



CORONERS COURT OF NEW SOUTH WALES

Inquest:	Into the death of Danukul Mokmool
Hearing dates:	20-24 May 2019, 17-18 June 2019
Date of findings:	5 August 2019
Place of findings:	State Coroners Court, Lidcombe
Findings of:	Deputy State Coroner E. Truscott
Catchwords:	Coronial Law-Cause and manner of death-police shooting civilian-mental illness-threat-weapon-justifiable action
File number:	2017/228552
Representation:	<p><i>Counsel Assisting :</i> Mr AN Williams instructed by Ms K Lockery of Crown Solicitor's Office</p> <p><i>Commissioner of Police, Senior Constable Maranda, Constable Taylor:</i> Mr A Casselden SC; instructed by Ms C Holt of Sparke Helmore</p> <p><i>Senior Constable Tse; Senior Constable Harrison:</i> Mr P Madden instructed by Mr K Madden, solicitor</p> <p><i>South Western Sydney Local Health District:</i> Ms M Gerace instructed by Ms J Smith of McCabe Curwood</p> <p><i>Supaporn Chomphoo, (mother of Danukul Mokmool);</i> Mr W de Mars instructed by Ms H Cooper of the NSW Legal Aid Commission</p>

Findings:	Danukul Mokmool died on 26 July 2017, at Central Railway Station, Eddy Avenue, Sydney, of a gunshot wound to the head, as a result of a police operation. He was experiencing a psychotic episode and was shot by police officers in circumstances where he ran at police with scissors in his hands.
Recommendations:	<p>To the Commissioner of Police NSW:</p> <p>That consideration be given to amending the applicable Standard Operating Procedures so that uniformed officers performing frontline duties are required to carry a Taser absent good reason not to.</p>
Non-publication Orders	<p>Pursuant to s.74(1)(b) of the <i>Coroners Act 2009</i>, I direct that the following material is not to be published:</p> <ol style="list-style-type: none"> 1. Crime scene photographs numbered 24, 26-31 and 61-64 contained in Exhibit 2. 2. The content of Exhibit 3 (a USB containing electronic evidence referred to Tabs 26, 27, 29, 111, 182 and 183 of the index to the brief of evidence. Publication is permitted of the images previously broadcast by Channel 7 in July 2017, consisting of an edited portion of the material contained at Tab 29(a) in the index to the brief of evidence being the annexure to the statement of Mengyu (Claire) Wang. (This material is to be provided on a USB and retained on the Court file).

IN THE CORONERS COURT
LIDCOMBE
NSW

SECTION 81 CORONERS ACT 2009

REASONS FOR DECISION

The Inquest

1. This is an inquest into the death of a 30 year old man, Danukul Mokmool, who was shot dead by police on the concourse of Central Railway Station at Eddy Avenue in Sydney on 26 July 2017.
2. As Mr Mokmool died as a result of a police operation, an inquest is mandatory and is required to be held before a senior coroner pursuant to sections 23 and 27 of the *Coroners Act 2009*. An examination of Mr Mokmool's death involves an investigation and scrutiny of the circumstances which led to the incident, the role of the police officers, their resort to lethal force and whether such use complies with the NSW Police Force's standards, policies and rules.
3. The purpose of an inquest is to determine the date, place, manner and cause of a person's death, and I have a statutory obligation to record those matters. In looking at manner and cause of death, a coroner may examine not only the physical and immediate cause but also the factors that may have caused or contributed to the circumstances of the death.
4. A secondary, but equally important function of the coroner is governed by section 82 of the Act, which empowers a coroner to make any recommendations that are considered "necessary or desirable" in relation to the death, including on matters of public safety.

5. The ultimate purpose of an inquest is to answer two questions:
 - i. how and why did these people died; and
 - ii. is there anything that can reasonably be done to prevent someone else from dying in a similar manner in the future?

6. An inquest is not designed to apportion blame. Unlike civil or criminal law, it is an inquisitorial process. The aim is to obtain a frank and full account of what happened in the lead up to Mr Mokmool's death, and to determine whether there are lessons to be learnt so that lives can be saved in the future. Knowing that, witnesses are encouraged to be as honest, self-reflective and open as they can be.

Personal Background

7. Mr Mokmool was born on 13 July 1987 in Thailand. Shortly after his birth his parents separated. In 1988, his mother Supaporn Chomphoo immigrated to Australia whilst Mr Mokmool remained in Thailand in the care of grandmother and aunt. In 1993, when Mr Mokmool was 6 years of age, he came to Australia to live with his mother and her husband, Ly Minh Huynh, in Cabramatta. When he was 12 years of age, his brother, Charlie Huynh, was born.

8. In 2003, Mr Mokmool's school counsellor referred him to Liverpool and Fairfield Mental Health Service for psychiatric assessment and counselling due to difficulties managing his anger. Mr Mokmool left school when he was 15 years old, after which he had a number of ongoing problems including difficulties with mental health, maintaining employment, using illegal drugs. In 2006, at age 18, Mr Mokmool was imprisoned for five years. By 2017, Mr Mokmool was on a methadone programme and apparently abstaining from illegal drugs, however he suffered from social isolation and ongoing unresolved mental health problems, in particular psychosis manifesting as paranoid delusions and anxiety.

9. At the time of his death Mr Mokmool lived with his family in Heckenberg. He lived there with his mother, his stepfather, Ly Minh Huynh, his brother Charlie and his aunt, Siraphat Chomphoo. There is evidence from Mr Mokmool's family that Mr Mokmool had a longstanding history of having paranoid beliefs that his family members were going to kill him. He sought the assistance of mental health professionals to address these beliefs and, at times, sought protection from the police. He last worked in about March 2017. He was employed in a relative's business, but left due to his beliefs that he was going to be harmed. On 17 July 2017, Mr Mokmool commenced a technology course at Granville TAFE. He was interested in videos and recording music and had set up a studio in his bedroom.

Brief Description of the Events of 26 July 2017

10. On the afternoon of 26 July 2017, Mr Mokmool and Charlie were at home. Their mother had left for Thailand a couple of days before to visit her ailing father. Charlie saw Mr Mokmool taking out the garbage and went to assist him by moving a small iron bar, which had been sitting on the lid of one of the bins. Charlie placed the bar on a stack of tiles beside the bins. While Mr Mokmool and Charlie were moving the rubbish bins to the kerb, Mr Mokmool said "*Why do you want to kill me?*" Charlie denied that he wanted to kill him. After moving the bins Mr Mokmool and Charlie were sitting on a step having a cigarette and Mr Mokmool said "*Just hit me*". Charlie tried to reassure his brother that he loved him and didn't want to hurt him. A short time later, Charlie went out to meet friends.

11. Mr Mokmool also left the house. At 3.34pm Mr Mokmool telephoned emergency services saying that he was in fear of his life. He said that he was going into the city, as he suspected that his family wanted him dead. He told the operator that he was on public transport and when

he was asked by the operator where she could send the police, Mr Mokmool replied that he would get an address and make contact. He then ended the call.

12. The operator called him straight back and asked him if he was currently in danger. Mr Mokmool replied *"I don't know. I ran away from them. They had a metal iron bar and plastic bags ready to chop me up and kill me"*. He told her this happened at his home address (which he gave) and that he had left there *"about 20 minutes ago"*. He again hung up. The operator tried to call Mr Mokmool back, but he did not answer the phone. Mr Mokmool travelled to Liverpool Railway Station by bus and then caught the train to Central.

13. At 6.22pm Mr Mokmool sent his mother, who was overseas, an SMS saying "IM POSSIBLE". At about 6.25pm two police officers, Senior Constables Arthurson and Hancock, proceeded to Mr Mokmool's address in Heckenberg to follow up the earlier telephone exchanges between Mr Mokmool and the emergency operator. At about 6.30pm Senior Constable Arthurson telephoned Mr Mokmool and asked him if everything was okay. Mr Mokmool said *"I just had a problem with my family and I left. It's nothing"*. He told Senior Constable Arthurson that he was not at home and then started to giggle. Senior Constable Arthurson asked him if he would like him to visit his family and Mr Mokmool replied *"No that will make things worse, I'm not going back there anyway"*. He then started to laugh and hung up. Due to Mr Mokmool's demeanour and laughter, Senior Constable Arthurson did not consider Mr Mokmool's concern to be genuine and so did not call him back or enter the family home. Phone records for Mr Mokmool suggest that this call took place at 6:31pm and lasted 59 seconds.

14. Mr Mokmool is captured on CCTV disembarking the train at Central Station at 6:29pm, proceeding through the ticket barriers at 6:30pm and entering the Eddy Avenue concourse at 6:31pm. He appears to be speaking on his phone (likely to Senior Constable Arthurson) while

lingering on the eastern side of the concourse, north of the Eddy Avenue Florist ("the florist shop"). The Eddy Avenue concourse is a brick-paved outdoor pedestrian area on the ground level at the northern entrance to Central Railway Station. To the north, the concourse abuts Eddy Avenue, a busy road thoroughfare between Elizabeth Street and Pitt Street. The florist shop is situated on the south eastern side, abutting the train station. There is an open paved area in front of the florist shop. The remainder of the concourse is divided by a waist height wall running perpendicular Eddy Avenue.

15. CCTV captures Mr Mokmool first approaching the florist shop at about 6:35pm. Mr Mokmool is out of view of the CCTV cameras for a short period before being seen outside the florist shop again at 6.37pm. A few minutes later, Mr Mokmool entered the florist shop.
16. Mr Emmanuel Theoharis, who was 73 years old at the time, owns the florist shop and has worked there seven days a week for over 40 years. Mr Mokmool was observed to enter the florist shop and then walk out. He re-entered the shop and approached Mr Theoharis from behind. He held Mr Theoharis in a headlock with his left hand and held a piece of broken glass hard against the right side of Mr Theoharis' neck with his right hand. Mr Mokmool yelled out, "*Call the police*". Bystanders came to Mr Theoharis' aid and he made good his escape from Mr Mokmool's grip. Mr Mokmool remained in the florist shop smashing vases and pots, and throwing flowers. He continued to call out for the police to be called. He armed himself with scissors and began cutting himself.
17. Four police officers from the Police Transport Command arrived. Two plainclothes officers who worked within the Transport Action Group ("TAG") took up positions at the southern entrance of the shop and drew their firearms. Two uniformed police officers covered the northern entrance. The officers commanded Mr Mokmool to drop the scissors. He refused to do so, screaming out "*shoot me, shoot me in the head*".

One of the uniformed officers attempted to use a non-lethal means to subdue Mr Mokmool, spraying OC defensive spray through the northern entrance to the florist shop toward Mr Mokmool. Mr Mokmool then ran out the southern entrance of the florist shop towards one of the plainclothes officers, at which point he was shot.

The Issues of the Inquest

18. The issues of the inquest were as follows:

- (i) Was Mr Mokmool suffering from a mental illness or mental health condition immediately prior to his death? If so,
 - a. What was the mental illness or mental health condition from which he was suffering?
 - b. For how long had he been suffering from the mental illness or mental health condition?
 - c. Had the mental illness or mental health condition been the subject of a diagnosis from a qualified mental health practitioner?
 - d. Was Mr Mokmool receiving adequate treatment for the mental illness or mental health condition in the period leading up to his death?
- (ii) Were there alternatives to lethal force available to the officers who discharged their firearms on 26 July 2017?
- (iii) With the benefit of hindsight and reflection, could any steps have been taken by the police officers on 26 July 2017 that may have led to a different and better outcome for Mr Mokmool?
- (iv) Whether and to what extent to date the NSW Police Force responded to and engaged with the recommendations made in the 2018 inquests into the deaths of *Stephen Hodge* and *Courtney Topic*.

- (v) Whether there are any recommendations in relation to questions of public health and safety arising from the evidence and findings at the inquest.

The Brief of Evidence

19. Consistent with NSW Police Force policies, Mr Mokmool's death was a declared a Level 1 Critical Incident. Accordingly, the investigation was headed by a senior officer of the Homicide Squad, State Crime Command. That officer was Detective Chief Inspector David Laidlaw. He was assisted by Detective Sergeant Mitchell Bosworth.
20. As part of the coronial investigation, the directly involved officers participated in directed interviews, which were electronically recorded. Statements were obtained from numerous civilian eyewitnesses, some of whom had recorded parts of the incident on their mobile telephones. Some of that footage, as well as CCTV footage from Sydney Trains was obtained by investigators. Transcripts of telephone calls to emergency services and police radio messages have also been obtained. These give an accurate picture of the unfolding of events. Statements were also obtained from Mr Mokmool's family members, setting out the history of Mr Mokmool's mental health.
21. Evidence and expert reports were obtained regarding the police officers' training and use of weapons, Mr Mokmool's psychiatric history and likely diagnosis, and his use of methadone and other drugs. Crime scene evidence and reports were also prepared, including a computer generated animated re-enactment showing positions and distances. The re-enactment was created from some of the mobile phone footage and CCTV.
22. An eight volume brief of evidence, comprised of the above material, was tendered at the commencement of the inquest.

23. Issue was not taken at the inquest that Mr Mokmool was armed with a pair of scissors in each hand when he ran at the police and was shot. The two pairs of scissors were not seized as exhibits, though they were present at the crime scene. By the time crime scene officers attended the scene, the scissors were on the ground near the first aid equipment. They were mistakenly believed to be contaminated medical waste and were disposed of as such. Exhibit 5 is a crime scene photograph of the two pairs of scissors said to have been in the hands of Mr Mokmool at the time he was shot.

Witnesses called at the Inquest

24. Detective Chief Inspector Laidlaw and the directly involved police officers - Senior Constable Frederick Tse, Senior Constable Jakob Harrison, Constable Trent Taylor and Senior Constable Leith Maranda - gave evidence in the inquest. Sergeant Justin Waters, a NSW Police Force weapons and tactics expert, and Chief Inspector Matthew Hanlon, the Manager of the NSW Police Force's Mental Health Intervention Team ("MHIT"), also gave evidence. Chief Inspector Hanlon's evidence focused on the role of the MHIT and the training it provides to officers to assess and manage offenders and others presenting with mental health issues.

25. Dr Peter Daniels, who reviewed Mr Mokmool at Liverpool Hospital in December 2016, gave evidence regarding Mr Mokmool's presentation to the Emergency Department on that date with anxiety and paranoia. Dr Kerri Eagle, an expert forensic psychiatrist, gave evidence that, in her opinion, at the time of the fatal incident Mr Mokmool was likely psychotic and had suffered psychosis over a long period of time. Evidence was also given by Mr John Farrar, a forensic pharmacologist, regarding the effect of the methadone taken by Mr Mokmool.

26. Mr Mokmool's mother and brother each gave a family statement, which though is not formally evidence in these proceedings was gratefully

received. Their remarks showed how loved Mr Mokmool was, and demonstrated that he was known as a gentle and loving son and brother.

Summary of Eyewitness Statements

27. The events inside the florist shop were not captured on CCTV. Detailed statements were obtained from eyewitnesses and the form part of the brief of evidence (Exhibit 1). A summary of their statements is set out below. None of the civilian witnesses were called to give evidence at the inquest.

