



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of Tyrone Raymond Adams

Hearing dates: 25 February 2021
12 February 2021
9 February 2021

Date of findings: 10 March 2021

Place of findings: Coroner's Court, Lidcombe

Findings of: Magistrate Harriet Grahame, Deputy State Coroner

Catchwords: CORONIAL LAW – Public Interest Immunity Claims – Non Publication orders

File numbers 2018/00297261

Representation:

Mr A Wong, Counsel Assisting, instructed by Mr P Crean,
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Ms J Frances and Mr R Coffey, for the Commissioner of
Police

Ms P Decle, for B Thomas

Dr R Cavanagh, for T Hamilton

Mr P Madden, for P Barrenger and D Osborne

Mr D Evenden, for S Adams

Mr M Pont, for C Allcroft

Background to matter and procedural history

1. Before the Court are two applications made by the Commissioner of Police in two separate inquests; the inquest into the death of Michael Farrell and in the inquest into the death of Tyrone Adams.
2. In each application, the Commissioner seeks declarations of public interest immunity or alternatively, what has been referred to in the course of argument as “protective orders” (being non-disclosure and non-publication orders). The nature of the two applications differs significantly, of course. A public interest immunity claim is an exclusionary claim, meaning that, if made, the Court would be precluded from considering those parts of the policy in the course of the inquest (*HT v the Queen* [2019] HCA 40, at [30]). The protective orders, if made, would not have this effect and may be regarded as a “tailoring order” of a type referred to in *HT* at [33], and as such as an alternative to the making of a finding of public interest immunity, given that such a claim is necessarily exclusionary.
3. In both applications, the same claims are made over the same parts of the Safe Driving Policy of the NSW Police Force (“SDP”) (although a number of further claims in respect of information that is related to, but is not included in, the SDP are also made in the Commissioner’s application in the Adams inquest).
4. The Commissioner was represented by different counsel in both matters; however, the oral submissions made by the Commissioner’s counsel in the Farrell inquest in relation to the SDP were adopted by his counsel in the Adams inquest.
5. Given the commonality of issues (at least insofar as they relate to the SDP), I considered it appropriate to have the applications made in both these inquests heard together. In doing so, I am conscious that, in the course of undertaking the weighing up exercise which forms part of the test both for the public interest immunity and protective orders, I may need to consider how the SDP policy will be deployed in each particular inquest. Accordingly, despite the commonality of many of the issues, I have considered the matters separately and will deliver separate judgments. This judgment deals with the Adams inquest.

6. The applications in the Adams inquest are sought over certain parts of the SDP. There are two version of the SDP that it is proposed will be included in the brief of evidence (version 8.3 from 2017 and version 9.2 from 2018).
7. At an early stage of receiving the Commissioner's application, I expressed a preliminary view that a number of the protective orders sought appeared justified (I did not, and as explained below, still do not, consider there to be a basis for exclusionary public interest immunity orders over any of the material). I caused a table to be prepared by those assisting me differentiating the parts of the claim where I was satisfied, as a preliminary matter, that there was a basis for protective orders from the parts which I was not and summarising the reasons I was not so satisfied. These kinds of applications should not be approached in a sweeping or broad-brush manner and the need for specificity suggested that this would be a useful approach.
8. The Commissioner's then representatives, were invited to consider the information which I was not, on a preliminary basis, persuaded was appropriately the subject of protective orders and to provide further submissions in this regard. They took up that opportunity by adding their responses in a separate column which was added to the table.
9. The table as added to by the Commissioner's then representatives was tendered during the hearing of the applications (although, given the nature of it, I have treated the matters in it largely as containing submissions rather than evidence). The information I was initially persuaded should be the subject of a protective order was marked green and the information I was not initially persuaded should be the subject of protective orders was marked orange.
10. When the applications were initially listed for hearing on 9 February 2021, Counsel for the Commissioner in the Adams (and Farrell) inquests made an adjournment application, on the basis that the Commissioner was not, at that time, prepared to run a Public Interest Immunity application.
11. While I was surprised by the adjournment application I considered it appropriate, in order to accord procedural fairness to the Commissioner and given the duty of this Court to properly consider any claim for public interest immunity, to grant the adjournment application and relisted the matter for 12 February 2021.

12. I consider that the Commissioner has now been given an adequate opportunity to fully present his public interest immunity claim, noting that the Commissioner has had the table outlining my preliminary views in the Farrell matter since September last year and those assisting me in the matter Farrell matter notified the Commissioner in correspondence dated 26 June 2020 and 14 August 2020 that I considered, if the Commissioner was of the view that there was a proper basis for an exclusionary claim, that claim should be made in the first instance with an application for protective orders being determined if the public interest immunity claim were unsuccessful.
13. I note that the onus lies with the Commissioner to establish the basis for his PII claim.
14. The Commissioner's application in Farrell is supported by:
 - a. Open and closed Affidavits sworn by Assistant Commissioner Corboy, dated 12 November 2020;
 - b. An open affidavit of Assistant Commissioner Peter Thurtell sworn 11 February 2021; and,
15. In addition, the Commissioner's application in Adams is supported by:
 - a. Open and closed Affidavits sworn by Assistant Commissioner Willing dated 23 December 2020; and
 - b. A confidential Affidavit of Nicholas Dixon dated 11 February 2021.
16. I have received written submissions dated 24 September 2020 and 3 February 2021 from Counsel for the Commissioner in relation to the Farrell matter. In addition, I received written submissions from the Commissioner on the 13 January 2021 in the Adams matter. I also received written submissions from Counsel assisting me in the Adams matter. I heard oral submissions from both Counsel over the course of two days.
17. During the hearing, mention was made of a press conference given by Assistant Commissioner Corboy on the occasion of another pursuit. A link to the recording of that press conference remains available under the NSWPF Facebook page. During this press conference, there was considerable discussion about police pursuits, including some discussion of the SDP. A transcript of a section of that press conference was tendered (this was accepted to be an accurate recording of that conference).

18. Upon becoming aware of this press conference and Facebook post, I caused, through those assisting me, a letter to be sent to those then representing the Commissioner. That letter was dated 18 December 2020. It asked whether, in light of some of the things the Assistant Commissioner had said publicly in the course of the press conference, he maintained certain parts of application and, to the extent that he did, inviting him to put on further evidence in this regard.
19. That letter also drew the Commissioner's attention to similar provisions of equivalent policies to the SDP that are publicly available in other jurisdictions and invited further evidence or submissions in this regard.
20. The Commissioner's submissions of 3 February 2021 responded to the letter. From that response, I understand the Commissioner to have accepted:
 - a. That Assistant Commissioner Corboy has given the press conference;
 - b. That a link to an audio visual recording of the press conference remained on the NSWPF website; and
 - c. That the parts of the equivalent policies in the other jurisdictions were publicly available and were in the terms summarised in the letter.
21. In addition, the written submissions of Counsel Assisting drew attention to the proposition that, included in the SDP was some information over which no orders had been sought which was of a similar nature to (or was the same as) information that was the subject of the applications. It was common ground that the present application (as initially made) reflected the way in which orders had previously been made over versions of the SDP in a number of earlier inquests. (In his submissions dated 3 February 2021, Counsel for the Commissioner conceded that this was the case in the course of making a submission that, as a matter of parity, I ought to make the same ruling in these proceedings to those already made¹).
22. To address this difficulty, the Commissioner handed up an amended application which sought orders over some of the additional information referred to by Counsel Assisting as examples of the similar information over which no orders had been sought. This

¹ Supplementary submissions of the Commissioner of Police, 3 February 2021, at [40].

amendment to the application was not opposed and I consider it appropriate to permit this application to be made. I will consider this additional material.

23. Before leaving this topic, I record that I do not consider that principles of parity preclude me from reaching any result which differs from earlier decisions made by this Court. I of course am not bound by decisions made in previous cases (and in different factual contexts). I also have had the benefit of more extensive submissions in this matter than I apprehend may have been the case in the context of these earlier inquests.

Principles governing the applications

24. There is little dispute about the general principles that govern applications of this kind. Both Counsel agreed, and I accept, that the public interest immunity claim and the protective orders application both essentially involve a balancing exercise requiring:
 - a. the identification of any reasons why admitting the material or disclosing or publishing it (as the case may be) will be harmful;
 - b. the identification of any reasons why failing to admit, disclose or publish the material will be harmful or undesirable (noting the presumptions accorded by the principles of open justice); and,
 - c. the weighing up of any of the competing interests.
25. In this decision, I will use the word “communicate” to refer compendiously to the admission into evidence, the disclosure and the publication of information.
26. Notwithstanding the opportunity accorded to the Commissioner to put on evidence in support of a PII claim (which was taken up by the provision of the open affidavit of Assistant Commissioner Thurtell and the adoption of the confidential affidavit of Sergeant Dixon), during oral submissions, Counsel for the Commissioner confirmed that the claim of Public Interest Immunity and the application for protective orders were co-extensive and that no specific submissions were advanced in support of one of those claims to the exclusion of the other. This means that the first stage of the test (the identification by the Commissioner of the harm) can be done in a way which deals compendiously with the claims for public interest immunity and for protective orders. However, the different consequences for a public interest determination as opposed to

an application for protective orders means that the second and, consequently, the third stage needs to be considered separately. This judgment will adopt that structure

Consideration

Stage 1- identification of the harm

27. The Commissioner's claim is one of a prejudice to methodology and (relatedly or independently) of a risk of harm to responding officers or members of the public. I accept the characterisation of Counsel Assisting of the matters the Commissioner would need to prove to in respect of either such claim. That is, I accept that the Commissioner would need to show that the communication of the material could result in some change in behaviour of members of the public (specifically, those drivers who might be the potential targets of police pursuits) and that the effect of that change in behaviour would be to prejudice police methodology and/or to increase risks to officers or members of the public.
28. I further accept, as Counsel Assisting submitted to me, that information which lacks a character of confidentiality, by virtue of it already being in the public domain or being information of a type that could reasonably be deduced by members of the public is unlikely to cause any change to the behaviour of this type.
29. In relation to the "orange material" in the table, in my view, with one exception (where I am persuaded that there is an appropriate basis for protective orders), the Commissioner's claims fall at the first hurdle. In other words, I am not satisfied that any real basis has been demonstrated for considering that the harm the Commissioner points to would be the result of the communication of this material. To the extent that some link has been demonstrated between the harmful effects and the communication of this information, I consider that such a link is tenuous or slight, which causes me to place little weight on it. Alternatively or additionally, I consider that the information is of a type that is in the public domain (or could be deduced by members of the public as it largely comprises matters of common sense) and, for this reason, will not result in a change in driver behaviour of the requisite type.
30. In reaching this conclusion, I accept and have given considerable weight to the importance of not doing anything to increase risks to the safety of the public and of

serving police officers. Even allowing for this, however, I simply cannot see that any real logical connection exists between the communication of most of the material that is the subject of the application and the harmful effects for which the Commissioner contends.

31. I also accept, as was submitted to me, that the evidence of Assistant Commissioner Willing and the exercise in which the Commissioner is engaged is necessarily speculative, at least to a degree (it involves predicting the possible adverse consequences of a hypothetical communication of material). Having said that, in matters of this kind there is still the requirement for the Commissioner to articulate an evidentiary basis for his claim. In this regard, I particularly note the evidence of Sergeant Dixon. This evidence, as I understood it, was directed to articulating the difficulty the Commissioner found in trying to locate the type of evidence that would be needed to support some of the contentions hypothesised in the remainder of the confidential evidence (the Affidavit was directed principally to the evidence read in the Adams inquest but, as already noted, was also read in the Farrell inquest). The difficulty in obtaining this evidence is not, as I see it, a reason for me not to insist on there being a proper evidentiary basis for any findings. Indeed, on one view, the matters deposed to by Sergeant Dixon serves merely to illustrate that there is an incomplete or inadequate factual basis for many of the harms pointed to in the balance of the confidential evidence (including in the confidential Affidavit of Assistant Commissioner Corboy given the similarity of his evidence to that of Assistant Commissioner Willing's to which Sergeant Dixon's evidence refers).

32. In a similar vein, the Commissioner seeks to invoke the 'mosaic principle' in support of a number of his claims. I accept that this is principle which I ought to be mindful of and apply as appropriate. In particular, I accept that certain information, which on its own seems innocuous, may be put together with other information to produce a harmful effect. However, I also accept, as Counsel Assisting submitted to me, that this principle does not absolve me from the need to discern a link between the communication of the information over which orders have been sought and the harmful effects for which the Commissioner contends. I must, of course, approach applications of this kind in a principled way and only make orders of this kind where there is a proper evidentiary basis for them.

33. Counsel assisting has identified that the orange information that appears in the table falls within nine broad categories. An additional category arises from the green information as Counsel Assisting submitted to me that I should, in one instance, depart from my preliminary decision. The submissions made by Counsel for the Commissioner broadly followed this structure. It is convenient for me also to do so in this judgement.

Category 1- vehicle categories

34. The Commissioner seeks orders relating to information which relates to the categories of vehicles that may be used in pursuits. That information is over the following clauses:

- p. ii, “vehicle categories” lines 1-5 of version 8.3;
- p. iii, line 1 of version 8.3;
- cl 5-1-4 through to 5-1-8 of versions 8.3 and 9.2;
- cl 5-4-2 line 2 from “the” up to and incl. “riding” of versions 8.3 and 9.2;
- cl 5-4-4 of version 8.3 and 9.2
- cl 6-3 (dot point 3) of version 8.3;
- cl 7-4-1 through to 7-4-2 of version 8.3 and 9.2;
- cl 7-6-7 of version 8.3 and 9.2; and
- cl 8-2 “Code blue” (dot point 3) and “Code Red” (dot points 3, 4) of version 8.3;
- cl 8.3 of version 9.2; and,
- cl 8-5-2 “Code blue” (dot point 3) and “Code Red” (dot points 3, 4) of version 9.2.

35. In their confidential affidavits, Assistant Commissioner Corboy (Farrell) and Willing (Adams) state:

[REDACTED]

[REDACTED]

[REDACTED]

ot [REDACTED]

[REDACTED]

37. [REDACTED]

38. However, the information that falls within the clauses now under consideration is of a different character. I find that this information does no more than to reveal:

- a. That a category of vehicles exists;
- b. That an order of precedence exists between each of the categories in terms of their suitability to engage in pursuits (with vehicles in some categories being more suitable than others to engage in pursuits); and,
- c. Identifying limitations of vehicles within certain categories.

39. I do not accept that the communication of the existence of this more limited sort of information has the harmful effect contended for by the Commissioner.

40. The fact that there are categories of vehicles is not, in my opinion, inherently of a confidential character. That such categories of vehicles exist may be supposed as a

² Exhibit 1, at [8] (Farrell); Exhibit 1, at [12] (Adams).

matter of common sense (and members of the public are likely already to have deduced this). It may further be supposed that the public would appreciate that some police vehicles are more suitable than others for conducting pursuits.

41. Further, the existence of categories of vehicles and the hierarchies that exist between them in terms of conducting pursuits are matters which are already in the public domain. Similar information to it been published or publicly disclosed in a number of other jurisdictions. In this regard, I have been referred to cl [1.11]-[1.12] of the AFP *National Guideline on Urgent Duty Driving and Pursuits (ACT Policing)*. (To be clear, I accept that the Commissioner is not bound by what occurs in other jurisdictions; rather, I find that the publication of similar information in other jurisdictions means that the information is of a sort that has already entered the public domain meaning that its communication will not alter driver behaviour in the way contended for by the Commissioner.)
42. In addition, other parts of the SDP, over which protective orders have not been sought, permit an inference to be drawn that categories of vehicles, and some hierarchy between the categories (in terms of suitability to conduct pursuits), exist. In the course of argument, I was referred to cll 5-1-1 and 5-1-3 of both versions, and 7-1-7 of version 8.3 and 7-1-6 of version 9.2 as examples of such clauses. The first sentences of clauses 7-2-11, 7-2-12, and cl 7-4-3 of version 8.3 and 9.2 permit similar inferences to be made although, I note the Commissioner had amended his application to seek protective orders over this information. As already noted, the Commissioner has conceded in his supplementary written submissions that these parts of the SDP have previously been published in earlier inquests.³ I am satisfied that these further parts of the SDP are already in the public domain.
43. I am also satisfied that these matters have effectively been revealed by the Assistant Commissioner's public disclosure during the press conference recorded in the 2018 Facebook post. During the course of that press conference, the Assistant Commissioner states that the "top rated vehicles" driven by the highway patrol are "the ones most suitable for pursuits". This permits an inference (to the extent that it does not expressly reveal) that police maintain a category of vehicles and that there is an order of priority between those vehicles. (Again, to be clear, I do not find that Assistant

³ Supplementary submissions of the Commissioner of Police, 3 February 2021, at [40].

Commissioner Corboy, by his comments, has waived the Commissioner's claims and I accept that he could not do so, at least in the case of a claim for public interest immunity. Rather, my finding is merely that these comments have caused this information to enter the public domain.

44. As it is information of a sort that is already in the public domain, I am not satisfied that the communication of this information would lead to any change in driver behaviour such as to result in the harmful effects contended for by the Commissioner.
45. Separately and in addition, the Commissioner has not satisfied me of the existence of a link between, on the one hand, the communication of the existence of the fact of vehicle categories, the precedence between those categories and the limitations on some of those categories and, on the other, the harmful effects contended for.
46. As already noted, I accept that, were information enabling identification of which vehicles fell within the categories of the vehicles to be revealed, communication of the order of precedence between the categories of police vehicles and the limitations of the vehicles within each category could potentially have the harmful effects the Commissioner points to. Armed with that information, drivers may react differently and more dangerously when they encounter a police vehicle of a type they know to fall within a particular category of vehicles (depending on the category of that vehicle). However, as already indicated, I am satisfied that the information presently under consideration does not reveal what vehicles fall within each of the classes.
47. I accept that cl 6-3 (dot point 3) of version 8.3 and cl 8-3 (dot point 3) of version 9.2 goes further and reveals a limitation, of sorts, on what vehicles within certain categories may or may not do. Again, however, without information revealing which vehicles fall within those categories, the potential subject of a pursuit will not know what vehicles are subjected to those limitations and will not have an opportunity to modify his or her behaviour accordingly.
48. Further, the limitation in cll 6-3 and 8-3 (which precludes category 3 and 4 vehicles from being used "unless it is life threatening or an emergency where such a response is appropriate") are sufficiently vague, in my view, so as not to give a potential subject of a police pursuit any opportunity to meaningfully alter her or his behaviour.

