



CORONERS COURT
OF NEW SOUTH WALES

Inquest:	Inquest into the death of DP
Hearing dates:	4 - 8 November 2019
Date of findings:	27 February 2020
Place of findings:	Coroner's Court, Lidcombe
Findings of:	State Coroner, Magistrate Teresa O'Sullivan
Catchwords:	CORONIAL LAW – Cause and manner of death – Methylamphetamine intoxication, s.23 Coroners Act, police shooting.

<p>Non-Publication and non-access orders:</p>	<p>Pursuant to s 75(4) of the Coroners Act 2009 (NSW) there is to be no publication of the following:</p> <ol style="list-style-type: none"> 1. The names of the persons DP or AP. <p>Pursuant to s 74 of the Coroners Act 2009 (NSW) there is to be no publication of the following:</p> <ol style="list-style-type: none"> 2. Exhibit 2, being the sensitive evidence; and 3. Exhibit 3, being the ANZPAA Guidelines for Deployment of Police to High Risk Situations (2013). <p>Pursuant to s 65 of the Coroners Act 2009 (NSW) there is to be no access to the following:</p> <ol style="list-style-type: none"> 4. Exhibit 2, being the sensitive evidence; and 5. Exhibit 3, being the ANZPAA Guidelines for Deployment of Police to High Risk Situations (2013).
<p>File number:</p>	<p>2016/19119</p>
<p>Representation:</p>	<p>Mr Jason Downing, Counsel Assisting, instructed by Ms Kate Lockery of the Crown Solicitor's Office</p> <p>Mr Brent Haverfield, instructed by Mr Stuart Robinson of the Office of General Counsel, for the Commissioner of Police</p> <p>Mr Ben Bradley, instructed by Mr Les Sara of Hicksons Lawyers, for the Western Sydney Local Health District</p> <p>Mr Paul Madden, instructed by Mr Ken Madden of Walter Madden Jenkins Solicitors, for Sergeant Craig Weston</p>

<p>Findings:</p>	<p>Identity of deceased: The deceased person was DP.</p> <p>Date of death: DP died on 19 January 2016.</p> <p>Place of death: DP died at Quakers Hill Police Station, Highfield Road, Quakers Hill NSW 2763.</p> <p>Cause of death: DP died as a result of a gunshot wound to the chest.</p> <p>Manner of death: DP died after he attended Quakers Hill Police Station in possession of a knife and lunged at an officer, who discharged his weapon. DP intended to provoke police into shooting him; however his judgement was significantly impaired at that time by the effects of methylamphetamine intoxication and possible psychotic symptoms, which also impacted his behaviour.</p>
<p>Recommendations</p>	<p>To the NSW Commissioner of Police:</p> <p>That consideration be given to the creation of a formal process whereby the Assistant Commissioner for the Education and Training Command receives advice from the Manager of the Weapons Tactics Policy and Review Unit every two years regarding developments in non-lethal or less lethal tactical options in the use of force when dealing with offenders armed with a knife or cutting weapon, and then considers which options might be investigated or pursued by the NSW Police Force.</p>

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The Coroners Act 2009 (NSW) in s. 81(1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of the inquest into the death of DP.

INTRODUCTION

1. DP was born on 11 October 1970 in Auckland, New Zealand. DP died following a confrontation with police inside the Quakers Hill Police Station on 19 January 2016. He was aged 45 years at the time of his death.
2. Members of DP's family attended each day of the inquest, some travelling from interstate and overseas, which is a testament to their love for him. They spoke of DP as someone who brought joy and laughter to their lives, and of their ongoing grief at his passing.

Role of the Coroner

3. The role of a Coroner, as set out in s. 81 of the *Coroners Act 2009 (NSW)* (**the Act**), is to make findings as to the identity of the person who died, when and where they died, and the manner and cause of their death. The manner of a person's death means the circumstances surrounding their death and the events leading to it.
4. Under s. 82 of the Act, a Coroner also has the power to make recommendations concerning any public health or safety issues arising out of the death in question.
5. As DP died as a result of police operations, an inquest is mandatory pursuant to ss. 23 and 27 of the Act.
6. The coronial investigation into DP's death gathered sufficient evidence to answer the questions about DP's identity, where and when he died, and the medical cause of his death. As a result, the inquest was primarily focused on the manner of DP's death.
7. It is important for DP's family to know and understand how and why he died. To this end, the inquest examined the circumstances surrounding

DP's attendance at Quakers Hill Police Station on 19 January 2016 and the actions of the police officers present at the time, including their use of force. The inquest also examined the management of DP's mental health condition and his substance use in the period leading up to his death.

8. In preparing my findings, I have been assisted by the oral submissions of counsel assisting, Mr Jason Downing, and the oral submissions made on behalf of the NSW Commissioner of Police ("the Commissioner"), Sergeant Craig Weston, and the Western Sydney Local Health District.
9. At the outset I remind myself that I am considering the conduct of those involved in the events of 19 January 2016, and the events leading up to that day, with the benefit of hindsight. I will endeavour to be realistic when assessing the conduct of those involved, particularly the conduct of the police officers who found themselves in what was no doubt an unexpected, dynamic and confronting situation.

FACTUAL BACKGROUND

Personal History

10. DP was born on 11 February 1970 in Auckland. He was the third born of five siblings and spent his childhood in New Zealand.¹ DP's eldest daughter, Juli-Anna Marsters, was born in 1996. Not long after Juli-Anna's birth, DP separated from her mother and moved to Australia.²
11. DP settled in Sydney and initially worked as a labourer, before securing work in scaffolding through his older brother, AP.³
12. In about 2002, DP met Ms Lisa Huriwai, with whom he formed a relationship that continued through to the time of his death. DP had another daughter, Tahlia, born in 2004, with Ms Huriwai. He was also

¹Exhibit 1, Tab 9: Statement of AP dated 21 January 2016 at [3].

²Exhibit 1, Tab 12: Statement of Juli-Anna Marsters dated 29 January 2016 at [3].

³Exhibit 1, Tab 9: Statement of AP dated 21 January 2016 at [6]-[7].

stepfather to Tiana, who was Ms Huriwai's daughter from a previous relationship.⁴

Substance Use and Mental Health History

13. When Ms Huriwai first met DP in about 2002, she was aware that he used ecstasy and marijuana recreationally. At that time, and for some years prior, DP had worked in the scaffolding industry. He worked on a number of large industrial sites, including those where he would do "fly in/fly out" work.⁵
14. In about 2008, DP was working on a site in Bowral NSW. He telephoned Ms Huriwai and told her that he had commenced smoking "Ice" (methylamphetamine) and further, that Ice use was fairly common amongst those he was working with. At that time, Ms Huriwai understood that DP's use of Ice was sporadic and recreational.⁶
15. In 2010, DP and Ms Huriwai moved into in a house in Rooty Hill together. She observed that on occasions, DP would smoke Ice through a pipe.⁷

Employment on Curtis Island

16. On 31 July 2013, DP began work with Bechtel Construction (Australia) Pty Limited (**Bechtel**), doing scaffolding work at a liquid natural gas construction project located on Curtis Island in Queensland. During his employment, DP was provided with accommodation on site. He worked a rotation of four weeks work, followed by one week break. He returned home to Sydney during his break. DP remained employed by Bechtel and working on Curtis Island until 5 March 2015.⁸

⁴ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [4], [7]; Exhibit 1, Tab 11: Statement of Tiana Huriwai dated 20 January 2016 at [5].

⁵ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [6], [15]-[16].

⁶ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [9].

⁷ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [11]-[12].

⁸ Exhibit 1, Tab 126: Bechtel employment records for DP, pp. 5, 151, 153-154, 199.

17. DP indicated on a pre-employment medical screening questionnaire that he had no history of any mental health condition and was not presently (nor had he previously been) addicted to alcohol or drugs.⁹
18. During DP's employment with Bechtel, Ms Huriwai noticed a change in his behaviour and personality, noting that he became more selfish and that he spent more time sleeping. Mr Huriwai also noticed DP was smoking Ice more regularly, including smoking it when he was home. DP informed Ms Huriwai that Ice use was a normal part of socialising amongst his fellow workers, with them smoking it in their cabins.¹⁰
19. AP was also aware that DP was using Ice, as well as ecstasy and another drug known as "Datura", while DP was working on Curtis Island. Datura (or more correctly, Datura Wrightii) is a plant also known as Jimson Weed, which is taken orally and has a hallucinogenic effect.¹¹
20. AP recalls DP telling him that he took drugs to combat the loneliness he experienced when away from home, and that Ice use was rife throughout the scaffolding industry. AP also noticed changes in DP's personality. He noticed that DP went from being a happy person to being much quieter.¹²
21. DP's stepdaughter, Tiana, gives a slightly different account of DP's behaviour over this time. She indicated that she did not notice any change in his personality and that DP continued to be a supportive, happy and loving step-father.¹³

Incident at Brisbane Airport

22. Around late November or early December 2014, DP phoned Ms Huriwai from Curtis Island and reported that he was hearing voices outside his window. He also claimed that everyone was looking at him and watching him. Ms Huriwai was concerned, as this was out of character for DP. She contacted Lifeline and obtained advice to the effect that DP may be

⁹ Exhibit 1, Tab 126: Bechtel employment records for DP, pp. 171, 179.

