



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

Inquest: Inquest into the death of WX

Hearing dates: 14, 15, 17 March 2022

Date of findings: 27 May 2022

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

Findings of: Magistrate Carolyn Huntsman, Deputy State Coroner

Catchwords: CORONIAL LAW – mental health and substance use disorder;
risk of harm to self or others; firearms licence; medical
assessment process

File number: 2015/124745

Representation: Counsel Assisting – Mr Michael Della Pozza
Instructed by Ms Leah Burgoyne, Crown Solicitors Office
Counsel for Police Commissioner – Mr Hood, instructed by Mr
Robinson, Office of General Counsel, NSW Police

Findings: I make the following findings pursuant to s81 of
the Coroners Act 2009 NSW:

Identity: WX
Date: 27 April 2015
Place: 31 McCall Avenue, Camden South
Cause of death: gunshot wound
Manner of death: suicide

Recommendations Nil

Non-publication orders: Non publication orders in relation to the names of the deceased and the deceased's family members, exhibits 4 and 5 were made on application by the Commissioner of Police; and also in relation to Annexures 4-16 of the statement of Det Inspector Matthew Kehoe dated 8 May 2017 at tab 53 of the brief of evidence.

JUDGMENT

Introduction

- 1 This is an inquest into the death of WX, who died on 27 April 2015 from a gunshot wound.
- 2 As Coroner, I would like to begin these reasons for decision by expressing my sincere condolences to WX's family, in particular his wife, RC, and his brother in law, ND.

The Coroners role

- 3 Section 21 of the Coroners Act 2009 NSW (the Act) gives jurisdiction to a Coroner to hold an inquest into the death of a person, if there is reasonable cause to suspect that the death, is a reportable one. Reportable deaths include deaths where the person died a violent or unnatural death, the person died a sudden death the cause of which is unknown, or the person died under suspicious or unusual circumstances.
- 4 The Act provides that the Coroner is to investigate and make findings about suspicious or unnatural deaths. The required findings include the identity of the person who has died, the date and place of the person's death, the cause of death, and manner (or circumstances) of the person's death. Coroners may also make recommendations in relation to any matter connected with the person's death if appropriate to do so.
- 5 In the present case, Counsel Assisting the Coroner has submitted that there may be a need for some such recommendations to be made. Such recommendations would be directed towards the manner in which the relevant regulator, the Firearms Registry, approaches and conducts its regulatory role

and perhaps also to aspects of the relevant regulatory regime, being the Firearms Act 1996 and the regulations made under that Act.

- 6 The inquest explored systemic issues regarding the circumstances by which WX came to be permitted to use and possess the firearm which he used to end his life, in the context of a medical history of substance abuse and mental health issues.

Procedural Background

- 7 The inquest into the death of WX was heard at the same time as an inquest into the death of Mr GH (refer file no 2017/127266) as there were issues arising in both matters in relation to access to firearms for those with mental health difficulties and/or suicidal ideation. However, apart from those related systemic issues, the death of Mr GH was wholly unconnected to the death of WX.
- 8 Both inquests were to follow an inquest into other deaths involving firearms, being the Inquests into the Deaths of John, Jack and Jennifer Edwards (files 2018/209420; 2018/208842; 2018/208843) (“the Edwards inquest”) and some of the evidence presented to the Coroners Court in that inquest, and the recommendations made in that inquest, were subject of consideration in the current proceedings. Given that these matters were to follow the finalisation of the Edwards inquest, there has been some delay occasioned.
- 9 Procedural orders were made that the evidence in each inquest, being the inquest into the death of Mr GH and the inquest into the death of WX, was admitted in both matters – this allowed evidence pertaining to regulation and use of firearms to be explored.
- 10 At the close of the evidence, the inquest was adjourned and a timetable was set for written submissions to be provided by Counsel Assisting and interested parties. The matter was adjourned to 27 May 2022 for findings to be made.