49. Absent the communication of that additional information identifying which police vehicles fall within the particular categories, I am not persuaded that the information could have the harmful effects contended for by the Commissioner.
50. Accordingly, I am not persuaded that orders should be made in respect of that information.

Category 2- information relating to the matters informing police decisions under the SDP

51. The Commissioner also seeks orders over information which Counsel Assisting has grouped together in a category described as: “claims over matters relating to the police decisions under the policy”. The claims that are included in this category are over:
- Clause 6-2-4 of version 8.3 and cl 8-2-5 of version 9.2;
 - Clause 7-2-2 of both versions;
 - Clause 7-6-2 of both versions
 - Clause 8-5-1 of version 8.3 and 8-6-3 of version 9.2; and
 - Clause 8-6-2 of version 8.3 and cl 6-4 of version 9.2;
52. I am satisfied that the claims made in respect of each of these clauses is over information which police are required to take into account in the course of making certain decisions or taking certain actions under the SDP.
53. Counsel for the Commissioner submitted that these were mandatory considerations, not discretionary matters; and made the point that police were obliged to take these matters into account. I accept this. However, I also accept that, as submitted by Counsel Assisting, as these are only considerations, they do not provide a reliable predictor of how police will respond in any given situation. For that reason, I am not persuaded that communication of this information really will alter driver behaviour in the way contended for by the Commissioner.
54. Further, I am again comfortably satisfied that the information is of a sort that is already well within the public domain. Clause 6-2-4 of version 8.3, for example, does no more than to require police to take into account danger to police and other road users before engaging in urgent duty driving and, having done so, to provide a list of fairly self-evident matters that police might use to inform themselves of the existence and extent

of such a danger (including weather, road conditions, traffic density, time of day, the driver's skills and the police vehicle). These are not matters which are likely to be of any surprise; to the contrary, even a moment's thought would reveal that these are the sort of things that would inform an assessment of danger. I am satisfied that all of the other information over which orders have been sought that has been included in this category is of a similar character.

55. In addition, Police have understandably and (with respect) appropriately, repeatedly emphasised in public for a that public safety informs the exercise of police actions under the SDP. Assistant Commissioner Corboy said as much in his press conference (to which I have already referred). In addition, public safety is a theme that appears prominently in the Commissioner's preface to the SDP (in respect of which, no orders have been sought). It is also, as Counsel Assisting has pointed out, information that is referred to in numerous other parts of the SDP over which no orders have previously been made and in respect of which no application in this matter was made (I was referred specifically to cl 7-2-1 and 7-2-3 of version 8.3). Further, as Counsel Assisting has also pointed out, similar sort of information has been published in other jurisdictions. And finally, in any event, it is the sort of thing that members of the public would expect would govern decisions made or actions taken during pursuits. I cannot see how the information which is the subject of the application for orders is of any different character to the sort of information which is, I find, well and truly in the public domain.

56. Accordingly, I am not convinced of the existence of any link between any communication of the information and any of the harmful effects contended for by the Commissioner. Communication of the material will not, as far as I can tell, result in any change to driver behaviour of the relevant type.

Category 3- urgent driving

57. Orders are sought over cl 6-2-6 of version 8.3 and cl 8-2-7 of version 9.2. This clause provides:

“Responding to support vehicles engaged in a police pursuit or to deploy tyre deflation devices is an urgent duty response and all urgent duty driving requirements must be adhered to.”

58. Assistant Commissioner Corboy (Farrell) and Willing (Adams) state:⁴

[REDACTED]

59. I do not accept the submission of Counsel Assisting that no harm would flow from the communication of the information in this clause, because the content of the “urgent duty requirements” is not disclosed. Rather, I understand the urgent duty requirements to be the matters dealt with in Part 6 of the SDP.

60. I note that the Commissioner does not claim public interest immunity or seek protective orders over the entirety of this Part. In addition to cl 6-2-6 the Commissioner seeks orders over two other clauses in Part 6, however, as is indicated elsewhere in these reasons I decline to make those orders.

61. However, I consider the information in cl 6-2-6 is of such a generic nature that I am satisfied that communicating it would not jeopardise police methodology or increase risks to officers and members of the public. For this reason, I am not satisfied that there is a link between the disclosure of this information and any harmful effects pointed to by the Commissioner.

62. In the course of argument, Counsel for the Commissioner raised the prospect of the communication of this information encouraging people to make calls to 000 in order to tie up police resources. I accept that calling out police needlessly to calls could potentially tie up valuable police resources. I accept that it may happen from time to time. However, it is not clear to me how the communication of the information in cl 6-2-

⁴ Exhibit 1, at [15] (Farrell); Exhibit 1, at [19] (Adams).

6 would, in any way, further encourage people to do this. I am not satisfied that this is a result that would be caused by the communication of this information.

Category 4- Approval/authorisation required for re-initiation

63. Clause 7-1-4 of version 8.3, and cl 7-1-3 of version 9.2, relevantly provide:

“A pursuit is not to be re-initiated by any vehicle unless approval is FIRST granted by the DOI or VKG Shift Coordinator. NO OTHER OFFICER MAY AUTHORISE REINITIATION.”

64. Clause 7-1-5 of version 8.3, and cl 7-1-4 of version 9.2, provide that “approval to re-initiate a pursuit will only be considered if pertinent information is received which indicates that the circumstances of the pursuit have changed significantly”.

65. The Commissioner also seeks consequential orders over the definitions of re-initiation” and “termination” on p. 35.

66. Assistant Commissioner Corboy (Farrell) and Willing (Adams) state in their confidential affidavit that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

67. I am not persuaded that any tactical advantage would arise for a driver being pursued by disclosure of the requirement for approval to re-initiate. To the extent that a period of time may elapse whilst police await approval and that allows for the driver being pursued to further evade police that advantage arises from the requirements of the policy itself. How the communication of that requirement conveys a tactical advantage remains unclear. The circumstances in which this clause applies are those in which a pursuit has already been on foot. Accordingly, it would be expected that a driver would

⁵ Exhibit 1, at [34] (Farrell); Exhibit 1, at [38] (Adams).

⁶ Exhibit 1, at [35] (Farrell); Exhibit 1, at [39] (Adams).

continue to drive away from police as fast as possible, with just as keen an interest in evading apprehension, regardless of any requirement applying to police themselves. This is particularly so in circumstances where the driver has no knowledge of whether or not such approval has been sought or granted.

68. It is put by the Commissioner in his supplementary submissions that disclosure of these clauses would encourage a driver to enter a high pedestrian area or school zone to terminate the pursuit in order to then take advantage of the time needed for re-approval.⁷ The difficulty with accepting such a proposition is that, first, there is no requirement for police to terminate a pursuit in a school zone or high pedestrian area, and, secondly, these parts of the policy do not say anything about whether approval would be forthcoming in those circumstances.
69. Significantly, no claim is made, or protective order sought, over cl 7-5-7 of both versions of the SDP, which relevantly provides: “When of the view a pursuit should continue post-termination provide the VKG shift coordinator/DOI with relevant information and *request authorisation for re-initiation*” (emphasis added). It must therefore be assumed that the Commissioner has no difficulty with this information being in the public domain.
70. As noted elsewhere in these reasons the SDP has been served and tendered on numerous occasions in coronial inquests and, consistent with the application before me, protective orders have not routinely been made over cl 7-5-7 with the effect that its terms have been repeatedly disclosed. Accordingly, on the basis of the information already in the public domain it can be readily inferred that approval is required in order for a dispute to be re-initiated. I am aware of no particular harm arising from this prior disclosure.
71. Clause 7-1-5 of version 8.3 and cl 7-1-4 of version 9.2, which outlines the circumstances in which a pursuit can be re-initiated, is stated at a such level of generality that it could not be said that disclosure of this clause could prejudice police methodology or increase the risk to the safety of officers or the general public.

Category 5- More than two vehicles involved in a pursuit

⁷ Supplementary submissions of the Commissioner of Police, 3 February 2021 at [28].

72. Clause 7-2-10 of both versions of the SDP provides:

“No more than two police vehicles (a primary response vehicle and a secondary response vehicle) will become involved in a pursuit unless directed by the DOI, the VKG Shift Coordinator. A DO, a Supervisor or the holder of a GOLD classification may recommend additional vehicles may recommend additional vehicles can become involved but cannot authorise.”

73. Assistant Commissioner Corboy (Farrell) and Willing (Adams) state that:

[REDACTED]

74. I am not persuaded that the communication of the information in cl 7-2-10 will result in any harmful consequence. This is for the following reasons.

75. First, I accept that it is more dangerous and more difficult for police to pursue a larger group than a smaller one. That is a matter of common sense. For that reason, it is difficult to accept that disclosure of cl 7-2-10 would provide an inducement for offenders to travel in large numbers that does not already exist.

76. Secondly, cl 7-2-10 is not a prohibition on the involvement in a police pursuit of more than two police vehicles. Clause 7-2-10 provides only that authorisation is required

⁸ Exhibit 1, at [26] (Farrell) and Exhibit 1, at [30] (Adams).

before that may occur. In circumstances where there is no awareness among the vehicle or vehicles being pursued of whether or not that authorisation has been granted, I am not satisfied that disclosure would lead to a change in driver behaviour of the relevant type.

77. With respect to the evidence of Assistant Commissioner Willing, it is not clear to me that [REDACTED] Clause 7-2-10 clearly indicates that more than four officers may be in a pursuit. There is nothing in the terms of the clause, nor in any evidence before me, to indicate that in circumstances where multiple persons are being pursued authorisation for additional vehicles to join the pursuit would be unusual or unlikely.
78. Thirdly, no claim has been made, or protective orders sought, over cl 7-5-2 which relevantly provides “until such time the DOI, VKG Shift Coordinator, a DOI or supervisor assumes control, only one secondary response vehicle will become involved in a pursuit.” From this language a clear inference can be drawn that, ordinarily, only two vehicles will be involved in a pursuit. As stated above the Commissioner concedes that this provision has previously been published in earlier inquests.
79. On that basis I am satisfied that information that discloses the fact that ordinarily only two police vehicles will be involved in a pursuit is already in the public domain. I am aware of no particular harm arising from this prior disclosure
80. Accordingly, I am not persuaded of the existence of any link between any communication of the information and any of the harmful effects contended for by the Commissioner.

Category 6 Two-second gap

81. Clause 7-2-13 of versions 8.3 and 9.2 of the SDP provides:

“All vehicles involved in a pursuit will maintain a minimum two second gap.”

82. “Two second gap” is defined on both p. 35 of version 8.3 and p. 24 of version 9.2 to mean:

“The time taken between the rear of a vehicle passing a fixed point on the roadway and the front of another vehicle passes the same point.”

83. Assistant Commissioner Corboy (Farrell) and Willing (Adams) state that disclosure of the fact that police are required to maintain a two second gap [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

84. Assistant Commissioner Corboy (Farrell) and Willing (Adams) state that a further concern with disclosure of this information is that [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

85. I accept that a driver being pursued by police narrowing the gap between his or her vehicle and the police vehicle is dangerous behaviour that may adversely impact upon the safety of those involved in the pursuit and other road users. I also accept that, if it were the case that police were *required* to terminate a pursuit in the event of a breach of a two second gap, communication of that requirement could (at least potentially) lead to the eventuation of the risks pointed to by Assistant Commissioner Willing . That is because what disclosure of a requirement of that sort would reveal is that an act that a driver being pursued might readily be able to undertake (narrowing the gap) would have the direct effect of causing the pursuit to end. In those circumstances, there would be some foundation for the suggestion that disclosure could encourage some drivers to narrow the gap with the effect of increasing the risks associated with such behaviour.

86. However, on its face, cl 7-2-13 does not *require* police to terminate a pursuit in the event the two second gap is breached. Clause 7-2-13, which appears in a section of the SDP entitled “Pursuit Guidelines”, does not refer to termination. This may be contrasted to other clauses in the SDP which deal expressly with this issue.

⁹ Exhibit 1, at [23] (Farrell); Exhibit 1, at [27] (Adams).

¹⁰ Exhibit 1, at [25] (Farrell); Exhibit 1, at [28] (Adams).

Termination is dealt with in a different section of the SDP, (7-6), expressly entitled “Termination of pursuits”. There, clauses 7-6-1 through 7-6-9 set out the circumstances in which a pursuit will be terminated. Breach of the two second gap is not listed among them. Further, as Counsel Assisting has observed, the Commissioner has not adduced any evidence to establish that cl 7-2-13 is intended, or interpreted by police, to mean that police drivers are required to terminate a pursuit in the event of a breach of the two second gap.

87. During the hearing counsel for the Commissioner confirmed that it is not the case that should the two second gap be breached police are automatically required to terminate the pursuit.¹¹
88. Absent any particular incentive to do so, it is difficult to see why a driver attempting to evade police in a pursuit would seek to narrow the gap between themselves and the police vehicle, given this would likely involve slowing down. In my view, communication of the information in relation to the two-second gap does not create any such incentive.
89. Accordingly, I am not persuaded of the existence of any link between any communication of the information and any of the harmful effects contended for by the Commissioner.

Category 7- Requirement of police to provide certain information:

90. This information appears at cl 7-5-1 of both versions of the SDP. The Commissioner seeks orders over a number of dot points in that clause. That information may be placed into the following subcategories:
 - a. Information that reveals that police must inform radio supervisors of certain matters (dot points (e) and (j) of dot point 2 of cl 7-5-1 and dot point 4);
 - b. Information that reveals that police require authorisation before taking certain actions (dot points 5, 7, 8 and 11) (clause 7-6-5 of both versions falls within a similar category);

[REDACTED]

¹¹ Transcript, 12 February 2021, p. 34, lines 24 – 29.

91. In support of this claim, Assistant Commissioner Corboy (Farrell) and Willing (Adams) depose to a concern that communication of this information will encourage drivers to drive in a more dangerous manner.¹²

92. In support of the contention over those parts of the clause that require police to inform their radio supervisors of certain matters (and do no more than that), Counsel for the Commissioner referred to a concern that revealing that police must [REDACTED]
[REDACTED]
[REDACTED] As I understood the argument, it was submitted that this would prejudice police methodology by allowing potential subjects of a police pursuit to bring about circumstances that would require police to discontinue their pursuits.

93. I have accepted on a preliminary basis [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
ot [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

95. I simply cannot accept that the fact that there is radio communications between police and other officers is not something that is not already widely known in the community.

¹² Exhibit 1, at [28] (Farrell); Exhibit 1, at [31] (Adams).

Police pursuits are a matter of particular interest to the media and a fictitious, albeit occasionally realistic portrayal of pursuits is common in films and other media. These media reports and fictitious depictions of pursuits commonly show police radioing in to other police. Further, the radioing in by police conducting pursuits is, as Counsel Assisting submits, a matter that is referred to in other jurisdictions as well as in parts of the SDP that have been published in the course of earlier inquests presided over by this court.

96. [REDACTED]
[REDACTED] I make similar findings. Since the potential subject of a police pursuit has no way of knowing whether or not those approvals will be forthcoming, it appears the fact that communications are required is at the heart of the Commissioner's concerns in respect of this aspect of the claim. I have dealt with this claim in the preceding paragraph.
97. The Commissioner also submitted that the delay in providing such approvals will provide some sort of tactical advantage to potential subjects of police pursuits. There was no evidence before me as to how long such approval might take, so I am unable to assess whether such an advantage might occur in reality or the extent of such an advantage (although, I would have assumed that in a situation of urgency, some provision for rapid approvals might exist). I do not need to speculate on this, however, as, even if the delay in waiting for an approval does create a tactical advantage, it is an advantage (and corresponding disadvantage to police) which is inherent in the terms of the SDP itself. I cannot see how communicating this information will worsen this tactical disadvantage in any way.
98. Similarly, Counsel for the Commissioner submitted that the requirements for approvals could serve as a distraction for officers involved in a pursuit situation.¹³ That may be so, but, again, it is a distraction which is inherent in the policy itself; the communication of this will not, as far as I can see, make this distraction any worse.
99. I am not satisfied that there is any link between the harmful effects contended for by the Commissioner and the communication of this information.

¹³ Transcript, 12 February 2021, p. 33, line 20 – 22.

100. I am, however, satisfied that, to the extent that these parts of cl 7-5-1 [REDACTED] [REDACTED] there is an appropriate basis for protective orders. I accept that there is, at least, a possibility of drivers changing their behaviour were they to be aware [REDACTED] described in these parts of the policy.

Category 8 Termination:

101. The next category is over information that requires police to terminate pursuits in various circumstances. This category may be divided into sub-categories:

- a. Termination of a pursuit where to continue is futile (because the gap between police and the vehicle was too great) (cl 7-6-6 of both versions of the SDP); and

[REDACTED]

102. The Commissioner's arguments in relation to the former subcategory depends on the premise that, if a potential subject of a police pursuit knew that a pursuit had to be terminated where the gap was too great, this would encourage her or him to drive even more quickly to try and get away from pursuing police.

103. The difficulty with this, of course, is that the object of a person who has taken to avoid police is to avoid capture. This will ordinarily involve that person driving away from police as quickly as possible (including, in all probability, in a dangerous manner) so as to get away from police. I cannot see how communicating this information could possibly encourage drivers to drive even more quickly or more dangerously. I am not satisfied that communicating this material will have the harmful effects contended for by the Commissioner.

104. [REDACTED]
[REDACTED]
[REDACTED]

Category 9- debrief form

105. Claims are also made over information that appears on the debrief form on pp. 40-41 of the SDP. The debrief form appears only in version 8.3. That information can be placed into the following subcategories:
- a. Information that indicates that a vehicle may be “primary” or “secondary”;
 - b. Information that reveals that there is a category of vehicles;
 - c. Information that refers to a third police vehicle becoming involved in the pursuit (with direction to ascertain whether it was in accordance with the safe driving policy);
 - d. Information that refers to the deployment of tyre deflation devices
106. The information on the form that reveals that there is a category of vehicles and that refers to a third vehicle potentially becoming involved in a pursuit is of the same character as that in categories 1 and 5. For the reasons I have given, I am not persuaded of the existence of any link between the communication of this information and any harmful effect.
107. The information that refers to the vehicle being primary or secondary appears to be aligned to a submission that refers to the harms said to flow from revealing that there are radio communications between police involved in a pursuit and others. I have already dealt with what I regard is the implausibility of members of the public not knowing that there radio communications between police officers involved in a pursuit occur.
108. To the extent that it is said that the fact that there is some form of monitoring or supervision of a pursuit (as opposed to mere radio contact) that is harmful, it is not clear to me that it is, or that communicating the fact that there are primary or secondary would otherwise be harmful.
109. In addition, I note that the parts of the debrief report form at pp. 40-41 allow for a facility to explain why the pursuit was not being supervised. This appears to allow for a possibility of a pursuit being continued in circumstances where no supervision was possible (and means that police are not required to terminate pursuit in the absence of any form of supervision).

