



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Charli Powell
Hearing dates:	1-4 March 2022 Queanbeyan Local Court
Date of findings:	7 October 2022
Place of findings:	Coroners Court, Lidcombe
Findings of:	Magistrate Harriet Grahame, Deputy State Coroner
Catchwords:	CORONIAL LAW – manner of death – self-inflicted death in circumstances of domestic violence
File Number:	2019/45593
Representation:	Counsel assisting: Mr Jake Harris, instructed by Amber Doyle, Crown Solicitor's Office Family (Ms Sharon Moore): Michael Bartlett, Solicitor and Anastacia Qvist, Fortify Legal Commissioner of Police and Senior Constable Emma Tubman: Ms Kim Burke, instructed by Rebecca Atherton, NSWPF Office of the General Counsel ¹

¹ The Commissioner of Police and Senior Constable Tubman were interested parties as of 25 May 2022.

Non publication orders	Non publication orders prohibit the publication of the Youth Justice File (Exhibit 1, Tabs 27 – 42), sensitive photographs (crime scene and autopsy) (Exhibits 2 and 7), and the statement of Sergeant Ivanka Williams (Exhibit 15).
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Table of Contents

Introduction	4
The role of the coroner and the scope of the inquest.....	4
The evidence	5
Fact finding and chronology	6
Background.....	6
The nature of Charli and Mr Rosewarne’s relationship	7
Charli’s mental health	9
Why Charli left Mr Rosewarne’s house	10
The calls between Mr Rosewarne and Charli	11
Mr Rosewarne’s accounts of his decision to search for Charli.....	12
Mr Rosewarne’s journey to find Charli	14
Mr Rosewarne’s account of locating Charli and seeking help.....	16
Mr Worth’s evidence	18
The ligature.....	19
The 000 call	20
The autopsy and evidence of Professor Johan Duflou	21
The police investigation	23
The decision not to arrest.....	23
The conduct of the Police interview	25
A premature decision the death was suicide	26
Call for an “open finding”.....	26
Charli’s death occurred in a context of domestic violence	29
The need for recommendations or further action	30
Findings	31
Identity.....	31
Date of death.....	31
Place of death	31
Cause of death	31
Manner of death	31
Recommendations pursuant to section 82 <i>Coroners Act 2009</i>	31
Conclusion	31

Introduction

1. This inquest concerns the death of Charli Powell. Charli was just 17 years of age at the time of her death. She had many friends and a family who loved her greatly. Charli's death was a great shock to those around her. She had been working at a local fast-food outlet and had plans for the future. She was full of fun and loved to laugh. Her vibrant and bubbly personality brought much joy to those who knew and loved her. Charli was a very caring young woman, who loved unconditionally, and was deeply loyal to her family and friends.
2. Charli was born to parents Sharon Moore and Douglass Powell on 15 October 2001. She had numerous siblings with whom she was close. She was an Aboriginal woman through her father's family and was proud of her Wiradjuri heritage and culture.
3. In February 2019, Charli was in an abusive relationship with Rohan Rosewarne. At times she stayed with him and at times she lived at her mother's house.
4. At about 4.11am on 11 February 2019, Mr Rosewarne called 000 and asked for an ambulance. During the call he informed the operator that Charli had hanged herself. When paramedics arrived at the location at Freebody Oval in Queanbeyan at 4.20am, Mr Rosewarne and a member of the public, David Worth were attempting CPR. Tragically Charli could not be revived and was declared deceased at the scene.
5. Charli's death has been devastating for her family and many of her friends who remain angry and suspicious of the circumstances surrounding her death. They attended each day of the inquest. As the evidence of her final days emerged in the courtroom, their grief and pain were palpable. I offer Charli's family and friends my sincere condolences for their profound loss.

The role of the coroner and the scope of the inquest

6. The role of the coroner is to make findings as to the identity of the nominated person and in relation to the place and date of their death. The coroner is also to address issues concerning the manner and cause of the person's death.² At the conclusion of proceedings a coroner may make recommendations, arising from the evidence, in relation to matters that have the capacity to improve public health and safety in the future.³ A coroner also has the power to refer a known person to the Office of the Director of Public Prosecutions in certain limited circumstances.⁴

² Section 81 *Coroners Act 2009* (NSW).

³ Section 82 *Coroners Act 2009* (NSW).

⁴ Section 78 *Coroners Act 2009* (NSW).

7. There was no dispute in relation to Charli's identity or in relation to the date of her death. The legal representative for Charli's mother, Sharon Moore, strongly contested both the cause and manner of Charli's death. Further it was submitted that significant deficiencies in the police investigation hampered a proper understanding of what had occurred in the hours before her death.

The evidence

8. The Court took evidence over four hearing days. The Court also received extensive documentary material in two volumes. This material included witness statements, police reports, medical records, and court documents. The Court heard oral evidence from officers involved in the investigation, from Mr Rosewarne, and from an expert forensic pathologist, Professor Johan Duflou.
9. After the oral evidence the Court adjourned. After the adjournment it became clear that an issue which had emerged during the hearing, relating to the decision by Senior Constable Tubman, not to execute an outstanding warrant relating to Mr Rosewarne on the night of Charli's death, required further consideration. Additional evidence was tendered in relation to this issue and submissions made addressing it.
10. While I am unable to refer specifically to all the available material in detail in my reasons, it has been comprehensively reviewed and assessed.
11. A list of issues was prepared before the proceedings commenced. These issues guided the investigation.
12. The issues list stated that the inquest would consider:
 1. The circumstances of Charli's death, including the involvement of a known person and,
 2. Whether Charli's death was intentionally self-inflicted or was caused by a known person.
13. It is important to note from the outset that the proceedings were conducted in an atmosphere of extreme tension. There was considerable discord between members of Mr Rosewarne's family and members of Charli's family which erupted on numerous occasions. The legal representative for Charli's mother, made it very clear that the family had significant suspicions about the conduct of Mr Rosewarne on the night of Charli's death. Further, it was made clear that Charli's family did not accept that the police investigation was adequate or that the Court could safely find that Charli's death was intentionally self-inflicted. On the other hand, Mr Rosewarne and his friends felt he had been wrongly blamed and attacked.

Fact finding and chronology

14. Counsel Assisting provided the Court with comprehensive submissions which in my view accurately state much of the evidence which was before the Court. Where appropriate I have relied upon those submissions in setting out the chronology of events below.

Background

15. While Charli was undoubtedly greatly loved, she had a troubled early life. She was at times exposed to domestic violence and instability at home. There were 13 child-at-risk reports made about her between the ages of five and 16.
16. Charli attended Queanbeyan South Public School and then Karabar High School. She came to the attention of police while at school, for assault against another student. She left school during Year 10, having attempted to repeat that year. On 31 October 2018, she obtained a part-time job at KFC in Fyshwick, and was working there on the weekend prior to her death. She had a close circle of friends and was particularly close to her friend Kaitlin and her brother Lachie.
17. Charli had come to police attention on about 14 occasions, for matters including stealing, threatening behaviour and assaults. Most significantly, she had an ongoing conflict with another student at school, and on 21 February 2018 she assaulted that student at school. She was convicted of an assault and intimidation. On 30 May 2018, an AVO was imposed, and she was placed on a good behaviour bond. She was under the supervision of Youth Justice from July 2018, but failed to attend appointments from October. She was sent warning letters and was eventually breached. The court attendance notice for that breach was served at her mother's home on 10 February 2019, for a court date at the end of that month.
18. Charli had one other set of charges, relating to an assault against police, which were dealt with through a Youth Justice Conference.
19. Charli had exposure to drug use and is reported to have used cannabis regularly. She may have used ice on occasion.
20. This information is recorded not to denigrate Charli in any way but to provide background to the stressors she had experienced over the course of her short life and at the time of her death.
21. The Court is also aware that Charli miscarried in the months leading up to her death. I have no doubt this caused additional pain and distress.