¹⁰ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [17]-[18].

¹¹ Exhibit 1, Tab 9: Statement of AP dated 21 January 2016 at [14].

¹² Exhibit 1, Tab 9: Statement of AP dated 21 January 2016 at [15], [17], [23].

¹³ Exhibit 1, Tab 11: Statement of Tiana Huriwai dated 20 January 2016 at [9].

suffering from some form of drug-induced psychosis. Ms Huriwai then contacted DP's nephew, known as "AJ", who worked on a different project on Curtis Island, to see whether he might be able to help. AJ was AP's son. AJ reportedly told Ms Huriwai that he had "*seen it before*" and that he would arrange for DP to come home to Sydney so he could get some help.¹⁴

23. On 3 December 2014, DP was travelling back to Sydney with AJ. During a stopover at Brisbane Airport, DP punched a complete stranger, Mr Barry Whitworth, striking him in the jaw, for no apparent reason. After the incident, DP was approached by two Australian Federal Police (**AFP**) officers, Federal Agents Michael Cotton and Greg Cruise, who had been informed of the apparent assault on Mr Whitworth. When they approached DP, he let go of the trolley bag he was pulling, threw his rucksack down on the ground, raised his fists and adopted a boxing pose. As Federal Agent Cotton reached for his capsicum spray and baton, DP called on the officers to use their Taser against him.¹⁵
24. The Federal Agents were able to calm DP down. When they sat down and spoke to him, they enquired as to why he was so agitated. DP reportedly failed to explain, but did say that he wanted the police to shoot him in the head.¹⁶
25. DP was then taken into custody and charged with assault occasioning bodily harm and obstructing a Commonwealth official. On 18 February 2015, the matter was dealt with in the Queensland Magistrates Court and DP pleaded guilty. He was convicted and received a \$1,500 fine.¹⁷

¹⁴ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [20]; Exhibit 1, Tab 9: Statement of AP dated 21 January 2016 at [17].

¹⁵ Exhibit 1, Tab 100: Statement of Barry Leslie Whitworth dated 10 December 2014 at [3]-[5]; Exhibit 1, Tab 99: Statement of Federal Agent Michael Cotton dated 11 December 2014 at [4]-[10].

¹⁶ Exhibit 1, Tab 99: Statement of Federal Agent Michael Cotton dated 11 December 2014 at [11].

¹⁷ Exhibit 1, Tab 99: Statement of Federal Agent Michael Cotton dated 11 December 2014 at [13]-[14]; Exhibit 1, Tab 97: Criminal History of DP – Queensland.

26. According to AP, AJ informed him that DP had an ounce of Ice on him while at Brisbane Airport and when AJ discovered it, he took it and flushed it down the toilet.¹⁸

Initial Treatment

27. Following the incident at Brisbane Airport, DP returned to Sydney and was met by Ms Huriwai. DP continued to report hearing voices and expressed a concern that his Rooty Hill house was under surveillance. As a result, Ms Huriwai took DP to the Emergency Department at Blacktown Hospital on 5 December 2014.¹⁹
28. A Mental Health Assessment was conducted by a clinical nurse consultant. During the assessment, DP reported that he had been hearing noises in the roof and believed people were looking through the windows. He also expressed his belief that there were people in the roof putting cameras in there and that they were talking about him.²⁰
29. DP told the clinical nurse consultant that he had used Ice over the week, and that he had been awake for about four to five days. He stated that had had last used Ice on Wednesday, 3 December 2014. The clinical notes record that DP stated that he had wanted to use a police officer's gun to shoot himself when he had been in the police cells in relation to the Brisbane Airport incident.²¹
30. The assessment made by the clinical nurse consultant at the time was that DP had a number of continuing fixed paranoid delusions and a provisional diagnosis of "drug induced psychosis" was recorded. After discussing DP's care with the on-call psychiatrist, the clinical nurse consultant discharged DP home with a referral to the Acute Mental Health Team (**AMHT**) for

¹⁸ Exhibit 1, Tab 9: Statement of AP dated 21 January 2016 at [18].

¹⁹ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [22]-[23].

²⁰ Exhibit 1, Tab 105: Statement of Jo-Anne Micallef dated 27 February 2017 at [8]-[14] and annexed clinical notes.

²¹ Exhibit 1, Tab 105: Statement of Jo-Anne Micallef dated 27 February 2017 at [11] and annexed clinical notes.

follow up. She also recommended that DP refer himself to drug and alcohol services.²²

31. Members of the AMHT conducted a home visit with DP on 7 December 2014. DP denied current drug use or psychotic symptoms. As no acute mental health issue was identified during the home visit, DP was discharged from the service. The Discharge Summary records the resolution of paranoid thoughts and auditory hallucinations. DP was encouraged to seek drug and alcohol counselling to assist him in abstaining from illicit substances, and given the details for Bridges Inc, a drug and alcohol counselling service in Blacktown.²³ It was noted that there was a potential risk of relapse if he continued Ice use.²⁴
32. DP attended three appointments with general practitioners at the St Martin's Village Medical Centre in Blacktown in December 2014 to monitor his progress. At his appointment on 29 December 2014, DP was provided with a medical certificate stating that he was fit to return to work.²⁵
33. Between 9 December 2014 and 17 January 2015, DP attended five sessions of drug and alcohol counselling with Cameron Brown, a drug and alcohol counsellor working at Bridges Inc, in Blacktown. During his sessions, Mr Brown sought to teach DP relapse prevention tools and he recorded that, initially, DP appeared motivated to stop using illicit substances. Whilst DP appears to have remained abstinent from Ice for a short time, at his appointment 17 January 2015 he reported using Ice again. He also indicated his intention to return to work on Curtis Island, despite this being a trigger for his Ice use.²⁶

²² Exhibit 1, Tab 105: Statement of Jo-Anne Micallef dated 27 February 2017 at [8]-[14] and annexed clinical notes.

²³ Exhibit 1, Tab 104: Statement of Joseph Varghese dated 20 January 2017 at [6]-[15] and annexed clinical notes; Exhibit 1, Tab 108: Statement of Inyoung Hyde dated 24 February 2017 at [11].

²⁴ Exhibit 1, Tab 108: Statement of Inyoung Hyde dated 24 February 2017 at [15]; Exhibit 1, Tab 104: Statement of Joseph Varghese dated 20 January 2017 at [13]; Exhibit 1, Tab 112: Medical records for DP produced by Embark Building, Mental Health Unit Blacktown Hospital at pp. 5, 8.

²⁵ Exhibit 1, Tab 116: Statement of Dr Mirjahan Mia dated 7 March 2017 at [8]; Exhibit 1, Tab 117: Statement of Dr Leanne Johnson dated 10 October 2016 at [9], [12].

²⁶ Exhibit 1, Tab 113: Statement of Cameron Brown dated 7 June 2016 at [12]-[18].

34. On 27 January 2015, DP attended a general practitioner at the Gladstone Valley Medical Centre in Queensland.²⁷ He requested that a urine drug screen be done and sent to his solicitors (presumably in relation to the charges arising from the Brisbane Airport incident). The drug screen returned a positive result for nicotine only.²⁸
35. According to Ms Huriwai, DP's mental health seemed to improve whilst he was in Sydney, during which she understood he was abstinent from Ice.²⁹

Return to Curtis Island

36. Following his court proceedings in February 2015, DP returned to work on Curtis Island. Shortly thereafter, he reported to Ms Huriwai that he was hearing voices again and Ms Huriwai believed he was expressing paranoid thoughts. At Ms Huriwai's request, AJ again assisted DP to return home to Sydney. DP's employment records indicate that he ceased work on 5 March 2015.³⁰

Further Treatment

37. Following DP's return to Sydney, he told AP that he was hearing voices and expressed suicidal thoughts. AP decided to take DP to his home in Moss Vale. DP then lived with his brother in Moss Vale for various periods between about March and August 2015.³¹
38. On 14 March 2015, DP attended Dr Cudmore, general practitioner, at the Eastbrooke Medical Centre in Bowral. DP described having a depressed mood and thoughts of suicide. Dr Cudmore arrived at a diagnosis of a major depression and prescribed DP a daily dose of 50mg of sertraline, an anti-depressant. A follow up appointment was made for 29 March 2015 to review the effectiveness of the medication and to arrange a referral to a

²⁷ Exhibit 1, Tab 115: Statement of Dr Nishantha Herath Mudiyansele dated 8 March 2017 at [9].

²⁸ Exhibit 1, Tab 115: Statement of Dr Nishantha Herath Mudiyansele dated 8 March 2017 and annexed clinical notes at p. 2-3.

²⁹ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [25].

