



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of Morgan Rae

Hearing dates: 20, 22, 23 June 2022

Date of findings: 4 November 2022

Place of findings: Coroners Court of New South Wales at Lidcombe

Findings of: Magistrate Erin Kennedy, Deputy State Coroner

Catchwords: CORONIAL LAW – missing person, triangulation, adequacy of search, compliance with NSW Police Force Standard Operating Procedures – Missing Persons, Unidentified Bodies & Human Remains, communication with family and friends in missing person investigations

File number: 2020/0078309

Representation: Mr Tim Hammond, Counsel Assisting, instructed by Ms Leah Burgoyne and Ms Amber Boatman, Crown Solicitor's Office

Ms Sarah Love, for the Commissioner of NSW Police instructed by Mr Craig Norman, Office of General Counsel NSW Police

Findings:

Identity

The person who died was Morgan Albert Rae

Date of death

He died on or after 31 January 2020

Place of death

He died in the Bundeena area

Cause of death

Cannot be ascertained on the available evidence

Manner of death

Cannot be ascertained on the available evidence

Recommendations:

To the Commissioner of Police:

1. Ensure that the *Missing Persons, Unidentified Bodies & Human Remains Standard Operating Procedures (SOPs)* clearly require the following:
 - a. That for the first five days after a missing person investigation commences, one designated officer on each shift holds responsibility for the investigation and is nominated as the *contact officer* for family and friends of the missing person;
 - b. That the name and telephone number(s) of the contact officer is provided to family or friends of the missing person as soon as possible and, if the contact officer changes, at the beginning of next relevant shift.

Non-publication orders:

Nil

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INTRODUCTION

Findings

Introductory Remarks

1. Morgan Albert Rae disappeared on 31 January 2020 and has not been seen since that day. Morgan as I will refer to him was a much-loved son and brother. He had a long-term partner, Ms Biswas. He was last seen at the Bundeena ferry, and he has not been sighted since.
2. The purpose of this inquest is to determine the following:
 - a. Whether Morgan Rae has died and, if it is found he has died:
 1. The date and place of Morgan's death; and
 2. The manner and cause of Morgan's death.
 - b. The nature and quality of the investigation by NSW Police into Morgan Rae's disappearance, including:
 1. The absence of a co-ordinating officer between 2 February 2020 and 10 February 2020 and whether there were any missed investigative opportunities; and
 2. Compliance with the NSW Police Force *Standard Operating Procedures - Missing Persons, Unidentified Bodies & Human Remains* (January 2020)

Reflection on Morgan's life

3. Morgan was described in the proceedings as a fun, energetic positive man, with a winning and engaging personality. The reflections provided by family and friends was that he was intelligent and interesting. He very much wanted to find the good in the world and make the world a better place.
4. Morgan and Arjuna Biswas were in a relationship from about May 2017. Living together in the Cronulla area for several years. In late 2019, Morgan quit his job in sales at City Volkswagen and started a business addressing phobias and/or life coaching. After a while Ms Biswas saw that Morgan was becoming quite depressed, the business was not as successful as he hoped. Their relationship suffered, and Arjuna suggested he move out for six weeks. During this separation, however, they spoke often and Ms Biswas thought Morgan was improving.
5. Throughout January 2020, they remained in contact and they made plans for Morgan's birthday in April 2020 and a holiday in August 2020. Morgan and Ms Biswas had dinner with their friend Thomas Pead to celebrate Ms Biswas' birthday on 12 January 2020. Mr Pead noticed that Morgan was in good spirits, but that he

was painting his business in a more positive light than it was in reality. He formed the view that Morgan was under pressure and stressed. Morgan told him that he was trying to mend his relationship with Ms Biswas.

6. Morgan moved back in with Ms Biswas on 23 January 2020 but it soon became apparent that he had started an intimate relationship with someone else and on 25 January 2020, Ms Biswas asked him to leave again. They continued to see each other over the next few days and Ms Biswas reports that Morgan reassured her that their relationship had a future and they talked about plans moving forward. On 27 January 2020, Morgan and Ms Biswas had a date in Sydney's Chinatown.
7. During his separation from Ms Biswas in December 2019, Morgan met Svetlana Fedorova at his yoga studio's Christmas party. Morgan had attended a yoga studio in Caringbah since May 2019. Ms Fedorova described Morgan as very open, curious, smiley and interested, with an amazing personality. Their friendship developed into an intimate relationship and over the next several weeks, they would see each other every other day, apart from a period when Ms Fedorova was sick in early January 2020.
8. The relationship with Ms Fedorova continued until Morgan's disappearance. Morgan had moved into Ms Fedorova's unit in Caringbah around Australia Day 2020 as he had lost the sub-lease on his unit and moved out of Ms Biswas' residence. During their times together, Morgan told Ms Fedorova about his business venture focusing on phobias and fears. She said he was always positive about it and very passionate when talking about it. Morgan also spoke to Ms Fedorova in positive terms about his other part time job selling solar panels which he liked because it was good for the environment. She never saw him depressed.
9. Morgan and his mother communicated using text regularly. Morgan went to stay with Ms Rae in later November 2019 for a week at her house on the Central Coast. He attended a family get-together on 15 December 2019 at Pennant Hills and sadly this was to be the last time Ms Rae saw Morgan.
10. Between 8 January 2020 and 21 January 2020, Fletcher Rae received several messages from his brother through Facebook, in which Morgan referred to their relationship and about his mental state. Morgan reassured Fletcher that he was mentally well.
11. Kristina Devlin had known Morgan since he regularly started attending her yoga studio in Caringbah in May 2019. She said that although Morgan had pain issues, he did not focus on the pain, but tended to intellectualise it. She described Morgan as positive, very interested and loved yoga, from which he obtained a lot of benefit. She remembered Morgan would talk about going bushwalking in the National Park from Bundeena.
12. In September 2019 when Ms Devlin, in partnership with Carl Fox, bought the studio they looked to make some changes to the processes in place and Morgan offered to assist in terms of marketing ideas, IT solutions and other aspects of the business. Over time, Morgan had developed a close friendship with Carl Fox and

they attended a personal development course in Pymont together in January 2020.