28. Mr Theoharis was alone in the shop standing at the southern entrance at about 6.40pm on Thursday 26 July 2017, a busy time for him as commuters buy flowers on their way home or out for the night. The two entrances of the florist shop are each about three metres wide. They open directly onto the concourse and are covered by roller doors when closed. Both doors were open and flowers were on display. The northern entrance is set back about a metre from the southern entrance. The southern entrance, which abuts the entrance to the station, is set back about a metre from edge of the station's arch. The florist shop has a floor space about three metres deep, with fridges at the back and flower displays along the side and back walls.

29. Mr Theoharis said he felt someone reach around his neck and grab him from behind. He looked back and saw Mr Mokmool holding a smashed, clear glass bottle to his neck. As Mr Mokmool pushed the bottle into Mr Theoharis' neck, he felt it cut him. Mr Mokmool yelled "*Call the police*". Mr Theoharis used his right hand to push the bottle up and moved out of the "harness" grip Mr Mokmool had him in. Mr Theoharis suffered a two cm long superficial laceration on his neck and a cut to his thumb.

30. Ms Eliza Barnes was standing about seven metres from the northern entrance of the Central Station. She noticed Mr Mokmool because she thought he was “hovering around the area where she was standing”. She saw him approach the northern entrance to the florist shop and she took a photograph of the lower half of his body. The photograph was recorded as taken at 6.48pm (but that time appears to be incorrect). Ms Barnes says Mr Mokmool went into the shop, walked around, came back out and said “hi” to her. A couple of minutes later, she saw him re-enter the shop and it looked like Mr Mokmool was hugging Mr Theoharis. She saw a man and a woman (Mr Clarke and Ms Smith) who were walking towards the station, stop and look. Ms Barnes then saw Mr Theoharis slip out of Mr Mokmool’s arms and move out of the shop. She heard Mr Theoharis yell to Mr Mokmool, “*Get out*” and Mr Mokmool also yell something.

31. Ms Barnes moved towards the arches near the escalators. She saw Mr Mokmool reach behind him and grab what she thought looked like a knife. She wasn’t sure whether it came from the store or his back pocket. As Mr Mokmool was yelling and screaming, another male (Mr Gardner) approached the store. Mr Mokmool started to yell more and she heard someone say that Mr Mokmool was stabbing himself. As Ms Barnes moved further away, she saw Mr Mokmool smashing vases and heard Mr Theoharis yelling for security.

32. Ms Jing Yu was walking up the concourse to enter the train station. As she neared the entrance she heard a male voice yell out, “*Call the police*”. She turned and saw Mr Mokmool holding Mr Theoharis in what she described as a headlock and saw that he was holding something to Mr Theoharis’ neck with his left hand. Mr Mokmool was loudly and repeatedly yelling out “*Call the police, call the police*”. She saw Mr Theoharis slip out of Mr Mokmool’s grip and walk away from the shop with a man in a trench coat (Mr Clarke). Mr Mokmool stayed in the florist shop and kept yelling out for the police to be called. Ms Yu continued to her train.

33. Mr Harrison Clarke was walking past the florist shop with his girlfriend, Lauren Smith, when they heard Mr Mokmool call out loudly, "*Call the police*". They saw Mr Mokmool holding glass to Mr Theoharis' neck. Mr Clarke described the glass as being a broken part of a beer bottle, about 4 or 5 inches long. Mr Clarke called emergency services and remained at the scene and on the phone for the duration of the incident.
34. Mr Clarke tried to grab Mr Mokmool's hand holding the glass. As he did this, Mr Mokmool drew his hand back and released Mr Theoharis. Mr Clarke then saw Mr Mokmool standing with his sleeves rolled up and his arms down by his sides. He had both hands clenched and there was blood on the front of his hoodie jumper around the stomach area. Mr Harrison could not then see where the broken glass was. Mr Mokmool retreated inside the shop and Mr Clarke noticed blood around the middle of the floor. Mr Mokmool took a wallet out from the front of his pants and threw it out of the shop onto the ground saying, "*I'm sorry for this*". Mr Mokmool then started "trashing the florist", pulling vases and pushing flowers onto the floor.
35. Mr Clarke saw three police officers arrive. At this time, Mr Clarke noticed that Mr Mokmool had a pair of scissors in each hand. He described the scissors as having plastic handles and four inch blades. Mr Clarke heard the police call out for Mr Mokmool to stop and get down. He heard Mr Mokmool call out "*shoot me, shoot me right in the head*". He saw Mr Mokmool take two steps forward and then "charge" at the police. At the time Mr Mokmool ran towards the police, Mr Clarke saw that he had a pair of scissors in his right hand, but couldn't remember if he still had a pair in his left hand. Mr Clarke heard three gunshots and saw Mr Mokmool fall to the ground.
36. Ms Smith said that when Mr Mokmool had his arm around Mr Theoharis he was yelling out, "*Call the cops. I'm dying*". He repeated

"Call the cops" quite a few times. She saw the broken glass in his hand and saw the broken bottle on the counter inside the shop. After Mr Mokmool released Mr Theoharis and went back into the shop, Ms Smith observed him pacing back and forth around the rear of the shop.

37. At one point Mr Mokmool walked forwards asking *"Is he okay?"* He then walked back to the rear of the shop. Ms Smith saw Mr Mokmool take out an iPhone from the front of his pants and he seemed to be using it for a couple of seconds. At this time she saw that he had cuts to his left wrist and left forearm which looked old and dried out.

38. Ms Smith saw Mr Mokmool pick up two pairs of scissors from the counter of the florist shop. She said the scissors had blue handles, silver blades and were quite long. They looked like standard florist's scissors. Mr Mokmool began banging the scissors against the counter and becoming violent, kicking down pots and throwing flowers onto the floor. She said he was doing this for about three minutes and then the police arrived. Ms Smith heard the police yelling *"Get down on the ground"*. She saw Mr Mokmool move towards the police, and the police step back. This happened twice. Ms Smith saw Mr Mokmool *"lunge"* towards the police for a third time and then heard three gunshots.

39. Mr Yi Yang Yin and Ms Seung Jin Lee were standing about six metres from the florist shop when they saw Mr Mokmool with his arm around Mr Theoharis. Mr Yin walked over to them and yelled to Mr Mokmool *"What the fuck do you want?"* Mr Mokmool removed his arm from around Mr Theoharis' neck and said *"I just want to die"*. Mr Yin described Mr Mokmool as saying this in a peaceful way and thought he sounded a bit depressed. Mr Yin noticed Mr Mokmool had a pair of scissors in his hand, and so Mr Yin moved back and used his phone to call "triple 0".

40. Mr Yin saw Mr Mokmool cut the side of his cheek with scissors, which caused a red scar. He saw Mr Mokmool kicking the flowers and heard

glass breaking in the store. Mr Yin said that four police arrived, two uniformed and two in plainclothes, and took up positions with their guns drawn. Mr Yin remained on the phone to emergency services and heard police yell words to the effect, "*Put your weapon down*". Mr Yin saw Mr Mokmool run towards the police and heard three to four gunshots.

41. Ms Lee saw Mr Yin run to a position near the florist shop and say "*What the fuck are you doing?*" She saw Mr Theoharis outside the shop. She noticed that he had a cut to his neck and three girls were helping him. She saw Mr Mokmool with a pair of scissors in his left arm, he was smiling and he had some blood on his left cheek. Ms Lee saw Mr Mokmool grab another pair of scissors, which she described as looking "like they came from the florist because they were short and really sharp". She saw Mr Mokmool walking around, smiling and rubbing the scissors on his arms.

42. Ms Lee said that Mr Mokmool started to destroy everything in the shop, kicking things and knocking things over. She noticed he was smiling, but not saying anything. She saw Mr Theoharis try and re-enter his shop, but someone pulled him away. Mr Mokmool was still smiling and holding the scissors. Ms Lee saw Mr Mokmool pull a wallet out of his back pocket and throw it at Mr Theoharis. The wallet landed on the ground and a member of the public gave it to Mr Theoharis.

43. Ms Lee saw three police officers arrive and scream "*Put it down*". She told police, "The male had scissors in both hands still and began to walk towards the exit of the florist shop towards police. The male got out of the florist shop. I heard one of the officer say "*stop*" about one second later I heard I think four or five shots".

44. Mr Dale Hart, a train driver, was upstairs looking down at the concourse. He saw Mr Mokmool knocking over flowers and vases, and saw that Mr Mokmool had a pair of scissors in each hand. He told

police, "They were decent sized scissors because I could see them clearly from where I was. I just saw the silver blade parts of them. He held them in his hands like you would a dagger. His fists were clenched and he held them in an overarm fashion above his shoulders". Mr Hart called emergency services and saw the police arrive. He saw a uniformed police officer use OC spray and he saw one uniformed officer and two plainclothes officers pointing their firearms at Mr Mokmool saying, "*Get on the ground*" and "*Drop it*".

45. Mr Hart heard Mr Mokmool scream, "*Fucken shoot me*". At that time, Mr Mokmool had both hands in fists raised above his shoulders in an overarm action. He had a pair of scissors in his right hand. Mr Hart couldn't see scissors in his left hand. He saw Mr Mokmool run at the police, at which time he was shot.

46. A transcript of the "triple 0" call made by Mr Hart records that he told the operator the following: "*He was in the shop armed with scissors ... Two pairs of scissors. He kicked up and chased the actual florist out of the shop ... he started kicking up the shop. I've seen the officers then run down. He sort of taunted, I guess you would say, the officers...And yelled at them "Go on shoot me shoot me" and then he came running out at one and they shot him*".

47. Ms Esmerelda Paric was walking up the concourse to the station and saw Mr Theoharis outside his shop with his hand to his neck. Mr Theoharis said "*he cut me*". Ms Paric looked in the shop and saw Mr Mokmool. She told police "his hands were bloody ... he was holding a pair of scissors by the blades. I can't be certain which hand, but I think he was holding them in his right hand. He looked very confused and agitated as well". She saw the police arrive and she heard them say, "*Put it down*" about three times, after which Mr Mokmool was shot.

48. Ms Tanisha Duckford was standing opposite the northern entrance of the florist shop and heard a smash. She looked up from her phone

and saw Mr Mokmool smashing pots inside the shop. She heard Mr Mokmool yell *"If anyone comes into the shop, I'm going to kill them"* and *"I'm going to kill everyone outside"*. She saw Mr Mokmool at the southern entrance to the florist shop holding what she described as a small kitchen knife. She told police, "The knife looked really brand new and sharp". She saw the police arrive and the two plainclothes officers draw their guns. She heard one of the plainclothes officers say, *"Drop it"* or something similar. From the corner of her eye she saw Mr Mokmool run at the police officer but she couldn't say what he was carrying at the time. Ms Duckford used her phone to take photographs of the incident.

49. Ms Ngoc Huang Lai gave a statement to police on 31 October 2017. She saw the police pointing a firearm at Mr Mokmool, who was inside the shop and had his arms out at shoulder height to each side of his body. She told police, "When I looked at the situation it seemed like the guy in the shop was harmless, because he doesn't carry any weapon and there are plenty of police man (sic) there, so I didn't think anything was going to happen. I stood there for about two minutes and then I turned around and started to walk back inside the Eddy Avenue entrance to the station. I had only taken a step or two and then heard four gunshots".

50. Ms Mengyu Wang was with her boyfriend, Mr Qingzhou Wang, walking on the concourse towards the train station. They both made statements at the end of August 2017. They saw Mr Mokmool smashing vases inside the florist shop. Ms Wang told police that she saw Mr Mokmool "grab something sharp in his left hand. I'm not sure what it was but the light above him reflected on it". They saw the police arrive. Ms Wang heard the plainclothes police ask Mr Mokmool to drop what was in his hand and walk out, but he refused. She saw one of the two uniformed police officers use his OC spray on Mr Mokmool. She told police that Mr Mokmool, "suddenly rushed out of the store and ran towards the plain clothed police officer standing

directly in front of the store". She described seeing the plain clothes police officers shoot at Mr Mokmool four times. Ms Wang filmed some of the incident. Her recording was 10 seconds long and was tendered into evidence (Ex3, Tab 29 (MOAY3375)).

51. Mr Wang saw three police with guns pointed at Mr Mokmool. He saw another officer spray liquid at him. Mr Wang told police that, "about 10-20 seconds later the man ran out of the shop, he was dashing out of the entrance towards the outside ... about halfway through running out, he put I think his left arm up to cover his face". Mr Wang does not say he saw Mr Mokmool holding anything, but said that he heard the police say, "*Drop it off*" at least three or four times. He heard Mr Mokmool say words to the effect of, "*Back off, I don't want to hurt you*".

52. Ms Cheryl Treharne also made a statement at the end of August 2017. She saw Mr Mokmool in the florist shop and noticed he appeared angry about something. She told police, "He went over to a bench in the middle of the store and was playing around with something. It looked like he was using his mobile phone on the bench but I didn't actually see a phone. I saw he had something shiny and metallic in one of his hands which I thought was a knife." She described his movements as being very erratic and observed he was highly agitated. She said, "He looked as though he was going to walk out of the store but he just came to the front and kicked over some vases and flowers. When he walked back into the store I thought that I could now see a metallic object (which I thought were knives) in each hand".

53. Ms Treharne saw a plainclothes police officer arrive and hold something out in front of him (which she thought was a Taser), pointed towards the shop. She also saw two uniformed police arrive. She heard Mr Mokmool say, "*No I'm going to kill you*". He then ran out of the store towards the police officer. She wasn't sure if he had anything in his hands at this stage. She then heard two loud bangs but was not looking at the scene when she heard this.

54. Ms Phoebe Gleeson was travelling down the escalators to the concourse level when she heard something smash and saw a man in the florist shop knocking over all the plants. Ms Gleeson thought he was mentally unwell or on drugs. She said, "I saw he had something in his hands. I thought it was a knife. It looked like a small size like a kitchen sharp knife. I saw the man hold the weapon out in front of him in one hand with the blade pointed outwards."
55. Ms Gleeson saw two police officers running up to where the florist was (a plainclothes officer and a uniformed officer) and heard them say something like, "*Put down the weapon*". Ms Gleeson thought that the police were trying to negotiate with Mr Mokmool for about a minute. She said, "The man was replying to the police, I think he was responding to the police but he wasn't yelling." She said that the uniformed policeman had his gun out and the plainclothes policeman was about two metres from the Mr Mokmool. Ms Gleeson turned away when Mr Mokmool didn't put down the knife and she heard four gunshots.
56. Mr Peter Gardner was walking up the concourse towards the station. He heard and saw Mr Mokmool smashing pots, but he says that apart from that Mr Mokmool seemed quite calm. He said, "He wasn't raving on and yelling anything out". Mr Gardner said something to Mr Mokmool to the effect that he needed to calm down, but Mr Mokmool just looked at him and grabbed another two or three pots and smashed them on the ground. Mr Gardner didn't see any weapons in Mr Mokmool's hands at that time. He moved into the station and saw the police arrive. He heard them yelling, "*Put it down put it down. Put the weapon down and come out with your hands up*". He then heard loud bangs.
57. Mr Vikram Singh, who is a duty manager for Sydney Trains at Central Railway Station, saw the plainclothes police with their guns drawn and

a uniformed officer with his gun drawn. He heard the police repeatedly shouting, *“Put it down”* and *“Drop it”* and words to that effect. He said he heard the word ‘Taser’ and then immediately saw Mr Mokmool run out of the shop towards the police officers, who were about four to five metres from the front of the shop. He heard four loud bangs and saw Mr Mokmool on the ground. He said “On the ground next to the man I could see two pairs of scissor (sic), one pair had a purple colour handle and the other pair had pink coloured handles.”