³⁰ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [26]; Exhibit 1, Tab 126: Bechtel employment records for DP, p. 4.

³¹ Exhibit 1, Tab 9: Statement of AP dated 21 January 2016 at [19]-[20].

psychologist. DP failed to attend this appointment and when followed up, elected not to make a further appointment.³²

39. On 12 June 2015, DP attended Dr Kwong, general practitioner, at the Eastbrooke Medical Centre. AP also attended the appointment. On that occasion, Dr Kwong prepared a Mental Health Care Plan for DP and referred him to Bruce Schubert, psychologist. Dr Kwong also provided DP with a referral to Dr Warwick Williams, psychiatrist. Dr Kwong prescribed DP a daily dose of 2.5mg of olanzapine to treat DP's auditory hallucinations and paranoia.³³
40. DP attended appointments with Mr Schubert on 15 June 2015, 22 June 2015 and 4 August 2015. DP reported a history of heavy use of Ice, delusional thoughts, auditory hallucinations and ongoing paranoia. Dr Schubert was of the view that DP suffered drug induced psychosis. Appointments focused on cognitive behavioural therapy and relapse prevention.³⁴
41. DP attended his first appointment with Dr Williams on 21 July 2015. Dr Williams recorded a history of depressive symptoms and Ice use. Dr Williams noted that DP's psychotic symptoms persisted, despite his reported abstinence from Ice over the last two months. Accordingly, Dr Williams concluded that the appropriate diagnosis was schizophrenia. He prescribed a 40mg dose of ziprasidone, an atypical antipsychotic medication, twice daily. Dr Williams encouraged DP to continue his appointments with Mr Schubert and scheduled a follow up appointment for a fortnight's time.³⁵
42. DP attended further sessions with Dr Williams on 28 July 2015, 4 August 2015 and 11 August 2015. During these sessions

³² Exhibit 1, Tab 120: Statement of Dr Gerard Cudmore dated 26 April 2016 at [18]-[37] and annexed clinical notes.

³³ Exhibit 1, Tab 121: Statement of Dr Richard Kwong dated 20 October 2016 at [8]-[10] and annexed clinical notes.

³⁴ Exhibit 1, Tab 124: Statement of Bruce Schubert dated 9 March 2016 at [8]-[23] and annexed clinical notes

³⁵ Exhibit 1, Tab 123: Statement of Dr Warwick Williams dated 22 March 2016 at [28]-[33] and annexed clinical records.

Dr Williams sought to teach DP behaviour therapy techniques to manage his symptoms. Dr Williams recorded that DP was improving and should remain on ziprasidone long term.³⁶

43. DP returned to live with Ms Huriwai in Quakers Hill. Ms Huriwai noticed that DP had less energy and slept more. He also appeared depressed and tired. Ms Huriwai believed that this was related to DP's medication. DP also expressed concerns regarding his medication and Ms Huriwai formed the view that he may not have been taking his evening dose.³⁷
44. In August 2015, DP and Ms Huriwai visited DP's daughter, Juli-Anna Marsters, in Melbourne. Ms Marsters noticed DP to be very tired and not his usual self. DP also indicated to Ms Marsters that he did not feel like himself.³⁸
45. On 14 September 2015, DP began work as a scaffolder for Transfield Services, working at Port Botany in Sydney. DP's supervisor, Mark Credaro, found DP to be very reliable, quiet and easy going. He did not observe any concerning behaviours or signs of mental health or substance use issues. DP concluded his employment with Transfield Services on 16 January 2016.³⁹
46. Ms Huriwai noticed an improvement in DP's condition after he returned to work, which she believed was because DP's mind was occupied. Whilst she did not consider that he was back to his normal self, they began to spend more time together and talk more often.⁴⁰

Deterioration in Mental Health

47. Over the Christmas period of 2015, Ms Huriwai noticed that DP seemed more depressed. DP mentioned that he wanted to get his finances in order

³⁶ Exhibit 1, Tab 123: Clinical records of Dr Warwick Williams.

³⁷ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [28]-[33].

³⁸ Exhibit 1, Tab 12: Statement of Juli-Anna Marsters dated 29 January 2016 at [12].

³⁹ Exhibit 1, Tab 13: Statement of Mark Credaro dated 14 June 2018 at [4]-[11].

⁴⁰ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [32].

in case anything happened to him, which concerned Ms Huriwai and she wondered whether he might be contemplating suicide.⁴¹

48. Ms Marsters came to Sydney to visit DP in early January. During the visit, DP began to express paranoid thoughts about his work colleagues watching him and said that he was hearing voices again. DP told Ms Huriwai that he had smoked Ice with his work colleagues and apologised to her. Ms Marsters noticed that DP seemed paranoid and spoke about not being able to trust people.⁴²
49. On 11 January 2016, Ms Huriwai took DP to see Dr Christie, general practitioner, at the St Martins Village Medical Centre in Blacktown. DP reported experiencing suicidal thoughts the night before, stating that he had thought about stabbing himself with a knife or jumping off a cliff. Dr Christie was concerned that DP may be suffering from drug induced paranoid ideation, with features of a major depressive illness. He was concerned about DP's behaviour and demeanour and he referred DP to the Emergency Department at Blacktown Hospital for assessment.⁴³
50. DP and Ms Huriwai attended the Emergency Department at Blacktown Hospital that afternoon. DP was seen by a registered nurse in the Psychiatric Emergency Care Centre and then assessed by Dr Yichao Liang, the psychiatric registrar on call.
51. Dr Liang noted a history of drug induced psychosis and paranoia. She also noted that DP had self-reduced his medication and had used a larger than normal amount of Ice the previous Tuesday (5 January 2016). DP told Dr Liang that he experienced paranoid thoughts after using Ice. He also told her that he sometimes suspected people were talking about him, and that some of his friends were posting video clips of him onto Facebook, related to his drug use. Dr Liang recorded that DP recognised that his paranoid thoughts were irrational.

⁴¹ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [35]-[36].

⁴² Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [37]; Exhibit 1, Tab 12: Statement of Juli-Anna Marsters dated 29 January 2016 at [13]-[15].

⁴³ Exhibit 1, Tab 118: Statement of Dr John Christie dated 6 September 2016 at [8]-[15]; Exhibit 1, Tab 119: Patient Notes for DP, St Martins Village Medical Centre, 11 January 2016.

52. Dr Liang noted that DP had experienced suicidal thoughts the day before, but had not acted on them. DP denied any ongoing suicidal ideation or thoughts of harming himself or others.
53. Dr Liang diagnosed “*drug induced psychosis (nil acute risk at this stage)*”. DP was advised to see his general practitioner to resume his regular dose of ziprasidone and was discharged home with a referral to the AMHT. He was also provided with a number for the Mental Health Hotline.⁴⁴
54. The AMHT contacted DP by telephone on 12 January 2016. He denied thoughts of self-harm or harming others and indicated that he had recommenced his recommended dose of ziprasidone. A home visit was scheduled for the following evening.⁴⁵
55. Members of the AMHT attended DP at home on 13 and 15 January 2016. According to Registered Nurse (RN) Hyde, one of the mental health nurses who attended the home visit on 13 January 2016, DP was pleasant and polite at the time of the review. He acknowledged relapsing into Ice use after a period of abstinence and he also described feelings of regret about his relapse. He further indicated that he was still experiencing auditory hallucinations. DP expressed concern regarding his medication, as it made him drowsy and he needed to work due to financial pressures.
56. RN Hyde considered that DP had insight into the cause and effect of his drug use on his mental state and encouraged him to seek referral to a psychiatrist and to review his medication. RN Hyde was of the view that DP required ongoing review, but that his presentation did not give rise to immediate concerns of self-harm.⁴⁶
57. RN Johanna Feeney and RN Michael Gillen conducted another home visit with DP on 15 January 2016. DP reported some improvement in his symptoms, but indicated that he continued to experience some paranoid thoughts. DP reiterated that he was disappointed in himself for using Ice

⁴⁴ Exhibit 1, Tab 111: Blacktown Hospital medical records for DP, pp. 5-6.

⁴⁵ Exhibit 1, Tab 112: Blacktown Mental Health Unit medical records for DP, p. 28.

⁴⁶ Exhibit 1, Tab 108: Statement of Inyoung Hyde dated 24 February 2017 at [4]-[16] and annexed clinical notes.

and intended to abstain. He also agreed to see his general practitioner for a referral to a new psychologist and psychiatrist closer to home. DP indicated that he proposed to visit his brother in Moss Vale over the upcoming weekend and a further home visit was scheduled for Wednesday, 20 January 2016.⁴⁷

58. On 16 January 2016, DP attended work at Port Botany. DP approached Mr Credaro, and informed him that he intended to finish his contract that day. As the project was due for completion the following week, Mr Credaro was aware that other contractors had found work on a new project. Mr Credaro asked DP if he was joining the same project, to which DP replied that he was. Mr Credaro formed the view that DP was excited about his new role.⁴⁸
59. On Sunday, 17 January 2016, Ms Huriwai and Tahlia Huriwai travelled to Port Macquarie for a planned holiday. Ms Huriwai had invited DP, however he had indicated that he did not want to go. Ms Huriwai observed DP to be agitated and pacing, as though waiting for them to leave.
60. On Monday, 18 January 2016, Ms Huriwai spoke to DP on the phone. He told her that he had finished work earlier than expected and they had general conversation.⁴⁹ That was the last time Ms Huriwai spoke to DP.