Category 10- Non-police officer in vehicle

110. A further category arises. It relates to clause 7-2-8 of both versions of the SDP.
111. I had expressed a preliminary intention to make protective orders in respect of information that prohibits police from engaging in a pursuit if a person who is not a police officer is present in the vehicle. In his written submissions, Counsel Assisting invited me to revisit this ruling. Counsel for the Commissioner addressed me orally in this regard. He submitted that the possibility of the potential subject of a police pursuit seeing in through the windows of the police vehicle and working out (for example, from the fact that the person was not wearing a police uniform) that a person who was not a police officer was present.¹⁴ Counsel for the Commissioner then submitted that communication of this information would enable prospective subjects of a police pursuit to engineer a situation whereby a person was put in the police vehicle. This would (as I understood the argument) allow the potential subject of the pursuit to know that he or she could not be pursued. Counsel for the Commissioner invited me to consider this proposition by reference to the hypothetical example of police in a small country town (where only one police officer was present) such that there were no other police available to conduct a pursuit.¹⁵
112. I have considered this carefully. It seems to me to be a remote possibility. The limitations suffered by the police in the small country town are of a type that is inherent (given inevitable limitations in resources); the real question is whether communicating this will allow for the deliberate manipulation of events in the manner that has been suggested by Counsel for the Commissioner. In this regard, I cannot rule out the possibility that the potential subject of a police pursuit might be able to see through the windshield of the police vehicle and deduce from the clothes that person was wearing that he or she was not a police officer (although, an equally possible inference, it seems to me, that the potential subject of a police pursuit may draw from seeing a person not wearing a police uniform is that this was a plain clothes officer.) More significantly, however, I regard the possibility of the prospective subject of a police pursuit being able to engineer a circumstance where a third person is in a police vehicle as being quite improbable. In most cases, pursuits occur randomly as the result

¹⁴ Transcript, 12 February 2021, p. 7 lines 40 – 44.

¹⁵ Transcript, 12 February 2021, p. 19 line 42 - p. 20 line 14.

of a person ignoring a police direction to stop. This is inconsistent with the type of planning that would be involved in the hypothetical scenario Counsel for the Commissioner proposed.

113. Therefore, to the extent that communicating this information may be thought to any harmful consequence, I consider the risk to be slight.

114. Accordingly, I am now satisfied that there is no basis for the orders sought and depart from this aspect of my earlier ruling.

Additional applications sought in the amended application

115. I am satisfied that each of the additional information which the Commissioner seeks through the amended application fall within one of the existing 10 categories referred to above (most appear to fall within category 1). Indeed, I understood that a desire to achieve consistency between the type of information that was and was not included in the orders was the motivation for the Commissioner making the application. Accordingly, I decline to make the additional orders the subject of the amended application for the same reasons I have already expressed.

Considerations in favour of not making the orders

116. I accept, as submitted by Counsel Assisting, that principles of open justice provide a compelling reason against making orders of the type sought. I also accept that they are of particular relevance in this jurisdiction; part of the role of this jurisdiction is to shine a light on issues of public concern. I was referred to the decision of *Bilbao v Farquhar* [1974] 1 NSWLR 377 at 388 in this regard.

117. I find that an exclusionary claim would have significant impacts on the exercise by the Court of this jurisdiction. This Court is a mix of a Court of an adversarial and inquisitorial character: *Musumeci v AG* [2003] NSWCA 77 at [33]). Its jurisdictional role (under s 81 Coroners Act 2009 (NSW)) involves, at least in part, a fact finding exercise: *R v West London Coroner; ex Parte Gray* [1988] QB 467 at 473. This makes it difficult to identify, in advance of an inquest, the significance that a particular piece of evidence will assume.

118. Another important function of this court involves the court's capacity to make recommendations pursuant to section 82 of the *Coroners Act* 2009(NSW). The issues list prepared for the Adams Inquest makes it clear that the operation of the SDP will be considered. One wonders how a proper investigation of this matter, involving the testing of evidence against relevant policy could proceed without examination of the relevant provisions of the SDP in context.
119. It appears to me that allowing a wholly exclusionary claim would result in a real possibility of prejudice to my jurisdiction by (potentially) precluding me from engaging in the type of fact finding exercise which is essential to the Court's task.
120. This consideration does not arise in the application for protective orders.
121. I am conscious of principles of procedural fairness. I consider that they militate against the making of a wholly exclusionary claim (as they potentially deny any opportunity for interested parties to have access to all of the material). Again, however, as the form of protective orders provides an opportunity for interested persons to access these orders, I do not consider principles of procedural fairness to weigh significantly against the making of those orders.

Weighing up

122. I do not consider that the Commissioner has articulated a logical link of any substance between the concerns he has advanced and the communication of the material marked in orange (with the exception of dot points 6, 9, 10 and 15 of cl 7-5-1). To the extent that he has identified such a link, I find that link to be remote or tenuous. I have accorded these matters little weight in the weighing up exercise.
123. I consider that, in the case of an exclusionary claim, the possible prejudice to the court in the exercise of its jurisdiction and, potential, procedural fairness concerns wholly outweigh any (limited) harms that would be incurred by admitting the orange material.
124. I further note that I may need to consider, at the conclusion of the inquest, whether the making of recommendations under s 82 of the Act is desirable. It may be that some aspect of the SDP, in its current form, needs to be reviewed or updated. This is a

further matter, I find, which makes it desirable to have the SDP in its full form available for consideration by this Court.

125. I accept that the position is more difficult in the case of the protective orders. The Court would have access to the materials and a regime is proposed for any interested parties to have access to this information (potentially addressing procedural fairness concerns). The concerns I have referred to in the previous paragraphs does not apply.
126. Ultimately, however, I am of the view that, the weakness in much of the arguments advanced by the commissioner over the material marked in orange, (with the exception of dot points 6, 9, 10 and 15 of cl 7-5-1), means that this is outweighed by the considerations that are against the making of the orders sought. In particular, I am conscious of the considerations behind the principles of open justice and the particular force with which those considerations apply in proceedings of this kind.
127. I adopt the conclusion in the preceding paragraphs in respect of cl 7-2-8 as well. I depart from my preliminary ruling that this was appropriately the subject of some form of protective order and rule that no public interest immunity or protective order should be made in respect of it.
128. The balance of the green material is in a different category. Notwithstanding my preliminary views, I am required to consider a public interest claim in respect of it, given Counsel for the Commissioner has maintained a public interest immunity application over all of the material. Whilst I was, and subject to one exception (cl 7-2-8- as referred to above) remain satisfied that it was appropriate for me to make protective orders, for the reasons I have already expressed, I would not be prepared to make orders excluding this information from inclusion in the brief entirely. I consider that the Commissioner's concerns can wholly be addressed by the making of the protective orders of the type the Commissioner had initially sought. This, it seems to me, is the appropriate course in cases of this kind, given what was said about the making of tailoring orders in *HT*.

Conclusion

129. I have prepared a schedule which applies my reasoning to the specific parts of the SDP.

130. I note that while neither counsel assisting nor counsels for the Commissioner addressed me directly on the nature of my power to make non-publication orders pursuant to the *Coroners Act 2009*, the draft alternative orders sought were described as pursuant to ss 65 and 74 of the *Coroners Act 2009* and the “coroner’s incidental power.” In my view my power to make the necessary non-publication orders under section 74 is sufficient for the material which will be tendered. That section offers the court some specific guidance. As is clear from my reasons above, in making non publication orders I have taken into account the matters set out in section 74(2), in particular the principle that coronial proceedings should generally be open to the public and also the personal security of members of the public, among other factors. Any later request for file material pursuant to section 65 will be dealt with in line with the reasoning set out here.

The Public Interest Immunity Claim over specific parts of the Tyrone Adams coronial brief of evidence.

131. The application in the Adams matter went beyond the application in relation to the SDP, which was common to the Farrell inquest and which is discussed above. The Adams application also extended over a significant portion of the brief of evidence, comprising individual officer statements, recordings and other evidence.

132. When the matter was originally before the court on 9 February 2021, the stated intention of the Commissioner was to make an application for protective orders in respect of specific evidence within the Tyrone Adams coronial brief of evidence. In the event that orders were not granted, the Commissioner advised that an adjournment would be sought in order to make a claim of public interest immunity (**PII**) over the same material.

133. After discussion with the parties, it was accepted that given a successful PII claim would mean such evidence would be immune from production and inspection, the correct approach was to proceed with any PII claim and if that claim did not succeed the court would consider whether protective orders pursuant to ss 65 and 74 of the *Coroners Act 2009* were warranted.

134. The Commissioner sought an adjournment in order to obtain further material relevant to his claim of PII. The matter was adjourned and heard over two days on 12 and 25 February 2021.
135. Material tendered in the proceedings included:
- a. Exhibit 1 – Closed Affidavit of Michael Willing dated 23 December 2020
 - b. Exhibit 2 – Open Affidavit of Peter Thurtell dated 11 February 2021
 - c. Exhibit 3 – Closed Affidavit of Nicholas Samuel Dixon dated 11 February 2021
 - d. Exhibit 4 – Aide Memoire of Table of Preliminary Views
 - e. MFI A – Table prepared in the Adams inquiry
 - f. Exhibit 5 – An electronic copy and a transcript of the Facebook post
 - g. Exhibit 6 – Letter to the Commissioner regarding Facebook Photograph dated 18 December 2020
 - h. MFI B – Coloured Table of Secondary References with Commissioner’s comment dated 27 February 2021
 - i. MFI C – Minutes of Proposed Orders
136. I have previously set out the relevant legal principles relating to the Commissioner’s claim of PII in respect of the Safe Driving Policy. Those principles are relevant to my consideration of the PII claim over specific parts of the brief of evidence.
137. I note that the Commissioner’s original position was that PII was claimed over all evidentiary brief references as set out in the Commissioner’s table at Rows 2 to 203 inclusive. During proceedings on 25 February 2021, the Commissioner placed on the record that the position had changed and that the PII claim was maintained only in respect of Rows 12, 17, 24, 43, 50, 55, 63, 103, 111, 118, 180, 182, 185, 186, 192 and 197 of the Commissioner’s table.
138. In order to understand the logical basis for the Commissioner’s revised claim of PII, I sought clarification from the Commissioner as to the basis upon which the PII claim had been narrowed. As I understand the position, the Commissioner’s PII final claim only extends to references within the brief of evidence that appear to directly quote the SDP or appear to closely mirror the wording of the SDP. Where there was a risk that parts of the SDP, over which PII has been claimed, would be disclosed by evidence in

the brief, a PII claim was also pressed over that evidence. It was conceded that other matters could be dealt with by way of non publication orders.

139. While the new approach was initially confusing, the narrowing of the Commissioner's PII claim appears to be a concession that in respect of evidence where only protective orders are now sought, such evidence would not disclose relevant parts of the SDP itself. Further there is a concession that protective orders can be adequately crafted to alleviate the potential harm caused by the publication of a range of matters initially thought to attract a claim of PII.
140. When considering the PII claim, I have considered each piece of evidence that is subject to the claim within the context of the entire brief of evidence. I have also conducted the balancing test as set out in *Sankey v Whitlam* [1978] 142 CLR 1 and considered any harm to the public if certain evidence was disclosed and weighed that harm against the possibility that the administration of justice and specifically my duties and functions as a coroner could be frustrated if evidence is withheld and not made available to be considered during the proposed inquest.
141. When considering the relevant balancing exercise I have considered a number of factors. I have had regard to what "public harm" may be occasioned if the specific evidence in the brief is disclosed as well as the likelihood of such harm being occasioned. To avoid repetition, I confirm that factors taken into account when considering the PII claim have also been taken into account when considering the alternative of protective orders.

The importance of the evidence subject to the PII claim in the proposed inquest

142. When a PII claim is successful, evidence pertaining to the claim will be excluded from subsequent proceedings. An important consideration for the court is whether a successful claim will result in the frustration of the administration of justice. I am of the view that a successful PII claim would have significant consequences for the Adams inquest and would result in the court being prevented from exploring potentially important issues. The importance of the evidence can be illustrated by specific examples.

143. Rows 12, 24, 43, 55, 63, 111 and 118 of the Commissioner's table are references in the brief of evidence that disclose the fact that the SDP requires that once a pursuit has been terminated, permission to re-engage the pursuit must be obtained.
144. A significant issue to be explored at the Adams inquest is whether police on duty on the night Mr Adams died, re-engaged in the pursuit of Mr Adams' vehicle without obtaining the necessary permission or authorisation. There is evidence in the brief that highlights the possibility that Senior Constable Brett Crossan and Constable Danielle Osborne re-engaged in the pursuit of Mr Adams vehicle without permission. An example of this evidence is that Constable Osborne in her directed interview said she saw [REDACTED]
[REDACTED]
[REDACTED] Sergeant David Stevens, the pursuit manager, said in his statement that he believed, based on the context and terminology of words used, that Officers Crossan and Osborne might have re-engaged the pursuit.
145. I make it clear that I have not formed any view as to whether the pursuit of Mr Adams' vehicle was re-engaged without authority. The difficulty is that the Commissioner's PII claim, if successful, would effectively mean that the issue could not be fully explored at any proposed inquest. I am of the view that an independent examination of whether police officers are complying with the SDP encourages rather than undermines effective policing. In the event that a finding is made that officers have not complied with the SDP, this may result in the need to examine the nature of the breach or signal a need to review of the policy.
146. Rows 50, 180, 185, 186, 192 and 197 of the Commissioner's table refer to evidence in the brief disclosing the SDP in respect of different vehicle categories. Rows 50, 192 and 197 refer to the limitations on category 4 vehicles and describe vehicles that fall into such a category. Rows 180, 185 and 186 refer to the limitations on category 3 vehicles.
147. Senior Sergeant Jennifer McWhinnie indicated at paragraph [83] of her statement that, "*it would appear from the information provided in this incident, Tweed/Byron fleet on this night shift comprised of [REDACTED] vehicles*". In circumstances where [REDACTED] vehicles are least suited to pursuits and [REDACTED] vehicles are not to engage in pursuits except in certain limited situations, an issue at the proposed inquest will be an exploration of [REDACTED]

██████████ at the relevant time. I am of the view that if the Commissioner's PII claim is successful, it will be difficult, if not impossible to explore this issue at inquest.

148. Row 103 of the Commissioner's table refers to Sergeant David Stevens' statement at paragraph [6] where he appears to repeat Parts 7-6 (Version 8.3) and Parts 7-2 (Version 9.2) of the SDP. That part refers to the factors that police must take into account when deciding to initiate or continue a pursuit. Senior Sergeant Stevens refers to the fact that should he consider the relevant factors and conclude "*the danger outweighs the need for immediate apprehension of the offenders it is my duty to immediately terminate the pursuit*".
149. An important issue at the proposed inquest is whether or not police involved in the pursuit, took into account Parts 7-6 or Parts 7-2 of the SDP. One relevant factor in the decision to commence a pursuit will be consideration of the seriousness of the offence/s a person is alleged to have committed. The present brief of evidence does not disclose that police involved in the pursuit, actually suspected Mr Adams of having committed an offence beyond fleeing from Senior Constable Barrenger after having been pulled over. In the event the Commissioner's PII claim is successful in respect of Parts 7-6 or Parts 7-2 of the SDP and Senior Sergeant Stevens' reference to those parts, there could be no proper consideration of police decision making in this regard.
150. An important function of a coroner is to consider the making of recommendations in relation to matters in connection with an inquest, including recommendations concerning public health and safety (See s 3(e) and section 82 of the *Coroners Act* 2009). Insofar as the Commissioner's PII claim has the practical effect of making exploration of issues such as those discussed above impossible it could interfere with my statutory task and thus risk frustrating of the proper administration of justice.

The subject matter and importance of the coronial proceedings specifically relating to Mr Adams

151. When considering whether or not the administration of justice is frustrated, I have considered the specific subject matter in respect of the proposed Adams inquest. Every coronial inquest is important and has significant consequences for the family of the deceased and for the community at large. While some inquests might deal with specific issues that only apply to narrow factual circumstances, others identify systemic issues

for consideration. The Adams inquest could have broad ranging relevance to members of the wider community. The proposed inquest will explore a death that occurred after a police pursuit had taken place and should involve an examination of the SDP and whether relevant police officers adhered to that policy. The way police pursuits are conducted is of broad ranging interest in the community. Members of the public are legitimately concerned about the safety issues raised.

The likely effect or harm of adducing evidence over which PII is claimed

152. I have given careful consideration to the harm asserted by the Commissioner of Police where a PII claim has been made. However, as I shall outline below, it appears to me that identified harm may be cured by protective orders in certain cases. There are also parts of the brief where, after careful consideration, I have concluded that public harm is unlikely to arise if the evidence is adduced at inquest and is not subject to protective orders.

153. The Commissioner of Police relied upon a confidential affidavit of Assistant Commissioner Michael Willing sworn on 23 December 2020. In that affidavit Assistant Commissioner Willing made three important assertions relevant to the PII claim:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

154. At no stage was evidence presented to support these assertions. No substantiated examples were provided from other states where offenders engaged in risky or taunting behaviour. No substantiated examples were provided to show that there had been past

cases where 000 had been used to re-direct police resources. I am not suggesting that police, in order to succeed in a PII claim, must be able to provide concrete examples of harm, the task is a difficult and speculative one. However, where the amended pursuit guidelines have actually been released in Queensland, substantiated evidence of public harm occasioned in that state linked to the release of pursuit guidelines, might have some persuasive value in support of the present PII claim. No such evidence has been provided.¹⁶

155. To undertake an examination of possible “public harm”, I have carefully considered each piece of evidence over which PII is sought and I make the following comments:

- a. Rows 12, 24, 43, 55, 63, 111 and 118 relate to evidence in the brief disclosing the fact that the SDP requires police to obtain permission to re-engage a pursuit that has been previously terminated. I am of the view that the public harm occasioned by disclosure of such evidence is limited. The Commissioner submits that would be offenders would obtain a tactical time advantage where permission to re-engage is required and as such would be offenders may drive dangerously to bring about termination of a pursuit for the express purpose of obtaining this time advantage. I do not share this view.