58. Mr Singh saw two Sydney Trains first aid officers arrive. He ran back to his office to get the defibrillator machine and handed it to the first aid officers. At that time Mr Theoharis gave him Mr Mokmool’s wallet, which Mr Singh took and placed it on the floor next to the first aid kits near where the police officers were performing first aid. He told the police that the florist had given the wallet to him and that it may belong to Mr Mokmool. He then left to assist others elsewhere.

59. Mr Peter Cairns was working with Mr Singh and went to the scene with him. He too saw three police officers with their guns drawn. He heard them saying, *“Put it down. Put it down”*. He saw Mr Mokmool run out of the shop straight ahead towards the three police officers with their guns drawn and heard four loud bangs. He saw the first aid officers arrive and he then went to obtain privacy screens.

60. Mr Said Abouloukme, another duty manager for Sydney Trains, had finished his shift and was on his way out when he was approached by Mr Theoharis complaining about Mr Mokmool hitting him with glass and “going mad” in his shop. Mr Abouloukme used his phone to call for assistance. He saw the police and two had their firearms raised and pointing at Mr Mokmool. He told police that Mr Mokmool “walked out of the shop towards the police, he was holding a pair of green handled scissors clenched in his hand”. He said he was standing about nine to ten metres away from the police and Mr Mokmool was three to four metres in front of them, maybe less. Mr Abouloukme heard the

police officers yelling at Mr Mokmool, but couldn't hear what was being said. Seconds later he heard 4-5 shots being fired and looked over and saw Mr Mokmool on the ground. Mr Abouloukme then returned to his office.

61. Mr Anthony Ungaro, a customer service assistant for Sydney Trains, was standing with Mr Abouloukme and on the telephone when Mr Theoharis approached them. Mr Theoharis asked Mr Abouloukme to call security. He saw Mr Mokmool fiddling with a pair of scissors in his right hand. He was moving his hands around and appeared to be "a bit aggro". Mr Ungaro said "I saw the handles of the scissors were coloured, I think they were light blue and the blades of the scissors were normal length ... I don't know how long the blades were. I saw that he had something else in his left hand but I don't know what it was". He said that Mr Mokmool "was very aggressive; he was smashing things and throwing flowers around. He was pacing around the shop, so I could not always see him, but I could hear things banging around".

62. When the police arrived, Mr Ungaro heard an officer say "*Drop the weapon*". Mr Ungaro said that things happened quickly after this. He heard Mr Mokmool say, "*You're not going to take me. I'm not dropping the weapon*" at which point Mr Mokmool "lunged out of the shop entrance towards the police officers. The man ran with a good pace, he was leaning forward and looked like he was going to take the police on. I saw that the police officers were holding their black guns with both their hands in front of them. I heard about three loud bangs". Mr Ungaro saw Mr Mokmool fall to the ground and went to get some barricades.

63. Ms Natali Dunoska, who had been in the Sydney Trains office with Mr Cairns and Mr Singh, took up a position on the mezzanine floor balcony looking down over the florist shop. She said she could smell capsicum spray in the air, as though it had just been sprayed. She saw

Mr Mokmool standing at the counter closest to the southern entrance of the florist shop. He was saying something but she could not hear what he was saying. He was holding a pair of scissors in his left hand, which she said looked like florist scissors. He was holding them in his fist by the handles, the blades of the scissors were together, and he was holding the blades away from his body. She was unable to say how long the blades were. She said Mr Mokmool was aggressive and was kicking the flowers over and pacing from side to side.

64. Ms Dunoska described three uniformed police officers and an undercover police officer arriving at the scene. The officers were three to four metres away from the entrance to the shop. She said that all three uniformed officers had their firearms in their hands, pointed towards Mr Mokmool. Ms Dunoska heard one of the police officers say something like *"Put down the weapon"*. She saw the taller police officer on the left move closer to the entrance to the florist shop let off some capsicum spray. She said he did this from the second entry on the left, the opposite side where Mr Mokmool was standing. Ms Dunoska described the events as happening "really fast". She heard, *"Put down your weapon"* about four to five times and thought that all the police officers had a turn saying it. She said, "At no time did the male seem to actually try to put the weapon down. It just seemed like he was going to do what he was going to do, by this I mean from the way he was holding the scissors that he was going to stab someone or himself." Ms Dunoska saw Mr Mokmool move towards the police, holding the weapon in his left hand up about shoulder height. She saw that the blades were pointing towards the police officers. Ms Dunoska said that Mr Mokmool had just started to run towards the police officers when she heard four shots be fired.

65. Ms Dunoska said that after Mr Mokmool dropped to the ground the police immediately moved towards him and applied first aid. Ms Dunoska estimated that from the time she started watching until the time Mr Mokmool fell to the ground about 60 seconds had elapsed.

Scissors utilised by Mr Mokmool

66. As can be seen from the above accounts, some witnesses speak of two pairs of scissors, and others speak of one pair. The mobile footage recorded by Ms Wang does not clearly show what Mr Mokmool was holding when he ran towards the police. However, the two items in Mr Mokmool's hands evident in Sydney Trains CCTV camera 2 (at 6:44:42pm), when viewed with the crime scene photographs in Exhibit 5, clearly establish that Mr Mokmool did have a pair of his scissors in each hand.

67. Mr Theoharis claims that he saw Mr Mokmool take and hold two pairs of scissors in his hands and then put two pairs of scissors in his pants. In his statement, Mr Theoharis said "I saw the male had armed himself with scissors, he was holding a green pair and another colour pair in his hands. He also had another two pairs shoved down into the front of his trousers. I recognise these scissors as they are from my shop. They were inside the cup holder on the bench. The only thing the male was yelling out was, '*Call the police*' he remained in the store yelling this out. I was worried he was going to run out of my shop and start hurting people walking past. A short time later police arrived".

68. Five days after the incident, on 1 August 2017, Detective Senior Constable Sharon Neil attended Mr Theoharis' shop and conducted what is called a "video walk-through" where she asked Mr Theoharis a number of questions about the events of 26 July 2017. The entirety of the conversation was recorded on video (Ex1, Tab 18).

69. Mr Theoharis described how Mr Mokmool pulled everything down and was kicking vases at the southern end of the shop, and then went to the northern end of the shop and pulled all the empty vases off the shelves onto the floor, causing them to break. He said Mr Mokmool then came back to the southern side of the counter, which is in the

middle of the shop. Mr Theoharis said Mr Mokmool was kicking the vases and then he grabbed the scissors. Mr Theoharis indicated at a container like a cup which contained numerous scissors sitting on the counter. He said *"I saw him take the scissors from here (he lifts out two pairs of scissors from the container) and then he was holding like this (he holds one pair in each hand by the handles, with the blades pointing forward - hands in front of his stomach). And then the police told him, I heard that, to drop them."*

70. Detective Senior Constable Neil asked him, *"How many pairs of scissors do you think?"* Mr Theoharis replied, *"Two. Two he had in his hands, but from there, (pointing and referring to outside the shop from where Mr Theoharis was standing for his viewpoint on 26 July 2017) I saw him putting another two pairs here (indicating his waist of pants).* Detective Neil asked him *"You saw him put two in his pants?"* and he replied *"Yeah"*. She asked him *"So, potentially four pairs of scissors?"* to which he nodded and replied *"Yep"*. He was asked, *"Then what did you see"* and he replied *"I heard the police telling him to drop them...but he didn't drop them, he went towards them with the scissors and that is why they shoot him. I believe"*.

71. A week later, on 7 August 2017, Mr Theoharis was shown four photographs (Exhibit 5), one of which depicted the discarded scissors with blue and green handles. He identified them as belonging to him. He said *"I believe that these are the two pairs of scissors that the Asian male was holding in his hands before he was shot by police"*. Another photograph shows a pair of broken brown scissors which were also his and on the counter inside the shop.

72. Mr Theoharis must be mistaken about Mr Mokmool having put two pairs of scissors down his pants, as no scissors were found on Mr Mokmool.

What happened to the Scissors – Photographs in Exhibit 5

73. Graham Donohue and Alex Verbinyecz, Occupational First Aiders with Sydney Trains, attended Mr Mokmool at the scene. They brought two first aid bags and applied gauze to Mr Mokmool's wounds.
74. David Hommerson, one of the NSW Ambulance officers who attended the scene, said in his statement that upon seeing Mr Mokmool, "I immediately cut open his shirt to see his chest...I also cut open the left side of his pants..." He placed ECG stickers and leads, but Mr Mokmool had passed away.
75. Mr Donohue told police, "I saw two pairs of scissors lying on the ground, they both had greeny coloured handles, and they were lying side by side about 2 or 3 feet away from the male's upper body. I saw blood on one of the handles of the pair of scissors, I may have nudged one pair of them out of the way at some stage towards the end, and they would have moved less than a foot".
76. Senior Constable Claire Power of NSW Police Force Forensic Services Group attended the scene at 8.40pm and, amongst other tasks, took photographs. She records that 2.5 metres from the head of Mr Mokmool she saw *"two pairs of scissors, one with a blue handle and the other with a green handle. Both pairs of scissors appeared to have blood stains on the handles"*. She also saw a *"wallet containing \$30 cash and cards in the name of Danukul Mokmool"* and *"three bags containing medical supplies and other medical paraphernalia"*.
77. Robert Petrou, a duty manager at Sydney Trains, said that the police handed the crime scene back at about 2.50am on 27 July 2017. He said "I saw three bags on the ground. I recognised that the red bags belonged to the station as used by the first aid officers. I also (sic) a blue bag that had Police written on the side. I also sighted two pairs of scissors with green handles and a clear plastic air pump about 10 cm

in width with dried blood on the floor as well as dried blood in the same area. The scissors were about 2 metres outside of the florist on the floor near the pump. I noticed that the scissors had blood on them. When the crime scene was released I collected the two red first aid bags and the defibrillator and returned them to the duty manager's office. I arranged for the blue first aid bag to be given to a Police inspector. The Police inspector stated that the scissors and pump were the train station's property. Due to the dried blood on the scissors and fear of cross-contamination I advised Nathan Hesson, the incident rail commander, to throw them out and I will supply new items for the first aid bags. I saw Nathan pick up the scissors and other rubbish and he placed it into a plastic bag".

78. Mr Hesson said that he and his staff collected two pairs of grey two toned plastic handled scissors that he assumed were part of the first aid kits used by the first aid staff employed by Sydney trains. The scissors were discarded as they were blood stained. He confirmed that they were in the location depicted in the crime scene photographs.

Triple 0 calls, Computer Aided Dispatches and VKG Police Radio Messages

79. The brief of evidence contains transcripts and data relating to four emergency or "triple 0" calls made during the incident. The callers were Naveen Kariyawasam, Harrison Clarke, Yi Yang Yin and Dale Hart respectively.

80. The transcript records that Mr Kariyawasam called at 6:41pm and said, *"Hey there is a guy with a knife, ah Central Station. He's got the owner of the shop, Emmanuel the flower man. He's got him by the throat with a knife"*. The operator asked if he was injured and Mr Kariyawasam replied, *"No. No I think he may have released him. I just walked away because I didn't want the guy to see me using my phone"*. The operator told him that the message would be passed on to the police

and asked where at Central Station this was occurring, however Mr Kariyawasam had ended the call by that stage.

81. Mr Clarke called at 6:42pm and said *"Hi there's been a knife attack or a bladed attack at Eddy Avenue florist just outside Central Station near the buses"*. After confirming the location the operator asked, *"And so the florist is being held up with a knife is that right?"* Mr Clarke replied, *"Yeah there was just a scuffle with some broken glass um two men have been cut with a broken bottle"*. The operator again asked, *"So there was someone there with a knife?"* and Mr Clarke replied, *"Ah yeah, sorry not a knife just broken bottle"*. The operator said, *"Ok. So were they holding up the florist or is it just a scuffle?"* Mr Clarke replied, *"Um it was a robbery or attempted robbery"*. The operator asked, *"It was a robbery?"* and Mr Clarke replied, *"Um Yeah, attempted"*. The operator asked, *"How many people?"* Mr Clarke said, *"Ah 2"*. The operator asked, *"And they had broken glass?"* Mr Clarke replied, *"Yep"*. Later Mr Clarke tells the operator that the police had arrived. The gunshots can be heard 18 seconds later.
82. Mr Yin also called at 6:42pm. Mr Yin initially reports an old man being kidnapped in the florist shop. One minute and 10 seconds into that call Mr Yin says *"he [referring to Mr Mokmool] is cutting himself with scissors right now ... he said he wants to die"*.
83. Mr Yin's operator created an ICEMS message, which is a notification to NSW Ambulance, with the same information at 6:42:46pm and wrote *"Concern 4 Welfare"*. At 6:43:32pm Mr Clarke's operator also created an ICEMS requesting an ambulance for *"2 injured people from a robbery"* and at 6:43:55pm he adds *"2 Victims have lacerations"*.
84. Mr Hart called at 6:44pm and said *"the police officers are on their way, there's a guy here with scissors"*. When the operator asks where it is Mr Hart replied *"Got police officers there now"*. 35 seconds into the call it is apparent that there are gunshots.

85. As a result of the four calls to “triple 0”, differing information was received and a running broadcast of information was provided to the police by the respective operators through the Computer Aided Dispatch (“CAD”) system, which is distributed to police on their computers, and the police VKG radio operator who simultaneously relays and receives verbal communication with responding police officers.

86. Below is a table of the relevant entries taken from the CAD and VKG logs. It is to be noted that the CAD police computer information differs from VKG information. The caller is identified by their initials. Broadcasts from VKG radio log are italicised. Broadcasts made by PTC41 are made by Constable Taylor, recorded as “TT” and by “Senior Constable Maranda, recorded as “LM”:

18:41:47	(NK)	POI with knife holding to shop-keepers throat
18:41:55	VKG	<i>PC Crews other city cars, central; welfare, ah central railway station report of a male POI with a knife holding to a shop keeper’s throat. More information coming through. City car PTC crew</i>
18:42:15	(HC)	Florist held up by 2 men with broken glass
18:42:15	PC40	<i>PC40, copy whereabouts is it</i>
	VKG	<i>Yeah, I’m trying to get an exact location. There’s not enough info. Actually, another job in. Ah, it’s the florist</i>
18:42:25	(TT)	PC41 copy...as well. Be about 2 minutes
	VKG	<i>41 copy ta. Car to back up.</i>
18:42:32	(HC)	Two Male POIs are still at AA and informant can see them
18:42:32	(YY)	Male in florist AA cutting himself on the throat with some scissors
18:42:35	PC40	<i>PC40 copy on foot. 3 minutes. Sounds like Eddy Avenue ramp.</i>
	VKG	<i>Ah Eddy Ave, yeah florist Eddy Ave</i>

18:42:45 VKG *Being um held up by two males with broken glass. POIs are still at the location.*

18:42:47 (NK) Informant stated victim is Emanuel from flower shop

18:42:55 (HC) POI described as 1 Asian and 1 Caucasian

18:42:58 (HC) POI now smashing up the store

18:43:05 PC40 *I'm a fair distance away on foot, if there's a car closer*

VKG *Copy that. Another job in. It's actually a male in the florist cutting himself ...*

18:43:15 VKG *... on the throat with scissors. There's another job, he's smashing up the store. Um so yeah, not sure if it's actually a florist who's being held up ...*

18:43:25 VKG *... or if it's the POI who's uh cutting himself. Still available cars to make their way back up, ah, 41 and 40*

(LM) Yeah, PTC41 here now

18:43:19 (YY) Older male who is owner of the shop is now outside the shop

18:43:35 (YY) POI still has scissors in his hands

18:43:35 **(LM) But we haven't got as Taser**

VKG *40, have you got Taser?*

(LM) We're up here now, 41's up here now, we haven't got a Taser, we have not got a Taser

18:43:45 **(LM) We need someone with a Taser now**

VKG *Stand by for PTC crew with Taser*

PC40 *I've got one*

VKG *Thanks, 40*

18:43:46 (YY) No one else in the shop

18:43:55 VKG *40's on the way, 41*

(LM) PTC 41, shots fired.