The nature of Charli and Mr Rosewarne's relationship

22. In my view the most stressful situation facing Charli was her relationship with Mr Rosewarne. It was clearly unhealthy. Mr Rosewarne described it as "toxic".⁵ In my view it was abusive.
23. Mr Rosewarne stated that it was his first "proper" relationship. I note that he had Charli's number saved in his telephone under the name "Slut", which he explained he had probably done after an argument.⁶
24. Mr Rosewarne said they used to have arguments all the time about each of them cheating.⁷ He admitted making threats towards Charli, although he said it was not "one way traffic".⁸ He explained his behaviour as a way to "get back at her".⁹
25. The fact that Mr Rosewarne made threats to Charli is clear from the text messages. For example, on 9 February 2019, he texted to Charli, "I swear to God you slut around on me, I'll stab ya in ya throat".¹⁰ There are other numerous examples of jealous, controlling and abusive messages.
26. Mr Rosewarne also made repeated nuisance calls to Charli on the Saturday prior to her death. These would likely have been intrusive and intimidating for Charli. She asked him to stop calling her.
27. The last text message Charli sent to Mr Rosewarne included a threat to leave him. She also threatened to tell every girl he was with that he was "a woman basher and a liar and a cheater and most of all a user".¹¹ Mr Rosewarne explained this message was an example of the way they would "attack" each other.
28. According to Mr Rosewarne, whatever they argued about, they always made up afterwards.¹² On this occasion, according to Mr Rosewarne, their argument on the Saturday resolved, and they were "back to normal" on the Sunday.¹³ He bought marijuana, and they watched TV at his mother's home where he resided.¹⁴
29. There is clear evidence that Mr Rosewarne used physical violence towards Charli. According to Ms Moore, Charli had begun to open up about the domestic violence to her mother shortly prior to her death.¹⁵ Her text messages to Mr Rosewarne alleged that he was a "woman

⁵ 03/03/22 T22.32

⁶ 03/03/22 T61.7-13

⁷ 03/03/22 T12.20

⁸ 03/03/22 T17.33-35; see Exhibits 5 and 9, and see also Exhibit 1, Volume 1, Tab 6 Annexures p. 4

⁹ 03/03/22 T20.19

¹⁰ Exhibit 9, 10 February 2019 at 1757

¹¹ Exhibit 9, 10 February 2017 at 1539

¹² 03/03/22 T17.16-18

¹³ 03/03/22 T25.21-31

¹⁴ 03/03/22 T26.31

¹⁵ Exhibit 1, Volume 1, Tab 8 at [9]

basher".¹⁶ Charli's friend, Kaitlin Sanderson, also recalled several occasions where Charli told her Mr Rosewarne had been violent towards her.¹⁷

30. Other evidence includes the following incidents of violence:

- On 2 November 2018, witnesses observed Mr Rosewarne and Charli having an argument near Lyneham Public School in the ACT. Mr Rosewarne was observed to forcibly grab Charli and throw her to the ground, and then stand over her and throw an object at her. Mr Rosewarne was charged with assault against Charli. These Charges were due before the ACT Magistrates Court on 18 February 2019.¹⁸ (I note that he was never convicted, and that Mr Rosewarne denied this incident in oral evidence before me).¹⁹
- On 5 December 2018, Sharon Moore contacted Youth Justice to inform them that Mr Rosewarne had assaulted Charli again.²⁰
- On 19 January 2019, it was alleged Mr Rosewarne pushed Charli to the ground while they were on a camping trip, causing a fracture to her rib.²¹ At autopsy, Charli had a healing fracture to her rib. Professor Duflou considered that this had occurred between one week and one to two months prior to death.²² (I note this account is contested and that both Mr Rosewarne²³ and Ms Neiberding²⁴ state that the injury was caused by Charli's brother, Lachie).

31. In evidence, Mr Rosewarne denied that he had been violent towards Charli at any stage, including during the period immediately prior to her death. I do not accept his evidence in this regard. The clear weight of the evidence supports a finding that Mr Rosewarne did make threats of violence and used actual physical violence towards Charli during their relationship. In my view that violence would have been a stressor for her and is likely to have contributed to her state of mind around the time of her death.

32. I had the opportunity to observe Mr Rosewarne while he gave his evidence during the inquest. He demonstrated an explosive temper when stressed. Even in the controlled atmosphere of giving evidence by AVL link from a correctional centre he was unable to manage his angry outbursts. Given the contemporaneous reports Charli made to her friends and family I have no trouble accepting that Charli was subjected to Mr Rosewarne's rage on numerous occasions.

¹⁶ Exhibit 9, 10 Feb 2019 at 1539

¹⁷ Exhibit 10 at [35], [40]

¹⁸ Exhibit 8, 03/03/22 T13.1-16; COPS Event, Exhibit 1, Volume 1, Tab 21 p. 6

¹⁹ 03/03/22 T14. 5 - 24

²⁰ 03/03/22 T15.29 ff and Youth Justice case notes, Exhibit 1, Volume 2, Tab 31, p. 9 of 27

²¹ 03/03/22 T16.6 ff and Exhibit 1, Volume 1, Tab 8 at [28].

²² 02/03/22 T41.34

²³ 03/03/22 T16. 6 – 28.

²⁴ Statement of Kim Neiberding, Exhibit 1, Volume 1, Tab 14, [28]-[29]

Charli's mental health

33. The legal representative for Charli's mother submitted that she had no formal diagnosis of a mental illness. The Court accepts that there is no diagnosis recorded in the relevant medical records or any evidence that she was ever prescribed medication in relation to mental health issues.²⁵ She appears to have attended her GP only for asthma medication.
34. Further, Youth Justice did not record any concerns about her mental health or record any risks or threats of suicide.
35. There is however some evidence that Charli had mental health issues which were untreated at the time of her death. Mr Rosewarne's mother, Kim Neiberding, told police that Charli told her she had first attempted self-harm at the age of nine, and began to hear voices during 2018.
36. Mr Rosewarne also described a significant incident where he had seen Charli "jump out of a tree". When he approached her, he saw his jumper hanging off a branch. He says he did not "click on" about this incident at the time, and only thought about it as self-harm after the death.²⁶ Mr Rosewarne told police that he had also "tried to tell her Mum to take her to a psychiatrist..." "cause...of the cutting" but that "just got blamed on me".²⁷ He was aware that both he and Charli "had demons" that they needed to "fix".²⁸
37. The legal representative for Charli's mother described the evidence in relation to these issues from Mr Rosewarne and Ms Neiberding as "self-serving" and unreliable. For this reason, I have approached that evidence with some caution. Nevertheless, I am persuaded that Charli is likely to have suffered significant stress which caused at least a serious mood disturbance from time to time. Charli's friend, Ms Sanderson, observed scars on the insides of Charli's wrists and on her thighs. She was aware that Charli self-harmed.²⁹ Ms Moore told Senior Constable Tubman that Charli had suffered "anxiety issues".³⁰ Ms Moore also told Senior Constable Tubman that she believed Youth Justice tried to get Charli to be seen by mental health professionals, however, this did not occur.³¹

²⁵ See her medical records and PBS Summary, Exhibit 1, Volume 2, Tabs 43-45

²⁶ 03/03/22 T10.28-T11.13 and ERISP, Exhibit 1, Volume 1, Tab 20 at Q170

²⁷ ERISP, Tab 20 at Q224

²⁸ 03/03/22 T9.25

²⁹ Statement of Kaitlin Sanderson, Exhibit 10, [47].

³⁰ Statement of Senior Constable Emma Tubman, Exhibit 1, Volume 1, Tab 7 at [38].

³¹ Statement of Senior Constable Emma Tubman, Exhibit 1, Volume 1, Tab 7 at [37].

38. Further, during the autopsy, Professor Duflou identified linear scars on Charli's legs which he said were typical of self-harm.³² This is consistent with Mr Rosewarne's evidence. He told the Court that Charli used to cut herself.³³
39. Charli was known to smoke cannabis, and cannabis metabolites were certainly detected in her blood at autopsy. According to Mr Rosewarne, she had used Ice before he met her. While I am unable to confirm this information, I accept that from time to time her mood may also have been affected by her drug use *or* by her inability to get drugs.
40. Perhaps most significantly, I am certain that her relationship with Mr Rosewarne would have affected her mood. I note that the telephone records provided also indicate there was at times significant tension between Charli and her mother which is also likely to have been distressing, at the very least.³⁴ While she did not attend any doctor regarding mental health issues prior to her death it appears most likely that Charli struggled with her mood at times. Nevertheless, I accept that the exact nature and extent of her issues in this regard remains unclear.