The evidence disclosed in the brief does not refer to how permission to re-engage is obtained and whether this process is necessarily time-consuming. Similarly the SDP at Part 7-1-5 (Version 8.3) and Part 7-1-4 (Version 9.2) only states that, “*approval to re-initiate will only be considered if pertinent information is received which indicates that the circumstances of the pursuit have changed significantly*”. I am not persuaded that would be offenders would infer that obtaining permission to re-engage is necessarily a lengthy process, giving rise to a tactical time advantage.

It is also arguable that knowledge that a police pursuit once terminated can be readily re-engaged may discourage offenders from acting in a manner likely to result in the termination of a pursuit, as they would know that any terminated pursuit could be readily re-engaged.

¹⁶ See letter of request for further information from Crown Solicitor’s Office to Commissioner of Police dated 22 January 2021. While this letter refers to NPO claim, the harm asserted is relevant to both the PII claim and the claim for NPO.

Further, when considering the practical realities of an offender engaged in a police pursuit, I find it unlikely that knowledge that permission to re-engage a terminated pursuit is required would alter the behaviour of a driver engaged in a pursuit.

- b. Row 17 relates to paragraph 138 of Senior Sergeant Peter O'Reilly's statement where he refers to limitations relating to Tyre Deflation Devices (TDDs). The Commissioner claims PII over Senior Sergeant Reilly's observations that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] and "*TDDs are not to be deployed where safety is compromised*".

I agree that there is a risk of public harm being occasioned if would be offenders were made aware of limitations related to the deployment of TDDs. Would be offenders may be emboldened by information that suggests that the deployment of TDDs is restricted. That said, as the Commissioner has not referred to any likely harm if Senior Sergeant O'Reilly's statement relating to TDDs was available to the interested parties and their legal representatives at any proposed inquest, I am minded to make protective orders. My reasons for doing so are set out later in this judgement when addressing protective orders separately.

- c. As stated, rows 50, 180, 185, 186, 192 and 197 of the Commissioner's table refer to evidence in the brief disclosing the SDP in respect of different vehicle categories. Rows 50, 192 and 197 refer to the limitations on category 4 vehicles and describe vehicles that fall into such a category. Rows 180, 185 and 186 refer to the limitations on category 3 vehicles.

I am of the view that there is a real risk of public harm being occasioned if the public (including would be offenders) were aware of what specific police vehicles belonged to which specific category of vehicle. I accept the Commissioner's submission that if would be offenders were aware that [REDACTED]
[REDACTED]
[REDACTED] they may be more

likely to engage in a pursuit if they believed the likely pursuing vehicle was a [REDACTED] vehicle.

Again, as the Commissioner has not referred to the risk of any harm if information relating to police vehicles and categories was available to the interested parties and their legal representatives at any proposed inquest, I am minded to make protective orders. My reasons for doing so are set out later in this judgement when addressing protective orders separately.

d. Row 103 of the Commissioner's table refers to Sergeant David Stevens statement at paragraph [6] where he refers to the factors police must take into account when deciding to initiate or continue a pursuit. The evidence over which PII is claimed is when Sergeant David Stevens refers to the fact that:

- *"Factors that are considered in making this decision include: the speed of the pursuit; the location of the pursuit; the time of day/day of week; weather and road conditions; traffic density, including vehicles and pedestrians; any malfunctions with police equipment and/or serious damage to a police vehicle may make continued operation of the pursuit hazardous"*
- *"Should I consider these factors and the danger does outweigh the need for immediate apprehension of the offenders it is my duty to immediately terminate the pursuit"*

[REDACTED]
i [REDACTED]; *Other police vehicles are in convoy or street paralleling unless authorised; the distance between the pursuing vehicle and fleeing vehicles is so great that further pursuit is futile; An inappropriate category of vehicle is used or the driver does not have an appropriate response classification.* [REDACTED]
[REDACTED]

e. Senior Sergeant Jennifer McWhinnie at paragraph [32] of her statement, listed at Row 182 of the Commissioner's table, refers to similar evidence and is also subject to a claim of PII.

I am not persuaded that there is a real risk of public harm if the public (including would be offenders) became aware that police before and during a pursuit must consider general safety considerations. This is a common sense proposition that

is also reflected in Assistant Commissioner Corboy's public pronouncements over Facebook.

I have formed the view that there is a real risk of public harm if the public (including would be offenders) were aware that a pursuit will be automatically terminated when, "[REDACTED] I accept that such information may encourage would be offenders to drive [REDACTED] to bring about an automatic termination of a pursuit.

Again, as the Commissioner has not referred to the risk of any harm if the abovementioned evidence was provided to the interested parties and their legal representatives at any proposed inquest, I am minded to make protective orders. My reasons for doing so are set out later in this judgement when addressing protective orders separately.

Whether protective orders can address any potential harm

156. Ultimately when conducting the relevant balancing exercise and taking all of the abovementioned considerations into account, I am not satisfied that the Commissioner has made out his claims of PII covering the various identified parts of the Adams brief of evidence.
157. Where disclosure of material in the brief of evidence may cause significant public harm by undermining effective policing and there are few means to limit the publication and dissemination of such evidence, I accept this would constitute a compelling argument in support of the Commissioner's PII claim. However when considering the evidence in Rows 12, 17, 24, 43, 50, 55, 63, 103, 111, 118, 180, 182, 185, 186, 192 and 197 of the Commissioner's table, at no stage did the Commissioner submit that public harm was likely to be occasioned by such evidence being adduced at any proposed inquest and provided to interested parties and their legal representatives. The open and confidential affidavits and oral submissions relied upon by the Commissioner, only referred to a risk of public harm being occasioned by members of the public and would be offenders having access to the evidence and using such evidence to further criminal offending.

158. Having considered carefully the evidence relied upon and listened carefully to the submissions of the Commissioner, I am satisfied that if members of the public had access to certain evidence disclosing parts of the SDP (e.g. evidence disclosing what category of vehicles different police vehicles belong to or that [REDACTED], there is a real risk of public harm in that effective policing may be undermined or the information used to further offending. However, I am of the view that protective orders can adequately address these specific harms. In trying to grapple with the Commissioner's claim, I directly asked counsel for the Commissioner in the Adams matter why protective orders were not sufficient. No compelling argument was identified.¹⁷

The Non-Publication Order Claim over parts of the Tyrone Adams coronial brief of evidence.

Category 1: Evidence that refers to Mr Adams' vehicle travelling [REDACTED]

Category 2: Evidence that refers to Mr Adams' vehicle travelling on the wrong side of the road, [REDACTED]

This includes references to where Mr Adams travels on the incorrect side of Ducat Street, Kennedy Drive and the Motorway.

159. The Commissioner seeks protective orders relating to evidence that refers to Mr Adams travelling on the incorrect or wrong side of the road. There are multiple references in the brief of evidence indicating Mr Adams' vehicle travelled on the wrong side of the road and protective orders are not sought in relation to all such references.

160. [REDACTED]

¹⁷ Transcript, 25 February 2021, p. 51 line 6 – p. 52 line 26.

[REDACTED]

161. When the matter was listed on 25 February 2021, the Commissioner prepared a table (**Commissioner's table**) setting out all the clauses over which protective orders were originally sought and indicated that for some clauses the position had changed and the application for protective orders was no longer pressed. The Commissioner's table set out each of the clauses in its original application and indicated an updated position as to whether protective orders were "pressed" or "not pressed" in respect of each clause.

162. It is apparent that a number of clauses, specifically those listed in Rows 4, 25, 26, 27, 34, 43 (Q/A 122), 85, 89, 90, 93, 101, 190 and 191 of the Commissioner's table, refer to references in the brief of evidence where Mr Adams vehicle had travelled on the wrong side of the road, however the application for protective orders was "not pressed".

163. Examples of clauses where the application for protective orders are no longer pressed include:

- Row 34: reference to Senior Constable Paul Barrenger stating in his directed interview that he saw Mr Adams' vehicle travelling southbound on Ducat Street in the northbound lane.
- Row 43: reference to Leading Senior Constable Brett Crossan stating in his directed interview that "*the call was that it (Mr Adams' vehicle) had gone in, on the wrong side of the road again*".
- Row 90: reference to Senior Constable John Rowland's statement at [11] where he stated, "*I saw the same white Mazda from the pursuit whizz past us, overtaking us from the right, on the incorrect side of Kennedy Drive*".

164. In my view the decision to no longer press the application in respect of the specific clauses referred to above was proper. I understand that protective orders were no longer sought over those specific clauses, as while they referred to Mr Adams' vehicle travelling on the incorrect side of the road, [REDACTED]

[REDACTED].

165. [REDACTED]

[REDACTED]

166. I am of the view that protective orders should be made in relation to the clauses covered by category 1. The clauses covered by category 1 appear to fall into two groupings:

a. [REDACTED]
[REDACTED] I am of the view that protective orders should be made over all such references. This is because upon a proper reading of the entire brief, it is obvious that [REDACTED]

[REDACTED]
Clauses that fall into this category are listed in Rows 2, 3, 8, 31, 35, 41, 53, 66, 77, 87, 91, 92, 97, 105, 130, 155, 156, 158, 159, 187 and 188 of the Commissioner's table.

b. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Clauses that fall into this category are listed in Rows 5, 7, 14, 15, 16, 23, 24, 27, 28, 32, 42, 52, 56, 57, 62, 67, 83, 84, 88, 94, 95, 96, 110, 111, 114, 117, 122, 174, 175, 189, 194, 195 and 196 of the Commissioner's table. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

167. Consistent with my comments above, I am of the view that protective orders are not warranted over the clauses in the brief of evidence that fall into category 2. Evidence falling into category 2 merely refers to Mr Adams' vehicle travelling on the wrong side of the road, [REDACTED]

[REDACTED]

168. In my view mere mention of the fact that Mr Adams' vehicle had travelled on the wrong side of the road on Ducat Street, Kennedy Drive or the motorway, is unlikely to lead members of the public to form the view that [REDACTED]
[REDACTED] This is especially the case where the specific clauses refer to Mr Adams being on the incorrect side of the road [REDACTED]
[REDACTED] As such, I am not satisfied that protective orders are warranted in respect of the clauses of evidence covered by category 2 and are listed in Rows 43, 44, 45, 46, 47, 58, 59, 60, 61, 70, 82, 86, 98, 99, 102, 135, 136, 137, 138, 161, 166, 168, 170 and 176 of the Commissioner's table.
169. While I am of the view protective orders are not warranted where there is mere reference to Mr Adams travelling on the incorrect side of the Kennedy Drive or the motorway. This is to be distinguished from some of the evidence that falls into category 1 where I will make protective orders, namely:
- a. Statement of Senior Sergeant Peter O'Reilly where he refers to Constable Danielle Osborne stating '[REDACTED]
[REDACTED] (Row 3 Commissioner's table) and [REDACTED]
[REDACTED] (Row 7 of Commissioner's table).
 - b. Directed Interview of Constable Danielle Osborne where she refers to Mr Adams' vehicle going [REDACTED]
[REDACTED] (Row 56 and 57 of Commissioner's table).
 - c. Statement of Sergeant Troy Hamilton at [20] where he refers to Mr Adams' car "Southbound in the Northbound". Rather than non-disclosure orders being made over the passage in bold, [REDACTED]
[REDACTED] and therefore I find it more appropriate that non-publication orders are made over the passage [REDACTED] (Row 69 of Commissioner's table).
 - d. Statement of Senior Constable Benjamin Freebody where he referred to Mr Adams' vehicle travelling on the incorrect side of the road of Kennedy Drive and states, '[REDACTED]
[REDACTED] (Row 94 and 95 of Commissioner's table).

e. Statement of Sergeant David Stevens where he stated at paragraph 12 [REDACTED]

[REDACTED]
[REDACTED] (Row 110 of Commissioner's table).

Category 3: Evidence that refers to a particular police vehicle that is identified by picture or by way of description, where there is also reference to what category the vehicle is, such as [REDACTED] vehicle.

170. The Commissioner has sought protective orders over references in the SDP that refer to the fact that there are categories of police vehicles and that a hierarchy exists between them. The hierarchy indicates which police vehicles are more suitable for use in pursuits than others.

171. I am of the view that protective orders are not warranted over parts of the SDP that simply disclose the existence of various categories of police vehicles. This is because while members of the public may know of the existence of different vehicle categories, they are unlikely to take advantage of such information where there is no disclosure as to what categories different types of police vehicles fall into.

172. While I have formed the view that protective orders are unnecessary in respect of references in the SDP to [REDACTED] vehicles, I take a different view in relation to those references as they appear in the brief of evidence.

173. At Tabs 101, 102 and 103 of the brief of evidence, there are photos of three different police vehicles that were either involved in the pursuit of Mr Adams or were in the general area when the pursuit took place:

- a. Tab 101 includes photos of [REDACTED]. Commentary attached to the photos, describe the police vehicle as a [REDACTED]
[REDACTED]
- b. Tab 102 includes photos of [REDACTED]. Commentary attached to the photos, describe the police vehicle as a [REDACTED]

c. Tab 103 includes photos of [REDACTED]. Commentary attached to the photos, describe the police vehicle as a [REDACTED]
[REDACTED]

174. In addition to photos of various police vehicles, the brief of evidence includes statements and directed interviews of various police officers where they describe the make and model of the police vehicles they were utilising and they specifically state whether their vehicle was a [REDACTED] vehicle.

175. When the Tyrone Adams brief is considered as a whole, I have formed the view that if protective orders are not made over references in the brief to [REDACTED]
[REDACTED], it is likely that members of the public will be able to discern what category different police vehicles belong to.

176. I accept the Commissioner's submission that where a driver was considering whether to flee police in their vehicle, knowledge that police were utilising a vehicle that was least suited to engage in a pursuit, may be a factor that potentially encourages a driver to flee. As such, I have formed the view that protective orders are necessary over references in the brief of evidence to [REDACTED] vehicles.

177. The clauses which are covered by category 3 and over which I make protective orders, are listed in Rows 9, 10, 13, 36, 40, 48, 49, 50, 64, 96, 100, 104, 119, 120, 121, 123, 141, 177, 178, 179, 180, 183, 185, 186, 189, 192, 193, 197, 198, 199, 200, 201, 202 and 203 in the Commissioner's table.

Category 4: Evidence that refers to a police vehicle "category" but there is no description of a particular type of police vehicle being a particular category of vehicle.

178. The Commissioner seeks orders relating to information which relates to the categories of vehicles that may be used in pursuits. Distinguishing from the evidence which falls under category 3, the references referred to in this category are references referring to a police vehicle "category" but where there is no description of a particular type of police vehicle being a particular category of vehicle.

179. In his confidential affidavit, Assistant Commissioner Willing states (at [12]):



180. I have previously indicated that I am of the view that the mere existence of categories should not be subject to protective orders within the Safe Driving Policy. Despite this there are some secondary references in this matter where there is a basis for protective orders because of the fact that there are clear photos of the different vehicles and clear descriptions of the vehicles in the brief of evidence. I agree in these instances that knowledge of the categories and their limitations of specific vehicles may lead to offenders increasing risky behaviour. However, these references which refer to the specific identification and detail of the vehicles are dealt with under category 3 regarding evidence that refers to a particular police vehicle identified by picture or identified by way of description where there is also a reference to what category the vehicle is.
181. Outside of the references referred to in category 3, the Commissioner also seeks protective orders over references to categories of vehicles that cannot be attributed to specific vehicles. Such clauses pressed by the Commissioner are Rows 51, 52, 65, 113, 116 and 119 of the Commissioner's table.
182. I am of the view that this information does no more than to reveal:
- a. That a category of vehicles exists;
 - b. That an order of precedence exists between each of the categories in terms of their suitability to engage in pursuits (with vehicles in some categories being more suitable than others to engage in pursuits); and
 - c. Identifying limitations of vehicles within certain categories.
183. I do not accept that the publication of this sort of information is not in the public interest as contended by the Commissioner.
184. The fact that there is a category of vehicles is not, in my opinion, inherently of a confidential character. The fact that categories of vehicles exist may be supposed as a

matter of common sense and members of the public are likely to have already deduced this. It may further be supposed that the public would appreciate that some police vehicles are more suitable than others for conducting pursuits.

185. Further, the existence of categories of vehicles and the hierarchies that exist between them in terms of conducting pursuits are matters which are already published in the public domain. Additionally, similar information to that in the Safe Driving Policy has already been published or publicly disclosed in a number of other jurisdictions. In this regard, I have been referred to cl [1.11]-[1. 12] of the AFP *National Guideline on Urgent Duty Driving and Pursuits (ACT Policing)*.
186. I am also satisfied that similar matters have been generally disclosed by the Assistant Commissioner's public statements during the press conference recorded in the 2018 Facebook post in which he discloses that the "top rated vehicles" driven by the highway patrol are "the ones most suitable for pursuits".
187. As information about the categories of vehicles is already in the public domain, I am not satisfied that the publication of the information at Rows 51 and 64, would lead to any change in driver behaviour. Accordingly, I am not satisfied that any prejudice to police methodology or an increase risk to public safety or the safety of officers would be caused by the publication of this information.
188. Separately and in addition, the Commissioner has not satisfied me of the link between publication of the existence of the fact vehicle categories exist, the precedence between those categories and the limitations on some of those categories on the one hand and public interest in non-publication contended for (in terms of the prejudice to methodology and risks to officer or public safety) on the other.
189. Absent the publication of that additional information identifying which police vehicles fall within the particular categories, I am not persuaded that the non-publication of the information is in the public interest as pressed by the Commissioner. However the Commissioner submitted that even though these vehicle category references do not refer to the specific detail and limitations of police vehicles, they allude to specific references in the Safe Driver policy regarding the maintenance and termination of pursuits. In line with my reasoning for the category 3 references, I am of the view that

alternative protective orders should be made to protect the specific details of police vehicles for some of the clauses in this category including:

- a. Transcript of directed interview with Constable Danielle Osbourne [Q74, p10] which refers to immediate termination of a pursuit if a driver drives on the other side of the road and the pursuit vehicle is a [REDACTED] vehicle. Protective orders to be made over the words [REDACTED] (Row 52).
- b. There are two Police Pursuit Forms (Tab 43A and 43B) – one refers to DOG 35 and the other refers to TH15. The forms contain a box that states: “Primary Vehicles section: Cat 1 / Cat 2/ Cat 3/ Cat 4”. There is no basis for protective orders over the reference to the different categories of vehicles, however under the categories there is a TICK that indicates which category vehicle, Dog 35 and TH15 belongs. There is a basis for protective orders over the TICK itself that identifies what category a particular vehicle belongs (Rows 113 and 116). I am of the view that there should be orders over the tick, the entire row of boxes including the ticked box and empty boxes should be subject to protective orders, if only the ticked box is subject to orders, it will be obvious which box has been ticked and which vehicle category the vehicle in question belongs

190. Accordingly, I do not make protective orders over the clauses covered by category 4 listed in Rows 51, 52, 65 and 119 in the Commissioner’s table, however, accept the Commissioner’s intention in some circumstances and therefore make alternative protective orders for clauses in Rows 52, 113 and 116 as mentioned above.