18:44:05 VKG *Standing by PTC supervisor, I've now got shots fired. PTC 41, situation?*

18:44:12 (DH) M CT armed with scissors – shots fired

18:44:26 (YY) Police have just shot the POI

87. The first VKG and CAD message transmitted after Mr Theoharis had freed himself from Mr Mokmool's grip was at about 6:42pm.

Sydney Trains CCTV shows the actions of the police

88. There is a police station in the Central Railway Station. Inside the station's Police Transport Command unit were two plain clothes officers, Senior Constable Tse and Senior Constable Harrison. Two beeps were transmitted over the loud speakers inside the office. Two beeps indicate that a most urgent police response is required. When he heard the beeps, Senior Constable Tse looked at his computer screen and read that a central railway station shopkeeper was being held with a knife to his throat. Senior Constable Harrison heard the same information being conveyed over the VKG radio and they both got up from their desks.
89. As Senior Constables Tse and Harrison ran through their office into the corridor, they met uniformed officers, Constable Taylor and Senior Constable Maranda, one of whom said that the incident was at the florist shop. There is only one florist shop at Central Railway Station and they all knew where it was located. They ran down the fire stairs, Senior Constables Maranda and Harrison exiting the building at the first floor landing, and Constable Taylor and Senior Constable Tse continuing to the ground floor exit.
90. Sydney Trains CCTV footage shows Senior Constable Tse and Constable Taylor exiting fire doors and running at speed to the florist shop. Senior Constable Tse ran along the eastern side of the pedestrian wall and Constable Taylor ran along the western side of it. Senior Constables Harrison and Maranda ran down the escalator to the concourse.

91. Senior Constable Tse and Constable Taylor arrived at the florist shop at 6:43:35pm, about a minute after Constable Taylor had acknowledged response to the VKG broadcast. Constable Taylor went to the northern entrance of the florist shop and Senior Constable Tse stopped at the southern entrance. About 10 seconds later, Senior Constables Harrison and Maranda arrived. Senior Constable Harrison took up position to the right of Senior Constable Tse, next to the wall bordering the entrance to the station, and Senior Constable Maranda took up a position to the left of Constable Taylor, taking the northern most position. The effect of where they stood was to form a perimeter between the shopfront and civilians. The one metre edge of the eastern arch provided a natural barrier to an otherwise very open area where people were coming and going from the station.
92. Constable Taylor and Senior Constable Maranda's view of Mr Mokmool was limited to the waist up as he was standing on the other side of a square counter which sits against the western wall of the florist shop between the two entrances. As Senior Constable Harrison took his position, Senior Constable Tse drew his firearm and pointed it at Mr Mokmool. Senior Constable Harrison did likewise.
93. Senior Constable Maranda, who was a few metres back from the northern entrance outstretched his arm and tried to spray Mr Mokmool with OC spray but the stream or spray did not reach him. Mr Mokmool crouched to a sprinting position and took running steps towards Senior Constable Tse (this is captured on the mobile phone footage filmed by Ms Wang). Senior Constable Tse then stepped back and discharged his firearm three times. Senior Constable Harrison also discharged his firearm once. Mr Mokmool fell to the ground outside the shop at 6:43:58pm, 23 seconds after police first arrived at the scene. First aid was applied by both Sydney Trains staff and NSW Ambulance officers but Mr Mokmool was fatally wounded. He was formally pronounced deceased at 6:55pm.

Post Mortem Evidence

94. The post mortem report identifies that Mr Mokmool died from a gunshot wound to his head. The entry was on the rear left side and exit site was his right cheek. He had another gunshot wound which entered his rear right hand side shoulder and stopped on the left side of his chest. He had a gunshot wound to his leg and another to his arm. There is no evidence as to which one of those four was fired by Senior Constable Harrison.
95. A toxicology report identifies that Mr Mokmool did not have any illicit drugs in his system and that he had an amount of methadone consistent with his prescribed daily dose. Mr Farrar gave evidence that the methadone detected in Mr Mokmool's blood sample played no role in Mr Mokmool's actions or death.

Evidence of the Four Directly Involved Officers

96. Consistent with New South Wales Police Force Critical Incident Guidelines the four directly involved officers were separated, tested for drugs and alcohol, and interviewed. Senior Constable Tse and Senior Constable Harrison were interviewed in the early hours of the following morning (27 July 2017) and Senior Constable Maranda and Constable Taylor were interviewed later that afternoon.
97. The evidence of each of the officers is contained in their directed interviews and their testimony in the inquest. Their evidence is supported by the CCTV footage and generally by the evidence contained in the eyewitness statements. Their involvement with Mr Mokmool, once they had arrived at the scene until when he was shot was no more than 23 seconds. Their examinations in the inquest dealt with issues such as
 - the use of VKG radio;

- communication and any planning;
- announcement of office;
- consideration of Mr Mokmool's mental health and the training provided by the NSW Police Force, including any awareness of each other's training;
- opportunity to contain the environment and forming a perimeter between Mr Mokmool and the public;
- the distance at which they stood from Mr Mokmool;
- the use of non-lethal force namely OC spray and its effects;
- the unavailability of a Taser and likely effect;
- the decision to their draw firearms; and
- the decision to discharge their firearms.

98. In his directed interview, Senior Constable Tse said that as he reached the florist shop he heard Senior Constable Maranda (it was, in fact, Constable Taylor) yelling something to someone in the shop. He looked in and saw Mr Mokmool standing towards the back of the shop where the flowers are, with his back to the fridge. He saw that Mr Mokmool had a pair of scissors in his right hand and something bladed, which looked like a knife, in his left hand (Ex1, Tab 11, A158). In the inquest he described the blade as about 10 cm poking up from his hand (D2 T8.10).

99. Senior Constable Tse saw the blades and said "*Drop the knife, drop the knife*" and as he said this he drew his firearm and pointed it towards Mr Mokmool but in a downward or cover position (Ex1, Tab 11 A313-314; D2 T9.4) He could hear other police yelling as well. Senior Constable Tse said that Mr Mokmool replied "*I'm not giving up, I'm not giving up, shoot me, shoot me dead, shoot me in the head*", and then he took a couple of steps towards Senior Constable Tse (D2 T10.5). In his evidence, Senior Constable Tse said that Mr Mokmool said this calmly (as if he was talking now in the courtroom but louder) though he was moving around restlessly (D2 T13.45).

100. Senior Constable Tse thought he was standing seven to eight metres away from the front of the florist shop at that point (D2 T9.40). Senior

Constable Tse took a couple of steps back and kept yelling "*Drop the knife*". Mr Mokmool stopped and moved back again to where he was had been standing (at the back of the shop). Senior Constable Tse saw that Senior Constable Maranda squirted OC spray towards Mr Mokmool's face. Senior Constable Tse said Mr Mokmool didn't respond. Senior Constable Tse wasn't sure whether the spray had hit Mr Mokmool or whether it had hit him but without effect (D2 T10.5).

101. Senior Constable Tse said in his directed interview, "within a couple of seconds, a second or less than a second of that he just looked at me and ran and said "*I'm gunna kill you, I'm gunna kill*", he yelled out "*I'm going to kill you*", straight towards me. Um I started actually moving back, but I took about three steps back and realised he was advancing on me a lot faster than I was retreating and I knew eventually he was gunna get me because the way, like, he was just, the gap was just closing in real quick, so he would have been about three metres when I took my first shot. I think I pulled the trigger three times ... he would have only moved less than a metre between the first and third shot and he dropped, um but I think once, but there was also a shot I heard from another police officer, I think it was Jakob" (A158).
102. In his evidence, Senior Constable Tse said that just before Mr Mokmool ran at him his demeanour had changed, his expression had changed. He said, "The way he ran at me it was either me or the public and there's nowhere to go" (D2 T13.25). Senior Constable Tse said that there were still large crowds of people in the area, and that if he kept backing up, he would have hit a wall or a member of the public (D2 T11.44).
103. In his directed interview Senior Constable Tse was asked questions about whether he used the police radio he had taken. Senior Constable Tse said that he did not call VKG to log that he was attending the job. He said "*Trent called that we were attending the job*" (A166). In fact Constable Taylor had responded to VKG that he and

Senior Constable Maranda were attending. **VKG did not know that either of the plainclothes officers were attending or were involved because neither of them had used the radios they each had to advise VKG they were responding to the urgent call-out.**

104. Senior Constable Tse said that he took his radio and turned the volume on high so he could hear any updates and locations (A171), but later said he said that he wasn't listening for it anymore because once he knew where it was his purpose was just to get there (A221). He said that his appointments that day included his loaded pistol, on his right hip, a spare loaded magazine and a personal mini-torch and handcuffs in his front left pocket and OC spray in his left jeans pocket (A173-181). He told the inquest that in his backpack he also carried an extendable baton but no Taser (D2 T4.5). He did not take the baton with him, as he left his backpack in the office (D2 T6.9).
105. Senior Constable Tse was asked questions at the inquest about why he hadn't listened to the VKG radio whilst he was running from the office to the shop. He said "my priority was to get there and assess it when I get there because there it's going to be a lot clearer" (D2 T18.10). It was suggested to Senior Constable Tse that had he listened to the radio, he may have learned that the situation had changed and that Mr Mokmool was self-harming. Following on from these questions, Senior Constable Tse said, "A lot of jobs the details are wrong, exaggerated and that is why I said before it is best to assess the situation when you get there" (D2 T23:19). In his interview, Senior Constable Tse said that when he got there, "I thought, all right, this is exactly as they said (on the radio) it was going to happen" (A233). In his evidence, he agreed that the situation had changed because there wasn't a member of the public being threatened with a knife but explained that it was "just my thought process" (D2 T23.40).
106. Senior Constable Tse said that he had completed the one day Mental Health Workshop provided by NSW Police Force MHIT and he knew

how to de-escalate a situation, but that he simply did not have time to do so because Mr Mokmool ran at him. He was not aware that Senior Constable Harrison had completed the four day residential mental health training course or what training the other officers present had completed. He wasn't aware that an officer who had completed the four day training course, such as Senior Constable Harrison, should take priority lead in responding a situation involving a person with a mental illness. He said there was no distinction between uniformed and plainclothes police roles in a responding situation (D2 T44-46).

107. Senior Constable Tse said that, though he was in plainclothes, as he was running he had put it his badge which was on a lanyard over his neck and ensured that it was visible over his clothes (D2 T8.40). The CCTV footage shows that it was visible.
108. Senior Constable Tse was aware that there was a crowd of people at the location and that he and the other police had placed themselves such that they had formed a semi-circle in front of the shop, positioning themselves between Mr Mokmool and the public.
109. Mr de Mars asked Senior Constable Tse questions about his assessment of the situation and the distance at which he stopped in front of the shop. He was shown the CCTV footage (for the first time) and agreed that he was about five metres from Mr Mokmool (rather than the seven to eight metres he had said in his interview and earlier evidence). He agreed it was "probably not" a safe distance to be from someone armed with blades. Mr de Mars put to him that he had placed himself in a vulnerable position and that had he been at a safe distance he would not have needed to draw his firearm. Senior Constable Tse said he would still have had drawn his firearm even if he was further away (D2 T32-33).
110. Mr de Mars put to Senior Constable Tse that the words Mr Mokmool said to him as he moved towards him were "*shoot me*" (rather than "*I'm*

going to kill you”). Senior Constable Tse denied that (D2 T35.49). Mr de Mars put to Senior Constable Tse that he should have backed off and moved away from the situation to assess the best way to handle the situation when he saw Mr Mokmool with blades in his hands speaking calmly saying “*shoot me*”, to which the officer replied “On hindsight probably, like I said I probably got a little too close” (D2 T39.21).

111. Senior Constable Tse explained that he had moved so close so he could if another person was in the florist shop (D2 T48.10) and that he took two steps back to give himself more distance from Mr Mokmool (D2 T48.50). This was at the point at which Mr Mokmool had taken a step towards him and then moved back to the position where he had been standing when Senior Constable Tse first saw him. Later, Senior Constable Tse said that although Mr Mokmool wasn't making any threats he saw him as a threat because “He said ‘*I'm not giving up*’ and that implies to me that he's not giving up without some sort of resistance. With two blades in his hand, resistance could mean a lot of damage to people” (D2 T43.30).
112. Senior Constable Tse agreed with Mr de Mars that there had been no discussion between the officers attending the florist shop in relation to planning what to do when they got there (D2 T22.29). He agreed with Mr Casselden SC that was because there was no time to stop and plan because they believed that there was a man in the shop with a blade to his throat (D2 T49.9). He said there was no time to speak to civilians or listen to VKG. He agreed that the position he stood in was so he could not only see whether there was a threat to the shopkeeper, but also to put himself between the offender and the civilians (D2 T49.21). In answer to Mr Madden, Senior Constable Tse said that even if he had a longer time (a minute) to assess the situation, if a person with blades ran at him, he would have still discharged his firearm (D2 T51.30).

113. In relation to the use of less lethal weapons, it was ascertained that Tasers are only issued to uniformed officers. Officers are trained not to use hand-to-hand combat, even with a baton, when confronted with an offender armed with bladed weapons because of the risk of serious harm. Senior Constable Tse referred to his understanding of his training of what a safe distance from an offender with a blade is and he said it was at least seven metres, as this allowed for sufficient time to draw and use a firearm without being harmed (D2 T20-21). He also said that police are trained to aim for the torso of an offender which is what he did (D2 T14.15). The reason for that training was explained by Sergeant Waters.
114. Senior Constable Harrison was the last of the four officers to arrive. He arrived about seven to eight seconds after Senior Constable Tse. He had carried with him his sling bag which contained his police radio. He did not use the radio (D2 T68.29). Like Senior Constable Tse, his police badge was on a lanyard around his neck visible over his jacket (D2 T57.15). He took the position to the right of Senior Constable Tse, against the wall of the entrance to the station. He saw Mr Mokmool standing in the shop near the back wall (D2 T56.20) with his muscles tensed and his arms outstretched in a position he describes as a "crucifix pose" (D2 T57.2) with three to four inch blades sticking out of each of his fists (D2 T58.25).
115. Senior Constable Harrison said that Mr Mokmool took a few paces towards Senior Constable Tse and himself, and that is when he drew his firearm, pointed it at Mr Mokmool and said "*Police, drop the knives*". He hadn't heard Mr Mokmool say anything up to that point. He could hear Senior Constable Tse yelling something but he couldn't make it out. He heard Senior Constable Maranda ask for a Taser to come to the scene. (D2 T57). He assumed that Senior Constable Maranda was using his radio (D2 T58.1).