The Events of 19 January 2016

61. On the morning of Tuesday, 19 January 2016, DP drove his white Holden Commodore sedan to the Quakers Hill Police Station on Highfield Street in Quakers Hill, arriving at shortly after 10.30am. At that time, Andrew Welsh, a member of the public, was sitting in the foyer waiting for a colleague who was speaking with police. A 12-year-old boy was just outside the front doors of the police station, waiting for his mother.

⁴⁷ Exhibit 1, Tab 109: Statement of Johanna Feeney dated 24 February 2017 at [5]-[23] and annexed clinical notes.

⁴⁸ Exhibit 1, Tab 13: Statement of Mark Credaro dated 14 June 2018 at [11].

⁴⁹ Exhibit 1, Tab 10: Statement of Lisa Huriwai dated 3 February 2016 at [46].

62. As at 19 January 2016, Quakers Hill Police Station did not have CCTV cameras monitoring the foyer area. Accordingly, I am reliant on witness accounts to determine what occurred that day.

Arrival of DP

63. At the time DP arrived at Quakers Hill Police Station, Sergeant Jennifer Hilder was working at the station, carrying out duties as the Education Development Officer for the Local Area Command. Sergeant Hilder was in her office (**the EDO Office**), off to the left side of the foyer as one enters the front doors. Sergeant Craig Weston and Senior Constable Natalie Stewart were present with Sergeant Hilder in the EDO Office.
64. Senior Constable Stewart saw the Commodore come to a stop in the "Police Only" parking area through the window of the EDO Office and commented, "*Who is this? That's not an unmarked police car*".⁵⁰ Sergeant Hilder saw DP exit the driver's side door and noticed that he had a knife in his right hand. He paused beside the vehicle for several seconds and appeared to be locking the doors.⁵¹ Sergeant Hilder, Sergeant Weston and Senior Constable Stewart all observed DP to walk from the vehicle towards the front doors of the police station.
65. Sergeant Hilder gave evidence that she yelled, "*He's got a knife*" and moved towards the doorway of the EDO Office. Sergeant Hilder told Senior Constable Stewart to go and alert the other officers in the station that DP had a knife. Sergeant Hilder was not wearing any appointments as she was on restricted duties.⁵²
66. Senior Constable Stewart saw that DP had a large knife, similar to a carving knife. She used her swipe card to access the secure area of the police station and moved towards the station constables' desks. As she did this, she noticed civilians present in the foyer area. Senior Constable Stewart saw Constable Antoinette Holden and Constable Mustafa Amiri, and said to them, "*There's a guy coming in with a knife*". Senior Constable

⁵⁰ TN 5/11/2019, 121:30-34.

⁵¹ TN 5/11/2019, 104:14.

⁵² TN 5/11/2019, 104:38-105:16.

Stewart then alerted her supervisor, Leading Senior Constable Scott Whale.⁵³ Senior Constable Stewart was also on restricted duties and not wearing any appointments.⁵⁴

67. Sergeant Weston heard Sergeant Hilder say, "*He's got a knife*" and moved into the foyer. At this point, the front glass doors opened and DP walked into the foyer of the police station. Sergeant Weston gave evidence that DP was holding the knife in his right hand, about waist high, pointing downwards. He observed DP to walk towards the counter.⁵⁵
68. Sergeant Weston gave evidence that DP looked at him, and they made eye contact. At that point, DP was one to two metres inside the front doors. Sergeant Weston called out, "*Drop the knife*" and DP replied, "*No*". Sergeant Weston then drew his firearm and held it in the cover position.⁵⁶
69. As DP continued to move towards the counter, Sergeant Weston yelled, "*Drop the knife. Police*", and DP replied, "*No, shoot me*". Sergeant Weston also gave evidence that DP said, "*You know me*"; however, Sergeant Weston had never met DP before.⁵⁷ Sergeant Weston observed DP to be calm, not yelling or screaming. He did not appear to be jittery or agitated. He did not appear to Sergeant Weston to be drug-affected.⁵⁸ Sergeant Weston heard Leading Senior Constable Whale calling on DP to drop the knife and could see Leading Senior Constable Whale and Constable Holden behind the counter with their firearms drawn.⁵⁹
70. Sergeant Hilder gave evidence that DP was walking in a casual manner and seemed calm.⁶⁰ Andrew Welsh described DP's demeanour as "a bit dazed, a bit ... glassy-eyed" and recalled that he was moving "fairly slowly".⁶¹

⁵³ TN 5/11/2019, 122:12-125:13.

⁵⁴ TN 5/11/2019, 120:3-7.

⁵⁵ TN 4/11/2019, 30:20-49.

⁵⁶ TN 4/11/2019, 32:16-48.

⁵⁷ TN 4/11/2019, 33:2-34:10.

⁵⁸ TN 4/11/2019, 33:13-18.

⁵⁹ TN 4/11/2019, 36:5-32.

⁶⁰ TN 5/11/2019, 106:16-17.

⁶¹ TN 5/11/2019, 149:42-45.

71. Senior Constable Stewart heard Sergeant Weston yelling, “*Drop the knife drop the knife*” and saw Leading Senior Constable Whale run from his office to the front counter. She heard him say, “*Just drop it, just drop it*”. Senior Constable Stewart then moved backwards, towards the desks and computers.⁶²
72. Leading Senior Constable Whale gave evidence that he moved towards the front counter and saw DP in the middle of the foyer with a large knife in his right hand. He heard Sergeant Weston call out “*Drop the knife*”. Leading Senior Constable Whale drew his firearm, pointed it at DP and also yelled “*Drop the knife*”. He observed DP to have a blank expression and to continue moving forward towards the counter.
73. Constable Amiri was in the desk area of the station and heard Senior Constable Stewart say “*There’s a man coming with a knife. I can’t do anything, I’m restricted*”. He looked into the foyer and saw DP holding a knife in his right hand at about waist height. He observed DP to walk towards the front counter and said, “*Mate, drop the knife*”. He described DP as having a “blank look, like not paying attention”. Constable Amiri was positioned behind a partition. From this position, he could hear noises, but could not see anyone else in the foyer.⁶³
74. Constable Holden was walking towards the front counter and heard Senior Constable Stewart say, “*I can’t help, I’m restricted*”. She saw DP in the foyer and heard a woman say, “*He’s got a knife*”. This caused Senior Constable Holden to notice that DP was holding a knife near his hip. Senior Constable Holden gave evidence that DP was stationary when she first saw him.⁶⁴
75. Constable Holden observed Leading Senior Constable Whale come out of his office and move quickly towards the front counter. She heard Leading Senior Constable Whale call out, “*Get out of the station*” and “*Put the knife down*”. She also saw him draw his firearm. Constable Holden then drew

⁶² TN 5/11/2019, 125:9-126:33.

⁶³ TN 5/11/2019, 136:2-137:23.

⁶⁴ TN 5/11/2019, 89:46-91:40.

her firearm, as she knew there were civilians in the foyer and was concerned for their safety.⁶⁵

DP moves towards Sergeant Weston

76. Sergeant Weston gave evidence that DP paused for a “split second” near the counter before turning to his left to face Sergeant Weston. Sergeant Weston raised his firearm and pointed it towards DP. He aimed for the centre body mass, being the area between the shoulders and abdomen. Sergeant Weston estimated that DP was about three metres away from him at this point.⁶⁶
77. Sergeant Weston continued to call on DP to drop the knife. Sergeant Weston gave evidence that DP continued to move towards him, so he took a step back.⁶⁷ DP continued to advance. Sergeant Weston gave evidence that DP then raised the knife up to about shoulder or head height, with the blade pointing downwards. He then stepped forward with his left foot. Sergeant Weston discharged one round from his firearm and saw it hit DP in the upper chest area. Sergeant Weston saw DP fall backwards to the ground, at which point Sergeant Weston moved his firearm to cover DP, in case he got back up.⁶⁸
78. Sergeant Hilder gave evidence that DP walked in a slow pace towards the counter. About one to two metres from the counter, DP turned in the direction of Sergeant Weston, moving in a continuous arc. She was standing behind Sergeant Weston, slightly to his right in the doorway to the EDO Office. She heard Sergeant Weston continue to say, “*Put the knife down*”.⁶⁹
79. Sergeant Hilder further gave evidence that DP was mumbling and she thought that she heard the words “*shoot*” and, after a brief pause, “*me*”. Sergeant Hilder described DP taking another couple of steps towards Sergeant Weston, calmly and slowly, “like he was on a mission to walk

⁶⁵ TN 5/11/2019, 92:38-93:24.