Category 5: Evidence that refers to the requirement that police are required to obtain permission or approval before re-engaging a pursuit that has been terminated.

191. The Commissioner seeks orders relating to information which relates to the requirement that police are required to obtain permission or approval before re-engaging a pursuit that has been terminated. The clauses in this category are at Rows 6, 11, 12, 39, 43, 55, 63, 109, 111 and 118 of the Commissioner’s table. Rows 24, 111 and 194 also contain segments of clauses which relate to the requirement to obtain permission or approval before re-engaging in a pursuit.

192. The Commissioner objects to and makes submissions on any publication of the fact that once a police pursuit has been terminated, a police officer must obtain permission or authority to re-engage the pursuit of that vehicle. The basis for the objection is that if would be offenders were aware that permission to re-engage a pursuit is required, they may seek to bring about the termination of a pursuit so as to avail themselves of the tactical advantage.
193. I am of the view that any tactical advantage obtained by any would be offender may be so minimal to be of negligible value and my reasoning is as follows:
- a. At no stage does the evidence in the brief of evidence or the Safe Driving Policy disclose exactly how authority or permission to re-engage is obtained. As such, any would be offender is unlikely to assume that the process for obtaining permission to re-engage is necessarily lengthy or time-consuming.
 - b. At no stage does the evidence in the brief of evidence or the Safe Driving Policy disclose the specific grounds upon which permission to re-engage is granted. As such, any would be offender is unlikely to assume that it would be difficult to obtain permission to re-engage.
 - c. Dissemination of the fact that a police pursuit once terminated can be readily re-engaged may actually be in the public interest. It may discourage offenders from acting in a manner likely to result in the termination of a pursuit, as they would know that any terminated pursuit could be readily re-engaged.
194. When considering the practical realities of an offender engaged in a police pursuit, it appears likely that their main aim is to flee as far as possible from pursuing police. The intent would be to flee at all costs, as opposed to acting in a strategic manner so as to give rise to a termination of a pursuit, so as to obtain the benefit of a time advantage. Put simply, publication of the fact that authority/permission to re-engage a terminated pursuit is required, is unlikely to impact upon the behaviour of criminals who are engaged in a pursuit.
195. The Commissioner not only objects to publication of information that permission to re-engage a pursuit is required, there is also objection to the publication of the mere existence of directions in respect of re-engaging vehicles.

196. The Commissioner objects to the publication of the fact that Senior Constable Crossan was asked in his directed interview at Q/A 123, “*Did you hear any directions given in relation to re-engaging that vehicle in pursuit*”.
197. That question does not necessarily imply that permission to re-engage a pursuit needs to be sought. Rather, the question may imply that a police officer may, at any time, give a unilateral direction to other police to re-engage a pursuit. It is my view that a would be offender armed with the information disclosed in Q/A 123, is unlikely to obtain any material advantage that would assist in the furtherance of their criminality.
198. Accordingly, I am not persuaded that orders should be made in respect of information referring to the requirement that police are required to obtain permission or approval before re-engaging a pursuit that has been terminated. Therefore, I do not make protective orders over Rows 6, 11, 12, 39, 43, 55, 63, 109 and 118 of the Commissioner’s table. I am also not satisfied that protective orders should be made over clauses in Rows 24, 111 and 194 which relate to the requirement to obtain permission or approval before re-engaging in a pursuit only.

Category 6: Evidence that refers to Tyre Deflation Devices (TDDs) or spikes.

199. The Commissioner seeks orders relating to information which relates to the Tyre Deflation Devices (TDDs) or spikes. The clauses relating to this category are at Rows 17, 18, 19, 20 of the Commissioner’s table. I note that Row 18 is not pressed by the Commissioner.
200. The Commissioner objects to and makes submissions to the disclosure of evidence in Senior Sergeant Peter O’Reilly’s statement as it relates to TDDs. Senior Sergeant O’Reilly’s statement refers to the fact that:
- a. [REDACTED]
 - b. Officers must undertake a training course to be accredited to deploy TDDs and must renew the accreditation very two years.
 - c. Officers must be positioned ahead of the pursuit, in a location deemed safe, to deploy the TDDs.

- d. [REDACTED]
[REDACTED]
[REDACTED]
- e. Safety is the primary concern of the deployment officer and the TDD is not to be deployed where safety is compromised.
- f. [REDACTED]
[REDACTED]
- g. [REDACTED]
[REDACTED] he was engaged in the pursuit and not in a position to deploy.

201. The Commissioner seeks orders only in relation to that referred to above at Paragraph 41(a), 41(d), 41(e) but only where it states “TDD is not to be deployed where safety is compromised”, 41(f) and 41(g) (Row 17).

202. The information in Senior Sergeant O’Reilly’s statement does highlight that there are limitations in the use of TDDs and it is not the case that any police vehicle can deploy TDDs at any given point in time. As such, offenders may become more emboldened in regard to pursuits, if they believe that [REDACTED]
[REDACTED]
[REDACTED]

203. As I am of the view that knowledge of limitations in the use of TDDs could have the potential to embolden would be offenders, protective orders should be made over the following facts:

- a. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

204. That said, there is no basis for protective orders in respect of the fact that safety should be a primary concern when deploying dangerous equipment like TDDs. In my view where the Commissioner does not seek orders over the fact that “*safety is the primary concern of the deployment officer*” there is no merit to the making of orders over the fact that “*the TDD is not to be deployed where safety is compromised*”.

205. The Commissioner initially objected to disclosure of the fact that during the pursuit, the VKG operator enquired about spikes with Acting Inspector Allcroft, however this clause was later not pressed (Row 18).
206. The Commissioner also objected to the disclosure of that fact that after the VGK operator enquired about the spikes, [REDACTED] [REDACTED] (Row 19).
207. I agree with the Commissioner here that while there is no basis for protective orders over the mere fact that VKG enquired about spikes as the public knows well that spikes exist and are carried in police vehicles, there is a basis for protective orders where would be offenders may be emboldened by the information that [REDACTED] [REDACTED]
208. Further, at Row 20 of the Commissioner's table, the Commissioner objects to and makes submissions in relation to publication of the disclosure by Senior Sergeant Peter O'Reilly in his statement that refers to:

[REDACTED]
[REDACTED] **however he was engaged in the pursuit and
"not in a position for deployment of the TDD to be considered"**

209. Protective orders are sought over the fact Sergeant Hamilton was engaged in the pursuit and could not deploy TDDs (i.e. the segment in bold). In my view protective orders are not warranted as it appears to be a common sense proposition that a police officer engaged in a police pursuit is likely to be following behind the pursued vehicle and would be in no position to deploy TDDs in such circumstances. However, while orders were not expressly sought, consistent with my earlier statement that would be offenders may be emboldened by information that [REDACTED] [REDACTED] I am of the view that protective orders should be made covering the fact that [REDACTED] [REDACTED].

Category 7: Includes evidence that appears to refer to the Safe Driving Policy where the fact that police when conducting traffic stops, pursuits or urgent duty driving

should consider issues of general safety such as danger to police and other road users, weather and road conditions and traffic density, time of day and day of the week (e.g. active school zones, road works).

210. The Commissioner seeks orders relating to evidence that refers to the Safe Driving Policy where and the fact that police when conducting traffic stops, pursuits or urgent duty driving should consider issues of general safety such as danger to police and other road users, weather and road conditions and traffic density, time of day and day of the week (e.g. active school zones, road works).

211. In his confidential affidavit, Assistant Commissioner Willing states (at [21]):

[REDACTED]

212. The evidence over which protective orders are sought fall into two categories:

- a. Evidence that refers to police officers during the pursuit, considering general safety issues or being asked about general safety issues including road condition, speed, traffic density, time of day and week, manner of driving of the pursued vehicle and weather. These references can be found at Rows 7, 29, 30, 33, 37, 52, 103, 112, 115 and 182 of the Commissioner's table.
- b. Evidence that refers to police officers considering issues of dangerousness and concluding that Mr Adams was driving in a generally dangerous manner and this was a factor resulting in the pursuit being terminated. These references can be found at Rows 22, 31, 38, 54, 68, 106, 107, 173, 181, 183 and 184 of the Commissioner's table.

213. The Commissioner submits that when these specific concerns are taken together and broadcast over the radio it may be possible to infer that these are the considerations

mandated by SDP termination or maintenance policy. I am not convinced this necessarily follows.

214. In any event, I am not satisfied that publication of the evidence under this category is likely to cause harm, given that similar material already exists within the public domain. Within the public domain there exists material highlighting the fact that during a pursuit, police officers will always conduct a risk assessment that involves consideration of issues of public safety, when deciding whether to continue or terminate a pursuit. Specifically, I refer to the 2018 Facebook post recording Assistant Police Commissioner Michael Corboy's "Safe Driver Policy Press Conference". The general thrust of Assistant Commissioner Corboy's pronouncements, was to make it clear to the public that police involved in pursuits engaged in continual risk assessments and considerations of public safety were at the forefront of their minds during any pursuit. During the press conference, Assistant Commissioner Corboy stated:

- a. The NSW Police has a very stringent Safe Driver Policy that exists to make it safer for members of the community and NSW Police performing their duties.
- b. That the whole policy is based on "risk".
- c. Once the police are engaged in a pursuit there are a number of risk assessments. The risks assessments relate to what vehicles are the most suitable for pursuits.
- d. In most circumstances a police driver themselves will terminate the pursuit if a pursuit gets dangerous.
- e. In other circumstances the radio supervisor, Inspectors or other people who are licence holders can terminate the pursuit and NSW Police continue to risk assess every pursuit they take part in.

215. The Commissioner submits that in the event would be offenders were aware that pursuits will be terminated in circumstances where there is a heightened risk of harm to the public, would be offenders will drive in a deliberately dangerous fashion so as to bring about the termination of a pursuit. I have not been convinced that the material would operate on the mind of a driver already involved in a pursuit in this way. I am also of the view that it is in the public interest that members of the public (including would be offenders) are made aware that police will consider the safety of the entire community when conducting pursuits. This awareness ensures the public can feel safe

on the road. In fact it appears Assistance Commissioner Corboy's press conference was aimed at this kind of reassurance.

216. I have also taken into account the fact that while the SDP refers to the fact that it is mandatory that police have regard to certain safety considerations, at no stage does the SDP mandate a particular response by police after accounting for any mandatory considerations. As such, the mere fact that police must take issues of general safety into account, is unlikely to affect the behaviour of would be offenders, as they will have no certainty as to how police will respond after taking mandatory considerations into account.
217. The disclosure and publication of the fact that police will consider general public safety factors such as traffic density, weather, time of day or night or the speed of pursued vehicles, is a matter of common sense and most would assume police officers would consider such things during a pursuit.
218. When specifically considering each clause that falls into category 7, I note that the Commissioner has sought orders over material that does not necessarily disclose parts of the SDP itself. Examples include:
- a. Senior Constable Paul Barrenger in his directed interview stated that Mr Adams' manner of driving at one point was reasonable and his speed was in no way excessive (Row 29 of Commissioner's table).
 - b. Senior Constable Paul Barrenger in his directed interview stated that Mr Adams' vehicle went on the right side of the road at one point and there was no traffic on the road and the road conditions at the time were dry and sealed (Row 30 of Commissioner's table).
 - c. Senior Constable Paul Barrenger in his directed interview was asked if the traffic was light at one point and he said there were hardly any cars on the road (Row 33 of Commissioner's table).
 - d. Constable Danielle Osborne in her directed interview was asked about the speed she was travelling and she said she was travelling "*just normal, just the speed of the road*". She was asked if there was other traffic about and she said there was

in the back residential streets. She was also asked if it was dry or raining and she said it was dry (Row 54 of Commissioner's table).

e. In Sergeant Troy Hamilton's statement he stated, "*I proceeded onto the M1 toward the NSW/QLD border as I felt the driver may continue north in a dangerous manner*" (Row 68 of Commissioner's table).

f. Where the CAD Logs refers to the word/s:

- "60 over 60" (Row 71 and 124 of Commissioner's table)
- "light" referring to light traffic (Row 73 and 126 of Commissioner's table)
- "Sth 100 over 80" (Row 74 and 127 of Commissioner's table).

g. In Sergeant David Stevens statement, he referred to the fact that during the pursuit "the traffic was light at the time" (Row 107 Commissioner's table).

219. In my view, mere reference to the fact that Mr Adams drove at a reasonable speed at one point or that traffic was light at the time of the pursuit does not necessarily disclose parts of the SDP. I understand the Commissioner submits that members of the public will infer that police have referred to whether the road was wet or dry and whether traffic was light or dense as these are mandatory considerations they must take into account. I am not satisfied that such an inference can be drawn from the evidence referred to in the previous paragraph.

220. Ultimately, I am not satisfied that protective orders should be made in respect of information referring to the fact that police when conducting traffic stops, pursuits or urgent duty driving must consider issues of general safety as set out in sections 6-2-4, 7-5-1 and 8-6-2 of SDP version 8.3 and section 6-4, 7-2-2 and 8-2-5 of the SDP version 9.2.

Category 8: Evidence from the Computer Aided Dispatch or CAD records

221. The Commissioner initially sought orders relating to evidence from the Computer Aided Dispatch or CAD records which refer to the street names and speed which Mr Adams' vehicle travelled and references to Mr Adams' vehicle crossing the wrong side of the road. I note the evidence in this category does not include CAD record references that

refer to Mr Adams vehicle crossing on the wrong side of the road and general conditions, as these references are covered by category 1, 2 and 7 respectively. The clauses referred to in this category are Rows 72, 75, 76, 78, 79, 80, 81, 125, 128, 129, 131, 132, 133, 134 of the Commissioner's table. I note on 25 February 2021, the Commissioner revised his position and did not press the application for protective orders over these Rows. Nevertheless, for completeness, I provide reasons as to why these clauses should not be subject to protective orders.

222. The difficulty with the references the Commissioner sought protective orders over is the majority are references describing what happened during the pursuit including, the location of a vehicle, the traffic conditions at the time or the speed of different vehicles. None of these references imply that police must exercise a discretion in a particular way and the references do not disclose police methodology.
223. Similarly to the reasoning in category 7 regarding police consideration of general safety, it is in the public interest that members of the public are made aware that police will consider the safety of the entire community when conducting pursuits. The references in category 7 and similarly in category 8 do not disclose police methodology and therefore there is no adverse effect to the public interest in their publication.
224. As a result I am not satisfied that, in the event the Commissioner had pressed the application for clauses under category 7, protective orders should be made in respect of general evidence from the CAD records which only describe street names, traffic density or the speed of Mr Adams' vehicle.

Category 9: Includes a reference in Sergeant David Stevens statement (Tab 43 at [6]) that refers to the Safe Driving Policy and when pursuits need to be automatically terminated

225. The Commissioner seeks orders relating to the reference in Sergeant David Stevens' statement (Tab 43 at [6]) that refers to the Safe Driving Policy and when pursuits need to be automatically terminated. This reference is noted at Row 103 of the Commissioner's table.
226. The Commissioner seeks orders over the following phrases in bold:

Times where a pursuit must be automatically terminated include:

- [REDACTED] *ere is reason to believe the information received from the primary or [post it covering text] vehicle is incorrect or inaccurate. **Other Police vehicles are in convoy or 'street paralleling" unless authorised.** The offender's identity is established to the point where later apprehension is likely and there is no immediate threat to public safety. **The distance between the pursuing and fleeing vehicles is so great that further pursuit is futile. An inappropriate category of vehicle is used or the driver does not have an appropriate response classification.***

227. The basis of the Commissioner's objection to the above reference in Sergeant David Stevens' statement is where he refers to the Safe Driving Policy and listed the circumstances where he, as a pursuit manager, is required to automatically terminate a pursuit. These circumstances are listed in the confidential affidavit of Assistant Commissioner Willing (at [22]) and include:

- [REDACTED]
- b. Where police vehicles are in convoy or 'street paralleling" unless authorised;
 - c. The distance between the pursuing and fleeing vehicles is so great that further pursuit is futile;
 - d. An inappropriate category of vehicle is used or the driver does not have an appropriate response classification; and
 - e. [REDACTED]

228. There is merit in the argument that where would be offenders are aware that a state of affairs will lead to automatic termination of a pursuit, they may be encouraged to bring about that state of affairs so as to escape criminal liability.

229. The relevant question to ask is, in relation to the state of affairs referred to the reference in Sergeant David Stevens' statement, "Does a would be offender have the ability to bring about the state of affairs that can lead to an automatic termination of a pursuit?" If would be offenders do not possess that ability, then it does not matter that they have knowledge of the particular state of affairs that can lead to the termination of a pursuit.

230. For example, would be offenders involved in a pursuit, have little or no ability to:

- a. Prevent police vehicles acting in convoy or 'street paralleling"; and
- b. Create a situation where an inappropriate category of vehicle is used or where the police driver does not have an appropriate response classification.

231. In circumstances where would be offenders have little or no ability to bring about the circumstances that give rise to the automatic termination of a pursuit, publication of those circumstances is not against the public interest. The mere fact that would be offenders may become aware of circumstances that will lead to a pursuit terminating, does nothing to enhance their ability to bring about those specific circumstances.

232. The only circumstances a would be offender may be able to impact are:

- a. [REDACTED]
 - b. [REDACTED]
- [REDACTED] As such, there is a basis for protective orders over those two references.