Morgan's Chronic Pain

13. The evidence was very clear that Morgan lived with very significant pain issues. He had injured his shoulder in a surfing accident in his earlier life and suffered from post-operative pain in his foot which Ms Biswas described as quite debilitating and he was unable to continue with some sports he had previously enjoyed. Morgan told her the shoulder pain was worse than the foot pain and felt like a nail pressing into his shoulder sending pain radiating through his body. Morgan managed his pain using yoga, stretching, nutrition and general non-medical methods.
14. He had years before misused illicit drugs but had largely succeeded in rehabilitating himself. He preferred to manage his pain using natural remedies and yoga or over the counter drugs.
15. Ms Fedorova was less aware of the pain issues suffered by Morgan. He did mention it over time and said he used yoga, breathing and meditation to deal with it. She said he did not take pills, but she knew that on one occasion he smoked marijuana as it helped with his pain. Other than this reference, Morgan is not known to have used any illicit drugs for several years.
16. Kristina Devlin became immediately aware of Morgan's physical issues when he first attended her studio in May 2019. He reported to her that he had been in an accident and suffered from chronic pain. She said the pain was evident, and that Morgan found certain moves impossible to undertake.
17. Dr Aaron Chien was Morgan's GP since August 2017. Most of the consultations related to Morgan's chronic pain issues, but he also saw Dr Chien for his mental health concerns.
18. On 13 November 2017, Morgan reported to him suicidal ideation although he had made no plan or attempt on his life. Dr Chien prescribed Lyrica to deal with the ongoing nerve pain. Dr Chien could not remember if this was helpful for Morgan but did remember he was not taking regular pain medication apart from over-the-counter paracetamol or Nurofen. Dr Chien knew Morgan dealt with his pain through exercise, physiotherapy and over the counter medication.
19. Following a consultation on 24 October 2019, Dr Chien referred Morgan to a rheumatologist following the presence of nuclear antibodies in his blood. Dr Chien was trying to rule out an autoimmune disease. It appears that Morgan did not attend the rheumatologist.
20. It appeared that the pain would come and go in intensity, for example, Ms Rae said that during the week Morgan stayed with her in November 2019, they walked beaches and tracks and Morgan showed no indication of pain at all.
21. On 20 December 2019, in Morgan's private diary notes, he stated that his pain was "debilitating and constant", taking up half of his waking consciousness. He wrote

about using cannabis as a therapeutic drug in combination with yoga and mindfulness. He continued, "...I find my ability to hold my life together is hindered by these injuries...and because my mind has been stretched from all the past chaos...". The day after Morgan wrote these things, he met Ms Fedorova.

31 January 2020 – The Day Morgan went missing

22. On 31 January 2020, Ms Fedorova did not notice any changes with Morgan. He appeared happy and content. They made plans to attend a BBQ at home that night.

Attendance at his GP

23. Morgan went to his GP, Dr Aaron Chien, at about 9.20am on 31 January 2020. He complained that the pain has risen to a level of about 6 or 7 out of ten and the pain had been getting worse. It appeared to Dr Chien that Morgan's pain had become more constant, rather than coming and going. Dr Chien referred Morgan to a chronic pain clinic at St George Hospital.

24. Dr Chien could not remember Morgan's demeanour during the consultation but believed that he would have recorded in his notes, in accordance with his usual practice, if Morgan had been particularly different or if he had any concerns about him such as indicating depression or suicidal ideation. Dr Chien said he did not hold concerns for Morgan's mental health that day.

25. During the consultation Morgan requested a referral to a particular chiropractor. There was a discussion about the cost and during this discussion Dr Chien advised that Morgan could seek assistance from Centrelink. A referral was made to Bayside Chiropractor and Dr Chien completed an Enhanced Primary Care Plan so that Morgan could claim a rebate through Medicare. When Morgan left Dr Chien's surgery, Morgan said he would make his way to Centrelink but did not discuss what else he had planned for the day. These were all positive things Morgan was doing to address his pain issues, plans were being made for future treatment to help him manage better in life.

Other contact that morning

26. On 31 January 2020 at 10.18am, Morgan sent a message to his friend Andrew Croucher saying: "*Hey mate I'm thinking a catchup at highfield at caringbah if that's cool with you?*" In response to the message, at 10.33am, Mr Croucher said he would see Morgan there between 5.40pm and 6pm. Morgan did not reply to this. Again, this is further evidence of future planning for that day.

27. At 11.24am, Morgan used *flatmates.com* to contact three people in relation to finding somewhere to live. Morgan sent three messages making enquiries about sharing accommodation and received one back that he never read. Morgan was actively looking to move from Ms Fedorova's home, the intention had only ever been to stay on a temporary basis.