116. After Senior Constable Harrison yelled, "*Drop the knives*", Mr Mokmool went back to the back wall and held his arms outstretched. He said, "*Shoot me, just fucking kill me*" and crouched down "like a sprinters pose ... his hands were down towards his side but the blades in his hands were facing forwards ... he was still looking out but his head was a bit lowered...so his chin was a bit down but his eyes were still facing forward". Mr Mokmool was looking towards Senior Constable Tse. At the point at which he ran, Mr Mokmool would have been about six metres away from Senior Constable Harrison (D2 T59). Senior Constable Harrison said that when Mr Mokmool ran, he stepped back and to the side to create more space between himself and Mr Mokmool, who was still holding the blades facing forward. Senior Constable Harrison heard a gunshot from his left and then fired a shot. He then saw Senior Constable Maranda so did not shoot anymore (D2 T60).
117. Senior Constable Harrison said that he had completed the four day mental health training course and that they had tried to communicate with Mr Mokmool to de-escalate the situation by telling him to drop the weapons. Senior Constable Harrison said his next consideration was weapons control and that the officers should be seven metres away to allow sufficient reaction time (D2 T62 -63). He said that if he hadn't used his firearm, either Senior Constable Tse or a nearby member of the public would have been grievously injured, if not killed (D2 T63.10). He said there was insufficient time to assess Mr Mokmool's state of mind (D2 T63.18).
118. Mr de Mars asked Senior Constable Harrison about his roles and responsibilities as an officer who has completed the four day mental health training course. He agreed that as a result of completing the course he gets more involved as a first responder to incidents involving mental health concerns. He explained that, "If I'm not the one directly speaking to the person I might encourage more officers to stand further back so you're not crowding the person. Sometimes offer advice on

what you can say and what you shouldn't say, if there's time, and usually a lot of it comes down to when you go to the hospital and do a section 22" (involuntary admission) (D2 T65).

119. Mr de Mars asked about the type of communication the course teaches is appropriate to use when the police deal with a person who has a mental illness. Senior Constable Harrison replied "Don't use police jargon, don't set timeframes, don't let them set timeframes, don't introduce third parties, don't lose credibility and don't deny their reality" (D2 T66.40). He agreed with the idea of showing a degree of empathy to their situation "if you can build a rapport with them" (D2 T66.46). He agreed that sometimes a conversation is better than issuing orders but that sometimes orders are better reacted to (D2 T67.1).
120. Senior Constable Harrison said that when Mr Mokmool walked back to the wall of the florist shop he thought that might be an opportunity for communication with him, but it was then that Mr Mokmool ran at the police (D2 T77.13). **If it was an opportunity, it was short-lived because Senior Constable Maranda used it to try to incapacitate Mr Mokmool with OC spray. While the spray did not reach him, it may have triggered him to run at police. However, I note that this was at least an attempt to use a less than lethal weapons option in extremely limited circumstances.**
121. Senior Constable Harrison was asked questions about his familiarity with "situational awareness training" which has an acronym of STOPAR and he indicated he was familiar with the concepts (D2 T67). He was shown CCTV footage and he agreed with Mr de Mars that the position he took next to Senior Constable Tse was to provide cover and that he would have "absolutely" preferred to have been further back, but there was also the issue of the proximity of people standing around. He said he turned his mind to forming a perimeter and that is what they did, they formed a semi-circle with as much reaction space as possible (D2 T72-73).

122. Constable Taylor was on shift with Senior Constable Maranda. They were both in or near the meal room at the Police Transport Command when he heard the two beeps over the office speakers as well as the VKG broadcast on his radio which was attached to his shoulder (D3 T40-41). Constable Taylor ran towards the supervisor's office and saw Senior Constable Tse. They both ran down the four flights of stairs to the exit. Constable Taylor said he took a position about a metre from the shop and looked inside through the northern entrance of the florist shop. He saw Mr Mokmool stand up on the other side of the counter with what appeared to be scissors in his hand, but he could not recollect if it was his left or right hand (D3 T42-44). Constable Taylor told him to drop it. He unlatched his holster but did not draw his firearm. He saw Mr Mokmool run at Senior Constable Tse. In his evidence he was unable to recollect whether he heard Mr Mokmool or any of the other officers say anything (D3 T45-46).
123. Constable Taylor described Mr Mokmool as being agitated and said that Mr Mokmool had "More of a defensive pose when he stood up, not listening to instructions ... and then a few seconds from what I know of, it didn't change, it just escalated if he's running towards an officer with a gun" (D3 T49.9).
124. Constable Taylor could see both Senior Constables Harrison and Tse from where he was standing. He couldn't recall if his vision was through the window, the northern door, or both (D3 T49-50). Constable Taylor was not carrying a Taser because he said "I just chose when to use a Taser on the day". (D3 T48.30). He was asked questions about this in his directed interview and said that it was a personal choice as to whether he carried a Taser (Ex1, Tab 15, A72-73). Mr De Mars asked Constable Taylor some questions further to that evidence. He was completely unable to proffer an explanation as to what exercised his decision to take a Taser or not for the day. It was completely random (D3 T54.35). Constable Taylor was asked about whether,

before leaving the office, he gave consideration as to what kind of appointments he might take. His answer was "My initial thought was to just get there" (D3 T55.35).

125. In his directed interview, Constable Taylor said he was trying to listen to the radio but he "just wanted to get there fast" (A175). In his evidence, he could not recall hearing anything on the radio to the effect that the person was trying to cut himself. He did recall things about Mr Mokmool "smashing things and possibly a broken bottle". He said that he could only hear bits and pieces as they were running down the stairs (D3 T56:39). He couldn't recall whether he and Senior Constable Tse said anything to each other while they were running to the shop (D3 T57.42).
126. Senior Constable Maranda was in the meal room when he heard the two alerts on the speaker which he understood to mean something requires urgent assistance or could possibly be life threatening. He met Constable Taylor in the hallway and went through the TAG office where Senior Constables Tse and Harrison were (D3 T5-6). Senior Constable Maranda and Constable Taylor confirmed with them that the incident was at the florist and they ran down the fire stairs. Senior Constable Maranda turned his radio on as he was leaving the office with the volume on loud so he could hear the broadcasts. He and Senior Constable Harrison exited the fire stairs at level one and took the escalator. Senior Constable Tse and Constable Taylor continued down the stairs (D3 T6-7).
127. When Senior Constable Maranda arrived, he saw Senior Constable Tse standing with his firearm drawn. Mr Mokmool was inside the florist facing out towards police. Senior Constable Maranda recalled Mr Mokmool standing 2-3 metres back from the front right entry looking at Senior Constable Tse saying, "*Shoot me*" (D3 T8). At the time of his directed interview, Senior Constable Maranda was unable to recall any

words being said, only later when he read news reports containing witness accounts did he recall those words (D3 T35.21).

128. Senior Constable Maranda said he was unable to see whether Mr Mokmool was carrying anything (D3 T9.9). He saw that Senior Constable Harrison had his firearm drawn and so he used his radio to call for a Taser (D3 T10.9). Senior Constable Maranda then went around to the other entrance. He drew his can of OC spray, extended his arm out and sprayed it towards Mr Mokmool (Senior Constable Maranda is approximately 6'3" to 6'4" tall) (D3 T9.28). He said he went to that position because the other police had the other areas covered (D3 T37.7).
129. Senior Constable Maranda said the spray missed and went to Mr Mokmool's right. He said Mr Mokmool, "appeared to see that I was deploying it or appeared to realise and he looked to me, just had a very agitated look on his face and then he immediately looked back towards Senior Constable Tse and ran at him" (D3 T10.13).
130. Senior Constable Maranda was asked about what regard he had to his training. He spoke about his assessment of the risks and said there were numerous members of the public standing around. The VKG had said that Mr Mokmool was armed with a knife, and when he got there two police officers had their firearms out, so Senior Constable Maranda assumed they could see Mr Mokmool had a knife or was holding a knife (D3 T11.26). He used the OC spray in an attempt to resolve the situation by non-lethal means (D3 T11.40). Senior Constable Maranda said that the time was too short for him to make a mental health assessment. His reflection is that he wouldn't position himself in that way because he could have been in the cross-fire of Senior Constable Harrison's weapon (D3 T12.30).
131. In his directed interview, Senior Constable Maranda said that when he and Senior Constable Harrison exited the fire stairs at level one he was

able to look over the balcony into the florist shop. Though he couldn't see inside it, he could see that there were pot plants being knocked over (Ex1, Tab 13, A106). He also said in his interview that he heard the radio operator say that the male was possibly cutting himself (A118; D3 T15.15-32). In his evidence Senior Constable Maranda confirmed that he was listening to information on the radio on his way to the florist shop and that he heard information that the incident may also involve a robbery (D3 T6.1).

132. In his interview, Senior Constable Maranda was asked what he was thinking when he heard on the VKG that the male was cutting himself, to which he replied it caused him to think that "maybe the male was cutting himself committing self-harm for whatever reason ... I wasn't really thinking much. All I was thinking was just get there quickly and be prepared because this male is going to be armed with a knife" (A142-145). Mr de Mars asked him if at that point it went through his mind the need to have a Taser to which he replied, "No because at that point it's too hard to get a Taser ... it takes too long" (D3 T20.40).
133. Senior Constable Maranda said that for he used to carry a Taser regularly but in the last several months he had not, saying it was a personal choice. He said that a possible reason for changing his practice was because carrying a Taser required making room for it on his belt and redistributed the weight. He acknowledged, however, that a Taser is not heavy (A208-211; D3 T29).
134. Senior Constable Maranda was asked questions about the "contain and negotiate" approach he has been trained in. Senior Constable Maranda said in his interview that he thought that Senior Constable Tse was 18 metres from Mr Mokmool and when it was suggested that he was only five metres away Senior Constable Maranda said he felt like they were further away (D3 T33-34). **I note that Senior Constable Maranda participated in a video walkthrough a week after the incident and he placed himself was a lot closer to Mr Mokmool on**

the night than he suggested in his interview. It would appear that Senior Constable Maranda is not very good at assessing or describing distance. Alternatively, it could be that the impact of the incident, be it stress or adrenaline or both which affected his sense of it.

Use of Force, Arms and Appointments

135. NSW Police Force officers are authorised under s. 230 of *Law Enforcement (Powers and Responsibilities) Act 2002* to use force:

It is lawful for a police officer exercising a function under this Act or any other Act or law in relation to an individual or a thing...to use such force as is reasonably necessary to exercise that function.

136. Sergeant Justin Waters has been a Senior Operational Safety Instructor in the NSW Police Force for 22 years and a Weapons and Defensive Tactics Instructor for 23 years. He works in the Weapons and Tactics Policy Review Unit ("WTPR"), which is within the Operational Safety and Skills Command. I need not set out his qualifications as they are contained in his report (Ex1, Tab 115). Sergeant Waters was asked by Detective Sergeant Bosworth to provide a report addressing the following:

- The primary role of the WTPR provision of training;
- The current training, philosophy and practice in relation to the use of police firearms and appointments, specifically the:
 - Tactical Options Model
 - Police verbal challenge
 - Justification to draw and discharge firearm
 - Training in relation to tactical options for bladed weapons (including distance a person can travel in time to draw and fire)
 - Justification in the use of OC Spray

- Policy in relation to the carriage of Conducted Electrical Weapons (Taser)
 - Standard Operating Procedures (“SOPs”) in relation to carriage and activation of Body-worn video (“BWV”); and
- Whether the actions of the involved officers were consistent with training protocols.

137. To prepare his report in relation to the last issue, Sergeant Waters was provided with numerous eyewitness statements, mobile phone footage and Sydney Trains CCTV footage. The report sets out the policy and training the WTPR provides and confirms that each of the involved officers had satisfactorily completed all weapons and defensive tactics mandatory training requirements for the designated training period.

138. The NSW Police Force use a Tactical Operations Model whereby police are trained to take control of the offender or situation by the use of force “based on the officer’s assessment of the level of resistance being met, weighed against the appropriate level of force or response required” (at [16]). The model sets a list of concepts of force ranging from officer presence, communication, weaponless control, tactical disengagement, contain and negotiate, OC spray, baton, CEW, firearm, and active armed offender tactics. The training includes planning, ongoing risk assessments, actions, taking charge in a dynamic situation. The mnemonic STOPAR is taught – (stop, think, observe, plan, act, review), applying policy and procedures, officer and public safety, legislation, investigation, customer service and ethical decisions (taught using the mnemonic POLICE). Special circumstances might exist which might increase the danger to an officer such as proximity to weapon, special knowledge, injury or exhaustion, disability, imminent danger, drugs/alcohol and mental state. Limitations might affect the situation such as the officer of offender’s age, gender, size, fitness, skill level or numbers.

139. The above is just an outline summary of what was explained more fully in Sergeant Waters' report. Suffice to say that the WTPR training provided to NSW Police officers is designed to achieve effective command and control with the least harm to possible to officer, offender and community.

140. Sergeant Waters wrote (at [52]-[59]):

"While the possibility exists where weapon-less control techniques, CEW, baton or Oleoresin Capsicum defensive spray may be a useable force option in specific circumstances, at the time of this event having received each of the recorded accounts from each witness in conjunction with forensic imagery photographs and CCTV/personal video, I believe these options would have been futile in the circumstance. In fact, this was the case when Senior Constable Maranda deployed OC defensive spray, as outlined in paragraph 9. Arguably, this could also be said regarding the use of CEW.

It should be clearly remembered, that at close range, an officer will only get one chance to ensure the discharged probes of the CEW hit their intended target, and should these probes miss, clearly the officer will be at extreme risk of serious injury or death, particularly given that on this occasion Mr Mokmool was armed with a pair of scissors and an unknown object. I draw the conclusion based upon the fact that generally, when within such close proximity to an extremely agitated, focus driven individual armed with a bladed weapon who suddenly and without warning, charges towards police unexpectedly, that unless an appointment such as a firearm or CEW, which delivers greater incapacitation values is at the ready, and/or discharged immediately, reaction times using alternate tactical options will significantly diminish. As a consequence, in all likelihood a police officer, victim or innocent bystander may be seriously injured or killed.

Senior Constable Tse or Harrison, who were both in plain clothes did not have access to a Taser as a tactical option. Although a Taser was requested by Senior Constable Maranda shortly after he arrived at the Florist shop, the interaction with Mr Mokmool only lasted 21 seconds which did not provide sufficient time for a Taser to arrive. Senior Constable Tse and Harrison had access to OC defensive spray which was contained on their person but this would have been ineffective in stopping Mr Mokmool from charging at Senior Constable Tse.