Why Charli left Mr Rosewarne's house

41. At some stage in the evening on 10 February 2019, probably about 8pm, Mr Rosewarne's mother Kim Neiberding left to go to work. From that point forward, on the evidence before this Court, it was just Mr Rosewarne and Charli in the house. Understanding exactly what occurred between them is difficult in these circumstances, particularly when Mr Rosewarne has given various different accounts over time.
42. Mr Rosewarne said they spent the evening "chilling" and watching TV. At some point during the evening Charli left the house.
43. Mr Rosewarne's various accounts about why Charli left can be summarised as follows. He told paramedic Joanna De Arman that Charli "couldn't stay at his house".³⁵ Senior Constable Tubman recalled that Mr Rosewarne said he and Charli had had an argument, but she could not recall him saying what it was about.³⁶ Her contemporaneous note stated the argument was about "Charli not being able to stay at Rohan Rosewarne, 6 Leck St."³⁷ By contrast, the text message Mr Rosewarne sent after the death states that Charli "leapt up saying I'm going down mum's".³⁸

³² Autopsy Report, Exhibit 1, Volume 1, Tab 3 and 02/03/22 T40.42-48

³³ 03/03/22 T9.17

³⁴ See e.g. message sent on 5/2/19 from S Moore to C Powell. However, I note this message exists side by side with affectionate and loving messages.

³⁵ Exhibit 1, Volume 1, Tab 12 at [10]; Senior Constable Tubman could not recall this being relayed to her – see 01/03/22 T53.26

³⁶ 01/03/22 T55.32

³⁷ Exhibit 3 p.111

³⁸ Exhibit 1, Volume 1, Tab 6 Annexures p. 7

44. In oral evidence before this Court, Mr Rosewarne said that, at about 3am, there was a disagreement between them which occurred because Charli wanted him to take cushions off the sofa to make a bed on the floor. However, he was stoned and just wanted to sleep.³⁹ Charli told him “I don’t want to sleep on that maggoty couch” and started “flipping”.
45. Mr Rosewarne gave an account consistent with this in his police interview.⁴⁰ However, he also said that there had been an argument because he had smoked the last bong.⁴¹ In evidence, he clarified that this was not the reason for the argument, but that as a result she had become “stropky”, and it had fuelled the argument about the bed.⁴² He also said that, when she left, she said “I think I’m going to go to my mum’s”.⁴³
46. He denied “kicking her out” or that she had been required to leave at any stage.⁴⁴ When she said she was going to leave, he unlocked the screen door and she left.
47. Ms Neiberding was not called to give oral evidence. In her written statement she says that when she left for work Charli and Mr Rosewarne were in the lounge room. Her next contact with him was by telephone, after she had returned home from work, indicating that he was no longer home. Ms Neiberding states that this call occurred at around 4:30am.
48. I note that Ms Neiberding told police that she had previously seen Mr Rosewarne push Charli and that she had advised Charli to leave Mr Rosewarne. Both statements were against the interests of her son. While her statement about the early hours of 11 February 2019 was untested in court there is no evidence to suggest that I should regard her account as inherently unreliable or assume that she personally witnessed events leading up to Charli leaving the house.
49. It was suggested by the legal representative for Charli’s mother that the Court should entertain real doubts about whether Ms Neiberding was present at the house prior to Mr Rosewarne leaving it. These doubts are said to be raised by factors surrounding Mr Rosewarne’s decision to take the bicycle to look for Charli rather than to take a motor vehicle. It is an issue to which I will return.

The calls between Mr Rosewarne and Charli

50. According to Mr Rosewarne, Charli called him soon after she left his home. He said she was “going off” at him, and so he hung up. She then called again, in tears, and told him she was going to kill herself.⁴⁵ Her voice sounded like it was echoing, and Mr Rosewarne asked where

³⁹ 03/03/22 at T26.48, T27.34

⁴⁰ ERISP, Exhibit 1, Volume 1, Tab 20 Q44

⁴¹ ERISP, Exhibit 1, Volume 1, Tab 20 Q164

⁴² 03/03/22 T30.45-6

⁴³ 03/03/22 T31.25

⁴⁴ 03/03.22 T72.26

⁴⁵ 03/03/22 T31.36-42

she was. He said, “it sounded like she was in a toilet” and he thought “it was the toilet at her mum’s house”, given she said she was going there.⁴⁶ She said she was at a toilet block. He told her he was coming to get her.⁴⁷

51. The call records show that Mr Rosewarne made the first call to Charli at 3.39am, and then received two short calls from Charli. Mr Rosewarne did not remember making the first call but maintained he had hung up on her.⁴⁸ The records show there were then four short calls from Mr Rosewarne, with a fifth call at 3.47am lasting 2 ½ minutes. He then made four further short calls, before making a seven-minute call to Charli at 3.51am.
52. Mr Rosewarne’s account of the content of these calls does not match the call records. He was unable to explain why there were repeated calls, what was said, or why there were two long calls between him and Charli in the records, rather than one.⁴⁹ However, it should be noted that the pattern of calls between the couple appears to have frequently involved persistent calling and hanging up and that these calls allegedly occurred at a time of great stress.
53. After Charli said she was going to kill herself, Mr Rosewarne said he heard the phone hit the ground. He gave a consistent account about this in his police interview⁵⁰ and also in the course of later sentencing proceedings for unrelated matters.⁵¹ He said he yelled “pick yourself up”, meaning Charli should pull herself together⁵², and put the phone in his pocket, still connected. He believes that is why the phone call was so long.⁵³ He said he was still inside the house at this point.⁵⁴

Mr Rosewarne’s accounts of his decision to search for Charli

54. After receiving the call, Mr Rosewarne told the Court that he left home and commenced looking for Charli. The phone call remained connected.⁵⁵ He didn’t want to call the police, because he knew that he was wanted on a warrant.⁵⁶
55. He took a bike from the bushes near his home. He admitted in oral evidence that he had previously stolen this bike.⁵⁷ This may explain why he had earlier given evidence that he had run all the way. I accept his evidence that at the time of the police interview, when he had been arrested on warrants and was facing serious charges, that he was concerned not “to

⁴⁶ 03/03/22 T33.32-43

⁴⁷ 03/03/22 T33.46-49

⁴⁸ 03/03/22 T32.28

⁴⁹ 03/03/22 T36.19-37

⁵⁰ ERISP, Exhibit 1, Volume 1, Tab 20 Q52

⁵¹ *R v Rosewarne* [2021] ACTSC 217 at [152]

⁵² See 03/03/22 T35.11

⁵³ 03/03/22 T35.2-13

⁵⁴ 03/03/22 T37.38

⁵⁵ 03/03/22 T46.16

⁵⁶ 03/03/22 T42.49 ff, T44.20

⁵⁷ 03/03/22 T41.38

cop another charge”⁵⁸, that is having been in possession of a stolen bike. In my view this explanation is plausible and explains the inconsistency. I also note that an unclaimed bicycle was observed and photographed at the toilet block by police on the morning of Charli’s death.

56. Mr Rosewarne explained the reason he did not take his car. In the police interview he stated that he was “gunna take my car... I will get in my car right now and drive it through the fence.”⁵⁹ When questioned about his decision in oral evidence during the inquest he said “I’ve come out of the house, I was going to take my car at the time but that was parked up behind my mum’s under a carport so I would have had to reverse it out and weave it around all this fucking shit from my mother’s grass so I wasn’t doing that...”⁶⁰ Later he explained that “it would have taken me longer to get the car out than to just go.”⁶¹ I note that on his account, at that time he thought he had a short distance to cover.
57. The legal representative for Charli’s mother submitted that significant suspicion attaches to Mr Rosewarne’s explanation and his decision to take a bicycle when his girlfriend was reportedly in such dire circumstances. Telephone records suggest that Charli left the house some time before 3.39am as the first call between Charli and Mr Rosewarne’s phone is recorded at 3.39am and it appears unlikely they would be calling each other if they were still together at Mr Rosewarne’s home. If Ms Neiberding arrived home “between 3 & 4”⁶² as recorded in her supplementary statement rather than “about 4.30” as she suggested in her first statement, she *could have* been home while Charli was still at her house, although I note that the telephone records, taken in context suggest that she returned later.
58. The legal representative for Charli’s mother submitted that Mr Rosewarne’s evidence at the inquest indicates that “his mother’s car was at home when he left to look for Charli Powell”⁶³ The submission states “We understand that Neiberding only owned one car. If her car was parked behind Rosewarne’s car she may have already arrived home from work before Rosewarne started looking for Charli Powell.”⁶⁴ If she was home, it was submitted, she may have knowledge and even involvement in suspicious events that evening, and she should be further questioned.
59. I have considered this submission carefully. Firstly, there is no evidence before me in relation to how many cars Ms Neiberding owned. More significantly, while I accept Mr Rosewarne’s evidence is confusing, I do not understand the submission to accurately reflect the evidence given by him on this issue. When Mr Rosewarne refers to his car being parked “up behind my mum’s under the carport”, I think it likely he means “behind my Mum’s *house*”, rather than

⁵⁸ 03/03/22 T44.29

⁵⁹ ERISP, Exhibit 1, Volume 1, Tab 20 Q215

⁶⁰ 03/03/22 T44.4347

⁶¹ 03/03/22 T42. 27

⁶² Supplementary statement of Kim Neiberding, Exhibit 1, Volume 1, Tab 14C

⁶³ Submissions on behalf of Sharon Moore, page 18

⁶⁴ Submissions on behalf Sharon Moore, page 4

“behind my Mum’s car”. This is because he consistently describes the obstacle to him using his car as having to first reverse it and then weave through “all this fucking shit from my mother’s grass”⁶⁵ When vigorously cross-examined about the issue by the legal representative for Charli’s mother the following exchange occurs

Q. you said to police, “I was going to get in my car.” And then you said—

A. Yeah.

Q—today, “It was parked in the carport and I would have to reverse it” and there was something in the way, as I understood it. Is that right?

