after receiving a glancing blow from a vehicle, or whilst attempting to avoid a vehicle were, on the evidence, equally likely.<sup>190</sup> It follows that on the basis of the evidence before me, it is impossible to say whether or not the deceased was the victim of an unlawful assault.

### ***A report to the Director of Public Prosecutions?***

**162.** In her closing submissions, Ms Keighery, counsel for WA Police, referred to my power under section 27(5)(a) of the Act, to report to the Director of Public Prosecutions (DPP), if I believe: “[T]hat an indictable offence has been committed in connection with the death”.

**163.** Ms Keighery submitted that when read with section 46 of the Act, there was no requirement that the relevant belief in section 27(5)(a) be reasonable and submitted that I should:

[E]rr on the side of referral to the DPP if you believe there is some credible basis to suggest that an indictable offence has been committed.<sup>191</sup>

**164.** With respect, I do not accept that submission. Even given that the rules of evidence do not apply to this Court,<sup>192</sup> in my view, taking into account the nature of the Court’s jurisdiction, I may only report to the DPP under section 27(5)(a) of the Act where my belief that an indictable offence has been committed in connection with the death, is reasonable.

**165.** In any event, in this case, the evidence identifies assault as only one of a number of equally plausible explanations for how the deceased sustained her injuries. It follows that there is no basis on which I may properly form a belief that an indictable offence has been committed in connection with the deceased’s death.

**166.** I therefore decline to exercise my powers to report to the DPP under section 27(5)(a) of the Act.

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<sup>190</sup> ts 25.09.19, (Kueppers), pp136-137

<sup>191</sup> ts 25.09.19 (Keighery), p209

<sup>192</sup> Section 41, *Coroners Court Act 1996 (WA)*

## **CONCLUSION**

- 167.** In this tragic case, a 25-year old woman died from head injuries in circumstances that are not entirely clear. There is no dispute that the deceased was in Mr Culbong's car prior to her death. However, the only person who knows for certain what happened from that point onwards, is Mr Culbong himself.
- 168.** After a social function at his home got out of hand, Mr Culbong agreed to drop the deceased off at a nearby train station. According to Mr Culbong, the deceased was noisy and intoxicated and he wanted her out of his house because his youngest brother had school the next day and he had work. Although Mr Culbong agreed to take the deceased to the train station, he had no idea whether she had money for the train fare, or indeed whether he could get her to the station before the last train left for the night.
- 169.** Mr Culbong says a short time after the deceased got into his car, she began making sexual advances towards him and saying inappropriate things. He says he became angry she was saying these things when he was trying to help her and he stopped his car and ordered her to get out. Mr Culbong says the deceased eventually did so, and he drove off, leaving her intoxicated, but alive at the side of the road, on Vahland Avenue, near Collins Street.
- 170.** The place where Mr Culbong says the deceased got out of his car is about 1.8 kilometres from where she was found. It is theoretically possible that the deceased made her way on foot from where Mr Culbong says he dropped her off to the place she was found prior to 12.15 am on 29 June 2016. However, this seems unlikely, given her level of intoxication and lack of familiarity with the area.
- 171.** The deceased was found with significant injuries to her face and head. There are a number of explanations for how the deceased sustained those injuries. The possibilities include: a blow from a blunt object; being struck a glancing blow by a vehicle whilst standing or crouching; and stumbling and falling onto to the roadway, in an accelerated manner, whilst avoiding a car.

- 172.** Even if it were possible to conclude that assault was the only mechanism by which the deceased could have sustained her injuries (and on the basis of the evidence it is not), a comprehensive police investigation failed to establish the identity of any person or persons likely to have been responsible.
- 173.** Mr Culbong categorically denied any involvement in the deceased's death and there is no cogent evidence which links him to her death. As I have noted, CCTV footage which appeared to show a vehicle similar to Mr Culbong's in the vicinity of the Intersection at the relevant time, was of relatively low quality and could not establish that the vehicle was his. For reasons I have described, this footage was inadvertently erased shortly after the incident.
- 174.** On the basis of the evidence before me, I have been unable to make any conclusions about how the deceased died and I therefore make an open finding as to the manner of her death.
- 175.** In the absence of new evidence which can shed further light on the events of 28-29 June 2016, it is difficult to see how the circumstances surrounding the deceased's death, and the manner in which she received her injuries can ever be known with any certainty.
- 176.** This is obviously a very unsatisfactory state of affairs and no doubt adds to the angst and grief that the deceased's family and friends feel with respect to her tragic death.

MAG Jenkin

**Coroner**

23 October 2019