



**CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of Jasson Pearce

Hearing dates: 26, 27, 28, 29 September 2022

Date of findings: 7 October 2022

Place of findings: Coroner's Court of New South Wales

Findings of: Magistrate Carolyn Huntsman, Deputy State Coroner

Catchwords: CORONIAL LAW – death in police operation; use of firearm

File number: 2019/345858

Representation: Ms Clare Palmer, Counsel Assisting, instructed by Bronwyn Lorenc, Crown Solicitors Office

Ms Gillian Mahoney, Counsel for Commissioner of Police, instructed by, Office of General Counsel

Mr Madden, Counsel for Sergeant Robins

Findings:

Identity: Jasson Brian Pearce

Date: 1 November 2019

Place: 264 The Entrance Road, Erina, NSW 2250

Cause of death: Gunshot wounds to the chest

Manner of death: Lethally wounded when a police officer discharged a firearm in execution of his duty

Recommendations Nil

Non-publication orders: A non-publication order on application of NSW Police was made pursuant to sections 65 and 74 of the Coroners Act 2009 - refer Annexure A

A non-publication order was made pursuant to section 74 of the Coroners Act 2009 in relation to the names of the family, neighbours and friends of Mr Pearce and the other civilians named in the coronial brief/evidence

JUDGMENT

Introduction

- 1 These are the reasons for decision for findings made at the inquest into the death of Mr Jasson Brian Pearce. On 1 November 2019, Jasson died at his residence at 264 Central Coast Highway, Erina, after being fatally shot by police. Jasson's address is also known and referred to in these opening remarks as 264 The Entrance Road, Erina.
- 2 Jasson's death occurred following a call to police made by a person at 266 The Entrance Road, who reported that a neighbour was threatening to 'slit their throats' and 'set fire to their houses'. Police from Brisbane Water Police District and North Region Highway Patrol responded to this call. When police arrived at the scene, they reported that they saw flames coming from an upstairs window of the premises at 264 The Entrance Road. Police decided to attempt to force entry to the premises through the front door. The door then opened and police were confronted by Jasson armed with an axe. A police officer fired three (3) shots at Jasson. Two (2) struck Jasson in the chest and killed him, and one (1) struck Jasson in the arm.
- 3 I commence these Reasons for Decision by extending my condolences to Jasson's family for their tragic loss.

Function under the Coroner's Act

- 4 A Coroner's primary function is to make findings as to the identity of the deceased; and the date and place of the person's death; and the manner and cause of the person's death.

Issues for the inquest

- 5 In addition to the statutory findings referred to above, which are issue 1 for this inquest, there were additional issues identified during the coronial investigation, and the issues were notified to all parties prior to the inquest hearing. Those additional issues are as follows.

- 6 Issue 2: Were the actions of attending NSWPF officers on 1 November 2019 adequate and appropriate? In particular:

(i) were there opportunities to engage Jasson and/or attempts made by NSWPF officers to engage Jasson in discussion and negotiation once officers had arrived at 264 The Entrance Road?

(ii) did the use of force employed by Sergeant Robins comply with applicable policies and guidelines? This issue may be considered in light of ANZPAA Use of Force Guiding Principles 2018 (Tab 19, Annexure 2), section 230 of the Law Enforcement (Powers and Responsibilities) Act 2019 (NSW) and the NSWPF policy on Discharging Firearms (Tab 19, Annexure 6);

(iii) in relation to any required use of force, was there an alternative to the use of a firearm in the circumstances?

- 7 Issue 3: What information was available to attending officers before they arrived at 264 The Entrance Road in relation to (a) the address 264 The

Entrance Road; and (b) Jasson? What information did the officers access, and why?

- 8 Issue 4: Why were some attending officers either not wearing body worn video (BWV) and/ or had not activated their BWV?
- 9 A further function under the Coroners Act is created by section 82: whether it is necessary or desirable to make recommendations in relation to any matter connected with Jasson's death.

Mandatory nature of inquest

- 10 As Jasson's death occurred "as a result of police operations" (refer s. 23(1)(c) of the Coroners Act 2009 (NSW) (the Act) then an inquest is mandatory, or required to be held (ss. 23(1)(c) and 27(1)(b) of the Act). The public have an interest and concern to ensure all such deaths are actively and accountably investigated and public findings are required to be made.

The evidence

- 11 Before an inquest is held, a detailed coronial investigation is undertaken. Investigating police compile a brief of evidence and documents are obtained. Because Jasson's death occurred in a police operation, it was actively and thoroughly investigated by police, who obtained all records, including video footage where available. The police also interviewed witnesses including police officers and friends of Jasson, and neighbours. Their statements are contained in the brief of evidence. Copies of body worn footage were also examined. The coronial investigation actively pursued the obtaining of evidence as to what occurred during the incident.
- 12 Information as to applicable policies and processes were obtained to examine if police actions were in line with policy, or could be improved. Medical records relating to medical treatment of Jasson; and the report of the examination by the forensic pathologist, at autopsy, were included in the brief of evidence.

- 13 Given the extensive coronial investigation which precedes the inquest, the coronial brief contains evidence which answers a number of matters required to be addressed. The inquest does not examine all of the material obtained during the investigation, but explores particular aspects. All of the evidence in the brief, and at the inquest, is considered in making findings.
- 14 The officer in charge (OIC) of the investigation, Detective Chief Inspector Henney, prepared a detailed brief of evidence which was tendered. He also gave oral evidence at the inquest.
- 15 Witnesses who gave evidence at the inquest included: Detective Chief Inspector Mark John Henney (OIC); Sergeant Peter Robins; Senior Constable Bradley Owen; Sergeant Howe; Senior Constable Jack Taylder; Sergeant Paul Scott of Weapons & Tactics, Policy & Review (WTPR).

Background information about Jasson

- 16 Jasson was born on 20 November 1971 to ME and NV. He had two siblings, ST and JD. One of Jasson's friends, FE, recalled that Jasson was passionate about fishing and owned two boats. Another, SE, was friends with Jasson at school and said that he and Jasson would spend time outside of school together restoring old cars, riding dirt bikes and going fishing.
- 17 In family statements given to the inquest by a number of family members, including Jasson's mother, former partner SA, children BA and BD, and SA's aunt, Jasson was described as a dedicated father, a man who was continuously employed to provide for his family and his children, and a man who was close to family and friends. He is dearly missed by his family.
- 18 Jasson commenced a relationship with SA around the late 1990s. That relationship appeared to have drawn to a close by late 2015. Jasson and SA had two children together, BA and BD.

- 19 At some point in 2015, Jasson's brother died. Mr SE stated that Jasson's brother's death "hit him hard". Around this time, Mr SE noticed that Jasson was losing weight and experiencing relationship difficulties with SA.
- 20 There is some evidence that Jasson may have become addicted to "ice" following the funeral of his brother. Jasson's mother, ME, observed that Jasson had become increasingly paranoid and appeared to be suffering from mental health issues around this time. There is evidence that Jasson reported at one stage to a friend that he "occasionally smoked ice, but later went off it."
- 21 On 5 October 2015, Jasson allegedly assaulted SA (2015 Alleged Assault), which resulted in Ms Pearce leaving the family home. Ms Pearce returned five days later and Jasson moved out.
- 22 On 3 November 2015, SA reported the alleged assault to the police. Ms SA told the officer who took her report that Jasson had returned almost daily to the family home since she had moved back in. SA said that Jasson had threatened her and said he was going to kill her. From around this time, Jasson sent SA threatening text messages and called SA repeatedly from a private telephone number.
- 23 Jasson was arrested and charged with common assault with respect to the 2015 Alleged Assault. He was found not guilty following a court hearing in 2016.
- 24 An Apprehended Domestic Violence Order (ADVO) was applied for by the police for the protection of SA. On 11 January 2016, the ADVO was finalised by Gosford Local Court.
- 25 On 26 January 2016, Jasson breached the ADVO when he entered the residence at 264 The Entrance Road, where Ms SA and the children continued to reside (2016 Breach AVO). Police officers were called and subsequently attended the house.

- 26 On 12 March 2016, Jasson presented at Gosford Police Station where he was charged with the 2016 Breach. He was convicted of this offence and fined.

Video clips recovered from the mobile phone handset of Jasson

- 27 Several film clips were located on Jasson's mobile phone after his death. One clip dated 1 August 2019 shows property (including family and wedding photographs, boxes, and car seats) piled up on the front yard of 264 The Entrance Road. The audio on the video is a voice saying: "Get your [[fuckin']] things off...". Other clips show that: (a) additional property, including a car wheel, computer parts, computer screens, a computer desk and a mini-bike were added to the pile at some point; and (b) the mini-bike had been set alight.
- 28 Two film clips dated 3 September 2019 and 21 October 2019 show an axe with the name 'Ian' painted on the axe head. NE was a school friend of Jasson who occasionally met with Jasson for drinks around Christmas and Easter.

Text messages sent from the mobile phone handset of Jasson

- 29 During 2019, Jasson sent his family and friends many disturbing and sometimes nonsensical text messages. These may be relevant to Jasson's alleged mental health and anger management issues and possibly escalating alcohol or drug use.
- 30 In particular:
- Jasson sent thousands of text messages to SA between 5 April 2019 and 1 November 2019. Sometimes Jasson appeared to be trying to re-ignite the relationship; on other occasions, the messages were abusive and/or threatening in nature. For the most part, it seems that SA did not respond to these messages;

- Jasson also sent messages to his daughter, BA. Some were abusive and/or threatening; and
- Jasson sent 727 threatening and volatile text messages to Mr NE between August and October 2019. The messages included an image of an axe with “lan” written on the axe head. Mr NE said that he did not receive most of the text messages at the time they were originally sent. This was because during overseas travel to Thailand, he had “blocked” Jasson’s number due to international roaming charges. Mr NE said that he had always intended to visit Jasson after he had returned from Thailand;
- the vast majority of excessive, threatening, and inappropriate text messages were sent after 6pm in the evening. This may have coincided with Jasson commencing drug and alcohol use after his workday had ceased, however whether this is the case is not known.