28. At 11.44am, Ms Fedorova and Morgan exchanged messages about the barbecue that they had planned to have on the balcony of Ms Fedorova's unit. Morgan mentioned that he was "*meeting up with a friend tonight*". Ms Fedorova tried calling Morgan via the Messenger app at about 1.27pm. Ms Fedorova also sent Morgan a message asking him to move her car from the street into the unit's parking area, although he did not respond to that and did not move the car.

Call Charge Records

29. In order to follow Morgan's movements that day, much evidence was given relating to his telephone records. The call charge records from Morgan's mobile phone indicate that his mobile made or received the following calls on 31 January 2020:

- 9:48am Morgan called Dr Denise Tong, (Rheumatology consultant, Miranda) (37secs)
- 12:19pm Morgan missed a call from Kristina Devlin
- 1:04pm Morgan called Arjuna Biswas (10mins 50secs)
- 1:21pm Morgan called Jennifer Rae (10mins 3secs)
- 1:34pm Morgan called Kristina Devlin (1min 42secs)
- Between 4:36pm and 6:35pm Morgan missed 5 calls from Andrew Croucher

30. When Ms Biswas spoke to Morgan at 1:04pm, they spoke for 10 minutes. Morgan told Ms Biswas that he was in chronic pain and not coping. She thought he sounded like he was feeling hopeless and she told him how depressed she felt. He said he wanted to get away for a few days and he was thinking of coming over to collect their tent. He did not indicate where he might go. Morgan reiterated that they had a future together and nothing had changed. Ms Biswas asked if she could help and Morgan replied, "*Just be there if I call.*" She thought Morgan's tone of voice was out of character as she had never heard him speak like that before. She thought he sounded like he was in a hurry. She thought he sounded strained rather than distressed. She thought this was as a result of the cumulative effect of a number of issues.

31. Morgan called his mother shortly afterwards. Ms Rae describes the last conversation she had with Morgan at 1:21pm and how she wanted to bring him back to the family home to get him access to health services on the Central Coast where Ms Rae was working. He said words to the effect, "*I'm in so much chronic pain. I saw the doctor this morning. I applied for disability pension. I am not sure I'll get it. I'm desperate mum. I've had enough. Can you lend me some money so I can rent a flat?*" Mrs Rae asked him to come to her house, but he refused.

32. It should be noted that these last few conversations had a common theme, Morgan was in a great deal of pain and was behaving very unusually. He was concerning those whom he loved.

33. During the conversation, Ms Rae thought Morgan sounded "agitated" and upset, saying he was "desperate". However, Ms Rae had been through difficult times with Morgan in the past, and although she was concerned, she had seen him much worse, and usually was able to pull himself through.

34. However, after the phone call with Morgan, Ms Rae called Ms Biswas because she was troubled, and wanted to understand better how he was doing.
35. Ms Devlin called Morgan at about 1.34pm, the conversation was very out of character, he was abrupt and upset. He indicated that his pain was very severe.
36. Ms Fedorova later provided CCTV from her building which showed Morgan leaving the building at about 1.51pm. CCTV footage later obtained from Cronulla Wharf showed Morgan walking towards the Bundeena ferry at about 2.21pm. This was the last known sighting of Morgan.
37. At 4.57pm, Mr Croucher sent a message to Morgan saying he was running late. Morgan did not respond. At 5.38pm, Mr Croucher called and sent several other messages which also went unanswered. Mr Croucher arrived at Highfield at about 6.25pm and waited for Morgan. He tried calling with no answer.
38. Ms Fedorova got home at about 9pm from work. She was concerned because she had not heard from Morgan since the morning, he was not home and he had left his key to the unit on the bench, which was unusual. By 2am, he had still not returned so Ms Fedorova checked her video intercom to see if Morgan needed to be let in as he did not have his key. Morgan's call records show that Ms Fedorova attempted to call Morgan on the morning of Saturday 1 February 2020 at 2.16am, 2.17am, 5.58am and 9.46am.

Mobile Phone Tower Evidence

39. Mr Raymond Chu-Wah Chang is responsible for the planning, design and optimisation of the Optus UMTS and LTE networks for SingTel Optus Pty Limited. Mr Chang gave some of the most important evidence in the Inquest.
40. He explained how operational mobile phones are usually in constant contact with the network by "talking" to the network. The mobile device does this to ensure it recognises and uses the base station with the strongest signal and this happens every few milliseconds. When the mobile is not being used, it happens less frequently between seconds or up to one hour.
41. Mr Chang was asked about the records from 14:57:42 on 31 January 2020. He explained that changes in the base station name on the record most likely indicates that Morgan's phone was moving in the Cronulla and South Cronulla area. At 15:07:15, the device moved to a 3G station. This could mean that Morgan moved away from the 4G base tower or he was no longer in a good 4G environment, for example, moving from an outdoor to indoor environment. The switch to the Woollooware tower at 15:56:23 meant Morgan's phone was probably still fairly close to Cronulla.
42. From 16:03:25 until 16:27:32 the mobile phone was most likely moving in the south Cronulla area, although the Heathcote base station covers a large area as it is on higher ground. The fact that the phone switched from 4G antenna to a 3G and then back to a 4G is likely to have been the phone moving up and down a hilly area. Mr

Chang thought the phone was moving positions and it could indicate Morgan was going up and down in a terrain that changes altitude.