⁶⁶ TN 4/11/2019, 34:14-39; 36:42-44.

⁶⁷ TN 4/11/2019, 37:12-35.

⁶⁸ TN 4/11/2019, 38:24-39:29.

⁶⁹ TN 5/11/2019, 106:29-46.

somewhere”. Sergeant Hilder gave evidence that, without warning, DP lifted his right arm up near the top of his head and started to bring it down towards Sergeant Weston. DP was still holding the knife and was within one to two metres of Sergeant Weston at that point. Sergeant Hilder gave evidence that DP did this quickly, in a rushed motion. Sergeant Hilder then saw Sergeant Weston discharge his weapon.⁷⁰

80. Leading Senior Constable Whale gave evidence that he saw DP pause for between two and five seconds about a metre from the counter. Leading Senior Constable Whale continued to say “*Put the knife down*”.⁷¹ Leading Senior Constable Whale saw DP turn to his left, in the direction of Sergeant Weston, and heard DP say “*Shoot me now*”.⁷² DP then moved at a speed that Leading Senior Constable Whale described as “the beginning of hurried” towards Sergeant Weston. Leading Senior Constable Whale gave evidence that he saw DP raise his right arm with the knife protruding from his hand. Leading Senior Constable Whale was about to discharge his firearm when he heard a shot fired. He observed that DP “reeled for a second” and then fell to the floor.⁷³
81. Senior Constable Stewart saw DP move towards the front counter and then turn left, in a “fluid motion”, towards Sergeant Weston. Senior Constable Stewart heard Sergeant Weston and Leading Senior Constable Whale call on DP to drop the knife about four times each. She described DP as being “very focused” and “deliberate in his movements”. As he moved towards Sergeant Weston, Senior Constable Stewart saw DP start to raise his right hand and bring the knife up to his waist.
82. As DP moved towards Sergeant Weston, Senior Constable Stewart’s view of him was blocked by Leading Senior Constable Whale. When she last

⁷⁰ TN 5/11/2019, 108:14-109:38.

⁷¹ TN 4/11/2019, 66:22-27; 68:32-34.

⁷² TN 4/11/2019, 67:30-38.

⁷³ TN 4/11/2019, 69:45-71:46.

saw DP, he had raised the knife up to his shoulder and had started to walk a little faster. She couldn't see DP at the time she heard the shot.⁷⁴

83. Constable Holden gave evidence that, due to her position behind the counter, she couldn't see anyone to the right of DP. She heard a shot fired within seconds of drawing her own firearm.⁷⁵ Constable Amiri gave evidence that he moved down the hallway towards the door leading from the secure portion of the station into the foyer. He lost sight of DP at this time. He heard the gunshot before he reached the door.⁷⁶
84. Mr Welsh remained in his chair near the EDO Office during the incident. He gave evidence that Sergeant Weston had his firearm drawn, as did two officers behind the counter. He heard someone ask, "*Are you alright mate?*" and heard numerous officers yelling, "*Put the knife down*". Mr Welsh gave evidence that DP said, "*I'm not putting the knife down*".⁷⁷
85. Mr Welsh further stated in evidence that DP walked towards the front counter and then turned to his left, facing Sergeant Weston. Mr Welsh saw DP raise the knife above his head, holding the knife in a downwards motion. Mr Welsh described this as a "stabbing sort of motion".⁷⁸
86. Mr Welsh observed DP to be "very agitated". Mr Welsh gave evidence that as DP got within three to four feet of Sergeant Weston, he raised the knife further above his head and "lunged" towards Sergeant Weston. He then heard a gunshot.⁷⁹
87. Mr Welsh further gave evidence that Sergeant Weston "gave every chance for [DP] to put the knife down" and he "couldn't fathom how long [Sergeant Weston] waited" before discharging his weapon.⁸⁰
88. The evidence given before me establishes that the entire incident occurred very quickly. It appears that the time from when DP entered the foyer of

⁷⁴ TN 5/11/2019, 129:20-130:7.

⁷⁵ TN 5/11/2019, 96:7-29.

⁷⁶ TN 5/11/2019, 140:13-44.

⁷⁷ TN 5/11/2019, 151:28-153:34.

⁷⁸ TN 5/11/2019, 154:15-47.

⁷⁹ TN 5/11/2019, 155:26-156:21.

⁸⁰ TN 5/11/2019, 156:4 and 19:6-7.

Quakers Hill Police Station until the time Sergeant Weston discharged his firearm was about 20 – 30 seconds.⁸¹

Aftermath

89. Constable Amiri, who is also a registered nurse, kicked the knife away from DP and began to render first aid. He applied pressure to DP's wound and encouraged him to keep breathing. When DP stopped breathing, Constable Amiri and Leading Senior Constable Whale, who had previously worked as an ambulance officer, commenced CPR. Other officers assisted with CPR until the ambulance officers arrived.⁸²
90. An ambulance was called at 10:34am and the first ambulance officers arrived on scene at 10:42am. Following their arrival, the ambulance officers took over CPR.⁸³ A CareFlight helicopter containing two doctors and a further paramedic arrived at the scene at about 11:04am. Despite the considerable efforts of all those who assisted DP, he was pronounced deceased at 11:17am.⁸⁴
91. A critical incident was declared and the relevant protocols enacted.⁸⁵

Post-mortem examination and toxicological analysis

92. Dr Rianie van Vuuren, forensic pathologist, conducted the post-mortem examination on DP on 20 January 2016. Dr van Vuuren concluded that the direct cause of death was a gunshot wound to the chest, with no antecedent causes identified.⁸⁶
93. Toxicological analysis of DP's femoral blood was performed and it returned a negative result for alcohol, a result of 0.12mg/L for methylamphetamine and less than 0.2mg/L for amphetamine (a metabolite of methylamphetamine).⁸⁷ DP's prescribed medication, ziprasidone, was

⁸¹ TN 5/11/2019, 111:46-112:2; 129:2;

⁸² TN 4/11/2019, 81:35-86:26; 5/11/2019, 99:14-22; 5/11/2019, 141:37-142:26.

⁸³ Exhibit 1, Tab 49: NSW Ambulance Electronic Medical Record.

⁸⁴ Exhibit 1, Tab 52: Statement of Dr Persia Waldock at [5]-[10].

⁸⁵ Exhibit 1, Tab 81: Statement of Detective Sergeant Pfister dated 7 March 2016 at [8].

⁸⁶ Exhibit 1, Tab 5: Autopsy Report for the Coroner dated 11 August 2016 at p. 2.

⁸⁷ Exhibit 1, Tab 4: Certificate of Analysis dated 8 September 2016.

not detected. Testing for olanzapine, which was found in DP's house, was also negative.⁸⁸

94. Dr van Vuuren assessed the methylamphetamine level detected in DP's blood sample as being in the potentially toxic to lethal range.⁸⁹

Search of DP's home

95. As part of the critical incident investigation, a warrant was obtained to search DP's home in Quakers Hill. A number of officers from the Critical Incident Investigation Team and officers from the Forensic Services Group attended DP's home in Quakers Hill at around 5:30pm on 19 January 2016 for this purpose.⁹⁰
96. During the search of the premises, officers located a glass ice pipe and a small resealable satchel containing clear crystals. Subsequent testing confirmed the clear crystals to be methylamphetamine. Police also located various medications including Zeldox (ziprasidone), Eleva (sertraline), olanzapine and an antibiotic.⁹¹
97. During the search of DP's home, it was noticed that there was a knife missing from the Scanpan knife block in the kitchen.⁹² Crime scene examinations carried out at Quakers Hill Police Station determined that the knife carried by DP was of the same brand.⁹³ It appears that DP took the knife from his knife block before attending Quakers Hill Police Station.

ISSUES EXPLORED AT THE INQUEST

98. Prior to the inquest, a list of issues to be explored was circulated to the interested parties. I turn now to consider each of these issues.

⁸⁸ Exhibit 1, Tab 4A: Certificate of Analysis dated 20 August 2019.

⁸⁹ Exhibit 1, Tab 5: Autopsy Report for the Coroner dated 11 August 2016 at p. 3.

⁹⁰ Exhibit 1, Tab 81: Statement of Detective Sergeant Pfister dated 7 March 2016 at [24].

⁹¹ Exhibit 1, Tab 81: Statement of Detective Sergeant Pfister dated 7 March 2016 at [25]; Exhibit 1, Tab 82: Certificate of Analysis dated 15 February 2016.

⁹² Exhibit 1, Tab 81: Statement of Detective Sergeant Pfister dated 7 March 2016 at [24].

⁹³ Exhibit 1, Tab 89: Statement of Senior Constable Hulme dated 16 October 2016 at [21].