A. There was shit all through the grass.

Q Through the grass?

A. That’s what I said. You’re demented.”⁶⁶

60. There is no explicit mention of his mother’s car being parked there or any mention of her car obstructing his path. I am satisfied that Mr Rosewarne’s evidence about why he took the bicycle is plausible and I do not accept that his evidence on this issue suggests that Ms Neiberding is hiding important evidence.

Mr Rosewarne’s journey to find Charli

61. On his own account, Mr Rosewarne set off on a desperate ride to find Charli. In oral evidence he stated that although he was aware of the toilet blocks at Freebody Oval, he said his “mind blanked”,⁶⁷ and he instead headed toward the skate park on Henderson Road, near the station. An urgent trip down the hill to the skate park by bicycle would not have taken a young man long.
62. Both in his police interview,⁶⁸ and in evidence,⁶⁹ Mr Rosewarne mentioned first going to “the Roo’s Club”, namely the Queanbeyan Kangaroos football club. He stated in the police interview that Charli had told him where she was.⁷⁰ He also initially said in interview he had walked, rather than ridden the bike.⁷¹ However, on each occasion he corrected himself.⁷²
63. For example, during his police interview Mr Rosewarne stated that Charli told him “I’m about to hang myself or some shit. I was like, Where the fuck are you, I’m coming now. Like, and she fuckin’, like, told me, that’s where...down to Roo’s Club, couldn’t find her there so I went

⁶⁵ 03/03/22 T41.45

⁶⁶ 03/03/22 T76.34-47

⁶⁷ 03/03/22 T35.14

⁶⁸ ERISP, Exhibit 1, Volume 1, Tab 20 Q49

⁶⁹ 03/03/22 T38.16, see also T41.47

⁷⁰ ERISP, Exhibit 1, Volume 1, Tab 20 Q49

⁷¹ ERISP, Exhibit 1, Volume 1, Tab 20 Q202

⁷² ERISP, Exhibit 1, Volume 1, Tab 20, Q210; 03/03/22 T38.25

back up to the fuckin', like, ...hill and ... [⁷³] ...I thought she's at, she's right next to the house, like she's at the Roo's Club oval so I pumped it down there..."⁷⁴

64. Here Mr Rosewarne states that he went first to the Roo's Club and Charli wasn't there, so he decided to go to the Roo's club oval. Taken in context with all the other accounts he has given it is certainly possible that he makes a simple mistake, because it makes no sense that he went there twice. I also note that his description of going "back up to the fuckin', like, ...hill" fits with having been at the skate park which is down a hill from Freebody Oval.
65. Having observed Mr Rosewarne give evidence when he was under stress, I was able to observe his significant agitation and the trouble he had giving calm and linear accounts of his actions. He became exasperated when his past version was read back to him. He often spoke quickly without any real attempt to order his thoughts. However, in a moment of calm he explained that he did not go to the Roo's Club until after he had gone to the skate park. He explained that by Roo's Club, "I mean the ovals. Like where the toilet block was".⁷⁵ He did not mean the clubhouse itself.
66. In oral evidence he appeared to settle on this final version. I understood him to say that the route he took was likely to have been along Crest Road, heading north, then onto Henderson Road, down a ramp, before briefly approaching the toilet at the skate park. The lights were on, and the toilet was apparently empty. He then rode back south, stopping outside the preschool near his mother's house. Once he recalled the toilets at Freebody Oval he headed over there.⁷⁶
67. This route was considered at a view of the area during the inquest. I accept counsel assisting's submission that a bicycle would be able to travel a more direct route than other vehicles, and so it is *possible* that he was able to travel the distance (around a kilometre each way)⁷⁷ during the seven-minute phone call shown in the call records.
68. After stopping at the preschool, Mr Rosewarne said he made further calls to Charli. He could not recall if he continued riding while making these calls.⁷⁸ There are calls shown in the call records, from 3.59am to 4.05am. Senior Constable Tubman also recalled that Mr Rosewarne said he had tried to call Charli while he was attempting to find her.⁷⁹
69. His evidence on these topics was certainly confused and at times inconsistent. The legal representative for Charli's mother submitted that the inconsistencies were such that his entire account should be rejected. I have some sympathy for that submission, in that I found Mr

⁷³ Having listened to the recording I am not satisfied that the transcript is accurate at this point. I note Mr Rosewarne is crying and it is difficult to discern what he says. I am not at all satisfied he states a car pulled up.

⁷⁴ ERISP, Exhibit 1, Volume 1, Tab 20 Q49

⁷⁵ 03/03/22 T39.27-35

⁷⁶ 03/03/22 T35.27-34

⁷⁷ Exhibit 4

⁷⁸ 03/03/22 T52.33

⁷⁹ 01/03/22 T58.5

Rosewarne's account of the reason he initially travelled to the skate park toilets somewhat difficult to rely upon. It may have some truth to it but there were undoubtedly some troubling aspects. For example, Mr Rosewarne's recollection that he was first directed to the idea that Charli was in a toilet because the sound quality of the call suggested she may be in her mother's bathroom appears to me to be quite implausible. Having seen the toilet where she was found I would be surprised if anything about the acoustics of that place would alert Mr Rosewarne to the kind of location it was. On the other hand, I see no reason for Mr Rosewarne to concoct an account of a bicycle journey to the skate park if it had not occurred.

70. The legal representative for Charli's mother urged the Court to reject his version of these events. It was submitted that it is highly implausible that Mr Rosewarne would ride to a toilet block over a kilometre away and that the Court should regard his account as a total fabrication. For this reason, I have approached the account with some caution but am unable to see that it increases the level of suspicion in relation to the cause of Charli's death in any tangible way. It does not place Mr Rosewarne in any better light, and it would be hard to accept that it is on its face self-serving. I note that Mr Rosewarne told an independent witness that he had travelled to the toilets near the railway station prior to attending the toilets at Freebody Oval, while the ambulance were attending Charli on the night of her death.⁸⁰
71. I regard it as likely that Mr Rosewarne was affected by cannabis and extremely stressed when he set off on his bike, and that his capacity to form a rational plan is likely to have been significantly impaired at this time. In this context his route is not inherently implausible.

Mr Rosewarne's account of locating Charli and seeking help

72. Mr Rosewarne said he arrived at Freebody Oval and got off the bike, leaving it on the ground. He approached the female toilet, using the torch on his phone. He then looked to his left and saw Charli.⁸¹
73. Charli was hanging from a ligature in the male toilet. In evidence, he described her legs being "curled up", with her knees bent and her feet behind her. He could not see her feet touching the ground.⁸² He indicated that she was about 25cm from the ground.⁸³ While not absolutely clear from the transcript, this distance appears to refer to the distance between her knees and the ground (being the lowest part of her body he could see). Accordingly, counsel assisting submitted that Charli was probably partially suspended, with her legs bent behind her.
74. The legal representative for Charli's mother placed real significance on Mr Rosewarne's evidence in relation to Charli's position. He submitted that "Rosewarne gave clear evidence

⁸⁰ Statement of David Worth, Exhibit 1, Volume 1, Tab 13 [13]

⁸¹ 03/03/22 T49

⁸² 03/03/22 T82.37-T83.34

⁸³ See Exhibit 13, Agreed fact

that Charli Powell's feet were 25 centimetres off the ground before changing his mind and giving different evidence"⁸⁴ Further, it was submitted that this evidence was crucial because her feet could not have been off the ground as the hanging point was too low for that to have been the case. It was submitted that the quality of his evidence was of such an unreliable nature that it should be completely rejected. It was submitted that the evidence is particularly important given that he was the only person who claims to have seen her hanging.