Employment and Criminal History

- 31 At the time of his death, Jasson was a roofer who owned a business named ‘JB Pearce Plant Hire’. For five years prior to Jasson’s death, Jasson and Mr SE regularly worked together as sub-contractors for a company called ‘Star Roofing’. Mr FE also sub-contracted at times for this company.
- 32 Jasson had come to the attention of police on occasion over the years. In 1995, Jasson and another person were ejected from the Central Coast Leagues Club and assaulted the security guards on duty. Both men were arrested and charged with offensive conduct and resist police. The charges were dismissed (proved but no conviction) under the then in force section 556A of the Crimes Act 1900 (NSW) (Crimes Act).
- 33 On 2 November 1997, Jasson was charged with assault after allegedly punching a man in the car park of the Central Coast Leagues Club. Jasson was convicted of assault occasioning actual bodily harm and was fined.

- 34 On 27 October 2000, Jasson's vehicle collided with another vehicle in Gosford, causing minor damage. Jasson is alleged to have assaulted the female driver of the other vehicle. The female driver made a statement to police, but later retracted the statement as she reportedly did not want to proceed with the charges. There is no specific record of local police speaking with Jasson in relation to this incident. There is record of a summons that was issued for Jasson driving while unlicensed. However, it appears that service of that summons was never effected.
- 35 On 18 October 2006, Jasson was stopped by police for exceeding the speed limit on The Entrance Road, Erina. He recorded a blood alcohol reading of 0.105g/100mL. He was convicted of driving with a prescribed concentration of alcohol, and fined and disqualified from driving for 8 months.
- 36 On 4 January 2007, whilst disqualified from driving, Jasson was stopped by police in relation to his manner of driving. He was arrested and charged with: (i) drive whilst disqualified; and (ii) negligent driving. Both charges were dealt with under section 10 of the Crimes (Sentencing Procedure) Act 1999 (NSW)(proved but no convictions recorded). Jasson received a 2-year bond for drive whilst disqualified and the negligent driving charge was dismissed.
- 37 On 10 January 2014, Jasson was involved in a minor collision with another vehicle at Gordon. It was reported that Jasson failed to stop but was later forced to stop in heavy traffic, and was approached by the passenger of the other vehicle. An argument ensued. Jasson is reported to have assaulted the female driver of the other vehicle by pushing her in the chest. The driver reported the matter to the police. Jasson was convicted of common assault and fined in relation to the incident.
- 38 On 25 April 2014, Jasson was ejected from the West Tamworth Leagues Club. He argued with security staff and invited them to "fight" with him. Jasson left prior to police arrival and was later issued with an infringement notice.

- 39 On 4 November 2016, Jasson was allegedly involved in a “road rage” incident on the Pacific Highway near Mount White. In response to a vehicle changing lanes in front of him, Jasson reportedly positioned his vehicle in front of the other vehicle and then braked heavily, and was said to have done this several times as the other vehicle attempted to change lanes to avoid Jasson’s vehicle. The driver of the other vehicle reported the matter. There is no record of police speaking with Jasson about his manner of driving on this occasion.

Neighbours of Jasson

- 40 Jasson appeared to have had difficult relationships with several neighbours who lived close to his residence at 264 The Entrance Road.

Ms WR

- 41 On 3 June 2014, Ms WR was residing at 266 The Entrance Road. She complained to police that the male occupant of Number 264 was intoxicated and threatening her. Police recorded the complaint but did not speak with Jasson. Police advised Ms WR that she could seek an apprehended violence order (AVO).

- 42 On 10 June 2014, Ms WR applied for an AVO against Jasson with respect to herself and her children. The order was granted at Gosford Local Court on 24 June 2014 and was served on Jasson on 24 August 2014.

- 43 On 13 October 2015 at around 2.30am, police were called to 264 The Entrance Road in relation to an alleged breach of the AVO. Ms WR reported that Jasson was shining a torch into the windows of Number 266. Police attended and spoke with Jasson. Jasson stated that he was using a torch to look for water leaks. Jasson claimed that the residents from Number 266 were causing water leaks on his property. The police who attended the incident formed the view that Jasson was an “ice” user.

Ms CV

- 44 Ms CV has lived at 260 The Entrance Road since 1966. She gave evidence that Jasson moved into 264 The Entrance Road around 2007-2009. Ms CV said that she initially got on well with Jasson and his family, although she became aware later that Jasson had anger management issues. Ms CV reported that in around 2014 or 2015, she had a conversation with Ms Pearce during which Ms Pearce said that she had left Jasson because he was “on ice” and had hit their daughter.
- 45 Ms CV also reported that at another time, Jasson told her that the occupant of 266 The Entrance Road (presumably WR, referred to at paragraphs 39-41) was “running water into his place”. Around 2016, he asked Ms CV to look at the retaining wall between his residence and Ms WR’s house. He said that people living in Ms WR’s house had been drilling holes in the retaining wall and tried to point out the holes to Ms CV. Ms CV could not see the holes but pretended to see them. Ms CV reported that after this conversation, she felt uncomfortable and unsafe. She thought that Jasson presented as mentally unstable.
- 46 On another occasion, Jasson told Ms CV that he had screwed one of the gates on her property shut because he had seen someone walking in her garden late at night. Around this time, someone ‘wrote’ the word “SLUT” with weed killer in Ms CV’s lawn. The writing was more than two feet high.
- 47 In December 2018, Ms CV saw Jasson punching and choking a man in Jasson’s front yard. Ms CV called 000 because she feared that Jasson was going to assault the man further.

Mr WN

- 48 In 2011, WN moved to 246 The Entrance Road with his wife and three children. He said that around 2015, he saw Jasson involved in a physical fight with another man (who was not MG; see below at paragraph 49).

Mr DN

49 On 27 December 2016, Mr DN (another occupant of 266 The Entrance Road) complained to police that Jasson was banging on his front door in “one of his drunken rants”. Police attended Number 264 and reported that Jasson was “heavily intoxicated and made little sense.”

Mr MG

50 From approximately 2014 to 2019, Mr MG lived at 250 The Entrance Road with his de facto partner and their four children. One evening in 2016 or 2017, Jasson confronted Mr MG by standing in the street to block Mr MG’s vehicle from driving up The Entrance Road. He reportedly yelled and swore at Mr MG and demanded that Mr MG “get out of the car”. Mr MG exited from his vehicle and the two men had a “minor scuffle”. Mr MG said that he thought the incident was particularly strange as he had never met Jasson before that evening.

Ms MC

51 In 2019, Ms MC lived at 17 Girraween Avenue with her husband and three children. Jasson’s residence sat directly to the north-west of 17 Girraween Avenue. She described a range of negative interactions with Jasson. These included Jasson yelling at Ms MC and her husband and accusing them of killing Jasson’s grass and chickens.

52 Ms MC also referred to an incident on 2 March 2017 during which an intruder (who was not positively identified as Jasson) climbed up on scaffolding next to her home in the evening and appeared to look into her daughter’s window.

53 On a subsequent occasion, Ms MC’s father was installing a pump on the water tank in the front yard of 17 Girraween Avenue. Jasson told Ms MC’s father that he should tell the owners that they “had better stop the noise or watch out”.

54 Ms MC further recalled that the builders she had engaged to work on a renovation told her that the man residing at 264 The Entrance Road had abused them. Ms MC also said that on occasion, a car alarm would sound repeatedly throughout the night from the direction of Number 264. Records indicate that Ms MC called police on 2 March 2019 (2.06am), 9 March 2019 (5.19am), 20 March 2019 (2.28am), and 18 October 2019 (1.42am) to complain about the car alarm.

Occupants of 266 The Entrance Road

55 From April 2018, Ms WL lived with other residents at 266 The Entrance Road.

56 Ms WL's bedroom was on the first floor of the house (i.e. one floor up from ground level). Ms WL's bedroom window faced the kitchen window of Number 264. Ms WL gave evidence that:

- the man living at Number 264 would regularly scream phrases her such as, "fat slut", "fuck you" and "fuck you cunt". This usually occurred between 10pm and 4am;
- she never replied to these slurs because she was fearful of the man;
- during September and October 2019, the man at Number 264 would regularly turn on a floodlight in his kitchen that shone directly into Ms WL's bedroom. Sometimes he left the floodlight on all night;
- she did not know why Jasson shouted this abuse at her, as she had never met or had a conversation with him; and
- she had placed towels over her window to prevent Jasson looking into her bedroom.

57 On 30 October 2019, one of the other residents and her boyfriend were taking the garbage bins on to the street when she noticed a bright light emanating from the first story of Number 264. The light was shining towards Ms WL's

bedroom window. This female resident of Number 266 also saw the male resident at Number 264 exit the house and look at her and her boyfriend carefully. He muttered words including “fuck” and “bitch.” She said that she felt “a little bit scared” and was glad that her boyfriend was present.

Events of 1 November 2019

58 On 1 November 2019 Jasson was working on a roofing job with Mr FE at Wamberal. For the past 2.5 years, Mr FE had been working for Jasson on sub-contracted metal roofing jobs.

59 At 3.30pm, Jasson and Mr FE finished the job. They travelled to Jasson’s house, which took approximately 10 minutes. Mr FE and Jasson had a beer in the driveway and chatted for 30-60 minutes. Jasson then called Mr FE’s partner, MK, who collected Mr FE from 264 The Entrance Road.

60 Ms SA had attended 264 The Entrance Road sometime before 4pm to drop off several forms for Jasson. These were left in the letter box. Jasson sent multiple messages to Ms SA between 3.54pm and 6.04pm. The first message stated, “Please no more we need to split”. The final message stated, “You hurt me today fore (sic) the last time.”

61 After Ms MK had picked up Mr FE (around 4-4.30pm), Jasson called Ms MK and asked her to drive him somewhere. While waiting for Ms MK, Jasson called one Mr SV.