Issue 1: The adequacy of mental health care and treatment received by DP between 11 and 19 January 2016

99. Issue 1 and its sub-parts involved consideration of the adequacy of the mental health care and treatment received by DP between 11 and 19 January 2016. It was on 11 January 2016 that Ms Huriwai took DP to see Dr Christie, general practitioner, and then on his advice, took DP to the Emergency Department at Blacktown Hospital. This led to DP coming under the care of the AMHT.
100. As part of the coronial investigation, comprehensive statements were obtained from those involved in the care and treatment of DP over this period. Clinical records for DP from the Blacktown Hospital, the AMHT and St Martin's Village Medical Centre were also obtained.
101. An expert opinion was sought from Dr Kerri Eagle, a forensic psychiatrist with extensive experience working in the public mental health system. She is also a conjoint lecturer in mental health law at the University of New South Wales.⁹⁴ Dr Eagle reviewed the available treating records and statements from relevant clinicians and others, and provided a report dated 6 September 2019. She considered DP's background and prior psychiatric history, but particularly focused on DP's likely psychiatric diagnosis and the care he received from 11 January 2016 onwards. Dr Eagle also gave oral evidence during the inquest.

Mental health diagnosis

102. Dr Eagle formed the view that DP suffered from either a chronic psychotic illness, such as schizophrenia or a substance induced psychotic disorder. In coming to his view, she acknowledged the limitations of a retrospective psychiatric assessment, including the difficulty in arriving at a firm diagnosis without the benefit of a clinical assessment of DP in person.⁹⁵
103. Dr Eagle expanded on this conclusion in her evidence, noting that it is difficult to distinguish between schizophrenia and a substance induced

⁹⁴ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019.

⁹⁵ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [96], [101]; TN 7/11/2019, 20923-30.

psychotic disorder when a person is using methylamphetamine. This is because methylamphetamine use can trigger a psychotic illness in a person who does not necessarily have a chronic psychotic disorder. In DP's case, Dr Eagle expressed the view that the fact that DP had only shown psychotic symptoms later in life suggested "he may have had more of a substance induced psychotic disorder".⁹⁶

104. However, Dr Eagle acknowledged that Dr Williams, who did have the chance to assess DP in person, formed the view that DP had features that were consistent with schizophrenia. She noted that, whilst it is unusual for someone to develop a psychotic illness later in life (DP was 44 years old when he saw Dr Williams), methylamphetamine use can trigger the onset of a psychotic illness if the person is psychologically or biologically vulnerable to the onset of that illness.⁹⁷
105. Dr Eagle gave evidence that DP's use of methylamphetamine was "extremely significant" in relation to his mental health condition. She noted that if DP was suffering from a substance induced psychotic disorder, it is likely that his psychotic symptoms were almost entirely the result of his methamphetamine use. Alternatively, if DP was suffering from a chronic psychotic disorder, such as schizophrenia, methylamphetamine is known to precipitate relapse and exacerbate symptoms.⁹⁸
106. Dr Eagle also identified a possible comorbid depressive illness. However, she gave evidence that it can be difficult to diagnose a mood disorder in a person who is using methylamphetamine, as the substance itself can both cause and mask mood disturbances.⁹⁹
107. Dr Eagle noted in her report that she considered DP to also have a severe stimulant use disorder, noting his difficulty controlling his

⁹⁶ TN 7/11/2019, 209:28-46.

⁹⁷ TN 7/11/2019, 210:1-10.

⁹⁸ TN 7/11/2019, 211:13-24.

⁹⁹ TN 7/11/2019, 210:30-43.

methylamphetamine use, and the impact on his functioning, relationships and employment.¹⁰⁰

Mental health care and treatment

108. Dr Eagle was not critical in her report of the care and treatment DP received for his mental health condition in the period 11 January 2016 to 19 January 2016.¹⁰¹
109. As to DP's management at Blacktown Hospital on 11 January 2016, Dr Eagle concluded that DP was properly assessed and that his risks and treatment needs were identified.¹⁰² Dr Eagle's attention was drawn to concerns raised by Ms Huriwai in relation to her not being included in the assessment of DP and Dr Eagle was specifically asked to consider whether collateral information should have been sought from Ms Huriwai. In this regard, Dr Eagle noted that the treating team were aware that DP had been brought in by Ms Huriwai and would return home with her. Overall, whilst Dr Eagle indicated that it is recommended that primary care providers are involved in treatment planning, Dr Eagle concluded that there did not appear to be any specific deficiency in DP's care and treatment arising from this concern.¹⁰³
110. Dr Eagle gave specific consideration to whether DP could have been considered to be a mentally ill person under the *Mental Health Act 2007* (NSW) (**the MH Act**) at the time he was reviewed by Dr Liang on 11 January 2020, so that he might have been involuntarily admitted for inpatient treatment. Dr Eagle concluded that DP could have been considered to be a mentally ill person, as he was describing delusions and hallucinations, and his illness was contributing to a potential risk of self-harm.¹⁰⁴

¹⁰⁰ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [100].

¹⁰¹ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [101.2].

¹⁰² TN 7/11/2019, 214:30-36.

¹⁰³ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [23], [101.2].

¹⁰⁴ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [101.3].

111. However, Dr Eagle referred to the requirement under the MH Act for Dr Liang to consider whether DP could be safely and effectively cared for through a less restrictive form of treatment (as compared to involuntary admission) and concluded that it was reasonable for Dr Liang to discharge DP into the community with follow up care. In coming to this view, Dr Eagle placed emphasis on DP's prior engagement with community-based treatment, his insight into the nature of his illness and his treatment, the availability of support in the form of Ms Huriwai, and the availability of treatment and follow up in the community.¹⁰⁵
112. Dr Eagle considered that the Blacktown AMHT provided care of a high standard, including assertive follow up in the community. Dr Eagle noted that the AMHT conducted appropriate and timely assessments of DP's mental state and treatment needs, including liaising with Ms Huriwai and encouraging DP to engage in ongoing psychiatric care. Dr Eagle further noted that the AMHT also counselled and educated DP regarding his use of illicit substances.¹⁰⁶
113. Dr Eagle gave evidence that it is extremely difficult for clinicians and family members to predict whether a person will attempt or go on to complete suicide, and that expressions of suicidal ideation are an unreliable indicator.¹⁰⁷
114. Dr Eagle noted that the clinical records of the AMHT appeared to indicate that DP was improving,¹⁰⁸ and that when DP was seen on 15 January 2016, there was an appropriate assessment of relevant risk factors. She accepted that there was not any particular indication on 15 January 2016 (the last time that DP was seen by the AMHT) that he was likely to act as he did some four days later.¹⁰⁹
115. In considering this issue, I have been assisted by the submissions of counsel assisting and of Mr Bradley, who appeared for the Western

¹⁰⁵ TN 7/11/2019, 215:18-29.

¹⁰⁶ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [101.2].

¹⁰⁷ TN 7/11/2019, 212:50-213:26.

¹⁰⁸ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [101.3].

¹⁰⁹ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [101.2].

Sydney Local Health District. Counsel assisting submitted that DP appeared to be engaging with the AMHT and that the observations of the AMHT clinicians that DP was improving reflected observations made by DP's family.

116. Mr Bradley submitted that the discharge plan for DP developed by Dr Liang was followed and highlighted the proactive and assertive follow up that DP received in the community. Mr Bradley submitted that there was evidence of DP's improvement and noted that the AMHT had plans for further follow up on 20 January 2020. Mr Bradley submitted that I would accept the evidence of Dr Eagle, that the care provided to DP was adequate and appropriate, and that the AMHT in particular provided a high standard of care.
117. Counsel assisting submitted that it would be open to me to find that the care and treatment provided to DP was both adequate and appropriate. I found Dr Eagle's evidence on this issue to be of great assistance. I find that the care and treatment DP received for his mental health condition in the period 11 January 2016 to 19 January 2016 was adequate and appropriate and commend the AMHT for their assertive follow up of DP in the community.

Issues 2 – 4: The manner of DP's death

118. Issues 2 to 4 involved a consideration of the manner of DP's death, including the impact of his mental health condition and his use of methylamphetamine on his cognitive function and his conduct and behaviour at Quakers Hill Police Station on 19 January 2020. In considering these issues, I have been assisted by the evidence of Dr Eagle, and also an expert report prepared by Dr Jonathan Brett, clinical toxicologist, addressing the impact of the substances detected in DP's post-mortem blood sample.
119. Dr Brett concluded that, on the available evidence, DP was experiencing a methamphetamine use disorder as at 19 January 2016. Further, based on a combination of witness observations of DP and the level of

methylamphetamine and amphetamine detected in DP's blood, Dr Brett concluded that DP was suffering from methamphetamine intoxication at the time of his death. Dr Brett noted in his report that in a person with a pre-existing psychosis or major depression, such intoxication can cause severe cognitive impairments.¹¹⁰

120. Dr Brett noted that it is difficult to determine when DP would last have consumed methylamphetamine, due to the effects of post-mortem redistribution. However, taking into account the methylamphetamine and amphetamine concentrations detected in DP's blood, Dr Brett opined that it is likely that DP had used methamphetamine within the hours leading up to his death.¹¹¹
121. Dr Brett also had regard to the toxicological analysis results, which indicated that ziprasidone was not detected in DP's blood. Dr Brett indicated that this result meant that DP had not taken ziprasidone for a minimum 33 hours prior to his death. Consequently, Dr Brett concluded that it was unlikely that ziprasidone was exerting any anti-psychotic effect at the time of DP's death.¹¹²
122. Dr Eagle gave evidence that, at the time DP entered Quakers Hill Police Station, his judgment would have been impaired both by symptoms of psychosis and the effects of methylamphetamine. In coming to this view, Dr Eagle noted in her report that psychosis and methylamphetamine intoxication can result in significant disturbance of judgment, reason and mood.¹¹³
123. In evidence, Dr Eagle expressed the view that DP was potentially experiencing auditory hallucinations and paranoia, causing an emotional response of distress or fear. Dr Eagle further gave evidence that the methylamphetamine consumed by DP would have heightened his sensory

¹¹⁰ Exhibit 1, Tab 130: Report of Dr Jonathan Brett dated 28 August 2019 at p. 6-7.