233. The Commissioner also objects to publication of the fact that a pursuit will be terminated where *"The distance between the pursuing and fleeing vehicles is so great that further pursuit is futile."* It appears that in practical terms, it makes little difference if would be offenders were advised that enhancing the distance between police vehicles and their own vehicles increases the probability of a pursuit being terminated. This is because such knowledge is unlikely to change their behaviour, given all persons involved in a pursuit have the aim to create as much distance as possible between their vehicles and the police vehicles that are following them. Publication of this information is unlikely to change the behaviour of would be offenders, and therefore there is no basis for protective orders over that information.

234. As a result, I am satisfied there is a basis for protective orders only in respect of the passages [REDACTED]

235. I note at Row 108, Sergeant David Stevens repeats this information at paragraph 10 stating [REDACTED] *or that Police vehicles were "street paralleling".* [REDACTED] For the reasons mentioned above at 228 - 232, I am satisfied there is a basis for protective orders only in respect of the passages, [REDACTED] and [REDACTED]

Category 10: Evidence from the Flyover Presentation

236. In relation to the Flyover Presentation, the Commissioner has sought protective orders over clauses in Row 139 to 172 (inclusive) of the Commissioner's table. However, having further reviewed the Flyover presentation I am of the view that a non publication order over the whole of the footage should be made. It is a good example of how pieces of evidence, when viewed together may create a picture that can be used by would be offenders. The evidence in the flyover contains footage that demonstrates the categories of vehicle, the radio commentary and driver's location (on a map) and exactly when the decisions to terminate were made, including aspects of the police decision making process and methodology. It appears to me an example of when the "mosaic" principle does in fact come into effect.
237. I note that the police did not claim PII over the flyover presentation. However, for the avoidance of doubt I have considered whether PII orders should be made over the entirety of the flyover presentation. While the flyover presentation footage discloses police methodology, the footage is also very useful to the court. It brings together various pieces of evidence and builds a comprehensive picture of what occurred. The flyover will be of significant benefit to other interested parties.
238. I am satisfied that a non-publication order will allay any concern that would be offenders may obtain a tactical advantage if the footage is disclosed.

Category 11 - Evidence reference that refers to "communication with VKG about the pursuit"

239. I note in the original NPO application, the Commissioner indicated that protective orders would be sought over Row 21 of the Commissioner's Table being of Detective Senior Sergeant Peter O'REILLY, page 50 [142]. The protective orders sought were over the phrase "...communication with VKG about the conduct of the pursuit". I note the application is now not pressed.

Conclusion

240. I have attached a schedule which applies my reasoning to the evidence in the Adams brief. For reasons stated above I make non –publication orders pursuant to section 74 of the *Coroners Act* (2009) NSW.

Other matters

241. As noted during the hearing, I consider it appropriate for the publication of this decision and for this decision to come into effect five days after the delivery of this judgement to enable the Commissioner to obtain advice on his options prior to the publication of this information
242. I have referred to some information over which I am satisfied orders should be made. This is marked in "red". It is, of course, appropriate that this information is not published and a redacted version of the judgement omitting those paragraphs will be prepared. If there is any further information which the Commissioner ought not be published, the Commissioner should advise those assisting me of this prior to 4pm on 15 March 2021.

Magistrate Harriet Grahame
Deputy State Coroner
NSW State Coroners Court, Lidcombe
10 March 2021

SCHEDULE

NSWPF Safe Driving Policy Version 8.3 – December 2017

Page	Line/Para	Decision
ii	"Vehicle categories", lines 1 - 5	No order made
iii	Line 1	No order made
18 – 19	5-1-4 to 5-1-8 up to and incl. para after last dot point	Non-publication order made
19	5-4-2 line 2 from "the" up to and incl. "riding"	Non-publication order made
19	5-4-4	Non-publication order made
21	6-2-4	No order made
21	6-2-6	No order made
21	6-3, all the words in dot point 3	No order made
22	6-4, all the words in dot point 3	No order made
23	7-1-4, line 3 from "A" until end of line 4	No order made
23	7-1-5	No order made
23	7-1-6	Non-publication order made
23	7-2-2	No order made
24	7-2-4	Non-publication order made
24	7-2-8	No order made
24	7-2-10	No order made
24	7-2-11 (first sentence only)	No order made
24	7-2-12 (first sentence only)	No order made
24	7-2-13	No order made
24	7-4-1	No order made
24	7-4-2	No order made
25	7-4-3	No order made
25-26	7-5-1 "Drivers and Escorts", sub-s (e), (j), dot points 4 – 11, 15	Non-publication orders made over bullet points 6, 9, 10, and 15 only.
29	7-6-2	No order made
29	7-6-3	Non-publication order made
29	7-6-5	No order made

29	7-6-6	No order made
29	7-6-7	No order made
29	7-6-8	Non-publication order made
29	7-6-9	Non-publication order made
31	8-2 "Code Blue" dot point 3	No order made
31	8-2 "Code Red" dot points 3, 4	No order made
31	8-5-1	No order made
32	8-6-2	No order made
35	2 nd and 3 rd para of def'n of "re-initiation"	No order made.
35	"A pursuit is not" to end of page in def'n of "terminate"	Non-publication order made over the last sentence in the definition of "terminate" only.
38	11 th line under "C"	Non-publication order made.
40	All references to category 1, 2, 3, or 4 vehicles	No order made
40	"Police Vehicle and Occupant Detains" box, except paras 1, 4, 5	No order made.
40	"Supervisor Details" box, para 2	No order made.
41	"Road Spikes" box, para 1	No order made.

NSWPF Safe Driving Policy Version 9.2 – June 2019

Page	Line/Para	Decision
12	5-1-4 to 5-1-8 up to and incl end of 1 st full para after dot point	Non-publication order made.
13	5-4-2, line 3 to 3 rd word on line 4	Non-publication order made.
13	5-4-4	Non-publication order made.
14	6-4, except dot point 3	No order made.
14	7-1-3, line 4, 7 th word to end of para	No order made.
14	7-1-4	No order made.
14	7-1-5	Non-publication order made.
14-15	7-2-2	No order made.
15	7-2-4	Non-publication order made.
15	7-2-8	No order made.
15	7-2-10	No order made.
15	7-2-11 (first sentence only)	No order made.
15	7-2-12 (first sentence only)	No order made.
15	7-2-13	No order made.
15	7-4-1	No order made.
15	7-4-2	No order made.
15	7-4-3	No order made.
16	7-5-1 "Drivers and Escorts" sub-s €, (j), dot points 4 -11, 15	Non-publication orders made over bullet points 6, 9, 10, and 15 only.
18	7-6-2	No order made.
18	7-6-3	Non-publication order made.
18	7-6-5	No order made.
19	7-6-6	No order made.
19	7-6-7	No order made.
19	7-6-8	Non-publication order made.
19	7-6-9	Non-publication order made.
20	8-2-5	No order made.
20	8-2-7	No order made.

20	8-3, dot point 3	No order made.
20	8-5-2 "Code Blue", dot point 3	No order made.
20	8-5-2 "Code Red", dot points 3,4	No order made.
21	8-6-1, all the words in dot point 4	No order made.
21	8-6-3	No order made.
24	Defined term and its meaning between "Termination" and "Traffic Stop"	No order made.

Inquest into the death of Tyrone Adams
Secondary references over which non-publication orders are sought

Table 1: Key of Thematic Categories Grouping Evidence

Table 1 provides a key of the thematic categories used to group the evidence in the Commissioner’s application in order to thematise the reasons in the findings as well as to assist with reading Table 2. Determination of the categories is based on counsel assisting’s submissions on the Commissioner’s application.

Category No.	Description of Evidence Category
1	Evidence that refers to Mr Adams’ vehicle [REDACTED] AND Evidence that refers to Mr Adams’ vehicle on the wrong side of the road and it is implied or suggested that [REDACTED]
2	Evidence that refers to Mr Adams’ vehicle on the wrong side of the road, however there is no suggestion that this action results in [REDACTED] The evidence includes references to Mr Adams’ vehicle on the wrong side of the road on Ducat Street, Kennedy Drive and the Motorway.
3	Evidence that refers to a particular police vehicle identified by picture or identified by way of description where there is also a reference to what Category the vehicle is, such as “Category 3” or “Category 4”.
4	Evidence that refers to a police vehicle “Category” but there is no description of a particular type of police vehicle being a particular category of vehicle.
5	Evidence that refers to the requirement that police are required to obtain permission or approval before re-engaging a pursuit that has been terminated.
6	Evidence that refers to Tyre Deflation Devices (TDDs) or spikes.
7	Evidence that appears to refer to the Safe Driving Policy where and the fact that police when conducting traffic stops, pursuits or urgent duty driving should consider issues of general safety such as danger to police and other road users / Weather and road conditions and traffic density / Time of day, day of the week (e.g. active school zones, road works).
8	Evidence from the Computer Aided Dispatch or CAD records.
9	Reference in Sgt David Stevens statement (Tab 43 at [6]) that refers to the SDP and when pursuits need to be automatically terminated.
10	Evidence from the Flyover Presentation.
11	Evidence reference that refers to “communication with VKG about the pursuit”.

Table 2: Particulars of Commissioner’s Application and Decision

Table 2 is a table particularising each phrase in the Commissioner’s non-publication order application and includes the row number referenced in the findings, the thematic category and the decision made on each particular application.

Key

Bold – Phrases in the original application in which the Commissioner sought orders over

Bold and Underline – Phrases added to the Commissioner’s application on 25 February 2021

1.	Category	Document	Text	Decision
2.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 2 [4]	"As the Mazda turned to the north from Drydock Road on to Minjungbal Drive, [REDACTED] over the Boyds Bay Bridge which spans Terranora Creek. Sergeant Hamilton [REDACTED] The NSW Police Radio (VKG) operator advised officers [REDACTED]	Non-publication order made
3.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 2 [5]	[REDACTED] on the wrong side of the road"	Non-publication orders made in respect of the word [REDACTED] only.
4.	2		"went onto the incorrect side of"	Application not pressed
5.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 3 [6]	[REDACTED]	Non-publication order made
6.	5		"Just a reminder you need authority before re-engaging"	No order made
7.	1		"Tweed 15 [REDACTED]	Non-publication order made
8.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 31 [90]	[REDACTED]	Non-publication order made
9.	3	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 32 [93]	SC Barrenger described his police vehicle Dog 34 as a fully marked Ford utility, coded [REDACTED] vehicle.	Non-publication order made

10.	3	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 34 [97]	Leading Senior Constable Crossan identified TH15 as a Mitsubishi Pajero, coded [REDACTED] vehicle.	Non-publication order made
11.	5	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 35 [100]	"Q123: Did you hear any directions given in relation to, um, re-engaging that vehicle in pursuit"	No order made
12.	5		Q124: Are you aware that a senior officer can give, ah, a direction not to engage or – A: Yes. Q125: --- -- re-engage or --- -- A: Definitely yes. Q126: And, um, can you re-engage with a vehicle if that direction's been given? A If, if there was, if the, the, the DOI, you got to ask permission to re-engage, yes"	No order made
13.	3	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 39 [110]	Constable Osborne identified TH 15 as a Mitsubishi Pajero but was unsure as to whether the vehicle is classed as a [REDACTED] vehicle.	Non-publication order made
14.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 41 [114]	Q207 A: [REDACTED]	Non-publication order made
15.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 42 [116]	[REDACTED]	Non-publication order made
16.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 43 [117]	"...this vehicle [REDACTED] [REDACTED] And I said, we um, [REDACTED]"	Non-publication order made
17.	6	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 48 – 49 [138]	Tyre Deflation Devices (TDD) or Road Spikes are a tool available to police officers to enable police to stop or assist in stopping a vehicle in connection with the pursuit of a vehicle or to prevent the use of the vehicle by a person for the purpose of escaping from lawful custody or avoiding arrest [REDACTED]	Non-publication order made in respect to that which is in bold only and not on the phrase "TDD is not to be deployed where safety is compromised."

			<p>Officers must undertake a training course to be accredited to deploy TDDs and must renew the accreditation every two years. Officers must be positioned ahead of the pursuit, in a location deemed safe, to deploy the TDDs.</p> <p>Safety is the primary concern of the deployment officer and the <u>TDD is not to be deployed where safety is compromised.</u></p>	
18.	6	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 49 [139]	"the VKG operator inquired about 'spikes'"	Application not pressed
19.	6			Non-publication order made
20.	6	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 49 [140]	<p>however he was engaged in the pursuit and "not in a position for deployment of the TDD to be considered"</p>	<p>Rather than non-publication orders being made over the passage in bold, non-publication orders made over the passage</p>
21.	11	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 50 [142]	"...communication with VKG about the conduct of the pursuit"	Application not pressed
22.	7		"...due to the danger posed by the actions of the driver of the Mazda."	No order made
23.	1	Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 52 [157]		Non-publication order made

24.	<p>1: advised [redacted] and that the VOI was [redacted]</p> <p>5: Policy, permission to re-engage must be sought from the State Coordinator or VKG Supervisor. No authority was sought to re-engage prior to re-engaging if it is determined a second pursuit actually commenced. I then immediately asked the dispatcher to remind the crew of TH15 that they are required to obtain authority prior to re-engaging</p>		<p>"...Policy, permission to re-engage must be sought from the State Coordinator or VKG Supervisor. No authority was sought to re-engage prior to re-engaging if it is determined a second pursuit actually commenced. I then immediately asked the dispatcher to remind the crew of TH15 that they are required to obtain authority prior to re-engaging the VOI at which point they advised [redacted] and that the VOI was [redacted]</p>	<p>Non-publication order made on phrases in category 1 only.</p>
25.	2	<p>Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 54 [167]</p>	<p>"Southbound bound direction on the northbound lanes"</p>	<p>Application not pressed</p>
26.	2	<p>Tab 6 - Statement of Detective Senior Sergeant Peter O'REILLY, page 55 [168]</p>	<p>"Southbound in the northbound lanes"</p>	<p>Application not pressed</p>
27.	<p>1: made that [redacted] Um, at that point, um, Tweed 14's updated VKG and [redacted]</p> <p>2: Mugga Way I've sighted the vehicle travelling in</p>	<p>Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [A to Q65, pg 9 - 10]</p>	<p>"...of Dry Dock and Minjungbal Drive, um, making a left-hand turn, and has, um, made that [redacted] Um, at that point, um, Tweed 14's updated VKG and [redacted] which we have, um, and then we've, lost sight of the vehicle, um, further north on Minjungbal Drive. Um, then there were a number of cars, um, patrolling for the vehicle. Um, a location was called that it was west on Kennedy Drive, so I've then turned around on Terranora Terrace and driven west on Kennedy Drive, just at the</p>	<p>Non-publication orders made in respect of phrases in category 1. Phrase in category 2 not pressed.</p>

		the opposite direction to me."	speed limit. Um, I've gone all the way down to Ducat Street and made a right-hand turn. Um, at this stage no, I, I believe no one had really sighted the vehicle, so I was then turning right onto Mugga Way to head back to the police station. Whilst travelling on Mugga Way I've sighted the vehicle travelling in the opposite direction to me."	
28.	1	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [A to Q66, pg 10]	"Um, I've then seen the vehicle at distance, um, heading south on Ducat Street. Um, but appeared to be in the [REDACTED] and I've updated VKG of that and said I wasn't, um, pursuing it."	Non-publication order made
29.	7	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q/A 102 and Q/A 103, pg 14]	Q102: And what sort of, what was his manner of driving then? A102: Um, so his manner of driving was, I thought, reasonable. Q103: Yeah A103: Um, he, his speed wasn't anywhere near excessive. Sometimes I actually had to slow right down."	No order made
30.	7	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [A to Q106, Q and A to Q107 pg 14]	Q106: Yeah A106: So he's, he's actually gone to the right. Um, there was no traffic on the road..... Q107: O.K. And what, you just touched on the traffic conditions at the time. What were the road conditions like? Uh, dry, sealed." A107: Uh, dry sealed bitumen. Um, you know, sort of limited street lighting in that area.	No order made
31.		7: Q116: "O.K. And what about the Mazda's manner of driving at that point? A116: Uh, he was on the right side of the road at that stage. He was, yeah, just travelling normally down the road. Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q and A to Q116; Q117; Q and A to Q118 p 15]	Q116: "O.K. And what about the Mazda's manner of driving at that point? A116: Uh, he was on the right side of the road at that stage. He was, yeah, just travelling normally down the road. Q117: O.K. Correct me if I'm wrong, and then he's [REDACTED] Minjungbal Drive?	Non-publication orders made in respect of phrases in category 1. Phrase in category 7, order not made.

		<p>1: Q117: O.K. Correct me if I'm wrong, and then he's [REDACTED] of Minjungbal Drive? A117: Yes.</p> <p>Q118: And that, at that point that [REDACTED] A118: Yes.</p> <p>Q118: - - - [REDACTED] A118 Yes.</p>	<p>A117: Yes.</p> <p>Q118: And that, at that point that [REDACTED] A118: Yes.</p> <p>Q118: - - - [REDACTED] A118 Yes.</p> <p>Q119: O.K. And what did you do in your car after that? A119: Um, I immediately deactivated all the warning devices.</p>	
32.	1	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [A to Q126 pg 16]	<p>Q126: ...along Dry Dock Road, and it was at this point [REDACTED] A126: Yes</p>	Non-publication order made
33.	7	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q/A130 pg 16]	<p>Q130: So you'd say the traffic was quite light? A130: Oh, the, yeah, it was, like, dead out there. There was hardly any cars on the road at all."</p>	No order made
34.	2	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q/A145 pg 18]	<p>Q144: OK. And then a short time later you've sighted the vehicle again, was it southbound on Ducat? A144: Uh, yes. Q145: But in the northbound lanes? A145: That's what it looked like, yeah.</p>	Application not pressed
35.	1	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q/A166 – Q/A168 pg 19]	<p>Q166: I know I probably should have asked you these clarifying questions before, but when the offending vehicle [REDACTED] were there vehicles on the, [REDACTED] A166: I can't specifically recall at the time.</p> <p>Q168: Could you say why he would've gone to the [REDACTED] there? Was there a reason for it? Was there slow traffic, or was there something else?</p>	Non-publication order made

			A166: My opinion would be that he's gone too quickly through the intersection and understeered past the appropriate lane to turn into.	
36.	3	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [A to Q178 pg 20]	Q175: And what's the call sign of your vehicle? A175: Dog 3-4. Q176: And what type of vehicle have you got? A176: It's a Ford Falcon utility. Q177: Is the ute marked? A177: Yes. Q178: Yep and what's your classification of vehicle, police classification? A 178: [REDACTED]	Non-publication order made
37.	7	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q/A185 pg 21]	Q185: OK. What are the roles and responsibilities of drivers and passengers involved in a pursuit? A185: Uh, uh, I guess to call the pursuit, um, to be aware of dangers, manner of driving, road conditions, speed, um, sort of the usual driving factors.	No order made
38.	7	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q/A186 – pg 21]	Q186: Yeah. OK. Now we've already gone through the pursuit side of things. Can you just clarify why the pursuit ended when it did? What was the reasons for it? A186: Uh, due to the increase in danger, or potential danger	No order made
39.	5	Tab 32 - Transcript of directed interview with Senior Constable Paul BARRENGER [Q/A187 – A to Q/A188 pg 21]	Q187: And were you aware that there, or whether there, was a direction not to re-engage at all ? A187: I don't recall that being, or hearing that. Q188: Are you aware who's required to give that authorisation to re-engage ? A188: The DOI.	No order made
40.	3	Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN [A to Q58 – A to Q61, pg 9 -10]	Q57: So it was Tweed Heads 15. And what sort if vehicle is Tweed Heads 15? A57: It's a Mitsubishi Pajero Q58: Do you know what category.... A58: Ah... Q59: Classification.	Non-publication order made over the phrase [REDACTED] only.