The attack upon Senior Constable Tse by Mr Mokmool was in every sense directed, unprovoked and completely unexpected. In fact, at the time, none of the involved officers had been able to continue with their investigation as the time frame between Senior Constable Tse's arrival and the first shot was approximately 21 seconds. Senior Constable Tse found himself in an extremely vulnerable position by placing himself in an area with little to no protection and directly in the line of sight of Mr Mokmool. Senior Constable Tse states that he was only 7-8 metres away from Mr Mokmool but given he was about 2-3 m from the entrance to the

Florist shop it is more likely that Mr Mokmool was about 5-6 metres away. The only protection available to him was the light police to his left or the sandstone wall to his right where Senior Constable Harrison was positioned.

In his record of interview, Senior Constable Tse alludes to his vulnerable position when Mr Mokmool begins to run at him, stating the following:

“I started actually moving back, but I took about three steps back and realised he was advancing on me a lot faster than I was retreating, and I knew eventually he was gonna get me because the way like, he was just, the gap was just closing in real quick”.

Subsequently, it is my view that both Senior Constable Tse and Harrison were confronted with a focused driven, charging aggressor who at the time was apparently armed with a pair of scissors and another unknown object. Mr Mokmool's actions caused him to be within extreme close proximity to these officers, who were in the very least, at risk of serious injury. In the circumstances, it is my view that police had no other alternative but to combat the immediacy of the threat that they faced by resorting to the use of their firearms.

After identifying what both officers considered to be an immediate risk to the life of, or in the very least the potential serious injury to Senior Constable Tse, their reactionary response by discharging their firearms at Mr Mokmool was predicated by the actions of Mr Mokmool, who at the time was armed with a pair of scissors and an unknown object.

Clearly both officers feared for the personal safety of Senior Constable Tse. The discharging of the Constables' firearms at Mr Mokmool whom at the time was not only armed with a pair of scissors and an unknown object, but appeared to be actively attempting to cause Senior Constable Tse serious injury at extremely close quarters, appears to be in accordance with NSWPF policy, procedures and training practice guidelines”.

141. Sergeant Waters' report then continued to the following components, all of which he concluded were performed in accordance with NSWPF policy, procedures and training practice guidelines.
- Police Verbal Challenge;
 - Tactical Options for Bladed Weapons (including distance a person can travel in time to draw and fire);
 - Justification in the use of Oleoresin Capsicum (OC) Defensive Spray;
 - Policy in relation to the Carriage of Conducted Electrical Weapons (Taser); and
 - SOPs in relation to carriage and activation of BWV.

Police Verbal Challenge

142. Sergeant Waters comments (at [69]):

“It is clear that throughout the course of this incident, the mere presence of police and their communication with Mr Mokmool, who was clearly acting in an irrational manner, were not enough to convince or persuade him to comply and drop the scissors as instructed”.

143. There is ample evidence that all police were properly identifiable as police officers, including the plainclothes officers, and that they clearly communicated with Mr Mokmool that he was to drop his weapon/s. Mr Mokmool would have known that they were police officers. He had been telling people to call the police from the time he assaulted Mr Theoharis and when he saw Senior Constable Tse he said “I’m not giving up”. Senior Constables Tse and Harrison had continued their commands for him to drop the weapon/s. Mr Mokmool was aware that the police had drawn their firearms because he said “Just fucking shoot me”.
144. The description of Mr Mokmool as “clearly acting in an irrational manner”, whilst an accurate description, particularly in the later light of Dr Eagle’s evidence, is a description that is perhaps at variance with that used in Sergeant Waters’ opening conclusion where he describes Mr Mokmool as “focused driven” (at [57]). In any event, Dr Eagle’s evidence provides some illumination into Mr Mokmool’s likely state of mind during the incident.

Body Worn Video Camera

145. None of the four police officers had worn or activated a BWV camera. The plainclothes officers, due to the nature of their duties, carry them covertly but the policy is that their use is to be overt. Accordingly, Senior Constable Tse explained in his interview that he carries his in a bag and will take it out and use it if he is interviewing someone (Ex1, Tab 11, A81-87). The SOPs indicate that a BWV camera should be

used in situations where the use of force is anticipated. Sergeant Waters was of the opinion that it was understandable that Senior Constable Tse left his BWV camera behind when he heard the urgent CAD because the officer's primary concern was to get to the location as quickly as possible. He did not consider that if Senior Constable Tse had time to take his VKG radio out of his bag he also had time to take the BWV. (In his report Sergeant Waters made no mention that there was a failure by both Senior Constables Tse and Harrison to respond to VKG though in his evidence he agreed that was the case). In any event Sergeant Waters continues to say in his report (at [94]):

“Had Senior Constable Tse been wearing a BWV camera, I am of the belief that he would have failed to activate it due to the gravity of the situation before him.”

146. With respect, I do not think that such an opinion is available on the evidence, nor is it within the ambit of the purpose of an expert report. I note that this was the first occasion that Sergeant Waters has been called upon to write an expert report in relation to a police shooting. It is important that where an actor has not articulated their reasoning or explanation, an expert does not then subject it to speculation. Sometimes in his report, and on occasion in his evidence, Sergeant Waters went beyond the evidence and his expert ambit which, as an expert, he must not do, so as not to appear to be wanting or trying to justify the police acts or omissions. Regardless, Sergeant Waters says that (at [95]):

“The non-use of a BMW camera by Constable Tse is an individual decision and it appears to be in accordance with NSWPF policy, procedure and training practice”.

147. I take that to mean because the policy identifies circumstances when a camera “should” rather than “must” be used (as set out in paragraph [92] of Sergeant Waters' report). Sergeant Waters does not refer to this incident as being within that policy such as it being a “first response crime and incident investigation”, or a “situation where the

use of force is anticipated”, nor does he comment upon the failure to carry or use the BWV camera of the other three officers. The failure to carry or use a BWV was not a significant issue in the proceedings given the short time frame of the incident and perhaps because bystander mobile footage was available to be viewed.

Conducted Electrical Weapons – “Taser”

148. According to the SOPs for the Use of Conducted Electrical Weapons (Taser), Tasers are only issued to uniformed officers undertaking response policing and are to be worn as part of their arms and appointments (Ex1, Tab 211, p.16). This includes police from the Police Transport Command (p.18). This policy applied to PTC41 (Constable Taylor and Senior Constable Maranda). I note in his interview, Senior Constable Maranda said that he considered carrying a Taser a personal choice (Ex1, Tab 13, A209). As set out above, both Senior Constable Maranda and Constable Taylor were unable to explain in their evidence why they chose not to carry a Taser other than they thought they were not required to. In his expert report, Sergeant Waters made no reference to their failure to have a Taser. Sergeant Waters’ report only referred to Senior Constables Tse and Harrison as not being authorised to carry a Taser as they were plainclothes officers. The SOPs direct police to wear the appointments issued to them and that one Taser will be issued between two officers. There is, however, provision for the issuance of a Taser to a single officer. It seems the officers thought that if they did not have a Taser issued then there was no requirement to wear one.
149. Sergeant Waters, in answer to questions from Mr de Mars said his failure to refer to PTC41 not carrying a Taser was an oversight (D5 T27.15). In his evidence, Sergeant Waters said that he considered the officers’ understanding that carrying a Taser was an individual’s choice as being contrary to the SOPs. He said that he was the one that wrote the Taser SOPs and he considered it very clear that it was a mandated

rather than a discretionary appointment to be worn by frontline and uniformed police officers (D5 T12.45, T15.30).

150. Mr de Mars asked Sergeant Waters about his opinion that the use of a Taser would have been futile. Sergeant Waters agreed that a Taser (at the ready) would be a tactical option but that his report focused on the plainclothes officers without a Taser in that position (of being charged at by Mr Mokmool). He said that “the idea of having tactical options and having multiple officers with different options, that’s what we’re trying to have, as many options as we can to resolve a situation, stop a threat, etcetera, so yes I accept that if a Taser had have been there, that it may have been an option, but I will preface that with if the Taser had have been deployed it is my opinion that a firearm would have been deployed at exactly the same time by either (or) another officer standing close by.” (D5 T28.24). He explained this further saying, “I don’t think it was appropriate straight away to discharge – the Taser is not an offensive weapon, it’s a defensive weapon ...The circumstances of discharging the Taser are ones that warrant where someone like Mr Mokmool has now started to run at the officers and caused a threat to them. We’re not in the position of just turning up to a job and firing a Taser off, no” (D5 T35.20).

151. Sergeant Waters then agreed that at the point when Mr Mokmool moved forward two steps and moved back, “if a Taser had been available there, that may have been an option ... for that officer and they need to adjudge that themselves” (D5 T35.47). Mr de Mars then asked if in training he would play the mobile phone footage to officers and tell them “Look it, may be, maybe not, it would have been appropriate for you to discharge the Taser at that point?” Sergeant Water’s reply was then somewhat combative: “I don’t tell people in training when they can and can’t use their appointments. It’s an individual assessment of the situation and that what we allow the constable of police to do, is assess the situation and the threat to them, not to me, not to you, not to anyone else, to them” (D5 T36.29). Given

that is the case, I think it is probably best not to comment about the futility or otherwise of the use of an appointment that wasn't present on the scene, nor make assumptions that if it was, it would have been deployed at the same time as the firearm.

152. In his earlier evidence when he was being asked questions by counsel assisting, Sergeant Waters had explained that his opinion that a Taser would have been futile was based on factors other than that its effect would have been lost because Mr Mokmool would have been shot by a firearm simultaneously. His explanation to counsel assisting was that an officer deploying a Taser had to remember to flick the switch which activated its electrical charge before firing the Taser which he said officers forget to do in stressful situations. Further, he explained that for an optimal effect, the officer needs to be within a 2.1-4.5 metre operational range (of the offender) to allow for a two probe spread of 33 to 66 cm. The probes need to connect within this distance to impact an offender's nervous system and achieve effective incapacitation. The effectiveness of a Taser is dependent upon the probes striking the offender in the torso, which can be difficult if the offender is moving around and arms are moving (D5 T76-77).

153. I accept that had a Taser been present on the scene and deployed, given the difficulties including lack of time, and lack of access to Mr Mokmool by a uniformed officer to achieve effective incapacitation it may well be that a different outcome may not, or even could not have been achieved. However, the fact remains, a Taser was not an available tactical option when it could or should have been due to a non-adherence to policy and this was not articulated in Sergeant Waters' report.

OC Spray

154. Under the Arms and Appointments guidelines in the NSW Police Force Handbook, OC defensive spray is used for the protection of human life, protection against animals or is a less lethal option for controlling

people, where violent resistance or confrontation occurs (or is likely to occur) (Ex1, Tab 208, p.6).

155. In his report, Sergeant Waters addressed the use of OC defensive Spray, in terms of “justification”. I note that Senior Constable Maranda had not seen that Mr Mokmool was armed but correctly assumed so – he had heard the VKG broadcasts, he had seen that the plainclothes officers had drawn their firearms pointing at Mr Mokmool and he heard Mr Mokmool say “*shoot me*”. Officer Maranda said in his interview at Q108 that Mr Mokmool’s face looked agitated and he deployed the OC spray in an attempt to subdue Mr Mokmool (Ex1, Tab 13, A108). That is not controversial and I accept that is so.
156. Sergeant Waters concluded that the use of it at the time prior to Mr Mokmool running at the police was appropriate. This was consistent with his ultimate concession to Mr de Mars, that a Taser, also a defensive tactical option, could have, if available, could have appropriately being used prior to Mr Mokmool running at police.
157. In his interview Senior Constable Maranda said, “As soon as I started spraying he, pretty much, darted out the front of the shop so he didn’t really give me a chance to straighten my aim once I realised where the stream was going” (A220). The mobile phone footage MOAY3375 (Ex3, Tab 29) shows Senior Constable Maranda standing at the edge of the northernmost edge of the northern entrance holding his hand up with an elbow bent so that the can is a little in front of his face and stretched out slightly. The OC spray can be seen arcing up and out of sight where the brick wall between the two shop doors is situated. The spray is continuous at the time Mr Mokmool runs from the shop.
158. Senior Constable Maranda instantly stops spraying and very quickly moves away at sound of gunshots. This is consistent with Senior Constable Harrison’s evidence that he did not fire a second shot because he saw a flash of light blue and was concerned that a police

officer could be hit by his crossfire, and Senior Constable Maranda's evidence was that he would not put himself in such a position due to the risk of being caught in the cross-fire. In his evidence Senior Constable Maranda thought he was about 10 metres from Mr Mokmool (D3 T9.40), but given that the northern door measurement is about 3 metres and the upwards arc of OC spray is about 3.5 metres, Senior Constable Maranda was at probably within about 5 metres of Mr Mokmool.

159. Senior Constable Tse said in his interview that Mr Mokmool's demeanour changed at the point the spray was deployed. He had gone from calm to agitated. Senior Constable Maranda was of the opinion that Mr Mokmool looked agitated and he sprayed him to subdue him. There is no doubt that many people viewed Mr Mokmool as agitated and what Senior Constable Tse was conveying was that Mr Mokmool's demeanour changed in such way to cause him apprehension.
160. The OC spray did not reach Mr Mokmool. A later analysis of his clothing showed that none of his clothing had any traces of OC spray (Exh1, Tab 107, at [29]). However, Mr Mokmool saw the spray coming from the direction of the northern door and ran out the southern door. It may be that spray effectively flushed him out of the shop ending any potential opportunity for the plainclothes officers to contain and negotiate with Mr Mokmool.
161. Both Senior Constables Tse and Harrison, and many eyewitnesses, say that Mr Mokmool ran at the police and I accept that both officers apprehended, and had a more than reasonable basis to apprehend, that Mr Mokmool presented not only a risk of serious harm or death to Senior Constable Tse but also to the public if he was not stopped. Sergeant Waters describes in his report that Mr Mokmool "*suddenly and without warning, charges towards police unexpectedly*" and he describes it as "*unprovoked and completely unexpected*" (Ex1, Tab

115, at [10], [55]). He has made this conclusion without considering or addressing whether the deployment of the OC spray triggered or “provoked” Mr Mokmool. There was no communication amongst the police officers so neither of the plainclothes officers knew that OC spray was going to be deployed, however they both saw the OC spray in the air and commented that Mr Mokmool’s demeanour changed from calm to aggressive.

162. I am not critical of Senior Constable Maranda for attempting to subdue Mr Mokmool as an attempt to use a non-lethal tactical option. He had extremely limited options given that he had to avoid being in the line of fire of the firearms as keep out of the striking distance of Mr Mokmool who was armed with blades. However, I think it is useful to understand how this event played out. As Sergeant Waters said in his report “when considering the use of force, an officer’s ultimate goal is control” (at [26]). The police had little to no time to assess, contain and negotiate with Mr Mokmool and his choice to run out at the police after just 20 seconds denied the police that opportunity. Understanding how that came to be might help form a strategy by which the ability to contain and negotiate might be achieved.