¹¹¹ Exhibit 1, Tab 130: Report of Dr Jonathan Brett dated 28 August 2019 at p. 7-8.

¹¹² Exhibit 1, Tab 130: Report of Dr Jonathan Brett dated 28 August 2019 at p. 5.

¹¹³ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [101.4]-[101.5].

experiences. She explained that methylamphetamine can cause feeling of euphoria, but also of fear and agitation.¹¹⁴

124. In light of the evidence of DP's previous expressions of suicidal ideation (see above at [22], [27], [36] and [37]), Dr Eagle expressed a view that this indicated that, as at 16 January 2016, DP had been struggling with his mental state and experiences and that he had been contemplating suicide, at least intermittently, for a period of time in the lead up to his death.¹¹⁵
125. Dr Eagle acknowledged DP's prior references to wanting police to shoot him and wanting to shoot himself with a police gun. She expressed a view that DP had considered that, if he was going to end his life, this would be the way that he would do it.¹¹⁶
126. Dr Eagle concluded that DP most likely took the knife to the Quakers Hill Police Station on 19 January 2016 and lunged at Sergeant Weston with an intention of provoking police into shooting him. Dr Eagle further concluded that DP's judgment was likely significantly impaired by methylamphetamine intoxication and possible psychotic symptoms. Dr Eagle considered that DP, even in his disordered state, had some awareness of his actions and had formed an immediate intention to end his life in this way. She commented that this reflected DP's previous thoughts of ending his life by being shot by police.¹¹⁷
127. I have had regard to the totality of the evidence of the eyewitnesses, the toxicological analysis results, and the expert opinions of Dr Eagle and Dr Brett as to DP's actions and mental state on 16 January 2020. I have also been assisted by the submissions of counsel assisting and Mr Haverfield, who appeared for the Commissioner, on this issue, which I summarise below.
128. Counsel assisting submitted that DP had demonstrated some forethought of ending his life in a way that involved police. Counsel assisting further

¹¹⁴ TN 7/11/2019, 216:11-28.

¹¹⁵ TN 7/11/2019, 212:31-34.

¹¹⁶ TN 7/11/2019, 212:40-44.

¹¹⁷ Exhibit 1, Tab 131: Report of Dr Kerri Eagle dated 6 September 2019 at [101.6].

submitted that, whilst the evidence indicates that DP attended Quakers Hill Police Station with the intention of provoking police to shoot him, this evidence must be considered in light of DP's methylamphetamine intoxication, his symptoms of psychosis and the fact that DP had not taken his prescribed anti-psychotic medication in at least 33 hours. Accordingly, counsel assisting submitted that I would find that DP's thought processes and judgment were significantly impaired.

129. Mr Haverfield submitted that DP appeared to be aware of police training and was determined to take his life by provoking police to shoot him. In this regard, Mr Haverfield emphasised the evidence of witnesses to the effect that DP said, "*shoot me*" and "*shoot me now*".

130. On the basis of the evidence it is clear that DP attended Quakers Hill Police Station in possession of a knife and lunged at Sergeant Weston with the intention of provoking police into shooting him. I find that DP's judgment was significantly impaired at that time by the effects of methylamphetamine intoxication and possible psychotic symptoms, and that these factors contributed to his behaviour.

Issue 5: Consideration of police actions on 19 January 2016 as a reasonable and proportionate response to the circumstances

131. Issue 5 involved consideration of the actions of the police officers present at Quakers Hill Police Station on 19 January 2016. In particular, the inquest considered whether Sergeant Weston's discharge of his firearm was a reasonable and proportionate response to the circumstances and DP's actions.

132. The Court has had the benefit of the transcripts of the directed interviews and statements from the officers present on 16 January 2016, and oral evidence from Sergeant Weston, Sergeant Hilder, Leading Senior Constable Whale, Senior Constable Stewart, Constable Holden and Constable Amiri. Statements were also obtained from civilian witnesses present at Quakers Hill Police Station and Mr Welsh, the member of the public sitting in the foyer at the time of the incident, gave oral evidence.

133. Additionally, Sergeant Glen Knox, a senior Operational Safety Instructor in the Weapons and Tactics Policy and Review Unit (**WTPR**) of the NSW Police Force, reviewed the circumstances of DP death and the actions of the police officers present on 16 January 2016. Sergeant Knox provided a report and gave evidence in the proceedings. In preparing his report, Sergeant Knox considered the Tactical Options Model employed by the NSW Police Force, the training provided to officers regarding firearm use and the NSW Police Force policy in respect of discharging firearms (as contained in the Police Handbook).
134. Sergeant Weston gave evidence that, at the time he discharged his firearm, he was of the view that it was necessary to defend himself and others from the possibility of being killed or seriously injured. He perceived a risk to himself, Sergeant Hilder and the member of the public in the foyer (Mr Welsh). Sergeant Weston gave evidence that, due to the enclosed space and the proximity of DP, who was advancing with a knife, he did not consider that it was appropriate to use a baton, OC spray or a Taser.¹¹⁸
135. Sergeant Weston stated that he aimed for DP's centre body mass, as this was the training he had received and he understood that this was because the centre body mass is the biggest target.¹¹⁹ Sergeant Weston considered that he did not have the option of disengaging and retreating into the EDO Office as DP posed a threat to Mr Welsh. Sergeant Weston also gave evidence that he would not have locked DP out of the police station, as this would have posed a risk to members of the public outside.¹²⁰
136. Sergeant Knox considered the various tactical options available to Sergeant Weston at the time he discharged his firearm and concluded that he was justified in discharging his firearm, there being an immediate risk to

¹¹⁸ TN 4/11/2019, 42:14-40.

¹¹⁹ TN 4/11/2019, 43:7-19.

¹²⁰ TN 4/11/2019, 50:48-50 and 53:2-6.

his life and the life of others present and there being no other way of preventing or neutralising the risk.¹²¹

137. Sergeant Knox noted that Sergeant Weston used a number of tactical options to attempt to gain control of the situation and have DP put down his knife. These included officer presence and communication. Despite use of these tactical options, DP did not comply with his direction (or those of other officers present) to drop the knife..¹²² Sergeant Knox also noted that, whilst Sergeant Weston did not attempt to use weapon-less control or a baton, these would not have been appropriate tactical options for the situation confronting Sergeant Weston.¹²³ Sergeant Knox confirmed this in his oral evidence.¹²⁴
138. In oral evidence, Sergeant Knox was asked whether there may have been some other tactical options that Sergeant Weston could or should have employed, including the use of OC spray, the deployment of a Taser or shooting at a different part of DP's body. Sergeant Knox gave evidence that, in relation to the use of OC spray, officers are trained to "spray, move, assess". Sergeant Weston was in close proximity to the wall of the EDO Office and therefore had little space to move back. Sergeant Knox also indicated that there was a risk that the use of OC spray would contaminate Sergeant Weston himself and Mr Welsh, and noted that its effects can differ between people (and, as such, may not have irritated or incapacitated DP).¹²⁵ Sergeant Knox gave evidence that he would not have used OC spray in the circumstances and that he would not instruct another officer to use OC spray in similar circumstances.¹²⁶
139. Sergeant Knox gave evidence that for a Taser to achieve neuromuscular incapacitation, both probes need to connect and that it is most effective when the probes "split the belt line". Sergeant Knox explained that this can be difficult when a person is moving and/or wearing loose clothing.

¹²¹ Exhibit 1, Tab 94: Report of Sergeant Knox dated 24 August 2016 at [61]-[64].

¹²² Exhibit 1, Tab 94: Report of Sergeant Knox dated 24 August 2016 at [60].

¹²³ Exhibit 1, Tab 94: Report of Sergeant Knox dated 24 August 2016 at [42].

¹²⁴ TN 6/11/2019, 176:34-40..

¹²⁵ TN 6/11/2019, 173:10-18.

¹²⁶ TN 6/11/2019, 173:10-174:26.