Ms MK drives Jasson to Saratoga

62 Mr EL, a painter and friend of Jasson, arrived at 264 The Entrance Road around this time. He had a couple of beers with Jasson. Ms MK returned to 264 The Entrance Road sometime after 4.46pm. Ms MK and Mr FE drove Mr EL to his home at Gosford and took Jasson to a house at Saratoga. Jasson went into the house and returned a short time later. It is believed that this house was the residence of Mr MS, who lived at Davistown (the suburb next

to Saratoga). Mr MS reported to investigators, at a later point, that Jasson had come to his home for a short time the night before he died.

63 At 5.44pm, Jasson telephoned Mr SE. Mr SE was at the Woodport Inn. He reported to Jasson that Jasson's brother, ST, was at the Woodport Inn. Mr SE subsequently left but returned shortly afterwards as he thought Jasson may arrive at the Woodport Inn looking for his brother.

64 At 5.52pm, Jasson called the mobile phone number of Mr KA, a friend with whom Jasson often went fishing. Mr KA told investigators that he had last been fishing with Jasson at the West Gosford Bridge on 31 October 2019 between 7.30pm and 11pm. Mr KA recalled speaking with Jasson Pearce by phone on 1 November 2019 but did not recall any specific details of the conversation.

Jasson attends the Woodport Inn

65 It is believed that Jasson left the company of Ms MK and Mr FE some time before 5.55pm and went to the Woodport Inn. When Mr SE returned to the Woodport Inn, he saw Jasson sitting in the pokies area. Jasson was drinking a Jack Daniels and there were two empty glasses in front of him. Mr SE had one drink with Jasson and then tried to coax Jasson out of Woodport Inn. Mr SE said that he tried to coax Jasson out of the pub because Jasson has an "addictive" personality, as well as a history of gambling.

Jasson returns to 264 The Entrance Road

66 Mr SE then drove Jasson from the Woodport Inn to 264 The Entrance Road. Mr SE subsequently went into the house and drank a beer with Jasson. Mr SE left before 6.48pm.

67 At 6.48pm, Jasson made a 8.5 minute call to Mr SE's mobile telephone. At 7.31pm, Jasson sent a text message to Mr SE saying, "Where are you?". At 8.16pm, another call was made from Jasson's phone to Mr SE's phone. At

8.29pm, Mr SE texted to Jasson, "U good for a loan of \$50?" to which Jasson replied, "Yes".

68 Between 6.45pm and 6.58pm, Jasson exchanged three text messages with Mr CB.

Neighbours at 266 The Entrance Road hear Jasson yelling

69 At approximately 10.00pm, two female residents of 266 The Entrance Road, were in the company of their friends in the living room at their home. They were hosting a 'Bath and Bedroom Accessories Party' that had commenced some time around 5.45pm.

70 The four women upstairs could hear a man yelling close to the house. They could also hear music, and one said that the yelling was occurring at a louder volume than the music emanating from the house at 264 The Entrance Road.

71 One of the female residents, Ms SB, walked into Ms WL's bedroom, which was on the first floor, to try to hear better. The window in that room was open but had been covered with towels to stop Jasson seeing in. There was a bright light shining outside the window. Ms SB heard the man say: "I know where your parents live. You're a fat slut. I'm going to fuck your dad up the ass".

72 Ms SB went back to the lounge room to collect the other women. The group returned to Ms WL's room, where they could hear the man continuing to yell. Ms SB then noticed liquid being sprayed onto the bedroom window. Ms WL closed the window. Ms BY also saw liquid being sprayed at high pressure outside the window. She saw the liquid come inside the window and flow down the wall onto the carpet.

73 Ms SB and Ms BY then saw a bright orange glow outside the window. Ms WL described seeing a "really bright orange flame and woosh sound like something being ignited." The women heard a voice saying something like,

“I’ll burn the house down, I’ll take them all with me. I’ll run through and cut all your throats.”

- 74 At 10.18pm, one of the female visitors to Number 266 used her mobile phone to call Gosford Police Station. According to Senior Constable Lightbody who received the call, she said, “Hi, I’m at a friend’s house in Erina, the guy next door is saying some really bad things. He’s saying he is going to slit someone’s throat and burn the house down.”

Radio broadcast by Gosford 81

- 75 At 10.18pm, Senior Constable Thomas Lightbody was sitting at the front counter of Gosford Police Station when he took the phone call. At the time, he was logged onto the Mobile Data Terminal. This prevented him from logging into the Police CAD system in the police station to transmit any message to the VKG operator. On 1 November 2019, SC Lightbody was rostered to work from 3pm to 3.30am performing uniformed general duties in Brisbane Water Police District with Constable Jamie-Lee Hall, call sign BW39.
- 76 Senior Constable Lightbody issued a broadcast using his portable radio and the call sign Gosford 81. The use of the call sign ‘Gosford 81’ immediately identifies to a VKG operator that the calling unit is the police station. The broadcast was: “Can you get a car to head to one house south of two sixty six the entrance road Erina. There’s a male threatening to slit someone’s throat and set their house on fire.” It is important to note that the broadcast was not made in respect of a particular individual or address. The relevant description was “one house south” of 266 The Entrance Road.
- 77 Senior Constable Lightbody heard the VKG operator broadcast the job. He also heard Sergeant Howe call up on radio for information about weapons or the identity of the male in question. Senior Constable Lightbody responded to these queries by saying: “Gosford 81- she didn’t say anything about weapons and doesn’t know who he is.”

- 78 Sergeant Robins, Senior Constable Jack Taylder (both in single cars, North 211 and North 206 respectively), as well as Senior Constable Adrian Lewis and Senior Constable Bradley Owen (in another car, North 207) responded to the broadcast.
- 79 Sergeant Robins acknowledged the job and travelled under lights and sirens to the Entrance Road at Erina, stopping briefly because he was “unaware exactly where the property was located.” Senior Constable Bradley Owen, who was the passenger in North 207, said that he used google maps on his phone to google the address for the purpose of obtaining directions. Sergeant Robins said he was then passed by North 206 and North 207. Sergeant Robins told the inquest that SC Owens communicated via the radio (“VKG”) that he knew the area, so Sergeant Robins followed him in his vehicle. North 207 led the convoy to a roundabout where the vehicles did a U-turn. The vehicles then travelled back in a southern direction under the lead of North 207 and pulled up on what Sergeant Robins describes as “an offshoot of the Entrance Road and the Central Coast Highway”.
- 80 Senior Constable Owen told the inquest that as he was a passenger, he was able to google the location and what he was looking for was a house south of number 266 – at the time of looking for the location, and at the time when he attended the location, he does not recall being aware that it was number 264. He said that when he googled the location he also checked Google map images and saw the house, so he was able to recognise it when police got there. He agreed that he was acting as navigator for the group of police cars.
- 81 At around 10.22pm, the officers alighted from their vehicles and commenced moving towards the property located at 264 The Entrance Road. Brisbane Water 14 (carrying Sergeant Howe) arrived on scene shortly thereafter.
- 82 Based on the comments of the VKG operator, it may have been that it was not until around 10.21pm that the premises referred to in the broadcast by ‘Gosford 81’ was identified as 264 The Entrance Road, Erina.

Police approach 264 The Entrance Road

- 83 After alighting from his vehicle, Sergeant Robins was 50 metres from 264 The Entrance Road when he could hear yelling and other noise (such as a loud radio or television) coming from the premises. He saw a female standing on the balcony of the house to the north of Number 264. The woman was waving to get the police officers' attention and emphatically pointed them towards Number 264.
- 84 Sergeant Robins walked along the driveway of the premises, moving towards the left-hand side, along with Leading Senior Constable Lewis. Senior Constable Owen and Taydler went to the right side. Sergeant Robins then saw a light being emitted from a window on the left-hand side of the premises, shining towards the neighbouring property at Number 266. Sergeant Robins heard someone yell loudly, "I'm going to kill you. I'll fucking kill all of you." Constable Lewis also heard the male voice say those words.

Observation of 'flames' emanating from Jasson's residence

- 85 At this point, Sergeant Robins saw a flame from the first-story window, extending towards the house at Number 266. The flame, described as similar to a "flamethrower", was approximately 1.5-2 metres in length and appeared for three seconds. Senior Constable Taydler described the flame as "like someone had a deodorant can and a lighter and were [sic] spraying the flame".
- 86 Sergeant Robins told the inquest that he was standing near the gate on the left hand side of no 264, near the boundary between no 264 and no 266, the window was open and he clearly heard a male voice saying from inside Number 264 state "I'm going to kill you. I'll fucking kill you all".
- 87 He told the inquest about seeing the flame. He said it was coming from what he now knows was the kitchen window of no 264, and was going towards no 266, and was a flame like a beam, around 1.5 – 2 metres in length and maybe

10cm in diameter. He said it sounded like a flame burner. As the flame finished it appeared to get sucked back through the kitchen window of no 264. He saw the flame extend out just once. When he saw the flame retract, he formed the view that the kitchen might be alight, and this was one of the reasons he decided that police would have to go into the premises. He told the inquest that he was aware that a radio broadcast was made by another police officer (Sergeant Howe) to alert the fire brigade.

88 Sergeant Howe gave evidence in her statements and also to the inquest that she did contact VKG to advise of a fire – she said this was for two purposes. Firstly, to advise VKG that the situation is escalating, and secondly so that VKG would alert the fire brigade. Sergeant Howe was the supervising general duties officer on the night. As supervising general duties officer she was supervising the car crews, she was driving a marked police vehicle, which she was driving solo. She heard the broadcast for police to attend the premises south of number 266, because a man was threatening to slash a throat and burn a building and as she was closest to that call, she attended those premises. She indicated there were two urgent calls to VKG around this time, one was the call to the house south of number 266; the other was in relation to an arrest and a civilian needing assistance. She went to the call involving Mr Pearce because she was closest to that location.