Tactical Options for Bladed Weapons - Drawing and Discharge of Firearms

163. The Arms and Appointments guidelines in the NSW Police Force Handbook includes the following instructions to officers (Ex1, Tab 208, p.3):
- **DO not** draw your firearm, point, or aim it unless you consider you are likely to be justified in using it. The discharge of your firearm is to be regarded as a last resort
 - Only discharge your firearm when there is no other reasonable course of action available
 - You are only justified in discharging your firearm when there is an immediate risk to your life, or the life of someone else, or there is

an immediate risk of serious injury to you or someone else and there is no other way of presenting that risk.

164. There is a preamble to this which says (at p.3):

“This guideline applies to all situations regarding the discharge of your firearm. The decision to use your firearm rests with you. You are accountable for your actions. If you kill or injure a person when such action is not reasonable you could face serious criminal charges and civil action. You are only justified in discharging your firearm when there is an immediate risk to your life or the life of someone else or there is an immediate risk of serious injury to you or someone else and there is no other way of preventing the risk”.

165. There is no mention in the policy and guidelines tendered in the inquest relating to what a police officer should do if the offender is armed with an edged or bladed weapon. Sergeant Waters says in his report that NSW Police Force does not have a set distance where an offender with a bladed weapon needs to be before the decision to use a firearm is made. Officers should create a reactionary gap. Such a gap is one where, if needed the officer can make an effective reaction, such as draw and shoot or as in this case, given that the firearms were already drawn, shoot (Ex1, Tab 115, at [73]).

166. The involved officers all said that their understanding was that they should be no closer than seven metres to an offender with a edged weapon. Sergeant Waters explained that though that is not a taught distance because other factors such as environment, noise, lighting and cover are involved in the equation, there is a distance known as the “Tueller Drill”, a 1983 study where it was determined that an average healthy adult male can cover a distance of 6.4m in about 1.5 seconds (at [74]).

167. The policy in relation to use of a baton is as follows: “You may use your baton if in danger of being overpowered or to protect yourself or others from injury. The force used must be reasonable” (Ex1, Tab 208,

p.9). Sergeant Waters said that the NSW Police do not ask (or train) officers to use batons against persons with bladed weapons because the officer would need to “approach that person and be within a striking distance to have any effect on that person and with somebody carrying two edged weapons we’re not asking officers to put themselves in those positions so it’s not a consideration” (D5 T50.35).

168. Mr de Mars questioned Sergeant Waters about some aspects of Senior Constable Tse’s decisions particularly his proximity to Mr Mokmool, his failure to listen to the VKG as he was running to the shop, and his failure to plan with other police while they were running to the location. Sergeant Waters said the officers couldn’t plan because they were not running together (D5 T47). This is not really correct as they did run as a group to at least level one where Senior Constable Tse and Constable Taylor continued to the ground floor and Senior Constables Maranda and Harrison exited to the balcony area and took the escalator. It appears that the concept of planning was disregarded as was listening to the VKG in preference to getting to the shop as soon as possible. Had they all left at level one and appraised themselves of the situation from the balcony, they might have communicated a plan with each other. However, I do not think that any of the officers can be criticised for splitting up to arrive at the location as soon as possible.
169. In relation to his proximity to the shop, Senior Constable Tse did not allow himself any time to fully consider his own safety. He was expecting a violent confrontation with a person holding a blade at someone’s throat. He had limited tactical options given that his appointments were limited to OC spray, handcuffs and a firearm. When he said that he arrived at the shop and it was as they said it would be, I take that to mean that there was a man there with blades in his hand/s. There was no man being held and he could easily see that there was no other person in the florist shop though he had not identified where Mr Theoharis was.

170. The geographic location was difficult to contain. The florist shop was narrow and but for a small mid-section was entirely open to the public thoroughfare of a main railway station. There were two entrances which police had to cover to prevent Mr Mokmool running out with blades in his hands and posing a high risk to public. It was at a high risk time being still rush hour.
171. The public had seemed reasonably unperturbed, from a safe distance watching Mr Mokmool trashing Mr Theoharis' shop and hurting himself with scissors in an apparently reasonably calm way. It is likely that the police attendance at the shop did escalate the situation in that the entire dynamic changed.
172. Mr de Mars has not suggested that Mr Mokmool was not a potential high risk threat to the police or to the public. However, he submits that had Senior Constable Tse known that Mr Mokmool was engaging in acts of self-harm by stabbing himself, Senior Constable Tse's approach may have been different. Senior Constable Tse said that it would not have made a difference. Mr Mokmool had engaged in acts of harm both to Mr Theoharis and to himself, and he had damaged Mr Theoharis' property. He had been heard to yell out threats to the public as well as comments about wanting to die. Some eyewitnesses thought he was frightening, others thought he was disturbed. Had Senior Constable Tse been aware of all the things that had occurred from the time Mr Mokmool entered the florist shop to the time police arrived, he would have assessed Mr Mokmool as unpredictable and, from the fact that Mr Mokmool was armed and refusing to drop the scissors, that he was non-compliant. It is thus difficult to see how Senior Constable Tse's approach could have been different. Likewise, whilst it is possible, even probable, that Senior Constable Tse's show of a firearm at close proximity to Mr Mokmool escalated the situation, Senior Constable Tse had to place himself between Mr Mokmool and the public.

173. Constable Taylor had gone to the other entrance of the florist shop and Senior Constable Tse would have been rightfully criticised if he had gone anywhere else. The environment was so open that the only cover available was the edge of the sandstone arch to the rail station and that was limited because it only provided a very narrow strip adjacent to the shop. The wide entrances to the shop, the minimal cover the edge of the arch provided, and Senior Constable Tse's perception that the wall which he had run alongside was closer than it was, dictated his position.
174. In his report, Sergeant Waters said that part of the tactical options training includes an element of "expect the unexpected" (Ex1, Tab 115, at [26]. This can include a huge number of variables: the officers' individual responses to adrenaline, unwittingly placing yourself in a vulnerable position, realising that there were limited or no options of retreat or cover, an irrational and unpredictable offender, another officer's actions or their mere presence escalating an offender (at [46]-[50]).
175. In the circumstances it was reasonable for Senior Constable Tse to draw his firearm and command Mr Mokmool to drop his weapon/s. Senior Constable Tse had OC spray in his pocket. He knew that Constable Taylor was covering the northern entrance and that Senior Constables Maranda and Harrison were joining them. However, at that particular point in time, it was important to gain control, contain Mr Mokmool and issue him with the command he did. Mr Mokmool had conveyed to Senior Constable Tse that he was not giving up at around the same time as Senior Constable Tse was drawing his firearm. He had reasonable grounds to believe that he was likely to be justified in using his firearm should Mr Mokmool not comply with his command and escalate to use the weapons.

176. When Mr Mokmool advanced towards Senior Constables Tse and Harrison the first time, Senior Constable Tse did not discharge his firearm but stepped back to maintain a reactionary gap and repeated his command for Mr Mokmool to drop the weapon. This showed that he was applying his training of maintaining control, maintaining a reactionary gap and attempting to communicate. Mr Mokmool responded appropriately by retreating but he did not de-arm himself.
177. It was then that unbeknown to Senior Constable Tse, Senior Constable Maranda discharged the OC spray. Had Mr Mokmool at that point dropped his weapon and run out of the shop it would have been evident to Senior Constables Tse and Harrison he was fleeing and not a threat. However, Mr Mokmool's reaction was to maintain his grip on his weapon, to focus on Senior Constable Tse and to run as fast as he could at him. Both Senior Constables Tse and Harrison thought that he was going to stab Senior Constable Tse and they both fired to stop him. They both had reasonable cause to believe that Mr Mokmool was going to stab Senior Constable Tse. The discharge of their firearms was to stop him from doing so and accordingly was justified, to use the language of the NSW Police Force.

Mr Mokmool's Mental Health

178. Mr Mokmool's custodial and medical records were obtained (Ex1, Tabs 196–207 and 213). The records have been considered by Dr Eagle, forensic psychiatrist and she has accurately set out Mr Mokmool's medical treatment for his mental health in her report dated 3 May 2019, together with a collateral history from his family members (Ex1, Tab 212).
179. Mr Mokmool was 15 years old when his school counsellor referred him to Liverpool and Fairfield Mental Health Service on 27 May 2003. He was reported to have engaged in outbursts, experienced confusion, and thought he was hearing things. He was assessed as low average

intelligence. Following a full assessment he was diagnosed with a conduct disorder and a provisional diagnosis of an adjustment disorder resulting in conduct problems. He was referred for counselling. On 4 June 2003, he reported to the psychologist that he and a friend had been assaulted by a gang of youths about three months earlier. He reported having lost consciousness and experiencing some transient memory loss. He described having been diagnosed alprazolam by his GP and at time of feeling angry and distressed would consume "handfuls of them". The psychologist noted previous incidents of self-harm including burning his forearms, cutting his arms and shooting air pistol pellets into his arms. In December 2004, he deliberately consumed an overdose of medication and was brought to hospital by police. He was diagnosed with depression and his suicide attempt was described as impulsive.

180. Corrective Services NSW records refer to Mr Mokmool experiencing psychiatric symptoms. In August 2011, he was noted to be experiencing auditory hallucinations (hearing the voices of the Devil and God), expressing paranoid and grandiose delusions and was at risk of self-neglect. The attending doctor, Dr Dayalan, opined a possible diagnosis of schizophrenia. Mr Mokmool was commenced on 10mg olanzapine daily, and after a week he was discharged back to the main gaol. The psychotic episode was considered drug induced and resolved.
181. On 8 November 2011, Mr Mokmool's mother contacted Community Corrections as she was concerned about him. That morning he had told her that he was seeing spirits at home, that he couldn't sleep and that the spirits were trying to harm him. On 10 November 2011, Mr Mokmool attended his GP, Dr Chau, and reported hearing voices in the background over the last few months, seeing shadows and people not talking to him. Dr Chau referred him to Dr Law, psychiatrist, on 11 November 2011. Dr Law diagnosed a psychotic illness and commenced Mr Mokmool on risperidone. Mr Mokmool continued with

Dr Law for a period of about four months. On 5 December 2011, Mr Mokmool saw another GP, Dr Tan. Dr Tan's notes indicate that Mr Mokmool reported feeling better on risperidone and experienced less paranoia, though was still hearing voices in the background.

182. On 27 December 2014, Mr Mokmool presented to Liverpool Hospital. He was noted to have paranoid thoughts about his family and other people wanting to kill him. He reported smoking crystal methamphetamine ("ice") two days prior. He was diagnosed with drug induced psychosis, provided with five days' supply of olanzapine and discharged home for outpatient mental health review. The Community Mental Health Team ("CoMHET") conducted a home visit two days later and spoke with Mr Mokmool's mother who said he was becoming more paranoid. They spoke with Mr Mokmool over the telephone and arranged further appointments, which he did not attend. As a result, Mr Mokmool was discharged from the service.
183. On 13 January 2015, Dr Nguyen, GP, received a letter from Tia Ven, clinical psychologist. Mr Mokmool was described as being flat and providing minimal responses during the assessment. He described "delusional thoughts of a persecutory nature and reported that a day prior to these thoughts had taken methamphetamines and he believes that this worsened his thoughts although they were apparent before taking methamphetamine". Mr Mokmool reported staying at home every day and checked his house for intruders, that he had used heroin for a few years and methamphetamine for seven years.
184. In February 2016, Mr Mokmool commenced on the methadone programme at Scott Street Clinic in Liverpool. He was reviewed on a two to four week basis by Dr Prakash who noted that he did not present as irrational, clinically depressed or psychotic. His monthly drug screens were clear since October 2016 (however, the medical records indicate that on 11 February 2016 a urine screening tested positive for amphetamine type substances).

185. On 10 September 2016, Mr Mokmool was admitted to Liverpool Hospital having been brought in by ambulance voluntarily. He had run through properties into a creek in order to get away from a friend he believed was trying to kill him. He was highly agitated and suspicious. He was hallucinating and reported seeing people outside the windows with knives who were trying to kill him. Mr Mokmool reported that he had not used drugs, but then his friend had forced him to have four puffs. He then ran away thinking his friend was trying to kill him. The following day, 11 September 2016, he reported that his mother was trying to take out a hit on his life. On 12 September 2016, he denied a continuation of those persecutory beliefs and was discharged from hospital with CoMHET follow up. Despite several attempts CoMHET was unable to contact Mr Mokmool.
186. On 20 September 2016, Mr Mokmool was again brought to Liverpool Hospital by ambulance, having been found wandering on the road and jumping in and out of traffic. He had tried to jump out of the ambulance. He reported using methamphetamine the previous night. He denied psychotic symptoms and reported having an anxiety attack. He was counselled about his methamphetamine use and discharged with a supply of olanzapine and CoMHET follow up.
187. A urine screening taken at the Scott Street Clinic on 26 September 2016 tested positive for amphetamine and benzodiazepines.
188. On 15 December 2016, Mr Mokmool was referred by his GP to Liverpool Hospital with anxiety and escalating paranoia. He saw Dr Daniels and reported to have not used methamphetamine since the 20 September 2016 admission. He reported increasing anxiety with paranoid thoughts and that he locked himself in his house at times due to his anxiety. Dr Daniels noted that Mr Mokmool would not let CoMHET into his house due to his paranoia. Mr Mokmool denied constitutional symptoms. He reported drinking one to two cups of

coffee a day at work, but had left his job due to paranoia that people were going to jump out and hit him. Dr Daniels noted “acute on chronic exacerbation of anxiety with paranoid thoughts would likely benefit from restarting antipsychotic acutely (queried) quetiapine with close mental health follow up. Needs psychologist referral for guided relaxation and controlled breathing for anxiety and panics and could benefit from a brief course of Zyprexa prn, counselled against Benzo use”.

189. Dr Daniels gave evidence speaking to his notes and impressed that the day he saw Mr Mokmool he did not display any symptoms of psychosis, disordered thought and was easily engaged (D4 T38.5). I accept that Dr Daniels did not observe any such symptoms. Mr Mokmool followed Dr Daniel’s suggestion and attended a psychologist, Dr Camacho. Dr Camacho reported that Mr Mokmool did not display signs of mental issues such as schizophrenia or paranoia, but did identify to Centrelink that due to Mr Mokmool having significant psychological disorders made him unfit for work.
190. Mr Mokmool’s family reported that, since about 2011, he had been highly paranoid and felt unsafe at home. He would lock windows and doors and not go out. In February 2017, when he was working for a relative in Cronulla, Mr Mokmool ran out to a coffee shop because of beliefs that his co-workers were preparing to kill him. His mother also reported that on occasion Mr Mokmool would attend a police station because of his fears and the police would call her to pick him up to reassure him it was safe to go home.
191. In addition to setting out Mr Mokmool’s treatment history, Dr Eagle referred to Mr Mokmool’s substance abuse history, criminal history, relationship, education and employment after which she outlined the events of 26 July 2017.