			<p>A59: [REDACTED]</p> <p>Yep. And so you're aware that, um, different police vehicles have different categories, classifications? That's correct.</p> <p>And, um, and that relates to their ability to perform certain roles. Do you know, in relation to [REDACTED] the rules in relation to pursuits?</p> <p>Yes, not to engage unless, um, in remote areas where there's no other vehicle, vehicle available."</p>	
41.	1	<p>Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN [Q/A 93 – 94 at pg 14]</p>	<p>Q93: And it, where were they at that stage? A93: Um on Minjungbal Drive, just heading over the bridge.</p> <p>Q94: What did you see? A94: I saw the taillights of a vehicle on [REDACTED] very quickly, and then it disappeared over the bridge.</p>	Non-publication order made
42.	1	<p>Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN [Q/A107 at pg 15]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p>	Non-publication order made
43.	<p>2: on, on the wrong side of the road</p> <p>5: OK. Did you hear any directions given in relation to, um, re-engaging that vehicle in a pursuit? A123: No I didn't?</p> <p>Q124: Are you aware that a senior officer can</p>	<p>Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN [Q/A 122 – Q/A126, pg 17]</p>	<p>Q122: OK. A122: Cause it, the call was that it, it had gone in, on, on the wrong side of the road again, I believe, into Margaret Street, and they said they weren't chasing that vehicle.</p> <p>Q123: OK. Did you hear any directions given in relation to, um, re-engaging that vehicle in a pursuit? A123: No I didn't?</p> <p>Q124: Are you aware that a senior officer can give, ah, a direction not to engage or---</p>	No order made

	<p>give, ah, a direction not to engage or--- A124: Yes</p> <p>Q125: ---re-engage or--- A125: Definitely, yes.</p> <p>Q126: And, um, can you re-engage with a vehicle if that direction's been given? A126: If, if there was, if the, the, the DOI, you got to ask permission to re-engage, yes.</p>		<p>A124: Yes</p> <p>Q125: ---re-engage or--- A125: Definitely, yes.</p> <p>Q126: And, um, can you re-engage with a vehicle if that direction's been given? A126: If, if there was, if the, the, the DOI, you got to ask permission to re-engage, yes.</p>	
44.	2	<p>Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN [A to Q216]</p>	<p>Q216: Um, where did the car go from that point? A216: I lost sight of it.... It could've done two, one of two things, and it could've chucked a U-turn and went, um, up the wrong way, which is the southbound, going north up the southbound lanes - -"</p> <p>Q217: Uh – huh A217: ah, um, or he's gone across the other lanes.</p> <p>Q218: Did you see him actually go across. A218: No</p> <p>Q219: Um, you've continued or how, or what have you done then? A219: I've just continued up, um, and then I got to the top I could see the vehicle on the wrong side of the road.</p> <p>Q220: Now, when you say he was on the wrong side of the road, can you describe that area for me? A220: So ah.....as you come off the off ramp, there's a bridge that is probably 20 metres past that on ramp and then that starts concrete barriers for the bridge....</p> <p>Q221: OK. And you've seen him on the other side of the road. Which direction was he going? A221: Southbound</p>	No order made

			Q222: Southbound in the northbound A222: Northbound lanes.	
45.	2	Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN [Q/A285 - Q/A286, pg 34]	Q285: Just two quick questions. Um, roughly on the map whereabouts were you guys when you saw the vehicle on the wrong side of the road? A285: Where were we? I wouldn't have Q286: Yep. A286: I couldn't see that car on the wrong side of the road until I was at the top of that ramp and you just can't see it.	No order made
46.	2	Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN [Q/A 302 – Q/A 303, p36]	Q301: Did you have a look at all on your way back to try and see where he'd got through on the.. A301: Yes Q302: ..incorrect side A302: I did Q303: ..of the road? A303: Yes, cause...	No order made
47.	2	Tab 33 - Transcript of directed interview with Leading Senior Constable Brett CROSSAN, annexing: C. Recording of Interview (on USB)	Same redactions as applied to transcript – see above.	No order made
48.	3	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A 59 – Q/A 60, pg 8]	Q59: All right. What sort of vehicle is Tweed Heads 15? A59: [REDACTED] I think. Q60: Do you know what make, model it is? A60: Oh so ah, Mitsubishi Pajero they drive up here. Q61: All right. Are you sure about the classification? If I suggested to you that it's a [REDACTED] would that... A61: Yeah, that'd be a [REDACTED]	Non-publication order made

49.	3	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A 66 – Q/A 69, pg9]	<p>Q 66: Um, do you have or can you tell me your understanding of when a [REDACTED] vehicle could be used in a police pursuit? A66: A [REDACTED] vehicle?</p> <p>Q67: Yeah. A67: If it deemed, if a vehicle didn't obey a reasonable direction by police we can pursue the vehicle as long as the circumstances are so like conducive - - -</p> <p>Q68: O.K. Yeah. And there's a little bit more in the policy relating to [REDACTED] vehicles. A68: Yeah. Yeah.</p> <p>Q69: Are you aware of those? It's a little bit more restrictive for [REDACTED] A69: Not specifically, no, from memory'</p>	Non-publication order made over the phrase [REDACTED]
50.	3	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A 70, pg9]	<p>Q70: O.K. So [REDACTED] I'll just read it out for you. Um, [REDACTED]</p> <p>Um .. A70: Thank you</p>	Non-publication order made
51.	4	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q72, p10]	<p>Q72: So just, that outlines for you, the difference between Category 3 and Category 4. A72: Thank you.</p>	No order made
52.	1: [REDACTED] [REDACTED] if you're in a [REDACTED] pursuing vehicle that is. 7: speed of the other vehicle, conditions, danger	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q74, p10]	<p>Q74: Yeah. A74: So I would, um, I'd be using the radio and keeping um, VKG updated with what I saw, and also the status, like the driver whether they're silver certified or, I believe that's what you need to update them with, speed of the other vehicle, conditions, danger, and if at any time that they go [REDACTED] [REDACTED] if you're in a [REDACTED] pursuing vehicle that is.</p>	Non-publication order made in respect to the passages [REDACTED]

53.	1	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A 110, pg 14]	<p>Q110: So you remember that there was a pursuit which went for some time and it ended up being apparent that they way they were going</p> <p>A110: Meets up with...</p> <p></p> <p>A111: ..Minjungbal Drive</p> <p>Q112: Yeah and at some pint that's ceased, that pursuit ceased?</p> <p>A112: Correct</p>	Non-publication order made
54.	7	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A 120 – Q/A 123, pg 15]	<p>Q120: Yeah. And what speed were you patrolling at?</p> <p>A120: Nor, just normal, just the speed of the, ah, the road.</p> <p>Q121: Sure. And was there other traffic around last night?</p> <p>A121: In the back residential streets, yeah.</p> <p>Q123: Yeah. And was it um, dry or was it raining last night?"</p> <p>A123: Um. Dry</p>	Application not pressed
55.	5	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q139 – Q145]	<p>Q139: O.K. Do you recall any ah, discussion or directions given in re the vehicle that was being pursued, about further pursuits of the vehicle?</p> <p>A139: No</p> <p>Q140: Do you recall anyone um, giving a direction not to re-engage A140: No.</p> <p>Q141: You don't recall that?</p> <p>A141: I don't recall.</p> <p>Q142: Are you aware that um, a senior officer can give a direction not to reengage a vehicle following a pursuit, if they deem it to be too dangerous?</p> <p>A142: Yeah.</p>	No order made

			<p>Q143: Yeah. Have you heard that before? A143: Yes</p> <p>Q144: You've heard that? A144: Yeah</p> <p>Q145: And you're aware that um, to re-engage, authority has to be sought from that senior officer to re-engage with that vehicle again? Q145: Yeah</p>	
56.	1	<p>Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [A to Q206 and Q207, pg 22 - 23]</p>	<p>Q206: What was the manner of driving of that car at that time? A206: Because this car then just veered [REDACTED] [REDACTED] Q207: OK A207: [REDACTED] this car has just crossed, just, it just, just took off and just fanged [REDACTED] [REDACTED]</p>	Non-publication order made
57.	1	<p>Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A225 and Q/A230, pg 24 - 25]</p>	<p>Q225: OK A225: And then because we saw other cars coming..... But this car has now crossed [REDACTED]</p> <p>Q230: OK Did you inform VKG of what you were doing? A230: Yeah I said, [REDACTED] just as in, in my, not the correct term and I do know that. But in my , I said, advised them that the vehicle had just [REDACTED] [REDACTED]</p>	Non-publication order made
58.	2	<p>Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A269, pg 29]</p>	<p>Q269: Can you remember how far or for how long he was in the southbound lane before he crossed? A269: No</p>	No order made
59.	2	<p>Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q/A291, p30 - 31]</p>	<p>Q291: Was he still on, the other side of the road? A291: Yeah. Correct</p>	No order made

60.	2	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE [Q292]	Q292: So he was still travelling A292: He was still travelling Q292: ...south. A292: in the northbound.	No order made
61.	2	Tab 34 - Transcript of directed interview with Constable Danielle OSBORNE, annexing: 28 September 2018 C. Recording of Interview (on USB)	Same redactions as applied to transcript – see above.	No order made
62.	1	Tab 34A- NSW Police CAD incident log 190639-28092018	TH15 appeared to re-engage VOI for a few seconds then advises they were terminating as [REDACTED]	Non-publication order made
63.	5		No authority obtained by TH15 from the Pursuit manager to re-engage as required by the SDP.	No order made
64.	3		TH15 is a [REDACTED] Nissan Pajero	Non-publication order made
65.	4		There were higher category vehicles in the vicinity circulating	No order made
66.	1	Tab 35 - Statement of Sergeant Troy Anthony HAMILTON [12]	I advised VKG that CK90RT [REDACTED] and was travelling North from the traffic control lights. I observed that CK90RT had immediately cut across the [REDACTED] along the tick gates on the Eastern side Minjungbal Drive. At the time there were no vehicles in the [REDACTED] lanes.	Non-publication order made
67.	1	Tab 35 - Statement of Sergeant Troy Anthony HAMILTON [13]	CK90RT then continued in a [REDACTED] Given the potential danger [REDACTED] CK90RT was now being [REDACTED]	Non-publication order made

68.	7	Tab 35 - Statement of Sergeant Troy Anthony HAMILTON [19]	I proceeded onto the M1 toward the NSW/QLD border as I felt the driver may continue North in a dangerous manner.	No order made
69.	1	Tab 35 - Statement of Sergeant Troy Anthony HAMILTON [20]	I then heard DOG34 advise [REDACTED] that he had observed CK90RT being driven toward Kennedy Drive Southbound in the Northbound lanes of Ducat Street.	Rather than non-publication orders being made over the passage in bold, non-publication orders are made over the passage [REDACTED]
70.	2	Tab 35 - Statement of Sergeant Troy Anthony HAMILTON [21]	I heard TH15 call for urgent assistance. I then heard TH15 advise they had seen CK90RT cross onto the wrong side of the road M1 travelling Southbound in the Northbound lanes.	No order made
71.	7	Tab 35A - Statement of Sergeant Troy Anthony HAMILTON, annexing: A. CAD Job 189805-27092018	"60 OVER 60 <u>FRASER DR</u> "	No order made
72.	8		"EUCALYPTUS DR"	Application not pressed
73.	7		"LIGHT" "FRASER DR NTHBND"	No order made
74.	7		"NTHBND >FRASER DRTH STH 100 OVER 80"	No order made
75.	8		"STHBND ON MIJUNGBAL DR"	Application not pressed
76.	8		"R ONTO DRYDOCK RD > MINJUNGBAL"	Application not pressed
77.	1		[REDACTED] [REDACTED]	Non-publication order made
78.	8		"WBND ON KENNEDY DR"	Application not pressed
79.	8		"TURNED RIGHT INTO NORMAN ST"	Application not pressed

80.	8		"...CHARLES ST >CG CHARLES ST>CGA ADELAIDE ST"	Application not pressed
81.	8		"MUGGA WAY"	Application not pressed
82.	2		"STHNBND IN NTHBND LANES ON DUCAT ST ABOUT TO HIT KENNEDY DR"	No order made
83.	1		[REDACTED]	Non-publication order made
84.	1		[REDACTED]	Non-publication order made
85.	2		"THE WRONG WAY"	Application not pressed
86.	2	Tab 36- Statement of Plain Clothes Senior Constable John ROWLAND [9]	I saw the vehicle was predominantly on the left (correct) side of the roadway but was crossing the centre line when taking a slight right corner meaning he was taking the corner wide.	No order made
87.	1	Tab 36- Statement of Plain Clothes Senior Constable John ROWLAND [10]	As I turned left I saw the white Mazda was [REDACTED] [REDACTED] of Minjungbal Drive in the southbound lanes travelling [REDACTED]	Non-publication order made
88.	1		I heard TH14 [REDACTED] over the police radio, citing the [REDACTED] of the driver of the white Mazda.	Non-publication order made
89.	2	Tab 36- Statement of Plain Clothes Senior Constable John ROWLAND [11]	I saw the same white Mazda from the pursuit whizz past us, overtaking us from the right, on the incorrect side of Kennedy Drive.	Application not pressed
90.	2		The cars immediately in front of us pulled off the roadway after the Mazda drove around them on the incorrect side of the roadway.	Application not pressed
91.	1	Tab 37 - Statement of Detective Senior Constable Benjamin FREEBODY [10]	As we reached the intersection of Minjungbal Drive I heard a radio transmission that the offending Mazda had [REDACTED] [REDACTED] of Minjungbal Drive.	Non-publication order made

92.	1	Tab 37 - Statement of Detective Senior Constable Benjamin FREEBODY [11]	I observed the white hatch in the distance [REDACTED]	Non-publication order made
93.	2	Tab 37 - Statement of Detective Senior Constable Benjamin FREEBODY [12]	I thought we were travelling in the opposite direction to and away from the offending vehicle.	Application not pressed
94.	1	Tab 37 - Statement of Detective Senior Constable Benjamin FREEBODY [13]	It went [REDACTED] of Kennedy Drive as it rounded a blind white turn.	Non-publication order made
95.	1	Tab 37 - Statement of Detective Senior Constable Benjamin FREEBODY [15]	He has gone [REDACTED] We are not going to chase him.	Non-publication order made
96.	1: pursuit had [REDACTED] and [REDACTED] 3: were in a police [REDACTED] vehicle.	Tab 37 - Statement of Detective Senior Constable Benjamin FREEBODY [15]	We did not ever intend upon chasing the vehicle as a pursuit had [REDACTED] and we were in a police [REDACTED] vehicle.	Non-publication order made
97.	1	Tab 38 - Statement of Detective Sergeant Claudia ALLCROFT [7]	I heard Sergeant Hamilton advise that the offending vehicle was on Minjungbal Drive and [REDACTED] He further advised that they are terminating the pursuit [REDACTED]	Non-publication order made
98.	2	Tab 38 - Statement of Detective Sergeant Claudia ALLCROFT [10]	He (SC Barrenger) advised that he is not pursuing him and that he is travelling Southbound in the Northbound lanes on Ducat Street.	No order made
99.	2	Tab 38 - Statement of Detective Sergeant Claudia ALLCROFT [11]	About 9:35pm, Constable Danielle Osborne called "Tweed Heads 15 Urgent".... She advised that the vehicle was on the wrong side of the road.	No order made
100.	3	Tab 39 - Statement of Senior Constable Timothy PURCIVAL [3]	We were in a fully marked police vehicle, a Pajero wagon, which is a [REDACTED] vehicle.	Non-publication order made
101.	2	Tab 40 - Statement of Constable Brittany GRIFFITHS [6]	At about 9:37pm, the white Mazda drove past us at high speed and I saw the vehicle cross onto the wrong side of the road and turned right at the intersection of Ducat Street and Kennedy Drive.	Application not pressed

102.	2	Tab 40 - Statement of Constable Brittany GRIFFITHS [7]	About 9:38pm, I heard TH15 broadcast that the white Mazda was crossing from the southbound lanes to the northbound lanes travelling south. The next broadcast I heard was from TH15 that the vehicle had crashed.	No order made
103.	<p>7: apprehension of the offenders. Factors that are considered in making this decision include: The speed of the pursuit. The location of the pursuit of. The time of day/day of the week. Weather and road conditions. Traffic density, including vehicles and pedestrians. Any malfunctions with police equipment and/or serious damage to a Police vehicle [post it covering text] make continued operation of the pursuit hazardous.</p> <p>Should I consider these factors and the danger does outweigh the need for [post it covering text] apprehension of the offenders it is my duty to immediately terminate the pursuit.</p> <p>9: Times where a pursuit must be automatically terminated include:</p> <p>o [redacted]</p>	Tab 43 - Statement of Sergeant David STEVENS [6]	<p>"As a Pursuit Manager in any pursuit it is my duty to ensure that at no time does the danger to the pursuing police or the public outweigh the need for the immediate apprehension of the offenders. Factors that are considered in making this decision include: The speed of the pursuit. The location of the pursuit of. The time of day/day of the week. Weather and road conditions. Traffic density, including vehicles and pedestrians. Any malfunctions with police equipment and/or serious damage to a Police vehicle [post it covering text] make continued operation of the pursuit hazardous. Should I consider these factors and the danger does outweigh the need for [post it covering text] apprehension of the offenders it is my duty to immediately terminate the pursuit.</p> <p>Times where a pursuit must be automatically terminated include:</p> <p>[redacted] There is reason to believe the information received from the primary or [post it covering text] vehicle is incorrect or inaccurate. Other Police vehicles are in convoy or 'street paralleling' unless authorised. The offender's identity is established to the point where later apprehension is likely and there is no immediate threat to public safety. The distance between the pursuing and fleeing vehicles is so great that further pursuit is futile. An inappropriate category of vehicle is used or the driver does not have an appropriate response classification. [redacted]</p>	<p>Non publication orders made in respect of the passages</p> <p>[redacted] and [redacted] only.</p>