43. From 16:28:10 the mobile phone appears to be in the Bundeena area because it utilised the Kurnell base station, which is north east of Cronulla but faces in a south westerly direction, and a Cronulla base station. Mr Chang thought there was a strong likelihood the pattern of changing base stations from Kirrawee to Cronulla to Kurnell to Coledale meant there was movement in the direction of Bundeena. At 16:34:27, Morgan's phone picked up the network from the Coledale base station and Mr Chang explained that this likely meant Morgan's phone had moved towards the coastline.
44. Mr Chang described how the cell tower's antenna at Coledale which is at least 30km south of Bundeena faces 20 degrees (approximately North North East) with most of its 65 degree sector extending into the National Park and some of it covering the coastline. He explained that the signal could "bounce back" from the water and extend up the coast towards Bundeena. The signal of Morgan's mobile phone was most likely very near the coast before it stopped operating (either by being switched off, the battery dying or it losing reception). It is unlikely Morgan would have been in the Bundeena township at this time as the signal from Coledale would not have reached it there given dense forest in between.
45. The final record is exactly an hour after the penultimate record. At 17:34:26 the phone 'spoke' to the network (in a similar way to how it did at 16:03:18 and 16:25:04) to let the network know it is still there and able to be served by Coledale tower.
46. The table attached to Mr Chang's statement shows that 88% of the mobile communications through the Coledale tower were from devices within 6km. Some communications were up to 33km away from the tower and he thought the only likelihood for that communication was along the coast. Mr Chang also considered that Morgan's phone could also have been in an area north of the Coledale Tower but away from Wedding Cake Rock.
47. This summary provided by Counsel assisting is critical evidence in the proceedings. He manages to place Morgan's last known movements along and near the coast line.
48. All the calls made to Morgan's phone after 3.36pm on 31 January 2020, were forwarded to a messaging service or similar.

Police investigation into Morgan's disappearance

49. On Saturday 1 February Ms Fedora contacted Ms Biswas using Facebook, both agreed they would contact police.
50. Ms Fedorova contacted police at around midnight on Saturday 1 February. Senior Constable Brooks made the first entry and considered himself the officer in charge at that point. He took the matter seriously, rated Morgan as a medium (high) risk

and worked out a plan for action to be conducted. He was on leave for several days following, and so he made a comprehensive handover package. This package could not be located for the Inquest, but I accept that he did prepare it.

51. On the Sunday 2 February Ms Rae called the police station. She alerted the police to the fact that she held grave concerns for his safety. Little then occurred on 2 February 2020. His family and friends made the police aware that he may have gone into the National Park, as this was a place that he enjoyed. Police records note that there was “nil evidence” to support this.
52. On 3 February 2020, police distributed Morgan’s picture to National Parks Rangers to keep a look out for Morgan. On the same day, a CAD alert was distributed to police in Surry Hills and Sutherland PAC.
53. At the time of Morgan’s disappearance, Det Sgt Martyn Van Tol was the Missing Persons Coordinator for the Sutherland Shire Police Area Command. He undertook this role in addition to his other day-to-day duties. The Missing Persons Coordinator (MPC) provides advice to the OIC of the missing person case to assist them to progress the case.
54. Det Sgt Van Tol’s first shift since Morgan’s disappearance was 3 February 2020. Unfortunately, he was not made aware of the investigation until a day later when he was approached Det Sgt Parsons who had been approached by SC McFarlane.
55. Over the next several days, further investigative steps were taken by the police with Det Sgt Van Tol providing advice to other officers and engaging personally in some of those tasks. Some of the steps taken included:
 - a. Checking for Opal card activity
 - b. Obtaining CCTV from Caringbah railway station
 - c. Obtaining the IMEI from Morgan’s phone
 - d. Obtaining CCTV from Cronulla wharf for times between 2.30pm and 4.30pm. It showed that Morgan walked towards the end of the wharf at 3.46pm. It was later discovered that the time on the wharf CCTV footage was wrong, which meant the police investigations continued on a false premise that Morgan was last seen at 3.46pm. It was not until 2 weeks later that it was discovered that the clock was incorrect and the wharf footage showed Morgan at about 2.21pm. This unfortunate error may have had an impact on the crucial early stages of the investigation.

56. Police also sent out a state-wide Nemesis broadcast with Morgan's details asking officers to keep a look out.
57. Police confirmed that there had been no activity on Morgan's ING bank account since 30 January 2020. The last transaction on his CBA account, after a payment to *flatmates.com* at 10.18am on 31 January 2020, was an automated payment to *clickfunnel.com* on 27 February 2020.
58. Police confirmed that Morgan's phone's internet had last been started at 5.43pm until 6.30pm on 31 January 2020. No data was used during this time. The last time data was used and the last time his phone used data was around 4.41pm on 31 January 2020.
59. On 5 February 2020, Det Sgt Van Tol approached the duty officer Insp Bradbury, and requested a coordinated land and air search of Royal National Park. Polair was used to conduct a flyover search of the Royal National Park.
60. Also on 5 February 2020, Mrs Rae, Fletcher and Ms Fedorova went to the Royal National Park walking tracks in an attempt to look for clues. Mrs Rae also organised a search of the national park coastal track by "Search Dog City".
61. Adam Fidanza, who had been friends with Morgan for 12 years said Morgan knew well the coastal tracks and Karloo Track because they had walked and ridden them together and Morgan frequently walked them.
62. On 10 February 2020, police requested and obtained records from Australian Border Force, which confirmed Morgan had not passed through an international point of departure.
63. On 11 February 2020, police updated the Sutherland Shire police Facebook page regarding information about Morgan. On that same date, an air and land search was undertaken in the Royal National Park from Bundeena to Wedding Cake Rock. The air search commenced at Jibbon Head and ran in a southerly direction past Wedding Cake Rock. Four officers (including the pilot) searched from both sides of the aircraft. The air search continued south past Marley Beach and Wattamolla Beach. The aircraft then turned and searched generally north back to Jibbon Head, with walking tracks, fire trails and bushland searched. A second pass was conducted in a southerly direction from Jibbon Head, this time offset to the west, with Jibbon lagoon, Jibbon track, Big Marley fire trail, Marley lagoon and Little Marley fire trails searched.
64. The land search involved officers conducting a foot search from the beginning of the Coast Track (access off Beachcomber Ave, Bundeena) out to the cliff edge. The officers then headed south searching the cliff edge. The officers continued