Sergeant Knox also indicated that, if the Taser did not incapacitate DP, Sergeant Weston was unlikely to have had sufficient time to transition to another tactical option.¹²⁷ Sergeant Knox gave evidence that, at the time DP rushed at Sergeant Weston, DP was likely too close to Sergeant Weston for the Taser to be effective and he did not consider that the use of a Taser would have been a wise choice in the circumstances.¹²⁸

140. Sergeant Knox gave evidence that officers are trained to shoot at the centre body mass for a number of reasons, including that it is a larger target than a person's extremities (thereby minimising the risk of missing the person and injuring a bystander), the difficulty of taking a well-aimed shot at a person's limb (particularly if they are moving), and because injuring a limb or other part of the body may not have the result of stopping the immediate threat.¹²⁹
141. Acknowledging that it appears to be a common-sense position, counsel assisting asked Sergeant Knox whether he was aware of any studies or research done to support the proposition that that officers were less likely to miss their target when aiming for centre body mass (as opposed to a smaller body part). Sergeant Knox indicated that he was not aware of any literature, but that this was a worldwide practice.¹³⁰ Sergeant Knox noted that injuries to a person's arms or legs can still be lethal.¹³¹
142. Sergeant Knox was also asked to consider whether it would have been appropriate to lock the doors of the police station when Sergeant Hilder first saw DP with the knife near his vehicle, so as to prevent DP entering the foyer. Sergeant Knox was firmly of the view that it would not have been appropriate to leave DP, armed with the knife, outside with access to the general public.¹³²

¹²⁷ TN 6/11/2019, 172:5-18 and 175:47-48.

¹²⁸ TN 6/11/2019, 176:4-32.

¹²⁹ TN 6/11/2019, 180:21-181:11; Exhibit 1, Tab 94: Report of Sergeant Knox dated 24 August 2016 at [32]-[34].

¹³⁰ TN 6/11/2019, 180:21-23 and 181:13-21.

¹³¹ TN 6/11/2019, 186:9-11.

¹³² TN 6/11/2019, 185:5-17 and 186:21-24.

143. Sergeant Knox concluded that Sergeant Weston discharged his firearm as a last resort at extremely close range to protect himself from serious injury or death. Sergeant Knox further concluded that Sergeant Weston's actions were consistent with NSW Police Force policy, procedure and training practice guidelines.¹³³
144. In relation to this issue, counsel assisting submitted that, considering all the circumstances, the police response was a reasonable and proportionate response to the actions of DP and the threat that he posed. Counsel assisting submitted that, whilst Sergeant Weston had other tactical options available to him, such as the use of OC spray or a Taser, it was not unreasonable for him not to use them, given he was confronted with a person armed with a knife and had limited space to retreat. Counsel assisting further submitted that, had Sergeant Weston retreated into the EDO Office and closed the door, this would have posed a risk to the member of the public in the foyer.
145. Mr Haverfield adopted counsel assisting's submission that the police response was a reasonable and proportionate response. In this regard, Mr Haverfield referred to the evidence of Mr Welsh that he "couldn't fathom how long [Sergeant Weston] waited" and that Sergeant Weston have DP every opportunity to put the knife down. Mr Haverfield submitted that the officers acted in accordance with the tactical options model and their training, noting that Sergeant Weston only fired one shot to stop the threat posed by DP. Mr Haverfield further emphasised that there was an immediate attempt to render medical assistance to DP. Mr Haverfield submitted that I would not have any criticism of the actions of the police officers present on 19 January 2016.
146. Mr Madden, who appeared on behalf of Sergeant Weston, also adopted counsel assisting's submission that the police response was a reasonable and proportionate response and referred to the evidence of Mr Welsh. Mr Madden submitted that Sergeant Weston was forced to discharge his weapon when DP advanced on him armed with a knife. He also submitted

¹³³ Exhibit 1, Tab 94: Report of Sergeant Knox dated 24 August 2016 at [60]-[64].

that Sergeant Weston had no time or space to use another tactical option. Mr Madden emphasised that Sergeant Weston gave DP every opportunity to drop knife and submitted that I would find Sergeant Weston's actions were a measured response to the threat he faced.

147. I find that the actions of the officers present at Quakers Hill Police Station on 19 January 2016 were a reasonable and proportionate response to the actions of DP and the threat that he posed. I find that, at the time Sergeant Weston discharged his firearm, he did so as a last resort at extremely close range to protect himself and others from serious injury or death. I am satisfied that Sergeant Weston's actions were consistent with NSW Police Force policy, procedure and training.

Issue 6: Recommendations under s. 82 of the Act

148. A Coroner has the power under s. 82 of the Act to make any recommendations that are "necessary or desirable to make in relation to any matter connected with the death" having regard to the evidence before them.
149. During the course of Sergeant Knox's evidence, counsel assisting asked him questions relating to the development of new tactical options and, in particular, less than lethal options for confronting persons armed with a knife. Sergeant Knox gave evidence that, whilst the WTPR is reviewing developments across Australia and internationally, there are no specific less than lethal options currently being considered in NSW.¹³⁴
150. Counsel assisting asked Sergeant Knox whether there was a formalised process for the WTPR to provide advice as to developments in less than lethal options and technology. Whilst Sergeant Knox indicated that informal advice is provided on an ongoing basis, he was not aware of a formal process for this to occur.
151. At the conclusion of the proceedings, I indicated that counsel assisting would circulate a draft recommendation in relation to the WTPR providing

¹³⁴ TN 6/11/2019, 1178:4-179:16.

formal advice as to developments in less than lethal options for confronting persons armed with a knife and that short written submissions on the draft recommendation would be welcomed from the legal representatives for the Commissioner.

152. On 21 November 2019, I received a short submission on behalf of the Commissioner indicating that, in practical terms, the provision of advice and review of developments in non-lethal or less lethal tactical options in respect of the use of force by NSW Police Force officers is something that the WTPR already does on a daily basis; however, should I form the view that a more formalised process is desirable, the Commissioner will consider requiring the Manager of the WTPR to provide a comprehensive report to the Assistant Commissioner for Education and Training Command every two years outlining:

- The work that has been undertaken in the preceding two year period regarding less lethal tactics and techniques;
- Which tactics and technologies are considered viable;
- The tactics and technologies are being employed by other similar jurisdictions; and
- What tactics and technologies are being considered or are emerging in the near future.

153. I thank the Commissioner for his response and propose to make a recommendation to this effect.

FINDINGS REQUIRED BY S. 81(1) OF THE CORONERS ACT 2009

154. Having considered the documentary evidence and the oral evidence heard at the inquest, I make the following findings:

Identity of the Deceased

The deceased person was DP.

Date of Death

DP died on 19 January 2016.

Place of Death

DP died at Quakers Hill Police Station, Highfield Road, Quakers Hill NSW 2763.

Cause of Death

DP died as a result of a gunshot wound to the chest.

Manner of death

DP died after he attended Quakers Hill Police Station in possession of a knife and lunged at an officer, who discharged his weapon. DP intended to provoke police into shooting him; however his judgement was significantly impaired at that time by the effects of methylamphetamine intoxication and possible psychotic symptoms, which also impacted his behaviour.

RECOMMENDATIONS UNDER S. 82 OF THE CORONERS ACT 2009

155. After careful reflection on the evidence in the inquest and the submissions made by counsel assisting and the representative of the Commissioner, I make the following recommendation pursuant to s. 82 of the Act:

To the NSW Commissioner of Police:

That consideration be given to the creation of a formal process whereby the Assistant Commissioner for the Education and Training Command receives advice from the Manager of the Weapons Tactics Policy and Review Unit every two years regarding developments in non-lethal or less lethal tactical options in the use of force when dealing with offenders armed with a knife or cutting weapon, and then considers which options might be investigated or pursued by the NSW Police Force.

CONCLUDING REMARKS

156. At the conclusion of the inquest, DP's family shared their memories of happier times in a thoughtful family statement. DP's sister described him as a fun, outgoing and loving person who tried to live life to the fullest and always put others first. She spoke of DP as a hard worker who always provided for his family, and of the way he tried his best to overcome the challenges of life. She spoke of the sadness and sense of loss that DP's family have experienced, and their assurance that he is now at peace.
157. DP was dearly loved by his family and his passing is a terrible loss for them. I offer my deepest condolences and thank them for their contribution to the inquest.
158. I thank the officer in charge, Detective Senior Sergeant Mark Dukes, for his thorough investigation of this matter and for the comprehensive brief of evidence he prepared.
159. I also thank the parties for their cooperation with the coronial investigation and contributions to this inquest, and those who gave evidence before me.
160. I thank my counsel assisting, Mr Jason Downing and his instructing solicitor, Ms Kate Lockery from the Crown Solicitor's Office for the enormous amount of work they put into assisting me.
161. I close this inquest.

**Magistrate Teresa O'Sullivan
State Coroner
Coroner's Court of NSW
Lidcombe**

DATED: 27 FEBRUARY 2020