89 When she arrived she was concerned to check the house number and was at the letterbox looking for the number when she heard the officers call out fire. She also saw the fire and described it as a large bubble of fire. She also believed the premises were on fire and there may be persons inside at risk. She could hear a loud aggressive voice from where she was standing at the front letterbox area and also some loud music. After she heard fellow officers call out about the fire, she heard Senior Constable Owen say he was going to force entry, and as officers moved up the stairway to the small landing, she moved down the driveway so that she could be near the lower floor of the residence in case people there needed help.

90 Senior Constable Talyder saw the flame slightly differently – he believed he saw more than one burst of flame and that it was directed towards the neighbour’s house, he was not necessarily of the view that number 264 was on fire, however he remained of the view that they should enter for the safety of whoever was in number 264. He was standing in the driveway facing the house when he saw the flame.

91 I do note that those in the best position to observe the flame were those standing at the gate at the side of the house near the window where the flame was coming out, these were Senior Constable Lewis and Sergeant Robins.

Decision to force entry

92 At 10.24pm, after observing the flames from inside Number 264, the police officers formed the view there was an imminent threat to life and property. A collective decision was made to force entry.

93 Sergeant Robins said that he believed that the house was alight at that time and that there could be multiple people inside the house because there were two vehicles on the driveway and on the grass. Sergeant Robins recalled that he turned and said to Senior Constables Owen and Taylder, “We have to go in”.

94 Senior Constable Taydler told the inquest that he recalled hearing Sergeant Howe say words to the effect of “we’ve got to get the fireys” and he heard Sergeant Robins say that police needed to go in. Senior Constable Taydler told the inquest that it was his view that police needed to go inside and protect those inside the house.

95 Sergeant Howe sent a message via the VKG to police radio. She said: “We’re forcing entry. We can see flames coming out of the side of the house”.

96 Sergeant Robins and Senior Constable Owen started to run towards the stairs situated at the front of the house on the left. These stairs were just below the

front door. Sergeant Robins tapped his body worn video (BWV) and formed the impression that he had activated the device. The device had not, in fact, been activated. He also told the inquest that he had tapped the device and believed it had turned on.

97 Senior Constable Owen arrived first at the stairs at the front of the house and began ascending the stairs. Sergeant Robins followed him. Senior Constable Taylder was immediately behind Sergeant Robins. Senior Constable Taylder told the inquest that he recalled seeing Senior Constable Owens go up the stairs to try to open the door and that Sergeant Robins was behind him, initially on the bottom step, Senior Constable Taylder was initially to his right standing on the verge of the grass area at the bottom of the steps. Senior Constable Lewis was to the right of Sergeant Robins, standing on a grassed area to the side of the stairs. Senior Constable Taylder recalled that at one point the mesh from the security door was passed by Senior Constable Owens to Sergeant Robins and was then passed or thrown towards him and gave a small cut to his wrist. It was placed on the grass near where he was.

98 Sergeant Robins said to Senior Constable Owen, "You'll have to kick [the door] in". Senior Constable Owen told the inquest that he pulled the mesh from the locked security door and threw it to the right-hand side (it is seen in photos to be on the grassed area to the side of the stairs). He then unlocked the security door frame, pulled that frame open and started to kick the main door. Sergeant Robins repeated, "You're going to have to kick it in". Senior Constable Owen said something similar to "You'll have to hold me, so I don't fall backwards". Sergeant Robins placed his left hand on Senior Constable Owen's back and his right hand on the rail to provide support. The photos in the brief of evidence show that the rails on the landing were not complete – there were some vertical landing railings (posts into the cement landing) but the side railings were missing. The landing at the top of the stairs was 1890 mm wide and 1110 mm deep.

99 Senior Constable Taylder recalls hearing Senior Constable Owen ask Sergeant Robins to hold his belt while he kicks the door, and at that point he

believes Sergeant Robins stepped up closer to Senior Constable Owen. Senior Constable Owen was on the top landing trying to kick the door open and Sergeant Robins was one or two steps below him. He recalls Sergeant Owen saying something like the door was not opening, not budging. He also could hear Senior Constable Owen saying words like “police, open up”. Senior Constable Taydler told the inquest that he heard a voice inside saying “I’m gonna fucking kill you”. In his written statement he said he did not know who the words were directed at, whether people outside or inside the house. At the inquest he confirmed that he did not know at the time who the words were being said to.

- 100 Around this time, General Duties officers Senior Constable Marcus Roberts and Constable William Goodfellow (Brisbane Water 16) arrived at the premises. They parked near the access road, alighted from their vehicle, and walked along the roadway towards number 264 The Entrance Road.

Jasson opens the door

- 101 The door did not budge, despite Senior Constable Owen kicking it 4-6 times. Senior Constable Owen heard Jasson yelling at them from the inside, “What do you want?”. He replied, “Police, open the door”. Jasson said, “Yeah ok”. Sergeant Robins recalled hearing Jasson say, “I’m going to fucking kill ya”, “Hold on. I’m coming” and “What do you want?”
- 102 Sergeant Robins said he could hear the male inside as he walked towards the door. Sergeant Robins released his hold of Senior Constable Owen and placed one hand on his capsicum-spray pouch and one hand on his firearm. After a slight click, the door opened slightly (around 50 mm). Senior Constable Marcus Roberts’ body worn video footage (BWV) indicates that at 22.24.59pm, a small crack of light can be seen as the door opens slightly inwards. Sergeant Robins told the inquest the Senior Constable Owens then touched the door with his foot and it swung open about 80 degrees open. Sergeant Robins withdrew his firearm from its holster, pointing it at the floor with a straight arm down his side.

- 103 From the left-hand side of the doorframe, Senior Constable Owen observed that the male was standing at the door with no shirt. The male was holding an axe with both hands “higher than his head” and “over his left shoulder”. Sergeant Robins heard Senior Constable Owen say, “Fuck. Axe”. Senior Constable Owen reported saying, “Oh fuck” as he stepped back and to the left to distance himself from the male, whom he described as “no more than a metre away”. Senior Constable Owen then jumped from the elevated landing and doorway and dropped on the driveway below. There was a car parked in that driveway and he described having to do a pencil jump for a drop of around 2 metres, landing on his feet and on his haunches, in a gap between the parked car and a garden bed.
- 104 Sergeant Howe told the inquest that from her position on the driveway she saw the door open and it was fully lit and she saw the police officers on the landing and the steps. From her position she did not see Senior Constable Owens jump off the balcony but did see him move away from the door. She saw Sergeant Robins and believed he was on the small landing, and there were other officers behind him on the steps. She could not see Mr Jasson Pearce, from her location, she saw the lit hallway inside the premises only.
- 105 Senior Constable Taydler told the inquest that after some kicking on the door by Senior Constable Owens he saw the door open a tiny bit, and then open about 40 cm, or enough for a person to walk through, and after that it opened fully. It didn’t open as if the police had kicked it open. Rather it appeared someone had opened it but he did not know who. He said there were bright lights lighting up the doorway. From his position lower down on the bottom of the stairs/lawn he first saw a pair of shorts and some legs. Then he noticed Mr Pearce was standing in the doorway with an axe being held, the handle diagonally across his body, one hand on the bottom of a long axe handle one hand up higher and the axe was raised above his shoulder. It was raised above his head. At that point he thought there was a risk of harm to both Senior Constable Owen and Sergeant Robins because of how close they were to the doorframe. He recalled Senior Constable Owen saying “fuck” and then ducking and twisting. At that point he estimates Senior Constable Owen

was a body length from Mr Pearce, as he was up close to the doorframe, and Sergeant Robins was just behind, also on the landing. He didn't see Senior Constable Owen jump from the balcony but did see him duck. Senior Constable Taydler said that he saw Sergeant Robins take his firearm in his hand and with a straight arm point the firearm at the floor. When Sergeant Robins did this, Senior Constable Taydler, also touched his gun but left it in its holster. He stepped back to create more room for Sergeant Robins also at that time.

Shots fired by police

- 106 Sergeant Robins said that he observed Jasson take one step towards him. Sergeant Robins raised his firearm and rapidly fired 3 rounds. He said that the distance between himself and Jasson at this time was about 1.5 metres. His evidence describing the shooting, in his interview with the investigating officers, is as follows:

At that point in time, the male within took one step towards me. I was able to transition my capsicum-spray back into its pouch, and I've raised up my Glock at a distance of about one point five metres as he stepped towards me. He still had the axe raised over his left-hand shoulder, held with his two hands, and he was moving forward. I believed it was in a movement or a motion to swing the axe downward towards me. At that point in time I formed the opinion that it was an immediate risk to my life, there was no other way to prevent an attack, there was no escape-route that I could take, as there was police behind me and a handrail on either side. I thought I was going to be killed. I fired two shots in quick succession. It appeared to take no effect, and I fired a third round immediately after. At that point in time the male dropped the axe, and it fell to the ground.

- 107 The photographs in the brief clearly showed two sections of handrail parallel to the door while there were missing sections perpendicular to the door. The landing space was also small with steps leading up to it.
- 108 Sergeant Robins told the inquest that when they first saw Jasson as the door pushed open he had the axe raised over his left hand shoulder, with two hands on the axe, he was moving it in an upwards motion as he stepped

towards Sergeant Robins. His recollection is that Jasson was moving forward at the same time as he was lifting the axe further above his head. Sergeant Robins stated he was aware it only takes a second, when an axe is in that position, for a person to bring it down. He told the inquest he believed that Jasson would harm him or kill him. He said capsicum spray wouldn't address that threat and so for that reason he utilised the firearm.

109 Sergeant Robins was questioned by Counsel Assisting about a conversation which he had with police officer Nicholls at the scene where he is recorded to have said "he came at Brad Owens with an axe". He stated he had that thought at the time because of Brad's response "Fuck. An axe" and jumping off the landing – jumping the equivalent of one storey down. Sergeant Robins stated that he believed his life was at risk, and the conversation he had with police officer Nicholls was very brief.