south past Wedding Cake Rock to Marley Head, returning via the Big Marley fire trail.

65. On 13 February 2020, police followed up a lead on a possible sighting at a café in Bundeena on 1 February 2020. This turned out to be highly unlikely to be Morgan as the customer who looked like Morgan used a credit card from a US bank and was talking on a mobile phone. There was no CCTV.

66. By 18 February 2020, there had still been no further positive activity on any of Morgan's bank accounts. On this date, a police cadaver dog was used to search Jibbon Track in the national park with no success.

67. On 11 March 2020, a signs of life check was conducted by police with no result.

68. Detective Chief Inspector Browne, manager of the Missing Persons Registry, said that Morgan should have been categorised as high risk, which should have prompted movement to escalate the search quickly. I agree with his categorisation of high risk. Putting the information together he simply walked off. The leaving of the keys was concerning, the conversations with his mother and partner and the change in his manner was troubling. The fact that he suffered from significant pain, and that he had made plans that he missed was another indication of great concern. The inability to reach him by phone was another.

Compliance with the NSW Police Force *Standard Operating Procedures – Missing Persons, Unidentified Bodies & Human Remains (January 2020)*

69. The Missing Persons Registry (MPR) commenced operations on 1 July 2019, replacing the former Missing Persons Unit. Following examination of national and international SOPs and investigative models, and broader consultation, the MPR created an entirely new set of SOPs in 2019. The new SOPs were rolled out on 1 January 2020 with a NEMESIS message alerting all officer of their introduction. They were therefore very new at the time Morgan went missing.

Responsibility of the Missing Persons Registry

70. Part 8 of the 2020 SOPs set out the key roles in missing persons investigations and they stated:

*8.1 Responsibility of the Missing Persons Registry
The Missing Persons Registry is a Unit within State Crime Command that coordinates the NSWPF response to missing persons investigations. The Manager of the Missing Persons Registry reports to the Director, Crime Operations, State Crime Command. Although the Missing Persons Registry*

comprises a team of investigators and analysts, it does not assume responsibility for missing persons investigations.

71. The current system provides a new form of supervision by the MPR. Its role is to monitor daily, and provide support to ensure all investigative tools and used. It also requires review of risk assessment processes for all missing person COPS Events. The MPR is responsible for conducting three and six month reviews for all long term missing persons cases.
72. At the time the relevant officers did not seem aware of the new and significant resource that can be found in the MPR.
73. There was a lack of conformity with Part 8.1 of the SOPs in that there was no daily appraisal by the MPR, no direct support to the OIC, and no review of the risk assessment conducted by S/C Brooks on 2 February 2020.

Missing Persons Coordinator

74. The MPC's responsibilities are set out in Part 8.2 and include:
 - a. Liaison with the Crime Coordinator and obtain details of all missing persons cases
 - b. Monitor and review all missing persons cases
 - c. Ensure appropriate and sufficient resources are allocated
 - d. Provide guidance and advice to OICs
 - e. Act as point of contact between the MPR and the Command
 - f. Participate in case reviews together with OICs
75. Det Sgt Van Tol played that role, as missing persons coordinator. He came on shift on Tuesday 3 February 2020 but was not made aware of the missing person investigation into Morgan. He did find out about the investigation because of his role as MPC. He was approached by another officer Sergeant Parsons who had been approached by S/C McFarlane – Sgt Parsons then informed Det Sgt Van Tol about the investigation. He said he may expect to be told about a missing persons case, depending on the circumstances surrounding the particular case. It should also be noted that Det Sgt Van Tol performs many and varied functions, and has a heavy workload with a great deal of responsibility. If he is not there, no one performs his specific MPC role, although general duties team leaders have a supervisory role to assist and guide the investigation with a duty officer providing oversight.

Officers in Charge of Missing Persons Cases

76. Part 9 of the 2020 SOPs sets out the responsibilities of officers taking missing persons reports and OICs of missing persons investigations. Part 9.1 requires the officer receiving the report to use the Missing Persons Checklist as a guide when obtaining details of the missing person and conduct a risk assessment, assigning a category and any relevant associate risk factors to the missing person.

77. Part 9.2 states that *“it is possible and often appropriate for the officer who took the report to be the OIC. Supervisors and Duty Officers should assess all missing persons cases and allocate appropriate resources to conduct investigations”*.

