



**STATE CORONER'S COURT  
OF NEW SOUTH WALES**

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| <b>Inquest:</b>           | Inquest into the death of Sky Heffernan                                                                                                                                                                                                                                                                                                                                       |
| <b>Hearing dates:</b>     | 30 March 2022                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Date of findings:</b>  | 11 May 2022                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Place of findings:</b> | NSW State Coroner's Court, Lidcombe                                                                                                                                                                                                                                                                                                                                           |
| <b>Findings of:</b>       | Deputy State Coroner Carmel Forbes                                                                                                                                                                                                                                                                                                                                            |
| <b>File number:</b>       | 2020/188420                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Catchwords</b>         | CORONIAL – Death as a result of a police operation – traffic stop – L plater                                                                                                                                                                                                                                                                                                  |
| <b>Representation:</b>    | <p><b>Counsel Assisting:</b> Ms S Williams instructed by Ms A Jez, Crown Solicitors Office</p> <p><b>Senior Constable Dennis Reid:</b> Mr P Madden, instructed by Mr K Madden, Walter Madden Jenkins Solicitors</p> <p><b>Commissioner of the New South Wales Police Force:</b> Mr T Lowe, instructed by Mr S Robinson, the Office of the General Counsel New South Wales</p> |

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| <p><b>Findings:</b></p>               | <p>The findings I make pursuant to s 81(1) of the <i>Coroners Act 2009</i> (NSW) are:</p> <p><b>Identity</b></p> <p>The person who died was Sky Heffernan</p> <p><b>Place of death</b></p> <p>Sky Heffernan died on the Bulga Road, near Wingham, NSW</p> <p><b>Date of death</b></p> <p>Sky Heffernan died on 22 June 2020</p> <p><b>Cause of death</b></p> <p>Sky Heffernan died as a result of multiple injuries</p> <p><b>Manner of Death</b></p> <p>Sky Heffernan died in a motor vehicle collision</p> |
| <p><b>Non Publication Orders:</b></p> | <p>The non-publication orders made in this matter are set out in Annexure A.</p>                                                                                                                                                                                                                                                                                                                                                                                                                             |

## REASONS FOR DECISION¶

### Introduction

1. This is an inquest into the tragic death of Sky Heffernan who was only 17 years of age when she died on 22 June 2020 following a motor vehicle collision along Bulga Road near the township of Wingham, New South Wales. Shortly prior to the collision, Senior Constable Dennis Reid, who was travelling in the opposite direction, observed that Ms Heffernan was travelling in excess of the speed limit. He confirmed this using his radar beam. The evidence suggests that Ms Heffernan increased her speed as Senior Constable Reid commenced a U-turn and shortly thereafter, she collided with another vehicle. Ms Heffernan died upon impact. The other driver sustained significant injuries and was taken to hospital.
2. Ms Heffernan was born on 13 December 2002. She leaves behind a large loving family, friends and many in the community whose lives she touched. She loved working with animals and being outdoors. She had experience working on a dairy farm and doing fencing. On the day of her accident, Ms Heffernan had been offered a job working on a property out West. She never got to receive that news.
3. In making these findings, I extend my sincere condolences to Ms Heffernan's family and friends. Despite the logistical difficulties presented by the COVID-19 pandemic, Ms Heffernan's parents, uncle and grandfather were present at the hearing of this Inquest both in person and via AVL. The Court heard a moving family statement which described the powerful impact Ms Heffernan had on those around her. She was full of love, life and shone bright in the lives of all who knew her. It is evident that she will be sorely missed by everyone who loved her.

### Issues for Determination

4. The role and statutory function of the Coroner, pursuant to s 81 of the *Coroners Act 2009* (“the Act”), is to make findings regarding:

- The identity of the deceased;
- The date and place of that person’s death;
- The cause of a person’s death; and
- The manner of death, that is, the circumstances surrounding the person’s death.

5. The issues in this case as to the identity, date, place and cause of Ms Heffernan’s death are uncontroversial. The principal issue that I must consider concerns the manner of Ms Heffernan’s death and in particular, whether Senior Constable Reid acted in accordance with the NSW Police Force Safe Driving Policy (Version 9.2) (“the SDP”).