110 Senior Constable Owen's evidence regarding hearing the three shots is as follows:

I didn't have to go ah, too far at all, it was a matter of, probably one or two feet away or one or two steps. Um, as I pushed off knowing that that's where I was going, um, I remember seeing the Landcruiser parked on the driveway below, and I remember thinking jump on, onto the Landcruiser 'cause it was such a long way down, about two and a half metres or so. I, I was already off the balcony or committed to the balcony, so I, I couldn't have that extra perk just to push off onto the car. Ah, I realised that there was a garden bed attached to the bottom or built off the bottom of the, the stair, um structure. Um, there was a gap between the, that small garden bed and the, the car. I pin dropped between the garden bed and the, the car landing to the, right next to the right-hand wheel of, of the car. Um, dropped onto my, my feet first. Um, dropped down to my haunches. As I picking myself back up or standing up, I heard three quick gunshots. Um, there was a, all three gunshots were, were within a second. I remember there was a slightly longer gap between second and third gunshot, but like I said, all three were within a second.

I don't know why when, when the door opened up and I saw him I thought I was, I thought I was stuffed and, the only option I had was to jump off the, the balcony and drop into, onto the path. Um, I didn't have an opportunity to draw my firearm, it's far too close. Um, I think if I stood my ground and, and tried to draw, and I think he would've probably killed me with the axe to be honest, so, I took the option to, to bail rather than try and draw.

111 Senior Constable Owens told the inquest that he was too close to Mr Pearce to take any action, he could not have drawn a firearm and protected himself, he was just too close, and so that was why he ducked and jumped off the balcony.

112 Senior Constable Taydler's evidence was as follows:

I looked up and saw a male wearing dark coloured shorts and no shirt. He was standing in the doorway holding an axe. It was a big, full size axe with a wooden timber handle (maybe 80 centimetres to 1 metre long) and a dark coloured axe head ... The male was holding the axe, raised, diagonally across his body, with his left hand towards the top of the axe head and his right hand towards the bottom of the handle. The axe head was raised above this male's head ... At this time Senior Constable Owen was still standing on the landing and diagonally to the left of the doorway, still in front of the door frame. If the male reached out he would have been within an arm's length from Senior Constable Owen. I heard Senior Constable Owen yell, "Oh fuck." Senior Constable Owen spun to his left and ducked down to a hunch.

113 The proximity of Jasson to Sergeant Robins as Sergeant Robins discharged his firearm is also described by Senior Constable Taydler, who said:

"The male leant forward and twisted to straighten up. He was facing Sergeant Robins square on. He slightly bent from the hip forwards. The distance between the male and Sergeant Robins would have been within swinging distance of the axe."

114 Senior Constable Taydler told the inquest that he saw Sergeant Robins raise his firearm and shoot three times in the direction of the man in the doorway, and told the inquest that Mr Pearce fell back to the left near the door. Senior Constable Taydler was also of the view that both Senior Constable Owen, and Sergeant Robins, were at risk of serious harm from Mr Pearce and the axe given their proximity to him.

115 Constable Goodfellow appeared to consider that there was an immediate threat to Sergeant Robins. He gave evidence that he also considered discharging his firearm:

I thought this male might try to attack the police with the axe. I immediately drew my firearm and pointed it at the male ... The highway patrol sergeant was also right handed, I am standing to his right side and I am a step or two back from him. I saw the male with the axe advance forward towards myself and the other police with the axe held facing us. It wasn't like he rushed towards us, however he definitely stepped forwards. It was then that the highway patrol Sergeant fired two shots from his firearm. I was considering shooting the male myself, however it was the highway patrol sergeant who fired his firearm first.

- 116 Sergeant Howe told the inquest that she was still in a position on the driveway when she heard the shots fired. She saw Sergeant Robins move into the house and she came up and also entered the house. At that time her concern was to make sure that there were no other victims, that the premises was secured and there were no more threats to officers' safety and once this was achieved, she went to see Mr Pearce and checked his pulse. However consistently with what was stated in her written statements, she told the inquest that on observing Mr Pearce, and the injuries to him, she had formed the view that he was deceased.
- 117 The BWV of Senior Constable Roberts is from some distance, but does appear to show, at 22:25:01, a man standing in the doorway. The footage is too blurry and shaky to determine whether and at what angle an axe is held by the man in the doorway. However, it appears to show Sergeant Robins at the doorway of number 264, with his arms in front of him, between 22:25:03 and 22:25:04. At that time, a message was broadcast via VKG police radio from BW14: "Shot fired".
- 118 Jasson died of the injuries sustained during the shooting shortly afterwards. The evidence of Sergeant Howe, and also of Senior Constable Taydler, was given the amount of blood and the injuries, the wounds appeared fatal. Constable Taydler's evidence was that by the time he had put on some gloves, Mr Pearce had stopped moving and stopped breathing.
- 119 At 10.38pm, the duty officer from the Brisbane Water Police District, Chief Inspector Paul Nicholls, arrived at the scene. Chief Inspector Nicholls spoke

briefly with Sergeant Robins, who said: “It was me that shot him. He came at Brad Owens with an axe”.

- 120 A Critical Incident was subsequently declared by Assistant Commissioner Mitchell. Detective Chief Inspector Mark Henney (a member of the Homicide squad and independent of the local command) was appointed the Senior Critical Incident Investigator and has been the Officer in Charge of the Police and Coronial investigation. Detective Chief Inspector Henney told the inquest that the matter was investigated as a critical incident level one which has certain investigational guidelines with which he complied. It was actively and carefully investigated.

Direct cause of death

- 121 The Autopsy Report was prepared by pathologist Dr Allan David. The report indicated that Jasson’s direct cause of death was gunshot wounds to the chest.
- 122 The Autopsy Report noted the following in relation to the gunshot wounds.
- 123 Dr David recorded two closely positioned gunshot entry wounds (referred to by Dr David as Wound 1 and Wound 2) in the left side of the front (anterior) of the chest, with internal examination revealing severe gunshot wound type injuries to the left fourth and fifth ribs anteriorly, the pericardium around the heart, the upper part of the myocardium (heart) and the left lung. The path of each wound passed front to back, horizontally, and slightly left to right. There were posterior left sided rib fractures present, with two projectiles recovered in subcutaneous tissue in the left side of the back, both of which were handed to police. Both gunshot wounds appear to have been inflicted at a distance possibly greater than one metre.
- 124 There was an entry and exit gunshot wound on the medial aspect of the left elbow which Dr David considered was likely the third round fired. Dr David surmised that this shot would have incapacitated, but not killed, Jasson.

- 125 There was fourth gunshot wound to the tip of the right thumb with a thin “wipe” (from dirt or grease) along one edge of the wound. There was no evidence of fracture to the adjacent distal phalanx. Dr David considered that this wound may relate to Wound 1 by being an intermediary target (as Wound 1 was larger than Wound 2 and may be so by having an intermediary target between weapon and chest).
- 126 Jasson’s blood alcohol level was 0.188g/100mL at the time of death. Dr David indicated that at this blood alcohol level, he would expect a person to appear intoxicated with behaviour reflecting poor coordination, cognition, and judgement. Cannabis was also detected.

Finding about witnesses

- 127 In making the findings detailed above and below in these Reasons for Decision, I also observe that I found the evidence of the police officers to be reliable, plausible and credible. Each officer’s evidence was internally consistent, being generally consistent with the earlier statements and ERISPs. There were some minor inconsistencies between officers’ accounts: for example Senior Constable Owen did not recall hearing any noise as he approached 264 The Entrance Road, which contrasted with the evidence of the other officers who recalled hearing a male voice yelling aggressively. Sergeant Robins indicated that he recalled supporting Senior Constable Owen by holding his back, whereas Senior Constable Owen was certain that he had asked Sergeant Robins to hold his belt. It is generally the case that witnesses’ recall may differ on details, and where there are minor inconsistencies it does not necessarily suggest that evidence is unreliable or untrue. Indeed, where witnesses’ evidence is the same on every detail this can suggest some collusion, whereas minor inconsistencies in the recall of individual officers may be seen as indicative of no collusion, and give a further impression of reliability and credibility of the witnesses’ accounts. On the central issues of the situation which confronted the officers on arrival, and the way that Jasson answered the door, and the actions of officers in response to

the threat, there were no real inconsistencies in witnesses' accounts. I accept the witness testimony on these central issues for the reasons given.

128 I also note that police witnesses' accounts were consistent with accounts given by other witnesses – in particular, I note the description of the fire (its noise and its appearance) given by the neighbours in Number 266 matched the description given by various police officers.

Issue 2(i) Were there opportunities to engage Jasson and/or attempts made by NSWPF officers to engage Jasson in discussion and negotiation once officers had arrived at 264 The Entrance Road?

129 The events that occurred on the evening, occurred in a context which included:

- Police were informed that a person in a house south of 266 The Entrance Road was threatening to 'slit someone's throats' and 'set fire to their houses'. The broadcast was:

"Can you get a car to head to one house south of two sixty six the entrance road Erina. There's a male threatening to slit someone's throat and set their house on fire."

- Upon arriving at the house, multiple officers witnessed flames emerging from the left side of the house, suggesting to the officers that either the house was on fire or that someone inside the house was attempting to set fire to the neighbouring property.
- Some, but not all, officers recall hearing a man yelling in an aggressive manner, which included threats to kill.
- Police did not know how many people were inside the house and potentially at risk. Sergeant Robins stated that he considered that there could be multiple people inside the house because there were two vehicles on the driveway and on the grass.

- 130 The evidence indicates that events occurred very quickly once officers arrived at 264 The Entrance Road. Immediately on arrival they saw the flame streaming out from the kitchen window to the neighbouring house, and some officers heard aggressive words threatening to kill someone. The evidence at the inquest supports the conclusion that decision to force entry was based upon the concern held by officers for safety of those who may be in the house, and/or concern about the house being on fire.
- 131 Once the decision to force entry was made events also moved quickly. There was initially no response from anyone inside No. 264 to police kicking the door and saying 'Open, Police'. There was no opportunity to engage or negotiate given this lack of response.
- 132 After a period of kicking the door and saying "Open. Police", officers heard footsteps accompanied by a threat to kill, and the door opened and they were confronted with a man, in the doorway in close proximity to police officers with an axe held above his head, within striking distance. I am satisfied that there was no real opportunity to have a discussion or negotiation at this point in time, given the circumstances. That the level of threat to the officers' safety was high was indicated by the actions of Senior Constable Owen in jumping off the balcony even though faced with an uncertain place to land, about one storey below him.