78. Det Sgt Van Tol described the daily briefings that occur Monday to Friday saying senior management and representatives from sections attend and go over any issues that have arisen in the previous 24 hours or, if on a Monday, over the previous weekend. The MPC is not at this meeting and the responsibility of bringing the missing persons investigation to the coordinator lies with the crime manager or the investigations manager. Det Sgt Van Tol thought missing persons investigations are now raised a matter of course at these crime review meetings because of changes made to the COMPASS system. It seems this is an improvement from February 2020.

Expert Evidence on Missing Persons SOPs

79. DCI Brown’s view that the SOPs were released a lot sooner than had been planned and that training and the IT adaptations didn't quite keep pace were shared by Det Sgt Van Tol who said that it *“would have been advantageous to roll it out a bit into the command in general as well, so that the general duties supervisors as well as the OICs have an understanding of processes”*.

80. DCI Browne is the person who has taken over management and control of the Missing Persons Unit. He reviewed the matter and found a number of concerns in the way Morgan’s case was treated.

81. He explained that his new unit had only just come into effect on 1 July 2019, and the SOPS came into effect on 1 January 2020. The training was not yet provided. It seemed like they were put into place before foundation work had been undertaken.

82. I pause there to comment on the fact that it is the case that the situation experienced by Morgan’s family is now much changed. That is of little comfort however to his family and partner.

83. Ms Rae explains that she felt left out of the process and unlistened to. She suggested a search of the National Park she begged for an air search. It is hard to imagine the desperation felt by the family or Morgan’s partner during these first few days. Search, canvassing, PolAir was not utilised for days. 5 February was the first PolAir search. 11 February was the first coordinated search. Ms Rae organised her own search by engaging dog handlers to search for him. Ms Rae and her son, Ms Fedorova and Ms Biswas all searched for him.

84. Det Sgt Van Tol was asked to comment on whether he agreed with the proposition that there were undoubtedly delays in the initial investigation, but he said he did not look back at what had been done, rather looked at what else could be done. Det Sgt Van Tol was reluctant to comment on the investigation prior to his involvement saying only that *“there could have been interaction with the detectives earlier”* but it is clear that when Det Sgt Van Tol became aware of the investigation, there was a change in pace.

85. In Det Sgt Van Tol's opinion, there is more frequent contact in 2022 between the MPR and the investigating command than there was in 2020.

Missed Opportunities

86. A real issue in the Inquest was the management of Morgan as a missing person. New SOPs had been put into place only shortly before he was reported missing, and those procedures hadn't been properly understood or followed at the time. The new arrangements in place as described by DCI Browne go a long way to address many of the missed opportunities that were present in this case.

87. After the initial report to Senior Constable Brooks, who did a thorough handover package because he was then on leave for days, things began to slip.

88. Critical matters were not attended to. The family found that really no single person had control of the case. They were contacting police and agitating for this to be escalated. Mrs Rae called and expressed her serious concerns. Valuable time was lost, and on all accounts the critical time in any missing persons case is the first days.

89. There was a number of failures and missed chances, they are:

- a. Failure to review the risk category as is required. Had a review taken place and Morgan assessed as High Risk, the responses in the initial investigation may well have been different.
- b. The 2020 SOPs required the shift manager to create a proper handover document or Duty Report for the oncoming shift alerting those officers of outstanding tasks to be attended to. In essence, both the Shift Supervisor and the Duty Officer are responsible for ensuring missing persons reports are added to a shift handover or shift report document. DCI Browne noted that there is no uniform best practice model for this handover process and each PAC has its own unique procedure. This has caused the MPR to make a submission in June 2022 seeking a uniform approach.
- c. DCI Browne reviewed the Duty Officer Handover Shift Reports from the relevant period in early February 2020. Det Sgt Van Tol described the documents as handover documents between duty officers designed to keep the oncoming duty officer aware of any incidents or issues throughout the command that potentially require attention. Morgan required a proper hand over and required follow up on the morning of 2 February 2020.
- d. Little was done on the case during the 12 hours up to 6pm on 2 February 2020. This is reflected in the COPS Event. The notation in the following Shift Report (1800 on 2 February 2020) contained no new information.

- e. No substantial notation is made until the 1800 shift on 4 February 2020 when it was noted CCTV footage from Cronulla Wharf had been viewed and enquiries were to move to Bundeena. This commentary was moved up to the Major Incidents section. The MPC has no involvement in making the decision to categorise a missing person's case as a "major incident" or elevate the priority of a case.
- f. There was a failure to bring the matter to the attention of Det Sgt Van Tol, and given the attention he then gave the matter caused delay to his response.
- g. Triangulation of a missing person's mobile phone, which seems to have been considered for the first time on 5 February 2020, is the most successful and valuable tool available to police searching for a missing person. DCI Browne formed the view that triangulation of Morgan's phone ought to have been attempted as this was not done immediately after Morgan was reported missing. Jennifer Rae requested triangulation on Morgan's phone on 8 February 2020 but was advised it would not work if Morgan's phone was switched off.
- h. On Monday 10 February 2020, Inspector Bradbury, day shift duty officer was consulted regarding the possibility of a search of the Royal National Park. Inspector Bradbury contacted the VKG Rescue Co-ordinator Sgt Martin and Inspector Egbers was consulted regarding triangulation. Unfortunately, and unsurprisingly, by this time, Morgan's phone was switched off. Inspector Egbers advised that Morgan's mobile phone record be requested in an attempt to locate a last cell site tower.