75. I accept that Mr Rosewarne's evidence on this issue is somewhat inconsistent. However, I reject the submission that it necessarily indicates dishonesty. Confusion or an incomplete recollection is equally consistent with honest shock.

76. Mr Rosewarne states that as soon as he saw Charli, he ran towards her and tried to pick her up. He was "pretty sure" he tried to untie the knot around her neck. When asked how he had got Charli down in evidence, he said:⁸⁵

So I kept trying to pick her up and tried to get it undone with my fingers and I got fatigued - went to put her down like so I could get help and it come undone.

77. Mr Rosewarne had given a similar account in the police interview.⁸⁶ Professor Duflou was asked about the possibility that the knot had "spontaneously come loose". In his view, while he could not recall a death where this had occurred, it did not surprise him that it may happen.⁸⁷ However, Mr Rosewarne's account suggests he had managed to partially undo the knot, rather than coming loose "spontaneously" before Charli's weight caused it to undo completely. Mr Rosewarne has given consistent evidence that he tried to loosen the knot. It does not appear to me unusual that a person in his panicked position would have difficulty recalling exactly how the knot came loose. This aspect of his testimony does not cause me significant concern.

78. Mr Rosewarne stated that Charli then fell to the ground, with her head pointing towards the entrance to the toilet block.⁸⁸ Mr Rosewarne did not recall her head hitting the ground or any hard surface, which might have explained the bruise to her forehead.⁸⁹ He said he then attempted CPR, but vomit came out her mouth. Vomit was later observed and photographed by police at the scene near the corner of the entrance to the toilet block.

79. Mr Rosewarne said he did not know what to do, so he placed her in the recovery position.⁹⁰ He then went to get help.

⁸⁴ Submissions on behalf of Sharon Moore, page 4

⁸⁵ 03/03/22 T53.20

⁸⁶ ERISP, Exhibit 1, Volume 1, Tab 20, Q248

⁸⁷ 02/03/22 T59.14

⁸⁸ 03/03/22 T53.49

⁸⁹ 03/03/22 T54.17-40

⁹⁰ 03/03/22 T55.1-11

80. The phone records show that he made a final call to Charli's phone at 4.05am. I accept that it is probable that he located Charli soon after this call. There were also two calls made from Charli's phone to her mother and brother, at 4.10am. Mr Rosewarne was asked about these calls in evidence, and he confirmed he had made the calls, although neither had connected. He believed he made these calls after attempting CPR.⁹¹ There were then two very short calls to Charli's phone, which are probably misdials,⁹² before Mr Rosewarne called 000 at 4.11am.

Mr Worth's evidence

81. The Court had the opportunity to read a short statement Mr Worth had made in July 2019 and of hearing him give oral evidence. He impressed the Court as an honest witness who was trying to assist the Court to the best of his ability, notwithstanding that the passage of time had affected his direct memory of the events.

82. Mr Worth told the Court he first became aware of Mr Rosewarne when he heard a "frantic" knock on the door and heard someone say, "please help me".⁹³ He said, prior to that, he had been asleep, and had therefore not been outside his home, walking around.⁹⁴ In contrast, in his interview Mr Rosewarne said, "I'd actually see him ... walk past". While this appeared inconsistent, Mr Rosewarne clarified in evidence that he believes he saw Mr Worth walk past *inside* the house, perhaps going to the toilet or kitchen.⁹⁵

83. After hearing the knock, Mr Worth said he got up, in his underwear, and went to the front door. He saw Mr Rosewarne standing on the other side of the screen door, saying "I think she's killed herself".⁹⁶

84. According to Mr Worth, Mr Rosewarne appeared to be in shock, in "genuine grief", was very upset and obviously needed help.⁹⁷ Similarly, Senior Constable Tubman later described Mr Rosewarne as appearing quite distraught; he had red and swollen eyes, looked upset, and had difficulty controlling how he was talking.⁹⁸

85. Mr Worth was wary, because "you don't know what happens at that time [of night]"⁹⁹. He got dressed in a dressing gown, put on Ugg boots, and followed Mr Rosewarne towards the toilet blocks.¹⁰⁰ Mr Rosewarne was walking ahead, very fast.¹⁰¹

⁹¹ 03/03/22 T56.35-T57.32

⁹² Statement of Detective Senior Constable Finnigan, Exhibit 1, Volume 1, Tab 10A at [23]

⁹³ 01/03/22 T17.19

⁹⁴ 01/03/22 T31.27

⁹⁵ 03/03/22 T36.1-3, see also T55.42-T56.9

⁹⁶ 01/03/22 T18.1-2

⁹⁷ 01/03/22 T18.20-1

⁹⁸ 01/03/22 T54.45-8

⁹⁹ 01/03/22 T18.2-3; see also T31.42-50

¹⁰⁰ 01/03/22 T18.38-9

¹⁰¹ 01/03/22 T18.38-9

86. On arrival at the scene, Mr Worth said Charli was at the entrance to the male toilet block, which was “sort of hidden from the road”.¹⁰² She was slouched down or slumped in the doorway, with Mr Rosewarne cradling her.,¹⁰³ He also noticed vomit and blood in the area, around her mouth and possibly on her clothes.¹⁰⁴

The ligature

87. Mr Rosewarne said he had discovered Charli hanging by the neck at the entrance to the male toilet block. Police on arrival located jeggings tied over a beam at that position. The jeggings were available to the Court to view.

88. No tests were performed to assess whether they could or could not have borne Charli’s weight. However, the jeggings had creasing which Detective Senior Constable Finnigan considered to be consistent with having been around Charli’s neck, although he was unable to say how it had been secured.¹⁰⁵ He also observed a broken line of marks of Charli’s neck, which he considered consistent with the “bunching” of the material of the leggings.¹⁰⁶

89. Later, Detective Senior Constable Finnigan also performed a reconstruction to confirm that it would have been physically possible for a person of Charli’s height to reach the beam, in order to tie a ligature over it.¹⁰⁷

90. Mr Worth had also noticed a jacket or some other clothing, which was denim or blue coloured, wrapped around Charli’s neck.¹⁰⁸ Charli’s arms were not in that jacket or item of clothing.¹⁰⁹ Mr Worth believes Mr Rosewarne removed that item from around Charli’s neck.¹¹⁰ Mr Rosewarne, for his part, said he was “shocked” about that evidence and that he knew nothing about the item of clothing.¹¹¹

91. No item of clothing was found at the scene or observed by police or crime scene officers who attended.¹¹² Mr Worth was unable to recall the jacket which Charli is depicted wearing in the crime scene photos.¹¹³ The description Mr Worth gave of the item of clothing he saw is also broadly similar to the ligature that was found at the scene.

¹⁰² 01/03/22 T19.43-5

¹⁰³ 01/03/22 T33.18-21

¹⁰⁴ 01/03/22 T21.41-5

¹⁰⁵ 02/03/22 T69.1-8

¹⁰⁶ 02/03/22 T72.19-26; and Exhibit 1, Volume 1, Tab 10 at [19]

¹⁰⁷ Exhibit 1, Volume 1, Tab 10A

¹⁰⁸ 01/03/22 T20.28-31, T21.21-2, T21.30

¹⁰⁹ 01/03/22 T34.37-9

¹¹⁰ See Statement of David Worth, Exhibit 1, Volume 1, Tab 13 at [8]

¹¹¹ 03/03/22 T59.10-36

¹¹² 02/03/22 T30.23

¹¹³ Exhibit 2 and see T39.30-1

92. Mr Worth helped Mr Rosewarne drag Charli out of the toilet block, to get her to a clearing and into the light, near the streetlamp.¹¹⁴ Mr Worth then commenced CPR.
93. Counsel assisting submitted that the most likely explanation is that Mr Worth is honestly mistaken about seeing something around Charli's neck. The legal representative for Charli's mother asked the Court to consider a different hypothesis. It was submitted that the fact that Mr Worth saw something around Charli's neck makes it more likely that she was never hanging from the jeggings that the police saw tied to a wooden rafter at the toilet block and that it should cause the Court to be more suspicious of Mr Rosewarne.
94. I have considered the evidence and find I am unable to rely on the accuracy of Mr Worth's evidence about having possibly seen a jacket around Charli's neck. Mr Worth and Mr Rosewarne remained together at the scene until the ambulance, and later police arrived. In those circumstances, had a jacket been removed from Charli's neck after Mr Worth's arrival at the toilet block, I would expect that it would have been located by police or by the crime scene officers who attended.