Issue 2(ii) Did the use of force employed by Sergeant Robins comply with applicable policies and guidelines?

- 133 I note that an expert report has been provided by Sergeant Paul Scott of Weapons & Tactics, Policy & Review (WTPR) (Tab 19), and Sergeant Scott also gave evidence at the inquest. Sergeant Scott considers that the use of force by police on 1 November 2019 complied with the relevant policies and legislation. Sergeant Scott was asked a number of questions during his evidence at the inquest.
- 134 This issue may be considered in light of ANZPAA Use of Force Guiding Principles 2018 (Tab 19, Annexure 2), sections 230 and 231 of the Law

Enforcement (Powers and Responsibilities) Act 2019 (NSW) and the NSWPF policy on Discharging Firearms (Tab 19, Annexure 6).

135 According to the Police Handbook (Policy):

You are only justified in discharging your firearm when there is an immediate risk to your life, or the life of someone else, or there is an immediate risk of serious injury to you or someone else and there is no other way of preventing the risk.

Do not draw your firearm, point, or aim it unless you consider you are likely to be justified in using it. The discharge of your firearm is to be regarded only as a last resort.

Only discharge your firearm when there is no other reasonable course of action available.

136 ANZPAA Use of Force Guiding Principles 2018:

Police should only use force that is reasonable, necessary, proportionate, and appropriate to the circumstances. Police should use no more force than is reasonably necessary for the safe and effective performance of their duties.

137 In considering police duties, the Police Act provides.

6 Mission and functions of NSW Police Force

(1) The mission of the NSW Police Force is to work with the community to reduce violence, crime and fear.

(2) The NSW Police Force has the following functions—

(a) to provide police services for New South Wales,

(b) to exercise any other function conferred on it by or under this or any other Act,

(c) to do anything necessary for, or incidental to, the exercise of its functions.

(3) In this section—

“police services” includes—

(a) services by way of prevention and detection of crime, and

(b) the protection of persons from injury or death, and property from damage, whether arising from criminal acts or in any other way, and

(c) the provision of essential services in emergencies, and

(d) any other service prescribed by the regulations.

(4) A reference in this section to the functions of the NSW Police Force includes a reference to the functions of members of the NSW Police Force.

(5) The provision of police services in emergencies and rescue operations is subject to the State Emergency and Rescue Management Act 1989 and to the Essential Services Act 1988.

(6) Nothing in this section confers on the NSW Police Force a power to provide a police service in a way that is inconsistent with any provisions applicable to police officers under the Law Enforcement (Powers and Responsibilities) Act 2002.

138 A police officer is acting in execution of duty when providing police services which include protection of persons from injury or death, and property from damage. The Police Act also provides police powers must be exercised consistently with the Law Enforcement (Powers and Responsibilities) Act 2002.

139 Sections 230 and 231 of the Law Enforcement (Powers and Responsibility) Act 2002 (LEPRA) provide, as to police powers to use force lawfully:

Part 18 Use of force

230 Use of force generally by police officers

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

231 Use of force in making an arrest

A police officer or other person who exercises a power to arrest another person may use such force as is reasonably necessary to make the arrest or to prevent the escape of the person after arrest.

140 The LEPRA provisions provide that it is lawful for police to use force as is “reasonably necessary” to exercise a function or a power, LEPRA does not refer to minimum force.

141 As to the meaning of “reasonably necessary” in LEPRA, guidance has been provided in decisions of the Supreme Court and Court of Appeal, including the recent decision of Justice Ierace in Director of Public Prosecutions (NSW) v Greenhalgh [2022] NSWSC 980, affirming and applying the Court of Appeal decision in Woodley v Boyd [2001] NSWCA 35. Justice Ierace stated at paragraph 186:

For those reasons, I conclude that the term “reasonably necessary” in s 230 is to be understood as incorporating the common law test. I find that the objective test is as stated in R v Turner and quoted with approval by Heydon JA in Woodley v Boyd, which is to this effect when appropriately modified for the purposes of s 230: whether a reasonable person in the position of the police officer would not consider the use of force by the police officer to be disproportionate to the risk or danger sought to be prevented.

- 142 A relevant consideration in assessing whether the use of force was reasonably necessary is to assess the level of risk or danger sought to be prevented. Evidence at the inquest indicates the danger police were responding to was a danger to their life (death or serious harm from an axe strike). In assessing whether the officers reasonably assessed that there was an immediate risk to their life (or the life of another), the following evidence was relevant. Counsel Assisting asked Sergeant Robins to indicate whether Mr Pearce appeared to be moving towards him during the moments before Sergeant Robins discharged his firearm. He responded: “Yes, very much so, he was moving forward in my direction and lifting the axe higher above his head.” Sergeant Robins also said that he was he was “very familiar with how an axe works” and that he believed it was Mr Pearce’s intention to harm, if not kill him. Senior Constable Owen described the moment after the door opened as follows: “When I first saw him standing there, he didn’t have a shirt on. His arms were not by the sides of his body. I scanned upwards over the course of a second, or a second and half, and saw that there was an axe head higher than his own head.”
- 143 I find the evidence at the inquest, including in the detailed police brief, indicates that police heard a man making threats in an aggressive tone, they saw fire and were concerned for the safety of others, they attempted to enter the house of Mr Pearce but were unable to force the door open although they tried. The door was opened by Mr Pearce who was armed with an axe raised above his head, this was a position where he could bring it down on the head or body of a police officer within his reach. On the evidence both Senior Constable Owen and Sergeant Robins were within reach and at risk of serious harm or death. This situation was on the background of a Code Red

request to attend at a house because a male person was threatening to slit a person's throat and burn the house down. Police did not know if there were persons who had been harmed or were at risk inside the house.

- 144 The evidence demonstrates that Senior Constable Owen was too close to Mr Pearce to do anything other than jump out of the way. Sergeant Robins was close enough to Mr Pearce to be at risk of being harmed by the axe which was held above Mr Pearce's head. The landing on which Sergeant Robins was standing was small and there were other police officers behind him. I am of the view, on the evidence in this matter, that Sergeant Robins life was at risk and that he fired his firearm to try to contain that risk, to protect not only himself, but potentially other police, from harm. Tragically this meant that Sergeant Robins discharged his firearm fatally wounding Mr Pearce.

Issue 2 (iii) In relation to any required use of force, was there an alternative to the use of a firearm in the circumstances?

- 145 This issue was explored during the inquest with Sergeant Scott, and the evidence of all the attending officers was also relevant to this issue. The evidence of the officers indicated that they felt unable to take any other course, and perceived a high level of threat to the life and safety of officers Owen and Robins.
- 146 The family are of the view that perhaps a Taser could have been used. It is the case that use of a taser was not an option available to Sergeant Robins as he did not possess one as they were not issued to highway patrol officers at that time. Senior Constable Owen's evidence was clear to the effect that he was too close to Mr Pearce to do anything, to utilise any weapon because of proximity, and so his only choice was to drop/jump. Senior Constable Owen could therefore not use a taser, capsicum spray, or any other weapon. The evidence of the police officers at the inquest, and also of Sergeant Scott, was that capsicum spray was not an option because it would not have addressed the threat presented by Mr Pearce and would not have been effective in stopping him from harming an officer.

147 Despite Sergeant Robins not possessing a taser the issue was explored with Sergeant Scott, given the concerns of the family of Mr Pearce. The evidence indicated that the taser would have had uncertainties in ensuring Mr Pearce was incapacitated, given the close range the taser prongs may not have been effective in incapacitating Mr Pearce. The officer could not go in close and use the taser by directly touching Mr Pearce with it, given the risk involved with being within range of the raised axe. However, in terms of a taser as an alternative I note that the evidence that a taser was not available to Sergeant Robins. On all of the evidence, I am satisfied that the evidence does not indicate that there was an alternative to the use of the firearm in the circumstances.

Issue 3: What information was available to attending officers before they arrived at 264 The Entrance Road?

COPS Search of "264 The Entrance Road, Erina"

148 The COPS system is a police data system which records crime reports and incident reports as recorded by police officers. A search of COPS for information about Jasson would not necessarily match a search of COPS for entries about the residence where he resided. It is clear from the evidence that the police were told about a location, and not a person, and they were responding to the location. At that time they did not have a street address, just the location being a house south of No. 264. The evidence of DCI Henney to the inquest was that a search of Jasson's address i.e. 264 The Entrance Road, Erina, in the COPS system at 1 November 2019 would have produced six COPS events. Only three of these related to Jasson, including the: (1) 2015 Alleged Assault; (2) subsequent ADVO application; and (3) the 2016 AVO Breach. The other three COPS records for the address were historical and concerned previous residents.

149 The CAD records at Tab 24 show that Gosford 81 put out an alert regarding "a house one house south of 266 The Entrance Road Erina" at 22.17.49 (page 4). By 22.21.49 (page 8), the VKG operator had deduced that the house in question was likely 264 The Entrance Erina. It was from this time that it was

feasible that searches in connection to that address could have been carried out.

150 Sergeant Howe responded to the 22.21.49 broadcast by saying: “Can we confirm that fella’s onsite. Have we seen a weapon?” Sergeant Howe gave evidence that it was at this point she would have expected the VKG to provide information in connection to any other warnings/other information. This evidence was consistent with the evidence of DCI Henney, who indicated he would not have expected officers to do their own searches when traveling to an urgent incident. In Mr Henney’s view, officers would only sit in a car researching when attending a lower priority job (which this was not). Furthermore, even officers who have a Mobile Data Terminal (MDT) in their car cannot carry out research when they are traveling solo, as was the case for both Sergeant Robins and Sergeant Howe.