Delays

90. DCI Browne's observed that "there are undoubtedly some delays that occurred during the initial part of the investigation". As DCI Browne notes, not all the operational considerations and constraints at play at the relevant time are known, however, he did indicate, "It would have been appropriate for some search of the National Park during the first two days of the investigation".
91. It would have been appropriate to request assistance from PoAir and general purpose police dogs and handlers (if available), accepting that a land search of the entire National Park was not feasible.
92. One of the concerns raised by Jennifer and Fletcher Rae is that the investigation was not given a high enough priority and there was no sense of urgency. Ms Rae provided the example of the investigation being too narrow, from her perspective, and focusing on a theory that Morgan had gone to Cronulla train station whilst she had asked the police to focus on other areas including the National Park. She felt not enough emphasis was put on the family's and friends' views, which repeated requests to search the National Park. Ms Rae thought valuable days were lost at the beginning of the investigation. Ms Rae resorted to contacting a National Park Ranger herself regarding a search of the park because she felt frustrated that

investigators were not searching in the correct place in a timely manner. Her concerns reflect one of the criticisms of DCI Browne that a search of the park should have occurred earlier.

93. Ms Rae was not sure who was leading the investigation at first, saying that most other dealings were with L/S/C McFarlane and then Det Sgt Van Tol, until the matter was allocated to DSC Marsi. When asked about the effectiveness of communication between investigating police and the family, Ms Rae said:

“I feel like the family knows the most circumstances, the family knows the person best, and I feel like that even though organisations are endeavouring to improve, I felt like in our situation that whilst they were very, very helpful in some areas, I still felt like we weren't being listened to and I still felt like there was no urgency around Morgan's case.”

94. DCI Browne nominated enquiries with family and friends as one of the most successful tools available to police to quickly locate missing people. Ms Rae said she had to beg for the PolAir helicopter to be utilised before it was used on Thursday 5 February 2020.

95. Ms Rae organised herself a search by Search Dogs City, a voluntary group that conducts searches for missing persons. An initial search was conducted on 10 February 2020 followed by another in 2021.

96. Morgan's brother, Fletcher Rae, was also frustrated by the early part of the investigation, especially in relation to PolAir not being used, in the context of thinking Morgan may be in the National Park. Fletcher thought Det Sgt Van Tol was the point of contact for the family, although he did not know Det Sgt Van Tol's role in the investigation.

97. Ms Biswas was also frustrated by the apparent lack of urgency in the initial investigation. She conducted numerous searches in the National Park in the absence of the police doing so. She was also concerned about the length of time it took for police to access Morgan's laptop and find reference to a 'special place' to which Morgan may have gone, which could have aided the investigation. DSC Marsi explained that the system in early 2020 meant a technology job (such as interrogating a laptop) would join a pool of other jobs and the investigative team would have to wait for a notification of the job being done. He said the system now includes specifically trained officers within area commands who perform this task locally much quicker. He was able to access the newer system in around March or April 2021 by utilising a local officer to perform the task of downloading Morgan's laptop.

Submissions by the Commissioner of Police

98. The Commissioner accepts on the evidence there was some non-compliance with the 2020 SOPs. However, it is submitted that COVID impacted the roll out and training. It is also raised that there was compliance with key parts of the SOPs and this is accepted on these facts.

99. There was oversight in relation to continuity and handover. Senior Constable Brooks did very thorough work initially. He completed a commendable and thorough hand over, which was then not utilised and lost. He should be recognised as someone who did act professionally and carefully that night. The lost time occurs most evidently from 7.33 am and 7.40 pm on 2 February, which of course is recognised as a critical time in the investigation. I do find that there was non-compliance with Part 8.7 in relation to the responsibilities of the shift supervisor. The responsibility was with that person while Det Sgt Van Tol was not present.
100. This evidence highlights the deficiency in the lack of nominating a person to have ownership and responsibility for a missing person.
101. When the matter finally came to Det Sgt Van Tol he led the investigation, and took responsibility. There was a gap between 2 February and 4 February. Although there was some misstep with the MPC responsibilities in Part 8.2 this must be seen in light of the fact that this was a new role, there was limited training due to COVID and as reflected on before he carried many varied responsibilities. The family was aware of his involvement.
102. The risk assessment did not follow proper process. Senior Constable Brooks did his best, but this was not approved by a supervisor as it should have been. As I have indicated Morgan should have been in the high risk category and perhaps that would have been considered in a review, thus escalating the matter. This would have encouraged some type of search of the Royal National Park although I agree a properly coordinated search would not at that time have been feasible.

Improvements Since January 2020

103. Significant changes have been made to improve processes and oversight generally with a view to preventing risk and delay to future missing persons investigations. These include:
- a. The creation of an operational response team that is able to be deployed to the field to assist Police Area Command
 - b. The creation of the COMPASS system and upgrades to IT systems undertaken during 2020
 - c. Significant upgrade now means that the COPS system communicates with the Missing Persons Database, significantly reducing data entry duplications but also ensuring consistent data exists across both systems.
 - d. The establishment of the Missing Persons, Unidentified & Destitute Review Committee
 - e. A number of upgrades since the missing persons database went live in 2000 directed to facilitating the day-to-day supervision of missing persons cases thereby creating consistency, efficiency to, and accessibility of the information.
 - f. Since the introduction of the MPR various upgrades have been made to the e@gle.i system with the view to further supporting missing person
 - g. Mandatory online training package based upon the creation of the revised 2020 SOPS was released in September 2020.