6. An inquest must be held where the death occurred as a result of a police operation in accordance with ss. 23 and 27 of the Act. Pursuant to s 23 (2) ‘*police operation*’ is defined as “*any activity engaged in by a police officer while exercising the functions of a police officer other than an activity for the purposes of a search and rescue operation.*” The purpose of such an inquest has been described as follows:

*“... to fully examine the circumstances of any death in which Police ..... have been involved, in order that the public, the relatives and the relevant agency can become aware of the circumstances. In the majority of cases there will be no grounds for criticism, but in all cases the conduct of involved officers and/or the relevant department will be thoroughly reviewed, including the quality of the post-death investigation. If appropriate and warranted in a*

*particular case, the State or Deputy State Coroner will make recommendations pursuant to s.82.”<sup>1</sup>*

7. The hearing of this Inquest took place on 30 March 2022. This Inquest is not a criminal investigation, nor is it civil liability proceedings intended to determine fault or lay blame on persons involved in the incident. Rather, it has involved a close examination of the police actions on the day of Ms Heffernan’s death and, pursuant to s. 37 of the Act, a summary of the details of this case will be reported to Parliament.

### **Events of 22 June 2020 – The Critical Incident**

8. Shortly before the fatal collision on 22 June 2020, at around 12:50 PM, Ms Heffernan attended the home of her friend Ben Magennis looking for two new rear tyres for her vehicle. Mr Magennis could not locate any suitable tyres and they both decided to travel back to Ms Heffernan’s house.
9. Ms Heffernan and Mr Magennis left his property at approximately 1 PM in separate vehicles. Mr Magennis followed Ms Heffernan south along Bulga Road towards Wingham. Bulga Road is a narrow, unmarked country road which traverses an undulating landscape and comprises several bends, crests and curves.
10. Mr Magennis stated that he travelled about 100 to 200 m behind Ms Heffernan. Mr Magennis stated that Ms Heffernan wasn’t creeping away from him and that there was not much traffic on the road. He said that the road was sealed, dry and had no line markings. He said it was a clear day and visibility was fine.

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<sup>1</sup> Waller’s Coronial Law & Practice in New South Wales 4<sup>th</sup> Edition, page 106.

11. While travelling along Bulga Road approximately 300 m past Pinnacle Place, Mr Magennis observed a police car travelling in the opposite direction near Marlee Church.
12. The police vehicle was being driven by Senior Constable Reid. Senior Constable Reid is a gold certified Highway Patrol Officer who graduated from the New South Wales Police Academy in June 1980 and commenced Highway Patrol duties in approximately 1983.
13. Senior Constable Reid confirmed that he first sighted both vehicles at a point near Pinnacle Place. He stated that Ms Heffernan's vehicle was closely followed by Mr Magennis's ute. He says that it appeared to him that both vehicles were well in excess of the speed limit so he released his radar beam which indicated that Ms Heffernan was travelling 108 km/h in the 80 km/h zone.
14. Senior Constable Reid gave evidence that he flashed his headlights to both vehicles as they proceeded towards him and were around 250 m away. Mr Magennis stated that he did not see the headlights flash and did not think that Ms Heffernan was pulling away from him at that stage.
15. Senior Constable Reid gave evidence that shortly after flashing his headlights he drove onto a shoulder of roadway before performing a U-turn somewhere between Pinnacle Place and Brewers Close. He stated that his intention in flashing his headlights at the vehicle and performing the U-turn was to do a traffic stop given the speed of the vehicles.
16. Senior Constable Reid could not recall when he activated his warning lights but he proceeded at an accelerated speed to try and catch up with the two vehicles which were no longer within his sight.
17. Mr Magennis gave evidence that red and blue warning lights were activated as Senior Constable Reid turned his vehicle around. He thought that Ms Heffernan may have seen the red and blue lights as she took off.

18. Mr Magennis stated that the police car turned around pretty quickly and was coming up behind him very quickly. He was of the opinion that no sirens were on but the red and blue lights were flashing.
19. Two civilian witnesses were travelling in the vicinity along Bulga Road at that time. Mr Jarryd Cameron was driving behind Senior Constable Reid; he thought that the police warning lights were activated as he passed the police vehicle and Senior Constable Reid performed the U-turn.
20. Mr Daniel Rush was driving in front of Senior Constable Reid and he gave evidence that when he saw the police car pull over to the left that there were no lights or sirens on at that stage.
21. I am satisfied on the balance of probabilities that the police warning lights were activated at the time or shortly before Senior Constable Reid conducted the U-turn.
22. After performing the U-turn, Senior Constable Reid travelled behind Mr Magennis for a few hundred metres before he was able to overtake him.
23. Mr Magennis gave evidence that Senior Constable Reid overtook him on the right-hand bend before Middlebrook Road and that Ms Heffernan was well out of sight at this time. Mr Magennis said he then lost sight of the police vehicle.
24. After overtaking Mr Magennis, Senior Constable Reid subsequently discovered the collision. It was around 3 km south of where he performed his U-turn.
25. Ms Heffernan had proceeded south along Bulga Road in her vehicle towards Duffs Bridge. Mr Terrence Cross, the other driver in the collision, stated that he was on the left side of the road when he saw a purple sedan coming from the grass verge on his left. He said there was dust and debris flying everywhere. He said he saw the car come onto the roadway and it was sideways with the driver

side facing him. He said that the car was travelling towards him and also to his right. He said he moved to the middle of the road hoping the car would straighten up and miss him. He said the car then crashed into the front of his car and his airbags went off and he ended up facing the wrong direction.