151 The VKG did not indicate that there were any warnings connected to the address before the officers alighted from their vehicles in front of 264 The Entrance Road. More information in connection to the DV incident/breach in 2015/2016 would have been available had the officers had time to carry out COPS searches, but this process would have taken some time and it is not evident that having that information would have made any difference to the steps undertaken by the police officers as they approached 264 The Entrance Road. The difficulties in obtaining information were further compounded by the fact that it was a busy evening and the VKG operators had a second urgent incident requiring their attention. Although it may have been desirable for the police officers to have approached 264 The Entrance Road with the information regarding that address available on COPS, on the evidence no criticism can be made of the involved officers for moving towards the house without that information, in circumstances where they believed a person was at risk of to ‘slit their throats’ and ‘set fire to their houses’.

CAD Search in relation to Jasson

- 152 The inquest did examine what information may have been available to police about Jasson by examining the information on CAD and COPS.
- 153 In relation to information on CAD, NSWPF officers regularly respond to reports of crimes or incidents that are ultimately not recorded on the COPS system. These may be anonymous reports where the responding police are unable to confirm that an offence or incident has in fact occurred and are unable to locate the complainant. While these types of reports may not ultimately be recorded on COPS, there will usually be a record on the CAD system. The results of the police attendance are also recorded on the CAD system.
- 154 The CAD records, behind Tab 25, would not on the evidence have been directly accessed by attending police. The evidence of DCI Henney was that when there is an urgent police response, attending police will be in touch with VKG (radio operator) who will provide relevant information to attending officers. Such information includes whether there are any warnings for an address/person on the police data system, or any record of firearms etc. It would not be practice for police in a first response situation where there were safety concerns to stop and look up the Mobile Data Terminal which are sometimes available in police vehicles. The MDT might be used for a licence check at a traffic stop, but in a situation such as police were attending on this night, reliance would ordinarily be on information provided by VKG. In addition the evidence indicates that police arrived at the location within minutes of the police radio notification to attend, and on arrival were concerned to address safety concerns of those in the house, and in such circumstances would rely on VKG information and not sit in the car conducting data checks.

CAD incidents not linked to COPS

- 155 The Computer Aided Dispatch, or CAD, records a number of entries such as police cars being sent out in relation to calls or jobs. The Officer In Charge agreed it read like a digital time log. A search of the CAD system after 1

November 2019 identified several incidents that appear to be linked to Jasson. As no COPS “events” were created for any of these matters, they were not linked on COPS to either Jasson or 264 The Entrance Road. The Officer In Charge of the investigation, explained at the inquest that he had conducted a number of detailed searches of CAD to find the entries, as part of the coronial investigation.

156 These 10 matters for the period 8 February 2016 to 18 October 2019 include:

- 08/02/2016 at 3.02pm: A complaint that BJX86P (White Toyota Hilux) was “tailgating” and overtaking vehicles on the “nearside” on the Central Coast Highway at West Gosford. The informant was 'GR' and a phone number for 'GR' was provided. Police reported that the area was patrolled, and the vehicle was not sighted. This vehicle was registered to Jasson.
- 14/11/2016 at 11.03am: Jasson called police to complain that his brother “keeps taking his car”. He could not attend the station and wanted police to attend his home. Police attended and spoke to Jasson who was working on a vehicle, changing the brake pads. He complained that other people were wearing his brakes down. Police reported that he appeared to have mental health or drug issues.
- 16/07/2017 at 01.57am: Ms DB from 266 The Entrance Road reported that the occupant of Number 264 had been playing loud music from the house since 9pm that day. Police reported that they attended, with the action recorded as 'Noise Abated'.
- 08/12/2018 at 7.52pm: An anonymous caller reported that three men were fighting outside 264 The Entrance Road. Police recorded that the area was patrolled, and “no offenders were located”.
- 27/02/2019 at 8.52pm: An anonymous caller reported that a male from 264 The Entrance Road was setting off his car alarm. The caller also

reported that the male was being abusive to neighbours and throwing bottles. A second call from an anonymous caller reported that a male inside the premises was yelling loudly. Police recorded that they attended the location but that “the male had left scene prior to their arrival”.

- 02/03/2019 at 02:17am: Ms MC from 17 Girraween Avenue (the house diagonally to the rear of 264 The Entrance Road) complained that the occupant of Number 264 was deliberately turning his car alarm on and off. She indicated that he had a history of doing this. Police reported that they attended and there was “no car alarm sounding”.
- 09/03/2019 at 02:17am: Ms MC complained that the occupant of Number 264 was deliberately turning his car alarm on and off and had a history of doing this. Police reported that they attended and there was “no car alarm sounding”.
- 18/03/2019 at 03:58am: An anonymous caller complained that the occupant of 264 The Entrance Road was deliberately turning his car alarm on. Police reported that they attended the location and “there was no alarm sound.”
- 20/03/2019 at 02.17am: Ms MC complained that the occupant of 264 The Entrance Road was deliberately turning his car alarm on and off, and had a history of doing this. Police reported that they attended and there was “no car alarm sounding”.
- 18/10/2019 at 01:45am: Ms MC complained that the occupant of 264 The Entrance Road, Erina was deliberately turning the alarm on and off, and had a history of doing this. Police recorded that they attended and that it was “a false alarm and that the location appeared intact.”

What information was accessible, and what information did officers actually access, and what information was it reasonable to expect the officers to access?

- 157 Neither the VKG log, or the involved NSWPF officers' ERISP interviews, (those of Sergeant Robins and Senior Constable Owen), indicate what, if any, information each attending NSWPF officer accessed when responding to the call.
- 158 Senior Constable Owen stated that when they got the call from Gosford 81 because they were located nearby, he estimates they arrived at the premises within five minutes of the call. In such circumstances Senior Constable Owen is of the view that there was insufficient time for much information to be provided by VKG to the attending officers. Then, when they arrived, they believe there was a fire emergency and it was a fluid and reactive situation for that reason.
- 159 Senior Constable Taydler also noted in his statement that the job was broadcast, requesting to get cars to the house south of a particular street number, as there was a guy there threatening to slit someone's throat and burn the house down. He recalled there was another priority job being broadcast at the same time for that police district, and he remembered thinking it was a busy time for general duty police officers. He heard Sergeant Robins in North 211 acknowledge the job and he also acknowledged the job, and also heard North 207 acknowledge the job. He turned his police lights and sirens on and proceeded on a Code Red basis which is an urgent police response where they use lights and sirens. It only took about a minute and a half, in Senior Constable Taydler's estimation, to get from where they were to the location. He recalls that at this point the police vehicle, Brisbane Water 14 (general duties shift supervisor, Sergeant Howe) also attended. He recalled the street was dark and there was minimal street lighting. They had to walk down the hill to get to the particular house after parking the vehicles, and he recalled police walking in a group together. When asked about how information is provided to attending police officers, Senior Constable Taydler stated that this was a Code Red, or urgent broadcast requiring urgent

attendance, and in such circumstances information would generally come to attending officers from the VKG. On this occasion however police arrived very quickly to the scene.

160 It is clear from this evidence that when the job was broadcast to the police officers who attended, the radio operator was also broadcasting another urgent job. The evidence also indicates that when police arrived it was within minutes of the call being broadcast and there was little opportunity for additional information to be provided by VKG. In addition, the advice given by the complainant was of a man making a threat and the VKG broadcast did not identify the man, nor the street number of the house, but rather it was stated to be a house to the south of another house. Given the short period of time which had elapsed, and the fact that no person was named, then there was limited information available to police.

161 Where a Highway Patrol officer stops a motorist on a traffic stop, it is reasonable to expect the Highway Patrol officer to access the mobile data terminal (MDT) in the car. Where a Highway Patrol officer is attending an emergency to assist general duties officers, or where a general duties police officer is attending and there is an urgency to the situation, it is expected and usual for the attending police officer to rely on information broadcast by police radio or VKG.

162 The evidence does not indicate any systems failure in provision of information by police radio broadcaster, nor any failure by attending officers, given the circumstances revealed in the evidence. As detailed above, there was limited information in the police data systems in relation to Jasson, and no-one knew they were attending an incident involving Jasson. The information on the police systems in relation to the address would also not have provided a warning or prepared police for what followed.

Issue 3: Use of Bodyworn Video

163 It is regrettable that there is no clear Body Worn Video (BWV) footage of the incident, despite the attendance of numerous officers at the scene, as BWV

footage, being a contemporaneous visual and audio record can be of use in demonstrating what occurred during an incident. As referred to above, Senior Constable Marcus Roberts was wearing a BWV device but arrived at approximately 10.25pm, meaning the footage obtained by him is of limited value.

164 The evidence of the attending officers as to why they were not wearing BWV devices is as follows:

- Sergeant Howe said she was not wearing a BWV device as she was not trained in its use.
- Senior Constable Taylder said he was not wearing a BWV device as he was not trained in its use.
- Senior Constable Lewis was not wearing a BWV device. He was trained in their use but indicated that when he went to issue himself a BWV device at the commencement of the shift, there were no available devices in the docking kiosk. He stated that there were three devices near the docking station but as they were not in the docking kiosk, he was unable to complete the electronic issue process.
- Senior Constable Goodfellow had a BWV device attached to his left epaulette. He said that he did not activate it because upon stepping out of the vehicle, he saw commotion and yelling and saw other police needing assistance. He said that he immediately ran towards the police whom he believed to be in danger. It appears as though not activating the BWV device was an oversight on the part of Senior Constable Goodfellow. It is noted that when Constable Goodfellow arrived he would not have been a position to record the incident/shooting.
- Sergeant Robins was wearing a BWV device. He gave evidence that BWV devices had only recently been made available to Highway Patrol officers. He also indicated that he attempted to activate the BWV

device as he ran towards the bottom of the stairs, and that afterwards Senior Constable Owens looked at his BWV device and said: "It's only on standby. The camera's not running, not recording." Sergeant Robins also said that he did not wear a load bearing vest, the BWV was usually worn on his belt. The activation log shows that at 10.25.16pm, the activation button was depressed on the body worn video of Sergeant Robins. The device was activated into standby mode.