- h. The creation and incorporation of a new training module for newly recruited Police officers in respect of the Missing Persons, Unidentified Bodies & Human Remains
- i. Publication in the Police Monthly magazine with the view to raising awareness in relation to missing persons investigations.
- j. MPR representative attendance at PACs and PD training Days and Regional Manager's conferences explaining the role of the MPR, requirements of the revised SOPs and organisational expectations.

General observations

104. The lack of urgency was evident in this matter. COVID had impacted on the rolling out of the new training and procedures in relation to the new SOPs. At the time, it appears DCI Browne was trying to create, with his agency, real change in this area. He impresses as a committed and serious advocate for the location of missing persons. The culture around this area appears to be very much changing. Unfortunately for Morgan's loved ones that change was too slow.
105. Morgan's mother, brother, partner and friends must be observed as committed and concerned individuals who did everything they could, including agitating for help for Morgan and in searching themselves. They must have been in a state of exhaustion and emotional turmoil while faced with the disappearance of Morgan, but nonetheless they went to extraordinary lengths advocating for him, searching for him and sadly felt in the first few days as though they were quite alone.
106. The first days are critical in a search, as noted by DCI Browne. Triangulation was an obvious first step, with PolAir searches together with the general canvassing of areas that the family thought were worthwhile. They knew him best. Evidence in the form of CCTV, witnesses, sightings, belongings all have greater chance of being found to at least provide a trail to follow further. These steps might not locate the person but might provide more clarity to those left behind so more of the story is known. Opportunities were lost here.
107. This case highlights the significant value in family and friend input to provide important details of the missing person. It highlights the need to listen to those who know the person best.
108. This Inquest allowed an opportunity to review the current system and note that vast improvements have been made. It is also a matter where the police themselves have provided a reflective independent position through DCI Browne, who has the opportunity to review this matter and undoubtedly will aim for further improvements.
109. The area of most concern is communication with the family, both to listen and to inform. For that reason, a recommendation will be made surrounding that.

Recommendation

110. To the Commissioner of Police:

Ensure that the *Missing Persons, Unidentified Bodies & Human Remains Standard Operating Procedures (SOPs)* clearly require the following:

- a. That for the first five days after a missing person investigation commences, one designated officer on each shift holds responsibility for the investigation and is nominated as the contact officer for family and friends of the missing person;
- b. That the name and telephone number(s) of the contact officer is provided to family or friends of the missing person as soon as possible and, if the contact officer changes, at the beginning of next relevant shift.

Findings

111. I am satisfied that Morgan Rae is deceased. There have been no signs of life since the day he went missing. He was a man well loved, and it is highly unlikely that he would not be in contact with his mother, brother or partner Ms Biswas for a lengthy period of time. There was no reason for him to leave his life to resume a different one. I do not accept that he would have gone for so long without making contact.

Manner and cause of death

112. Morgan had a history of mental health crises, usually in context of drug use, and some episodes of suicidal ideation. He was suffering with chronic pain and in a relationship crisis, he was troubled about finding a residence and he was not happy with the speed with which his business was growing. He had some unusual conversations with his mother and Ms Biswas and they were concerned about him. He didn't meet his friend as planned; he left the keys to Ms Fedorova's place on the bench. These may be factors weighing towards a finding of self-harm intentions.

113. However, the converse to that is that he had just been to the doctor for his chronic pain to get further assistance. He did make positive plans to meet a friend and to later attend a BBQ. He was making positive indications to Ms Biswas that he wanted to make a future with her. His mother was concerned, but not as concerned as she had been previously, when she last spoke to him. He was looking to attend Centrelink and proactive in the attempt to obtain his own accommodation.

114. On these facts I cannot be satisfied that intentional harm was the manner of Morgan's death. I cannot rule out misadventure. On balance I can make no finding as to manner and cause.

FINDINGS

The findings I make under section 81(1) of the *Coroners Act 2009* (NSW) are:

Identity

The person who died was Morgan Albert Rae

Date of death

On or after 31 January 2020

Place of death

In the Bundeena area

Cause

Unable to be ascertained

Manner

Unable to be ascertained

ACKNOWLEDGEMENTS

- a. To the officer in charge, Senior Constable Phillip Marsi, who took the time to investigate and prepared a thorough brief for the purposes of the inquest. He also facilitated a view which was so helpful in understanding the area and the challenges faced by family and police in the search.
- b. To Ms Love and Mr Norman for the assistance in relation to the hearing and the preparation of careful and thoughtful submissions.
- c. To Ms Rae, Mr Fletcher Rae and Ms Biswas for their attendance and participation in the Inquest. They should be acknowledged for the efforts they went to find Morgan, for the grace and dignity exhibited during the Inquest and the important presentation of the family statements.
- d. Finally to Mr Hammond, Ms Leah Burgoyne and Ms Amber Boatman, the team assisting. Thank you for the time, preparation, presentation and assistance and for the compassion and care given to this Inquest.

I close this inquest.

A handwritten signature in black ink that reads "E. Kennedy". The signature is written in a cursive style with a large, stylized 'E' and 'K'.

Magistrate E Kennedy
Deputy State Coroner
Coroners Court of New South Wales
4 November 2022