26. At 1:14 PM Senior Constable Reid sent an urgent broadcast notifying VKG of the collision.

27. The collision was declared a Level Two Critical Incident by Assistant Commissioner Max Mitchell. This required that an independent investigation take place. Chief Inspector Michael Aldridge was appointed the Senior Critical Incident Investigator. Strike Force Lutea was created to manage the investigation.

28. At 3:14 PM, Senior Constable Stephanie Weekes conducted a roadside breath test on Senior Constable Reid which returned a negative reading.

29. Later that evening, Senior Constable Reid supplied blood and urine samples for testing. These came back negative.

30. Mr Cross provided a blood sample for testing which was negative for the presence of alcohol.

31. Ms Heffernan's vehicle was examined at the scene of the collision by Senior Constable Kristen Rafter of the Mid North Coast Crash Investigation Unit. Senior Constable Rafter observed that both rear tyres of Ms Heffernan's vehicle had poor tread depth and were not considered to be roadworthy.

32. On 3 July 2020, the vehicle was further examined by Senior Constable Stuart Davenport, a licensed and trade qualified motor mechanic, attached to the Engineering Investigation Section. Senior Constable Davenport observed both rear tyres were below the legal tread depth of 1.5mm. Both tyres were worn smooth which would negatively affect the tyres' ability to grip the roadway under



all conditions. In his opinion, the poor condition of both rear tyres may have been a contributing factor to the collision. He did not identify any other mechanical or electrical faults with the vehicle.

**Were Senior Constable Reid's actions in accordance with the SDP?**

33. Senior Constable Reid gave evidence that in flashing his headlights at the oncoming cars he was attempting to communicate to them that he noticed them. He said that it did not amount to a direction to stop.

34. He said that he activated his warning lights when he conducted the U-turn in order to warn all vehicles in the area so he could safely execute the U-turn. He stated that this did not amount to a direction for any vehicle to stop

35. After he completed the U-turn and Ms Heffernan was out of sight he attempted to catch up to her. He wished to conduct a traffic stop as she was in excess of the speed limit.

36. Senior Constable Reid gave evidence that at no time did he commence a pursuit of her vehicle. I accept that he did not see her vehicle again until he came upon the collision.

37. Part 6 of the SDP deals with traffic stops and check speeds. Part 6 provides that:

- It is permissible for police to perform traffic stops or reduce the distance to an offending vehicle without informing VKG (6-1).
- When conducting a traffic stop and/ or check speed, police must take into consideration a number of matters, including danger to police and other road users, having regard to the weather, road conditions, traffic density, time of

day and day of the week, whether the circumstances of offence detected requires an immediacy of action, the police vehicle's suitability to engage in urgent duty driving based on its vehicle categorisation, and the distance required to be covered to reduce the distance to the offending vehicle (6-4).

- If the danger to police or other road users outweigh the need to undertake the traffic stop, then police should discontinue the activity (6-4).
- Part 6-5 states that any direction to stop while utilising a police vehicle must be done by way of activation of the police vehicles warning lights and siren.
- Part 6-3 affords officers some discretion when deciding whether to activate their warning lights and/or sirens when maintaining a constant distance behind, or closing the distance to, an offending vehicle. However, police must take reasonable care and it must be reasonable that warning devices are not used.
- Part 6-6 describes the circumstances in which a pursuit commences. It states should the driver of the other vehicle attempt to avoid apprehension or appears to be ignoring requests to stop and a decision has been made to pursue the vehicle, then a pursuit has commenced, and the Safe Driving Policy pursuit guidelines must be adhered to.

38. Part 7 of the SDP sets out the procedure that police must follow when they are in pursuit of vehicles. A pursuit is considered to have commenced at the time an officer decides to pursue a vehicle that has ignored a direction to stop. The pursuit continues if an officer follows the offending vehicle or attempts to remain in contact with it whether or not lights and sirens are activated.