- Senior Constable Owen was issued with a BWV device for the shift. However, at the time of the incident, the device was in the console of his highway patrol vehicle. Senior Constable Owen said that he "didn't think to grab it" when police alighted in front of 264 The Entrance Road. It appears this was an oversight. I also note that Senior Constable Owen was not wearing a load-bearing vest and cited similar portability difficulties as those raised by Sergeant Robins. Senior Constable Owens considered that wearing the device on the epaulette of his shirt made the device unstable. He also noted that in a Highway Patrol vehicle, the device often activated when it was in contact with the vehicle's seatbelt.

165 Sergeant Robins gave further detail at the inquest about body worn video. He stated as a Highway Patrol officer he generally wears the body worn video device upon his belt – this is because if he wears it on his vest it does not capture the visual image of a motorist – as he ordinarily walks up to a car in which a motorist is seated, then the best position for recording the interaction with the motorist, is wearing the video device on his belt. In response to questions by Counsel Assisting he did agree that earlier on the evening of 1 November after conducting an RBT (random breath test) he had been at McDonald's with other police officers, and they had been discussing body worn footage, including the problem that the device often is in the way when wearing a seat belt in a car.

- 166 He agreed that Body Worn Video devices have been gradually rolled out within the police force. As at 1 November 2019 he had been using one for a few months, felt able to use it, and had received training.
- 167 The inquest was told by the Officer In Charge, Detective Chief Inspector Henney, that a number of devices are usually allocated to a police station, and at the beginning of the shift a police officer will take a body worn video device from the docking station, a specially allocated docking station in the police station, and log into the device. The device then remains assigned to that officer for that shift. At the end of the shift, the police officer is to put the device in the docking station. Once the device is in the docking station, then the device gets uploaded to the police data system. For this reason if there is a device lying on a table and not in the docking station, a police officer will not take that device to use, because the footage has not been downloaded and the device would be logged on to another police officer.
- 168 The inquest was also told that many officers wear the device on vests.
- 169 Senior Constable Owen stated that he is unable to wear the body worn video device on a vest, because he had a back injury that causes the vest to be uncomfortable and he does not wear one. He believes this is why he had a conversation at McDonald's earlier in the day with other officers about the devices – he had been telling them that when he wears the device in certain positions it is activated by the seatbelt. Senior Constable Owen stated that he has tried various ways of wearing the device – at the time of this incident he was in the practice of putting the device in the console of his car while he was driving, and clipping it on to his belt when he hopped out to speak to a motorist at a traffic stop.
- 170 He told the inquest that he has since tried various positions to place the BWV - during the colder winter months the device clips neatly on his jacket, on a shoulder which is well out of the way of the seatbelt, and so he wears the device continuously on duty. Now that the weather is getting warmer, he has tried clipping the device onto a shirt button and so far that is working for him.

He also told the inquest that at the time, in November 2019, the devices were new to the officers.

- 171 Sergeant Howe told the inquest that early on in the rollout of the body worn video devices she had completed initial training - there are two training sessions, one is online and the second is face-to-face. She completed the online version only. The face-to-face version is where operation of the device, operation of the docking system and uploading of information to the police database are all explained. There was delay in her obtaining that second training because of absence on leave and other issues. She has now received that training. She said she activates her device as soon as she leaves the police station, she wears her device on her belt. She explained that she does not wear a police vest because of back injury issues and the vests are very heavy. She explained the different police vests – there is a mesh vest, there is the usual vest worn by police which has a number of pieces of equipment connected to it, equipment may also be connected to a police belt, and there is the ballistic vests which may be put on where firearms are anticipated.
- 172 Senior Constable Talyder told the inquest that he had completed the initial online training for body worn video but had been away overseas at the time that the Highway Patrol unit did the face-to-face training, which was conducted at the time that the body worn video devices were rolled out for that unit. He said that on this night it was his first or second shift after returning from overseas and so he was not then familiar with use of body worn footage and had not completed the training. He has since completed the training and will wear the body worn video device on each shift, he attaches it to his police vest.
- 173 I find on all the evidence that the BWV devices were in an early stage of roll out at the time of Mr Pearce's death. The lack of availability of BWV footage is explained on the evidence, as set out above. The BWV footage would have been of benefit to police in this case, as it would have recorded what they were confronted with and recorded, both visually and with audio, the risk of harm that they faced. It would also have been of use to the family who could

have seen contemporaneous footage of what occurred, and even though this would have been distressing, it may have answered some questions for them.

- 174 I am satisfied on all the evidence in this matter that at the time of Jasson's death the BWV was in the process of gradual roll out, and training was occurring over time for officers to use it. The inquest heard that all new police officers now receive training at the academy, and commence work as police officers, trained in the use of BWV, and in policies applying to their use. The evidence at the inquest also demonstrated that all the officers involved in this matter now are trained in use of BWV, and use it during each shift.

Medicare records: Jasson's engagement with the health system

- 175 Jasson appears to have had no engagement with the health system for his drug and mental health problems. Medicare records were obtained to substantiate this position.

Cause of death

- 176 As set out above based on the autopsy findings the cause of death is gunshot wounds to the chest.

Manner or circumstances of the death

- 177 As detailed above, the use of force, on evidence at the inquest, complied with applicable policies and legislation. I note the evidence, as summarised above, supports a conclusion that police attending the address of 264 The Entrance Road were acting in the execution of their duty, as they were responding to an urgent call indicating a potential threat of harm to others (report of male threatening to slash throat/burn house).
- 178 When police chose to force entry, they were also acting in execution of their duty as they were concerned by the flames they saw for the safety of others. Some of the officers also heard aggressive threats, including threats to kill, being made by a male voice inside 264 The Entrance Road at this time. Some police officers were concerned the house was on fire, others were

concerned that someone inside No. 264 might be harmed or at risk of harm. The decision to force entry was made to protect life, safety and property, and was therefore consistent with police duties.

179 The Police were also acting to protect life and safety, when a firearm was discharged by a police officer who was confronted by Jasson, with an axe raised above his head, in a position where the axe could be used to harm those within reach. As detailed above, there was not the opportunity to deescalate the situation, to negotiate, or to use other methods such as capsicum spray or taser in the circumstances. The police were confronted with the raised axe after hearing verbal threats from inside the house to kill people and after seeing flames, this, in the context of the details in the police broadcast which brought the officers to the address, would have only added to the presentation of imminent threat to life.

180 For all the forgoing reasons I find that the manner of death is that Jasson was lethally wounded when a police officer discharged a firearm in execution of his duty.

Issue 1 – Formal findings under the Coroners Act

Formal findings under s 81

The identity of the deceased is Jasson Brian Pearce

The date of death is 1 November 2019

The place of death is 264 The Entrance Road, Erina, NSW 2250

The cause of death is gunshot wounds to the chest

The manner of death is that he was lethally wounded when a police officer discharged a firearm in execution of his duty.

Closing

181 I acknowledge and express my gratitude to the Counsel Assisting the Coroner, Ms Clare Palmer, and her instructing solicitor from the Crown Solicitors Office, Ms Bronwyn Lorenc, for their assistance both before and during the inquest. I also thank the investigating Police Officers, and in particular the Officer In Charge, Detective Chief Inspector Henney, for his work in the Coronial investigation and compiling the evidence for the inquest.

182 On behalf of the Coroners Court of New South Wales, I offer my sincere and respectful condolences to the family of Mr Jasson Pearce.

I close this inquest.

Magistrate Carolyn Huntsman

Deputy State Coroner

A handwritten signature in black ink, appearing to read 'Carolyn Huntsman', with a stylized flourish at the end.

Annexure A – Non Publication Order 1

- (1) Pursuant to sections 65 and 74 of the Coroners Act 2009 and subject to orders 2 and 3 there is to be limitation on access to the coronial file, as per order 2 and 3 below, and no publication of the information referred to in Schedule A to these Orders.
- (2) Order 1 does not prevent disclosure to and between the following people for the purposes of this inquest:
 - (a) The Court, Counsel Assisting and Solicitors Assisting
 - (b) Necessary Court staff
 - (c) The Commissioner of the NSW Police Force and her legal representatives
 - (d) Current officers of the NSW Police Force and their legal representatives
 - (e) subject to Order 3 below, ME, SA and their legal representatives.
- (3) The documents containing information falling within order 1:
 - (i) Are only to be served on interested parties who have legal representation
 - (ii) Are to be deleted/destroyed by each interested parties' legal representatives within 7 days after submissions are made with respect to the hearing of this inquest, and
 - (iii) Written notification is to be made to the legal representatives of the Commissioner of Police, being the NSWPF Office of General Counsel, by the interested

parties' legal representatives within 7 days of the deletion/destruction of the document.

- (4) In respect of documents described in order 1:
 - (i) Unrepresented interested parties are only to view the documents in the presence of those assisting the Coroner, and
 - (ii) No uplifting or copying of the documents is permitted

Schedule A

Document	Information subject to application
NSWPF Tactical Options and Use of Force Manual v.3.1	Page 5 - Introduction
	Page 7 - The Ten Tactical Options
	Page 8 - OC Spray & Baton
	Page 9 and first paragraph of page 10 - Firearm
	Pages 10-12 Contain & Negotiate, Tactical Disengagement. Active Armed Offender (AAO) Tactics, Conducted Electrical Weapon
	Page 13 - Use of Force
	Page 14 - Factors
	Page 15 - Tactical Concepts
	Page 16 - Motor dysfunction, fluid shock wave
	Page 16 - Pain compliance paragraphs 2, 3, 4, and 5
NSWPF Operations Manual	Chapter 1 section 5 High Risk/Siege Incidents