192. Dr Eagle opined that Mr Mokmool had a chronic psychotic illness, schizophrenia, at the time of his death. She noted that he experienced a gradual decline but had likely suffered from this illness since September 2011. She noted that at the end of 2017, at the time Mr Mokmool attended Dr Daniels at Liverpool Hospital, he was demonstrating an increased level of engagement and insight into his substance use and mental health for a chronic psychotic illness. Dr Eagle opined that adequate treatment, including anti-psychotic medication may have resulted in monitoring, stabilisation or even remission of his symptoms and an improvement in his level of function. Dr Eagle suggests that the attendance upon Dr Daniels may have been a lost opportunity to begin this process.
193. In my view, it is not possible to confidently say that Mr Mokmool would have successfully engaged in treatment as he had demonstrated non-compliance previously. Dr Daniels gave evidence that when he spoke with Mr Mokmool, Mr Mokmool was not psychotic and not apparently delusional and, though he did not recall his specific interactions with Mr Mokmool, from his notes Mr Mokmool was reporting signs of heightened anxiety. Mr Mokmool did engage with a psychologist as recommended and I note that when the police attended Mr Mokmool's family home after his death they located unused anti-psychotic medication. This suggests that Mr Mokmool, whilst having insight into his substance abuse, was attempting to address his psychiatric problem without such medication.
194. I have no difficulty accepting Dr Eagle's opinion that on 26 July 2017, Mr Mokmool was experiencing a psychotic episode and this impacted on his behaviour when he interacted with the police. She described that his thinking and emotional state were significantly impacted by his delusions (that his family wanted to harm him). His behaviour was incongruent, such as giggling on the phone to the police, smiling inside the shop whilst holding scissors to his arms, cutting himself. Disturbances in his thought processes, beliefs and emotions would

have played a direct role in his behaviour leading to his death. Dr Eagle described how persons in such a mental state have major difficulty in processing information, commands or interpreting their environment (D4 T55.30). Mr Mokmool's conduct on the 26 July 2017 is entirely in keeping with a person suffering from a psychotic episode.

195. Though the police had all received training from the MHIT, and Senior Constable Harrison had undergone the four day residential training programme, their exposure to Mr Mokmool was for the briefest of time. Only Senior Constable Maranda had listened to the VKG on his way to the shop and heard that Mr Mokmool had observed to be engaged in deliberate self-harm. Senior Constable Harrison heard Mr Mokmool say "*shoot me in the head*" and Senior Constable Tse said he heard Mr Mokmool say, in apparent response to the OC spray, "*I'm going to kill you*". There was insufficient time for any of the police officers to proceed upon any assessment in any event, regardless of whether they did or could assess Mr Mokmool as having a mental health episode, no matter what kind, no matter whether it was drug induced or otherwise. The incident was frightening to the public, to the police and, no doubt, to Mr Mokmool himself.

196. The rapidity of the escalation is likewise overwhelming. Due to Mr Mokmool's psychotic state, I am unable to conclude what he believed was happening and what his intentions were when confronted by police. Regardless of his suffering a mental illness, the police had every reason to assess him as posing a very serious risk to their safety or lives, as well as to the public should he have run amok outside the shop where there were many people gathered and passing.

NSW Police Force Mental Health Intervention Team

197. The recommendations arising from two previous inquests into deaths involving a civilian being shot by police were referred to in counsel assisting's opening. Both those deaths occurred after Mr Mokmool's

death. The recommendation in the Inquest into the death of Stephen Hodge was in relation to integrating mental health training into tactical operations training with an emphasis on specific de-escalation techniques practiced by role play exercises. Likewise, a similar recommendation was one of several made in the Inquest into the death of Courtney Topic. Another particularly relevant recommendation in that inquest was that *“consideration be given to the Mental Health Intervention Team (“MHIT”) and Weapons and Tactics Policy Review (“WTPR”) establishing and documenting a joint review of training packages for defensive tactics training where mental health is likely to be a relevant factor”*.

198. Chief Inspector Matthew Hanlon provided two statements in the inquest. The first statement addressed the training provided by the MHIT and the training completed by the directly involved officers (Ex1, Tab 185A). The second statement addressed the steps taken by the NSW Police Force to consider and implement the recommendations made in the Inquest into the death of Stephen Hodge and the Inquest into the death of Courtney Topic (Exhibit 15).
199. Chief Inspector Matthew Hanlon expanded on the content of the training programs run by the MHIT in his evidence. The one day Mental Health Workshop is an abridged version of the four day residential course. It was commenced on 4 February 2014 and was delivered face to face throughout NSW by December 2015, as well as being delivered at the NSW Police Force Academy at Goulburn. As of 4 December 2018, some 16,141 had completed the one day Mental Health Workshop. Senior Constable Tse and Constable Taylor completed the programme in early 2015, Senior Constable Maranda completed it in June 2014, and Senior Constable Harrison completed the four day programme in March 2015.
200. Chief Inspector Hanlon gave evidence that the four day residential course can accommodate 30 officers a month, as is run 10 months of

the year. As only 300 officers can complete the residential course each year, it will take decades for each officer in the NSW Police Force to complete the programme. However, officers involved in weapons and tactics training have priority placement and so far 80% of those officers have completed that programme. It is anticipated that the remaining 20% will be accommodated in the very near future.

201. Chief Inspector Hanlon agreed that the one day Mental Health Workshop dedicates a significant period of time to s. 22 of the *Mental Health Act*. In his first statement, he cites that in 2018 some 14,724 persons were taken to hospital by police under s. 22 of the *Mental Health Act*. Those figures are taken from the police Computer Operations System (“COPs”). Chief Inspector Hanlon gave evidence that in 2018 the police engaged with persons suffering mental illness on no less than 24,000 occasions where police record their intervention or engagement with family or carers to assist someone voluntarily into care and treatment. That does not take into account where the police have assisted NSW Ambulance.
202. Chief Inspector Hanlon later referred to those numbers as showing that the police are continuously and positively engaged in assisting and managing persons with mental illness and reflects the efficacy of the training MHIT provides. I accept that that number indicates that an adverse outcome such as this case is, thankfully, rare. Mr de Mars successfully sought to tender statistics in relation to deaths from police shootings (Exhibit 8). There is no suggestion that there is a trend that would indicate that the police have disregard for this issue. Indeed the number of police shootings is decreasing, or at least static overall, rather than rising.
203. Chief Inspector Hanlon gave evidence that STOPAR de-escalation training is a mandatory subject in all police training and that it was developed in mid-2018. The MHIT is currently engaged in producing a variety of online training modules to update officers’ skills in relation to

mental health. Chief Inspector Hanlon was asked questions about VKG radio operators attending an MHIT training day and indicated that at this stage there has been no formal approach in that regard. Likewise, there has been no movement on having a scheme whereby officers who have attended the four day residential course are despatched as first responders as the challenges in relation to doing so are unable to be accommodated.

204. Mr de Mars asked Chief Inspector Hanlon about the resources of the MHIT. Chief Inspector Hanlon was very positive about the work his unit does - he not only heads the unit but he himself is involved in the actual training. He explained the rationale behind that: "I'm required to simply on the basis that there's only two staff". He delivers the one day course for each of the quarterly training intakes at the Police Academy. Prior to end of 2018, a full time Clinical Nurse Consultant was part of the team, but has now been replaced with a temporary senior policy officer to do research and evaluation. Given the number of tasks of the MHIT, the prevalence of police officers engaging with persons suffering mental illness, and the need for targeted and ongoing training, the personnel resources of the unit are minimal to say the least. The modules of online training do not involve officers engaged in actual face-to-face role plays which the recommendations in the Inquest into the death of Stephen Hodge envisaged. Perhaps if there were additional trainers, the provision of training to VKG operators could be earlier rather than later given the demands on the programmes and training schedules available. As the VKG outgoing communications were not an issue in this inquest. It is a matter which does not attract my consideration of recommendations.

Submissions by Counsel

205. I will not set out each of the submissions as I have dealt with some in the body of these reasons for my findings. Counsel Assisting submitted that an appropriate recommendation arising from this inquest is in

relation to the requirement that front line officers carry a Taser. The evidence from the uniformed officers showed that they did not usually carry a Taser and that incident on 26 July 2017 was no exception to this practice, which they had each adopted without any reason, let alone any good reason. Sergeant Waters was adamant that policy requires the carriage of the defensive weapon.

206. The SOPs state, "Only one (1) Taser is to be issued to a minimum two (2) officer uniformed team deployed to undertake operational response" (Ex1, Tab 211, p. 16). The SOPs also state, "Tasers will only be issued to uniformed officers undertaking response policing and will be worn as part of their Arms and Appointments" (p. 18).
207. A Taser is issued at the request of an authorised officer so if an officer does not ask for a Taser they are technically not in breach of the policy. It needs to be clarified and I will make a recommendation that the SOPs are amended as soon as possible and the amendment be communicated effectively. Mr Casselden SC on behalf of the Commissioner of Police NSW is content with such a recommendation.
208. Mr de Mars asks on behalf of the family that my findings document the events prior to the arrival of the police, which I trust I have adequately done. Mr de Mars particularly points out that the events "on the ground" had changed somewhat by the time the VKG and CAD announcements are made. For example, the evidence shows that Mr Theoharis was no longer being held by Mr Mokmool by the time the urgent beep was sounded in the police station. That is so, and had Senior Constable Tse heard the VKG he may have been aware that Mr Mokmool, rather than still having a piece of glass at Mr Theoharis' neck, was in fact harming himself. It was a dynamic situation that some eyewitnesses expressed as alarming and others not so. The arrival of the police changed the dynamic dramatically. Mr de Mars submits that if the police had not been so physically close, had taken

more time to assess the situation, communicated with each other the situation would not have escalated so rapidly.

209. I accept that the police can gain opportunities to de-escalate a situation if they have or take the time and distance and exercise the STOPAR principles. That did not occur in this matter for a number of reasons including the perceived urgency of the situation, the environment being open to the public and the number of people in the vicinity. The response to the urgency of the situation resulted in each officer who attended thinking that the most important thing to do was to get to the location and assess it, and they didn't think anything beyond that. Once they arrived and drew their firearms, which in the circumstances, was justified, there was little to no opportunity to de-escalate.
210. Mr de Mars submitted that Senior Constable Tse was too close to Mr Mokmool. I agree, I think he unwittingly placed himself in front of the shopfront because of the width of the entrance, the geography of the location and the lighting. Senior Constable Tse thought he was about seven metres, whereas the reconstructed imagery shows that he was within half that distance. Whilst Senior Constable Tse was too close for his own safety, as I have stated above at [172], he was right to stand where he did as there was a real risk that Mr Mokmool could run out of the shop and hurt a police officer or a member of the public.
211. Mr Madden submitted that the police had no choice but to discharge their firearms when they did so. That might be the case but there is a choice whether to draw the firearm in the first place. I make no criticism that they did so and I note that the Arms and Appointments guidelines seem to lack any "edged weapon" or "blade" specific guidelines.
212. Mr de Mars submitted that I would make recommendations in relation to the Arms and Appointments guidelines including minimum distances at which the police can be in relation to offenders armed with blades.

This inquest did not engage in examining the alternatives to the training currently given to officers, which is that they are not to engage in baton combat within striking distance of someone with a knife. To place a determinate distance would be inappropriate given that sometimes police have to physically remove an armed offender from vehicles and other locations so to place a mandated distance would not be appropriate. All four officers were aware of the reactionary gap of seven metres and at least Senior Constables Tse and Maranda thought they were twice the distance away from Mr Mokmool than they were. The Arms and Appointments guidelines do make clear that non-lethal options such as OC Spray and Taser should be considered. However, the plainclothes officers are not issued with Tasers and the uniformed officers didn't have one. Unless there is a plan so that the use of OC Spray can be deployed with some other tactic, this case shows how the spray can trigger an escalation rather than subdue the situation. However, Mr Casselden SC rightly submitted that the police were "between a rock and a hard place" – they could well have been subject to criticism if they did not attempt non-lethal means to subdue Mr Mokmool.

213. Mr de Mars has submitted that I adopt the language of Dr Eagle where she suggests that Mr Mokmool's attendance on Dr Daniels at the Liverpool Hospital was a "missed opportunity" for him to have commenced a treatment regime to address his schizophrenia. Mr de Mars submitted that, if Mr Mokmool had done so, the events of 26 July 2017 would not have unfolded. In written submissions on behalf of the South Western Sydney Local Health District, Ms Gerace submitted that there are too many variables to allow a conclusion that a differing diagnosis or course of treatment on 15 December 2016 would have prevented the events of 26 July 2017.
214. I decline to find that the attendance on Dr Daniels was a "missed opportunity", as Mr Mokmool engaged with a number of health professionals since that attendance who did not identify Mr Mokmool

showing any symptoms and the period of time since that attendance. Additionally, Mr Mokmool's established resistance to engaging with CoMHET and non-compliance with medication suggests that there is no nexus between Mr Mokmool's attendance upon Dr Daniels and the circumstances of his death.

215. Mr de Mars sought a recommendation for the Commissioner of Police to consider a policy whereby that when both plainclothes and uniformed officers attend a scene, the uniformed officer takes command. That submission is founded on the fact that plainclothes officers do not carry Tasers. I do not agree with that submission as it is fraught with potential that the safety of first responding police and the public could be jeopardised because of limitations placed on them due to a ranking system.

Findings and Recommendations

216. The findings I make are as follows:

Danukul Mokmool died on 26 July 2017, at Central Railway Station, Eddy Avenue, Sydney, of a gunshot wound to the head, as a result of a police operation. He was experiencing a psychotic episode and was shot by police officers in circumstances where he ran at police with scissors in his hands.

217. The recommendation I make are in relation to Tasers is as follows:

To the Commissioner of Police NSW:

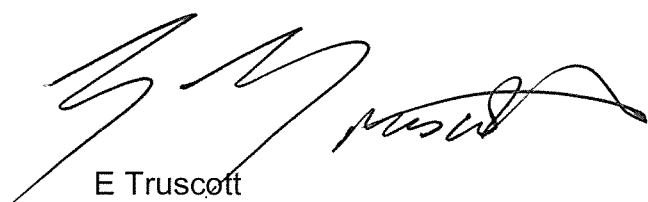
That consideration be given to amending the applicable Standard Operating Procedures so that uniformed officers performing frontline duties are required to carry a Taser absent good reason not to.

Concluding Remarks

218. I wish to commend Detective Chief Inspector David Laidlaw and Detective Sergeant Mitchell Bosworth for the investigation that they conducted and the brief they prepared for the Inquest into Mr Mokmool's death. I again wish to pass my condolences to Mr Mokmool's family and acknowledge the sadness that they endure and the extreme emotional difficulties that they, particularly his mother, Ms Chomphoo, had to endure by attending the hearing. I also wish to thank Ms Yuphadee Phongononthakun who has performed an extraordinary service interpreting the proceedings so that Ms Chomphoo could participate. My thanks also extend to the Coronial Information and Support Program co-ordinator, Ms Eloise Sheldrick, who has provided timely and supportive engagement for Ms Chomphoo throughout the proceedings.

219. Mr Mokmool's brother, Charlie, spoke of the family holiday to Thailand in 2016 and Mr Mokmool's desire to become a monk in dedication to his family. I accept that Mr Mokmool was usually a gentle and kind person and that his behaviour on the 26 July was due to experiencing a psychotic episode. I hope the family can put this inquest behind them and hold their memories of Mr Mokmool as the son and brother they knew.

This Inquest is now closed.

A handwritten signature in black ink, appearing to read 'E Truscott', is written over a white background.

E Truscott

Deputy State Coroner
5 August 2019