The 000 call

95. Mr Rosewarne was unclear precisely when he made the 000 call, although he believed it had been prior to attending Mr Worth's home.¹¹⁵
96. Mr Worth told the Court he knew from Charli's condition that she was going to need an ambulance. He did not have his own mobile phone with him, so couldn't make a call. He was aware that Mr Rosewarne had called 000 at some stage. He believed that call was made after they commenced CPR. He did not recall Mr Rosewarne being on his mobile phone when he first saw him outside his house.¹¹⁶ However, he also accepted the possibility that the call had been before.¹¹⁷
97. As noted, the records show that Mr Rosewarne made the call to 000 at 4.11am. The call lasted 9 minutes and 4 seconds.¹¹⁸ The 000 recording was played to the inquest. Although the audio is not always clear, the following can be heard:
- *First*, Mr Rosewarne can be heard saying the words "he's coming, he's just woken up, he's a lifesaver mate" at about 1 minute and 43 seconds into the recording.¹¹⁹ That is consistent with Mr Worth first getting up and coming to the door of his home.

¹¹⁴ 01/03/22 T222.15-20, T22.32, T23.8-9

¹¹⁵ 03/03/22 T56.18-29

¹¹⁶ 01/03/22 T24.35-43; T28.16

¹¹⁷ 01/03/22 T28.11

¹¹⁸ Cellebrite records, Exhibit 5; cf. T66.26

¹¹⁹ 01/03/22 T29.24-28; 000 recording, Exhibit 1, Volume 1, Tab 17.

- *Second*, a voice can be heard saying the words “grab her arms” at about 2 minutes 40 seconds into the recording.¹²⁰ That is consistent with Mr Worth’s account of assisting Mr Rosewarne to drag Charli into a clearing and away from the toilet block.

98. The timing of each of those remarks on the 000 recording is consistent with Mr Rosewarne’s account, that he had already called 000 prior to going to get help from Mr Worth.

99. This supports a conclusion that Mr Worth was, again, honestly mistaken about the timing of the 000 call, and did not notice, or appreciate, that Mr Rosewarne was already on the phone to 000 when he first appeared outside his door. Given the time of night, and that it was a “very intense moment”,¹²¹ this is understandable. It is well accepted that even honest witnesses can make mistakes at times of enormous stress.

100. Mr Worth recalled giving a short statement to police at the scene.¹²² His recollection is consistent with the note taken by Probationary Constable Aimee Herbert, whose notebook shows Mr Worth’s details and a very brief account (“Rohan came to door and said you’ve got to help my GF has killed herself.”)¹²³

101. Having heard the 000 call, I have no doubt that Mr Rosewarne was already calling 000 as he commenced looking for help. It appears clear that Charli was already on the ground at this stage.

The autopsy and evidence of Professor Johan Duflou

102. Professor Johan Duflou performed a limited autopsy, by way of external examination and toxicology only, on 12 February 2019.¹²⁴ He is a highly experienced pathologist and has performed many thousands of autopsies over a 40-year career. In my view his opinion is worthy of significant weight and is important independent forensic evidence.

103. In Professor Duflou’s opinion, the death was a hanging. While he could not absolutely exclude the possibility of ligature strangulation, in his opinion there were matters which supported a hanging, as opposed to a ligature strangulation. These were as follows:¹²⁵

- *First*, the presence and general appearance of the ligature mark. The mark partially encircled the neck, which was quite typical of a hanging.¹²⁶ There were features

¹²⁰ 01/03/22 T29.25-29

¹²¹ 01/03/22 T33.7

¹²² Statement of David Worth, Exhibit 1, Volume 1, Tab 13 at [14]

¹²³ Exhibit 6

¹²⁴ Exhibit 1, Volume 1, Tab 3

¹²⁵ 02/03/22 T46.7

¹²⁶ 02/03/22 T44.20

typical of a suspension point behind the right ear.¹²⁷ It had an upwards direction, which was common in hanging but uncommon in strangulation.¹²⁸

- *Second*, the lack of associated defensive marks on the neck, such as bruises, abrasions or scratch marks, which would have indicated attempts to remove the ligature.¹²⁹
- *Third*, the appearance of Charli's face. In cases of hanging, the appearance of the skin above and below the ligature is generally the same, whereas in a ligature strangulation, the appearance is different, with pronounced suffusion or reddening and blue discolouration of the face with many pinpoint areas of bleeding (petechiae), including in the eyes.¹³⁰ This would also have occurred if Charli had been rendered unconscious prior to strangulation, unless the person had continued applying pressure for "many, many minutes" after Charli had lost consciousness, which was an unlikely scenario.¹³¹

104. Taken together, Professor Duflou considered that the features were "very much those of hanging and would be very, very atypical for a case of ligature strangulation."¹³²

105. Professor Duflou did not consider the injuries to Charli's body were indicative one way or the other as to whether the death was by hanging or strangulation, and could have been caused when Charli's body was moved.¹³³ Regarding the bruise to Charli's forehead, it could have been sustained at most hours prior to death, or around the time of death, or could have occurred immediately after, if Charli's head had come into contact with a hard surface.¹³⁴

106. Professor Duflou also noted that about half of all self-inflicted hangings do not involve a full suspension, where the feet or other parts of the body are not on the ground. Accordingly, if Charli had not been fully suspended, this did not affect his opinion.¹³⁵

107. Professor Duflou referred in his report to Charli being "cut down". It was unclear where this reference came from. He believed he may have been "loose in [his] terminology".¹³⁶ There is no reference to Charli being "cut down" in the material provided to Professor Duflou at the time of the autopsy, including the P79A.¹³⁷ He did not have access to the CAD log, which does

¹²⁷ 02/03/22 T44.39

¹²⁸ 02/03/22 T45.46

¹²⁹ 02/03/22 T46.15-18 and 27-32

¹³⁰ 02/03/22 T46.34-47.3

¹³¹ See 02/03/22 T56.31-T57.29

¹³² 02/03/22 T47.8-9

¹³³ 02/03/22 T47.14-20, see also T60.13-T61.46

¹³⁴ 02/03/22 T47.40-43

¹³⁵ 02/03/22 T48.33-36

¹³⁶ 02/03/22 T40.2-19

¹³⁷ See Exhibit 1, Volume 1, Tab 3 p. 3

make reference to Charli being cut down.¹³⁸ The most likely explanation for this anomaly is that given by Professor Duflou.

108. I have considered Dr Duflou's opinion very carefully. He sees no objective indication of a ligature strangling. I accept his view and find on *the balance of probabilities* that Charli's death was caused by hanging. Given the lack of any defensive injuries or wounds I am further persuaded that it is more likely than not that no other person was directly involved in Charli's death. This decision is further supported by evidence of the surrounding circumstances to which I will shortly return.

The police investigation

109. In the course of the evidence, the adequacy of the police investigation was considered. The legal representative for Charli's mother submitted that mistakes made were of such magnitude that the investigation was entirely compromised. I will deal briefly with the substantive issues raised.

The decision not to arrest

110. Senior Constable Tubman told the Court that when she arrived at Freebody Oval the ambulance officers were already at the scene. She was unable to remember her arrival in any detail but said her normal procedure was to approach ambulance officers to get some information.¹³⁹ She recalled that she then located Mr Rosewarne and asked him briefly what had happened, before having a quick look around to check everything was "safe, nobody else is injured, just a general everybody's okay sort of thing and once I've done that I've then started the process of obtaining details and versions and things like that".¹⁴⁰ She could not recall the content of her first discussion with Mr Rosewarne.¹⁴¹ Later she took a brief notebook statement.¹⁴²

111. Senior Constable Tubman told the Court that she did not know who would be at the scene when she made her way to the job. However, on arrival she realised that she knew Mr Rosewarne. She also knew that there was a warrant for his arrest, although she did not know what the warrant was for.¹⁴³ She explained that given she was not expecting him to be there, she had not looked on the police system before arriving to check what the warrant was for.¹⁴⁴ She also told the Court that after arriving at the scene she made no further inquiries about it.¹⁴⁵