39. Part 7 provides for a system of oversight of pursuits. An essential component of that system is that the driver involved in a pursuit must inform the State Coordinator, VKG Shift Coordinator of the pursuit.

40. Acting Inspector Joshua Dixon of the Traffic and Highway Command conducted an independent review of Senior Constable Reid's actions within the context of the SDP. He informed the Court that in his opinion Senior Constable Reid did not

commence a pursuit within the definition of the SDP but was in the process of catching up to Ms Heffernan in order to conduct a traffic stop. He concluded that Senior Constable Reid acted in accordance with the SDP.

41. It is not in dispute that Ms Heffernan's vehicle was out of Senior Constable Reid's sight from the time he performed his U-turn. I accept Acting Inspector Dixon's analysis and I am satisfied that Senior Constable Reid was attempting to catch up to her vehicle to conduct a traffic stop and that at that time he was not engaged in a pursuit of her vehicle within the definition of the SDP. I am satisfied that Senior Constable Reid acted in accordance with the SDP.
42. An issue emerged during the course of the evidence concerning the ability of police officers, while driving, to ensure that In-Car Video ("ICV") systems are operational.
43. The ICV in Senior Constable Reid's police vehicle failed to activate automatically as expected when he activated his warning lights. Senior Constable Reid was not alerted to the fact that it did not activate. He explained that the ICV interface is integrated into the rear view mirror on the right hand side. He had no cause to touch it under normal circumstances and he does not look at it while driving, as he is focused on other things. Acting Inspector Dixon confirmed that was there was nothing a driver could do, while driving, to ensure the ICV was working.
44. Given the legal obligation upon police drivers to ensure ICV is being used in the course of, inter alia, pursuing or following vehicles with intent to stop them, it is important that the ICV system alerts the drivers when a malfunction occurs.
45. Acting Inspector Dixon informed this Court that the Traffic & Highway Patrol Command are currently engaged in a process of procuring new video recording technology for Highway Patrol vehicles across the State. Clearly, ICV is a valuable tool for contemporaneously recording a police officer's actions and could have provided assistance to this Inquest, had the footage been available.

46. Given that the ICV system is an ageing system and is in the process of being replaced, it is not necessary for the Court to make any recommendation in this regard.

### **Conclusion**

47. I once again offer my sincere condolences to Sky Heffernan's family and friends. I acknowledge that, particularly when losing a child, the grief is profound and that the suffering is ongoing.

48. Her death has also deeply affected Senior Constable Reid. I am grateful for his genuine and open involvement in the coronial investigation.

### **Findings pursuant to s 81 of the Coroners Act 2009 (NSW)**

#### **Identity**

The person who died was Sky Heffernan

#### **Place of death**

Sky Heffernan died on the Bulga Road, near Wingham

#### **Date of death**

Sky Heffernan died on 22 June 2020

#### **Cause of death**

Sky Heffernan died as a result of multiple injuries

#### **Manner of Death**

Sky Heffernan died in a motor vehicle collision

A handwritten signature in black ink, appearing to read 'C. Forbes', with a large loop at the end.

Magistrate Carmel Forbes

Deputy State Coroner NSW

11 May 2022

'Annexure A'

## SHORT MINUTES OF ORDER

### COURT DETAILS

Court NSW State Coroners Court  
Registry Lidcombe  
Case number 2020/188420

### TITLE OF PROCEEDINGS

**Inquest into the death Sky HEFFERNAN**

### DATE OF JUDGMENT/ORDER

Date made or given

### ORDER MADE BY THE COURT

#### Non-publication and suppression

**Order 1:** Pursuant to s. 74 of the *Coroners Act 2009* (NSW), the Court orders that there shall be no publication of:

(a) The following information contained within the NSW Police Force Safe Driving Policy version 9.2:

- (i) paragraphs 5-1-4 to 5-1-8 up to and including the end of the 1<sup>st</sup> full paragraph after the last dot point
- (ii) paragraph 5-4-2 – from the 1<sup>st</sup> word on line 3 to the 3<sup>rd</sup> word on line 4
- (iii) paragraph 5-4-4
- (iv) paragraph 7-1-5
- (v) paragraph 7-2-4
- (vi) paragraph 7-5-1 – dot points 6, 9, 10, and 15 only
- (vii) paragraph 7-6-3
- (viii) paragraph 7-6-8
- (ix) paragraph 7-6-9

**Sensitive: Legal**

**SEAL AND SIGNATURE**

Name *C. J. O.*  
Capacity *Deputy State Coroner*  
Date *30 16 March 2022.*