		<p>There is reason to believe the information received from the primary or [post it covering text] vehicle is incorrect or inaccurate. Other Police vehicles are in convoy or 'street paralleling' unless authorised. The offender's identity is established to the point where later apprehension is likely and there is no immediate threat to public safety. The distance between the pursuing and fleeing vehicles is so great that further pursuit is futile. An inappropriate category of vehicle is used or the driver does not have an appropriate response classification.</p>		
104.	3	Tab 43 - Statement of Sergeant David STEVENS [9]	I was aware that DOG34 was likely to be a station wagon as is common with dog squad vehicles, thereby making it a [redacted] This was confirmed	Non-publication order made
105.	1	Tab 43 - Statement of Sergeant David STEVENS [10]	Dog 34 and TH14 have discontinued the pursuit where they indicated the driver had [redacted] Minjungbal Dr Tweed Heads and that it was [redacted]	Non-publication order made
106.	7		"The speeds throughout the pursuit varied from 60 in a 60 zone to 100 in an 80 zone. The traffic was light at that time. At no time throughout the pursuit did I consider that the danger to the pursuing police, public or the occupants of the car being pursued outweighed the need for the immediate apprehension of the offender.	No order made

107.	7		"very little traffic on the road at this time of night"	No order made
108.	9		[REDACTED] or that Police vehicles were "street paralleling". [REDACTED]	Non-publication order made on [REDACTED] and [REDACTED] only.
109.	5	Tab 43 - Statement of Sergeant David STEVENS [11]	At the time there were numerous NSW Police circulating who have sighted the vehicle numerous times without re-engaging a pursuit, each time they reported its current location and direction.	No order made
110.	1	Tab 43 - Statement of Sergeant David STEVENS [12]	And shortly after advised they were terminating [REDACTED]	Non-publication order made
111.		1: remind the crew of [REDACTED] the VOI [REDACTED] 5: As per the Safe Driver Policy, permission to re-engage must be sought from the State Coordinator or VKG Supervisor. No authority was sought to re-engage prior to reengaging.	"...time that they may have re-engaged the VOI. As such I have treated this as a second pursuit and Pursuit number 18/2017 was later allocated. As per the Safe Driver Policy, permission to re-engage must be sought from the State Coordinator or VKG Supervisor. No authority was sought to re-engage prior to reengaging. If it is determined a second pursuit actually commenced I then immediately asked the dispatcher to remind the crew of TH15 that they are [REDACTED] the VOI [REDACTED]	Non-publication order made in respect of the phrase under category 1 only.

112.	7	Tab 43 - Statement of Sergeant David STEVENS, annexing: A. Police Pursuit Form 18/2016 (CAD Ref. 189805)	Actual speed – speed limit weather – traffic – road type – categories	No order made
113.	4		Primary Vehicles section: Cat 1 / Cat 2/ Cat 3/ Cat 4	Non-publication orders made over the tick, the entire row of boxes including the ticked box and empty boxes.
114.	1		Summary section: "But not trained. Driver discontinued [REDACTED] when VOI [REDACTED]"	Non-publication order made
115.	7	Tab 43 - Statement of Sergeant David STEVENS, annexing: B. Police Pursuit Form 18/2017 (CAD Ref. 190639) page 1	Actual speed – speed limit weather – traffic – road type – categories	No order made
116.	4		Primary Vehicles section: Cat 1 / Cat 2/ Cat 3/ Cat 4	Non-publication orders made over the tick, the entire row of boxes including the ticked box and empty boxes.
117.	1		[REDACTED]	Non-publication order
118.	5		"No authority obtained by TH15 from the Pursuit manager to re-engage as required by the SDP."	No order made
119.	3: TH15 is a [REDACTED] Nissan Pajero 4: higher category"	Tab 43 - Statement of Sergeant David STEVENS, annexing: B. Police Pursuit Form 18/2017 (CAD Ref. 190639) page 2	"TH15 is a [REDACTED] Nissan Pajero" higher category"	Non-publication order made over phrase [REDACTED] under Category 3 only.
120.	3	Tab 46 - Telephone conversation between Sergeant Stevens and Sergeant Hamilton	Same redactions as applied to transcript – see below.	Non-publication order made

121.	3	Tab 46A - Transcript of telephone conversation between Sergeant Stevens and Sergeant Hamilton, page 2	And that's [REDACTED] is it? Ah [REDACTED] I think. It's unmarked.	Non-publication order made
122.	1	Tab 46A – Transcript of telephone conversation between Sergeant Stevens and Sergeant Hamilton, page 3	She pretty much called urgent and said [REDACTED] and it's on the [REDACTED]	Non-publication order made
123.	3	Tab 46A - Transcript of telephone conversation between Sergeant Stevens and Sergeant Hamilton, page 4	And that'll be a what [REDACTED] It is but it's one of the Mitsubishi Pajero's.	Non-publication order made
124.	7	Tab 47 - CAD Job 189805-27092018	"60 OVER 60 FRASER DR"	No order made
125.	8		"EUCALYPTUS DR"	Application not pressed
126.	7		"LIGHT" "FRASER DR NTHBND"	No order made
127.	7		"NTHBND >FRASER DRTH STH 100 OVER 80"	No order made
128.	8		"STHBND ON MIJUNGBAL DR"	Application not pressed
129.	8		"R ONTO DRYDOCK RD > MINJUNGBAL"	Application not pressed
130.	1		[REDACTED] [REDACTED]	Non-publication order made
131.	8		"WBND ON KENNEDY DR"	Application not pressed
132.	8		"TURNED RIGHT INTO NORMAN ST"	Application not pressed
133.	8		"...CHARLES ST >CG CHARLES ST>CGA ADELAIDE ST	Application not pressed

134.	8		"MUGGA WAY"	Application not pressed
135.	2		"STHNBND IN NTHBND LANES ON DUCAT ST ABOUT TO HIT KENNEDY DR"	No order made
136.	2		"WRONG SIDE OF THE ROAD"	No order made
137.	2		"THE WRONG SIDE OF THE MWAY"	No order made
138.	2		"THE WRONG WAY"	No order made
139.	10	Tab 84 - Flyover Presentation (on USB) (a) 6:52-6:55 @ 7:10- 7:12	[REDACTED]	Non-publication order made
140.	10	Tab 84 - Flyover Presentation (on USB) @ 7:14- 7:15	[REDACTED]	Non-publication order made
141.	10	Tab 84 - Flyover Presentation (on USB) @ 7:19	[REDACTED]	Non-publication order made
142.	10	Tab 84 - Flyover Presentation (on USB) @ 7:35 - 7:39	[REDACTED]	Non-publication order made
143.	10	Tab 84 - Flyover Presentation (on USB) @ 7:57	[REDACTED]	Non-publication order made
144.	10	Tab 84 - Flyover Presentation (on USB) @ 8:00	[REDACTED]	Non-publication order made
145.	10	Tab 84 - Flyover Presentation (on USB) @ 8:04 - 8:05	[REDACTED]	Non-publication order made
146.	10	Tab 84 - Flyover Presentation (on USB) @ 8:51	[REDACTED]	Non-publication order made
147.	10	Tab 84 - Flyover Presentation (on USB) @ 8:54	[REDACTED]	Non-publication order made

148.	10	Tab 84 - Flyover Presentation (on USB) @ 9:15 – 9:18	[REDACTED]	Non-publication order made
149.	10	Tab 84 - Flyover Presentation (on USB) @ 9:27	[REDACTED]	Non-publication order made
150.	10	Tab 84 - Flyover Presentation (on USB) @ 9:31	[REDACTED]	Non-publication order made
151.	10	Tab 84 - Flyover Presentation (on USB) @ 9:38 – 9:41	[REDACTED]	Non-publication order made
152.	10	Tab 84 - Flyover Presentation (on USB) @ 10:25 – 10:26	[REDACTED]	Non-publication order made
153.	10	Tab 84 - Flyover Presentation (on USB) @ 10:27 – 10:28	[REDACTED]	Non-publication order made
154.	10	Tab 84 - Flyover Presentation (on USB) @ 10:46	[REDACTED]	Non-publication order made
155.	10	Tab 84 - Flyover Presentation (on USB) @ 10:48 – 10:49	[REDACTED]	Non-publication order made
156.	10	Tab 84 - Flyover Presentation (on USB) @ 10:53	[REDACTED]	Non-publication order made
157.	10	Tab 84 - Flyover Presentation (on USB) @ 10:58	[REDACTED]	Non-publication order made
158.	10	Tab 84 - Flyover Presentation (on USB) @ 11:05 – 11:07	[REDACTED]	Non-publication order made
159.	10	Tab 84 - Flyover Presentation (on USB) @ 10:09 – 10:10	[REDACTED]	Non-publication order made
160.	10	Tab 84 - Flyover Presentation (on USB) @ 11:39	[REDACTED]	Non-publication order made

161.	10	Tab 84 - Flyover Presentation (on USB) @ 11:59	[REDACTED]	Non-publication order made
162.	10	Tab 84 - Flyover Presentation (on USB) @ 12:04	[REDACTED]	Non-publication order made
163.	10	Tab 84 - Flyover Presentation (on USB) @ 12:09 – 12:11	[REDACTED]	Non-publication order made
164.	10	Tab 84 - Flyover Presentation (on USB) @ 14:17	[REDACTED]	Non-publication order made
165.	10	Tab 84 - Flyover Presentation (on USB) @ 15:10 – 15:11	[REDACTED]	Non-publication order made
166.	10	Tab 84 - Flyover Presentation (on USB) @ 15:33 -15:36	[REDACTED]	Non-publication order made
167.	10	Tab 84 - Flyover Presentation (on USB) @ 15:37	[REDACTED]	Non-publication order made
168.	10	Tab 84 - Flyover Presentation (on USB) @ 16:26	[REDACTED]	Non-publication order made
169.	10	Tab 84 - Flyover Presentation (on USB) @ 16:36 -16:37	[REDACTED]	Non-publication order made
170.	10	Tab 84 - Flyover Presentation (on USB) @ 16:42 – 16:44	[REDACTED]	Non-publication order made
171.	10	Tab 84 - Flyover Presentation (on USB) @ 17:09	[REDACTED]	Non-publication order made
172.	10	Tab 84 - Flyover Presentation (on USB) @ 17:11	[REDACTED]	Non-publication order made
173.	7	Tab 86 - Statement of Forensic Pharmacologist, Dr Judith PERL [1]	"due to the manner of driving by the deceased"	No order made

174.	1		[REDACTED]	Non-publication order made
175.	1	Tab 87 - Statement of Professor Anthony BROWN [A/3]	"At 21:30pm the pursuit was called off due to Mr Adams' [REDACTED]	Non-publication order made
176.	2	Tab 87 - Statement of Professor Anthony BROWN, attaching: F. Letter of instructions dated 5 May 2020	"southbound in the northbound lanes"	No order made
177.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [Review – dot point 1]	"DOG 34: Senior Constable Paul Barrenger was driving fully marked NSPF, Ford Falcon Utility, serial number 962108 with two police dogs onboard [REDACTED] vehicle".	Non-publication order made
178.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [Review – dot point 3]	"Tweed Byron 14: Sergeant Troy Hamilton was the driver of an unmarked Hyundai Sonata dark grey in colour, serial number 100485. [REDACTED] vehicle. Of note it would appear Sergeant Hamilton was not using the fully marked sedan police vehicle assigned as Tweed Byron 14 ([REDACTED] vehicle), he was utilising an unmarked detective's vehicle Tweed Byron 141."	Non-publication order made
179.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [Review – dot points 3 -6]	"Tweed Byron 15: Senior Constable Brett Crossan was the driver and Constable Danielle Osborne was the observer of a fully marked NSWPF Mitsubishi Pajero, serial number 99672. [REDACTED] vehicle".	Non-publication order made
180.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [22]	"The vehicle Senior Constable Barrenger was driving was classified as NSWPF [REDACTED] vehicle [REDACTED]	Non-publication order made
181.	7	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and	"west on Leisure Drive, Bonora Point"	Application not pressed

		Highway Patrol Command [29, dot point 3]		
182.	7	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [32, dot point 2 - 6]	<p>"7-2-2; Prior to engaging in a pursuit police should take into consideration the following; Danger to police, other road users and the offender/s subject of the pursuit. In considering the danger of the pursuit, factors should include;</p> <p>Weather and road conditions, traffic density including vehicles and pedestrians</p> <p>Time of the day, day of the week (e.g. active school zones, road works)</p> <p>The manner of driving, including speed, of the offending driver and the apparent level of control of the offending vehicle.</p> <p>The police vehicles suitability to pursue based on its vehicle categorisation.</p> <p>The drivers police response classification (i.e. gold, silver, bronze).</p> <p>The distance between the police vehicle and off ending vehicle and the speed required to close that distance.</p> <p>The distance between the police vehicle and offending vehicle and the speed required to close that distance."</p>	No order made
183.	3: [REDACTED] vehicle 7: Senior Constable Barrenger during the pursuit provided the direction of travel and the street names he was pursuing in. Along with the following core information to police radio; "speed is 70 in a 60" "20 years police silver certified"... .. "Speed 60 over 60"	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [34 – dot points 1, 3 -4, 6, 8	<p>"Senior Constable Barrenger during the pursuit provided the direction of travel and the street names he was pursuing in. Along with the following core information to police radio;</p> <p>"speed is 70 in a 60"</p> <p>"20 years police silver certified"</p> <p>[REDACTED] vehicle"</p> <p>"Speed 60 over 60"</p> <p>"Went through a red traffic light"</p> <p>"Traffic light."</p> <p>"Original offence – tried to stop it and it took off on me".</p> <p>"100 over 80."</p>	Non-publication orders made over the words [REDACTED] only.

	<p>"Went through a red traffic light" "Traffic light." "Original offence – tried to stop it and it took off on me". "100 over 80."</p>			
184.	7	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [37 – dot points 1 - 7]	<p>"Driving reasonable". "Speed not excessive". "Sometimes I actually had to slow right down". "No traffic". "Dry, sealed bitumen". "Limited street lighting". "Just travelling normally down the road"."</p>	No order made
185.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [39]	<p>"The vehicle Sergeant Hamilton was driving was classified as a NSWPF [redacted] vehicle [redacted] as per section 5-1-7 SDP, [redacted]</p> <p>[redacted]</p>	Non-publication order made
186.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [44]	<p>"Sergeant Hamilton as per section 6-2-2 must ensure the vehicle being driven is appropriate for the level of response. A [redacted] vehicle [redacted] [redacted] [redacted] From the information provided in this incident, Tweed/Byron fleet on this shift are comprised of [redacted] and [redacted]</p> <p>[redacted]</p>	Non-publication order made
187.	1	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [51]	<p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p>	Non-publication order made

188.	1	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [55]	"Detective Senior Constable Rowland and Detective Senior Constable Freebody who were in Tweed Byron 101 observe Tyrone Adams overtake their unmarked police vehicle on the incorrect [REDACTED] Detective Senior Constable Freebody in his statement believed Tyrone Adams would not have realised they were in a police vehicle, "I doubt that the driver of the hatch would ever have considered our vehicle to be a police vehicle. We were in an unmarked Toyota Hilux with tinted windows and roof racks".	Non-publication order made
189.	1: had [REDACTED] and [REDACTED] 3: police vehicle".	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [57]	"Detective Senior Constable Freebody described they did not have the intention of engaging in a pursuit with Tyrone Adams, "We did not ever intend upon chasing the vehicle as a pursuit had [REDACTED] and we were in a polic [REDACTED] ehicle".	Non-publication order made
190.	2	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [61] and [62]	"in the opposite direction"	Application not pressed
191.	2	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [62]	"cross onto the wrong side of the road"	Application not pressed
192.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [65]	" 5-1-8 NOT to engage in PURSUITS. May be used for URGENT DUTY in matters that are LIFE THREATEN/NG or in an EMERGENCY where such response is appropriate. [REDACTED] In remote circumstances (see 'Definitions') may be used in a pursuit where no other vehicle is readily available. When driving	Non-publication order made in respect of the passage [REDACTED]

			under those conditions, the driver must consider the handling characteristics of the vehicle. (pg 18-19)"	
193.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [66]	"Under the circumstances of this incident, Senior Constable Crossan and Constable Osborne do not appear to be [REDACTED] This would then not qualify them to engage in a pursuit when [REDACTED] vehicles are available".	Non-publication order made
194.	1: [REDACTED] 5: "need authority before re-engaging"	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [68 – dot point 3,4 and 5]	[REDACTED] "need authority before re-engaging" [REDACTED]	Non-publication order made
195.	1	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [74]	[REDACTED]	Non-publication order made
196.	1	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [75]	[REDACTED]	Non-publication order made
197.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [82]	"Tweed Byron 15 is classified as a [REDACTED] vehicle and may be used for Urgent Duty [REDACTED] [REDACTED]	Non-publication order made
198.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [83]	"It would appear from the information provided in this incident, Tweed/Byron fleet on this night shift comprised of [REDACTED] and [REDACTED] vehicles"	Non-publication order made
199.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and	"It is unclear if Sergeant Troy Hamilton driving a [REDACTED] vehicle met the threshold to drive "urgent duty".	Non-publication order made

		Highway Patrol Command [120]		
200.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [122]	"and it appears the night crew were comprised of [REDACTED] and [REDACTED] vehicles. There was a [REDACTED] vehicle, call sign Tweed/Byron 35 which was the afternoon shift".	Non-publication order made
201.	3	Tab 88 - Statement of Senior Sergeant Jennifer McWHINNIE, Traffic and Highway Patrol Command [125]	[REDACTED]	Non-publication order made
202.	3	Tab 101 – Photographs of TB141 Hyundai Sonata	[REDACTED] (x10 references)	Non-publication order made
203.	3	Tab 103 – Tweed Heads 15 Inspection Photographs	[REDACTED] (x6 references)	Non-publication order made