¹³⁸ Exhibit 1, Volume 1, Tab 18, p. 2 at 04:41:45

¹³⁹ 01/03/22 T 48.14

¹⁴⁰ 01/03/22 T 48.38

¹⁴¹ 01/03/22 T 48.44-45

¹⁴² Exhibit 3

¹⁴³ 02/03/22 T 13.1 onwards

¹⁴⁴ 02/03/22 T 12.30 onwards

¹⁴⁵ 02/03/22 T 13.17

112. When pressed on why she did not arrest Mr Rosewarne she stated “Because he was extremely upset, distressed, he just found his girlfriend. It wasn’t the time to go and execute an outstanding warrant in my opinion.”¹⁴⁶ She told the Court that she raised the existence of the warrant with Mr Rosewarne. She said, “So while I was speaking to him, he – I said “you’re aware you’ve got a warrant”. However, due to his state, I said, “Go home, have a cup of tea, coffee, get physically sorted out and then come back to the police station”. However, he didn’t come to the police station.¹⁴⁷ During her evidence Senior Constable Tubman made it clear that she regarded herself to be investigating a “suspected suicide”.¹⁴⁸
113. The legal representative for Charli’s mother submitted that Senior Constable Tubman was *required* to execute the warrant and any claim that she had used her discretion was contrary to law. It was submitted that she was “acting outside the law”.¹⁴⁹ The legal representative for Charli’s mother relied upon an interpretation of s 101 of the *Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA)* and to the case of *Wang v State of New South Wales* [2019] NSWCA 263 (*Wang*).
114. Section 101 of LEPRA clearly confers a discretion on a police officer, signalled by the use of the phrase “may take action.” There is nothing in McCallum JA’s reasoning in *Wang*, which concerned a claim for damages for wrongful arrest, which in my view prevents a police officer from exercising a discretion to arrest in an appropriate case.
115. The Court received evidence that NSW Police are trained about the use of their discretionary powers including in relation to arrest. Acting Sergeant Mark Williams gave an example where an officer may determine that immediate action is not necessary and an appointment is made to deal with the matter at a later stage.¹⁵⁰ Acting Sergeant Williams informed the Court that NSW Police are trained to exercise a discretion of this kind in good faith and in an appropriate manner taking into account the operational and resourcing needs, among other factors.
116. In my view it is clear that Senior Constable Tubman had a limited discretion in relation to whether or not to arrest Mr Rosewarne. She made a decision that was legally open to her. While I understand that she was concerned at Mr Rosewarne’s level of distress when she decided not to take him into custody that night in relation to the outstanding warrant, I think it was somewhat naive to expect that Mr Rosewarne was going to have a cup of tea and then submit to arrest at the Police Station later that night or the following day. Nevertheless, there was, in my view, nothing illegal in her conduct.

¹⁴⁶ 02/03/22 T 11.46-47

¹⁴⁷ 02/03/22 T 12.16-19

¹⁴⁸ 02/03/22 T 22.20

¹⁴⁹ Submissions on behalf of Sharone Moore, 30/8/22, page 3

¹⁵⁰ Statement of A/Sergeant Mark Williams, Exhibit 16, at [13]

117. Senior Constable Tubman's compassionate impulse to allow Mr Rosewarne to return home that night rather than proceed with arrest and an interview is only of interest to this Court because of the effect that decision has had on the subsequent investigation into Charli's death. As it turned out Mr Rosewarne was not questioned for over eight months. When Mr Rosewarne was questioned, that occurred in an *ad hoc* manner, without preparation, when he had been using drugs, and was facing considerable gaol time for unrelated offences. This meant that no immediate or detailed account was taken from the only person who had been with Charli in the period just prior to her death. Unfortunately, the decision has unnecessarily increased suspicions in this case. Even if a decision was taken to allow Mr Rosewarne to go home that evening, police should have monitored the situation or considered reattending his home early the following day.
118. It is possible that an earlier interview with Mr Rosewarne may have produced a clearer account and decreased Charli's mother's suspicions in relation to the conduct of the investigation. It is also possible that an interview conducted in those stressful conditions would have added little to our understanding of the events just prior to Charli's death.

The conduct of the Police interview

119. Mr Rosewarne's presence at the police station on 30 October 2019 was coincidental, due to being arrested on unrelated matters. Senior Constable Tubman and Detective Senior Constable Finnigan conducted an interview because the opportunity presented itself and they thought they should "seize" that opportunity.¹⁵¹ Accordingly, there was not a planned and structured approach to the interview.¹⁵²
120. It was suggested that information provided by Mr Rosewarne in the interview had not been challenged or checked by the interviewing officers.¹⁵³ Detective Senior Constable Finnigan acknowledged that, in hindsight, it would have been beneficial to have challenged Mr Rosewarne more.¹⁵⁴
121. Whatever the deficiencies of the interview, I am satisfied that the inquest provided an opportunity to test Mr Rosewarne's account, and clarify any omissions made during the interview. He was vigorously cross-examined and while his evidence was explosive and at times offensive, his account did not increase my suspicions.

¹⁵¹ 01/03/22 T65.18-24

¹⁵² 01/03/22 T74.14

¹⁵³ See e.g. 01/03/22 T73.44, 02/03/22 T27.41-3, T28.44, T92.45-48, T95.8-11

¹⁵⁴ 02/03/22 T98.4

A premature decision the death was suicide

122. It was also submitted that police had drawn an early conclusion that the death was a suicide, and that they never considered any other possibility.¹⁵⁵ However, while the P79A records the death as a “hanging death - suspected suicide”, Detective Constable Finnigan stated that, despite that early suspicion, he still undertook investigations to confirm whether the death was indeed a suicide.¹⁵⁶ He stated that suicide was never “presumed.”¹⁵⁷
123. Senior Constable Tubman requested the assistance of the detectives. Crime scene attended and photographs were taken. Other steps included obtaining witness statements, eventually interviewing Mr Rosewarne, obtaining a pathologist’s report and analysing phone records. Later investigative steps such as recreating the scene to test whether someone of Charli’s height could have attached a ligature to the beam were conducted under direction of the coroner.
124. The legal representative for Charli’s mother drew the Court’s attention to the COPS event E 592187891. There is reference to the Homicide Squad having been informed on 20 February 2019.¹⁵⁸ Rather than causing concern this suggests that some external oversight was requested and that a risk assessment took place.
125. I accept that investigating police made an early decision on the evidence that was available that Charli’s death was likely to have been suicide and I have kept that firmly in mind in reviewing the evidence now available to this Court. An inquest provides an opportunity, independent from the police investigation, to review all the evidence and if necessary to call for further material.

Call for an “open finding”

126. Submissions from the legal representative for Charli’s mother commenced by stating that “the purpose of the submissions is to argue that a known person... caused Charli’s death”. However there appears to be some acceptance of the fact that the evidence did not meet the high threshold of section 78 of the *Coroner’s Act* as later in the submissions it was argued that an open finding should be returned.
127. As has been outlined above, the police officers who investigated Charli’s death and who gave evidence before me expressed a firm view that Charli’s death was suicide.
128. I have carefully and independently reviewed the available evidence on this issue. A finding that a death is intentionally self-inflicted should not be made lightly. The evidence must be

¹⁵⁵ See e.g. 02/03/22 T21.45, T28.10-12, T82.50, T96.44, T99.19, T99.44, See also Submissions on behalf of Ms Moore.

¹⁵⁶ See 02/03/22 T11.18-19

¹⁵⁷ 02/03/22 T 69.28

¹⁵⁸ Exhibit 1, Volume 1, Tab 21

extremely clear and cogent in relation to intention. It must be established not as an absolute certainty but *on the balance of probabilities* to the *Briginshaw* standard.¹⁵⁹

129. There is no doubt that the picture I have of the evening remains incomplete. I am somewhat uncertain about the nature of the disagreement Charli and Mr Rosewarne had prior to her leaving his home that evening. I will never know the exact content of the frequent calls between them that evening. I remain somewhat uncertain about the reasoning behind the course of Mr Rosewarne's journey around the suburb and exactly how he came to discover Charli in the male toilet block at Freebody Oval. Nevertheless, taking all the evidence before me into account, I am satisfied, *on the balance of probabilities* that Charli's death was intentionally self-inflicted. In coming to that decision, I am particularly persuaded by the following factors:

- **The medical evidence of Professor Duflou:** Evidence obtained during the post mortem examination provided objective support for the likelihood that Charli's death was caused by hanging rather than strangulation. The mark around Charli's neck had an upward slanting direction and appeared to have a feature typically associated with there having been a suspension point. Other physical features were also more in keeping with hanging. There were no defensive wounds that might suggest a struggle. There were indications that were inconsistent with Charli having been rendered unconscious prior to strangulation.
- **The pattern of phone calls between Mr Rosewarne and Charli:** There were calls between Charli and Mr Rosewarne's telephones until just before emergency services were called. The last call ended at 4.05 am and the call to 000 commenced at 4.11 am. I had the opportunity to watch Mr Rosewarne give evidence over a number of hours. His thoughts were often disordered and his temper only just under control. I regard it as highly implausible that he could strangle Charli and within a few minutes convincingly report a suicide to Mr Worth, ambulance officers and NSW Police. On the other hand, the thought that he strangled Charli earlier in the evening and then strung her up to fake a hanging, while manufacturing a record of calls between their telephones, seems equally implausible. Mr Rosewarne did not appear to have been capable of such a sophisticated pretence.
- **Contemporaneous accounts of Mr Rosewarne's distress and grief:** No person who saw Mr Rosewarne at the scene reported suspicions based on Mr Rosewarne's behaviour. Mr Worth described Mr Rosewarne as being in "genuine grief", "shock", very upset" and "distressed". Senior Constable Tubman shared that

¹⁵⁹ The proper evidentiary standard to be applied to a coronial finding of intentional taking of one's own life is the *Briginshaw* standard (*Briginshaw v Briginshaw* 60 CLR 336).

view. Paramedic, Rohan Kilham, observed that Mr Rosewarne “appeared distraught” and was in tears.¹⁶⁰

- **The crime scene:** When police arrived at the toilets at Freebody Oval, they saw a ligature hanging from a beam in the toilet bock. There was vomit on the floor which is consistent with Mr Rosewarne’s account of events. A bicycle was nearby. I find it highly implausible that Mr Rosewarne strangled Charli and then successfully staged a crime scene that would suggest suicide before deciding to act as the person who had discovered her body. There was nobody around, surely if he had caused her death the safest thing to do would be to leave her there for someone else to discover, especially when he was aware he had warrants for his arrest and knew he could be taken into custody if he had any contact with police.
- **Mr Rosewarne’s evidence and demeanour:** Mr Rosewarne gave evidence before me. He was not shaken in his general account of events, despite lengthy and vigorous cross examination. The legal representative for Charli’s mother submitted that the Court would be convinced that Mr Rosewarne’s demeanour was suggestive of a capacity for violence and that this factor alone would increase the level of suspicion about what occurred. There is no doubt that Mr Rosewarne was infuriated by the proceedings and lashed out at those asking questions. It was clear to everyone in Court that counsel for Charli’s mother was suggesting he was responsible for Charli’s death. In my view his demeanour was equally consistent with a person accused of a serious crime they did not commit. Mr Rosewarne was an unsophisticated witness whose account contained inconsistencies, but there were no admissions or clear examples of lying despite significant pressure.

130. It appears to me that following a dispute of some sort with Mr Rosewarne, Charli left his home. It is possible that their dispute continued over the telephone. Terrible things were likely said. In these circumstances, in the middle of the night, alone and in a state of great despair Charli made the decision to take her own life. I am of the view that she communicated that intention to Mr Rosewarne, who then attempted to find her. I am aware her family’s shock indicates that they did not expect Charli to take such action and have taken into account the fact that Charli had recently got a job, that she was loved by friends and family, and that she had much to live for. However, tragically suicide is frequently shocking to those close to the deceased. It can be an impulsive decision, taken at a time of great distress.

131. I understand that Charli’s family will be disappointed and possible angered by this finding, and I am sorry to exacerbate the grief they are already suffering. On the balance of

¹⁶⁰ Statement of Rohan Kilham, Exhibit 1, Volume 1, Tab 11 at [21].

probabilities, I find that Charli's death was intentionally self-inflicted.

Charli's death occurred in a context of domestic violence

132. While I have found that Charli's death was intentionally self-inflicted, it should be very clear that it occurred in the context of domestic violence. Her death may well have been an impulsive act, but she had been subjected to significant verbal and physical abuse in the months before she took her own life. I have no doubt that impacted on the decision she made.
133. For this reason, the Court wanted to understand what relevant information about Charli and Mr Rosewarne's relationship had been available to NSW police in the lead up to her death.
134. Following an alleged assault against Charli in the ACT on 2 November 2018, Mr Rosewarne was placed on bail and a family violence order was obtained.¹⁶¹ Bail conditions included not to contact Charli without her approval and not to be within 100m of her without her permission.
135. However, when Mr Rosewarne was arrested for malicious damage at his mother's home in NSW on 31 December 2018, Charli was also present in the home. It is unclear whether police were aware of the bail conditions or the order, or that they took any action in relation to these.
136. Senior Constable Tubman stated in evidence that police in NSW did have access to information from the ACT about bail conditions or orders, but that the system only provided a "block of information" and not the details. If further information was required, police in NSW would need to put in a request.¹⁶² Detective Senior Constable Finnigan also explained that there was an arrangement where domestic violence liaison officers in the ACT inform their opposite numbers in NSW of relevant orders.¹⁶³
137. Following the inquest, enquiries were made with NSW Police Force regarding this issue. Sergeant Ivanka Williams, of the NSW Police Force's Justice Liaison Unit, provided a statement. In summary, she provides the following information:

- [REDACTED]
- [REDACTED]

¹⁶¹ Exhibit 8

¹⁶² 02/03/22 T14.36-44

¹⁶³ 02/03/22 T75.11-44

- [REDACTED]
- [REDACTED]

138. Sergeant Williams' evidence indicated that the process was somewhat complex and differed from the account given by the local detective before me.¹⁶⁶

139. Overall, while it appears that systems exist which would allow police to become aware of conditions of bail and family violence orders, these systems are complex and may be hard to navigate quickly. There also appear to be limitations on the quality of information available [REDACTED]. Specific enquiries need to me made, as Senior Constable Tubman identified in her evidence.¹⁶⁷

140. I intend to send a copy of these findings to the Domestic Violence Death Review Team in this State, to further consider the circumstances surrounding Charli's death and whether any failure of systems or services may have contributed to the distress she felt in the lead up to her death. I understand that the NSW Suicide Monitoring System is continuing to extend the range of information that it can access and report on. I hope that consideration will be given to finding ways to track the domestic violence history of females who die by suicide. In my view this is an important area for data collection and further research.

The need for recommendations or further action

141. At the conclusion of the inquest Counsel Assisting suggested the Court could consider sending a copy of the findings, together with Sergeant Williams' statement, to Queanbeyan police to consider whether it is appropriate to conduct any further training or enquiries about the adequacy of the systems in place at a local level to inform NSW Police Force officers about bail and family violence orders made in the ACT. Policing in a border community has particular pressures given the movement of people in the area.

¹⁶⁴ Exhibit 15, Statement of Sergeant Ivanka Williams, Annexure D, pp. 42, 44

¹⁶⁵ Exhibit 15, Statement of Sergeant Ivanka Williams, Annexure E

¹⁶⁶ 02/03/22 T75

¹⁶⁷ Exhibit 15, Statement of Sergeant Ivanka Williams, Annexure E at p3, p9

142. Counsel for the Commissioner of Police submitted that this would be inappropriate as it is “a matter that rests within the discretion of the Commissioner.”¹⁶⁸ In my view, Counsel Assisting’s suggestion is a sensible one and I think it likely that the Local Area Commander would be open to considering whether his or her officers have adequate training in relation to these important local issues. There is no procedural unfairness involved and I intend to take up the suggestion without making a formal recommendation.

Findings

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

Identity

The person who died was Charli Powell.

Date of death

She died on 11 February 2019.

Place of death

She died at Freebody Oval, Crestwood, NSW.

Cause of death

She died of hanging.

Manner of death

Charli’s death was intentionally self-inflicted, in the context of domestic violence.

Recommendations pursuant to section 82 *Coroners Act 2009*

144. For the reasons stated above, I recommend that a copy of these findings be sent to the NSW Domestic Violence Review Team (NSWDVRT).

Conclusion

145. This inquest was extremely distressing. I am aware that neither Charli’s nor Mr Rosewarne’s family will find any comfort in the result. Nevertheless, once again I offer my sincere condolences to those who loved Charli. She was by all accounts a wonderful young woman who should have had the chance to live and experience life fully. Her death, at just 17 years

¹⁶⁸ Submissions of NSW Commissioner of Police dated 30 June 2022.

of age is a terrible tragedy.

146. I offer my sincere thanks to counsel assisting, Mr Jake Harris and his instructing solicitor Amber Doyle for their hard work and commitment in the preparation of this matter and in the preparation of these findings. I thank social worker Nicolle Lowe for the enormous support she offered Charli's family during these proceedings and for her ongoing commitment to supporting families through the inquest process

147. I close this inquest.

Magistrate Harriet Grahame

Deputy State Coroner

7 October 2022

NSW State Coroner's Court, Lidcombe