The evidence

- 11 The police conducted a detailed investigation and a brief of evidence was prepared. The NSW Police officer responsible for investigating WX'Ss death is Detective Senior Constable Lloyd. The brief of evidence prepared by the Detective Senior Constable Lloyd includes witness statements and expert statements, and a number of documents. Witness statements included two statements and a further report by Detective Inspector Kehoe, who was at the time the General Manager of the Industry Regulation Unit with the NSW Police Force. At the time of WX'Ss death the Firearms Registry was within the Industry Regulation Unit. Detective Inspector Kehoe's first statement annexes a complete record of the various applications for licenses and permits made by WX to possess and use firearms, and the decisions made by Registry on those applications. During the inquest further evidence was received, being two statements of Superintendent Bell which were provided in the Edwards Inquest. The transcript of SI Bell's evidence at the Edwards inquest was also tendered, as an update on progress of reforms being implemented at the Firearms Registry through Operation Transformation. Two expert reports were provided by Dr Neilssen, Consultant Psychiatrist. Dr Neilssen has expressed certain opinions about the appropriateness of aspects of the regulatory procedure relating to medical assessments used in the assessments of the Firearms Registry when processing licence applications.
- 12 Witness statements included detailed testimony from those who witnessed the final hours of WX'Ss life, and the events leading up to his death. These included police officers who attended the scene (there were transcripts of records of interviews with these officers in the brief), WX'Ss brother-in-law, ND, and background material was also provided by his wife, RC. All of that material was carefully considered in this inquest.
- 13 Oral evidence during the hearing was given by the Officer in Charge of the Police investigation, Detective Senior Constable Lloyd, and also from Detective Inspector Kehoe, and Dr Neilssen.

Background information about WX

- 14 Background information about WX was given to police by family members including his brother-in-law, and his wife, RC. She met WX in 1990 at the Snowy Mountains, NSW, when they were in their mid 20s. They lived together in Jindabyne, and other locations, along with the Central Coast, and were married in 2005. They lived on the Central Coast after their marriage and at this time WX was working and studying to obtain a builder's licence. Reportedly this placed him under stress and in around 2005 he had a nervous breakdown. He was treated through his local general practitioner and prescribed antidepressant medication. After taking the medication WX reported to RC that he felt better. She states that in around 2007/2008 WX was treated for severe depression and she thinks he was on unsuitable medication at that time. He was restless and unable to sleep. RC told police that WX attended Gosford hospital to obtain some sleeping tablets, and ended up crashing his car into a pole which resulted in police becoming involved. After this incident he was treated by the mental health unit of Gosford hospital. She believes his depression medication was adjusted during that period of treatment. He continued to work after that incident although he had some pre-existing physical health problems relating to his leg because he was hit by a car as a teenager.
- 15 RC told police that the issue with his leg caused other medical issues with his back which caused him a lot of pain and stress. She believes WX self medicated for this pain with at over-the-counter pain medications to which he became addicted. She recalls when WX became interested in shooting, and that he participated in clay shooting and a gun club. She considered that WX'S use of firearms was always responsible and said he complied with the gun laws. She was however surprised that WX passed the psychological testing for his gun licence but also at the same time saw him as being irresponsible. RC states in December 2014 WX had a real low with his mental and physical health, and they had a discussion about the impact of his health on their relationship and it was discussed that he would need help to pull through his depression and his drug addiction. WX reportedly told RC that he

could not go on like he was; and they made a decision to move to the Camden area (before trying to find acreage near Canberra) – this was also to be closer to family. RC recalls in late 2014 and in February 2015, WX going to the Wyong detoxification unit and receiving some days of treatment and that he detoxed from the painkillers. In March 2015 they moved to Camden South and WX was reportedly excited about the move and happy about the change. He was on antidepressant medication. RC needed to commute from Camden to the Central Coast every week for work – this was short term until the expiration of work contract in June 2015. She states WX was generally upbeat in mood around that time and making future plans. However, in mid-April 2015, WX showed signs that he was deteriorating in his mental state and also that he was consuming substances such as Valium. He continued to deteriorate in his mental state as described by RC. The evidence indicates that RC showed great concern and care for WX around this time.

- 16 RC told police that WX was a very protective, caring, loyal and loving husband. He would have done anything to protect her and make sure she was okay. She states her opinion that the combination of his mental and physical health, in conjunction with the consumption of alcohol on the night, contributed to what happened.

The events leading to WX'S death

- 17 In the days before WX'S death, RC was concerned about his safety and wellbeing. At that time, RC lived during the week at the Central Coast, where she was employed, and returned to the family home in Camden on the weekends. However, on 15 April 2015 (a Wednesday) RC returned to Camden because she was concerned for WX'S welfare. When she arrived, RC observed WX to be drowsy with slurred speech, and to be incoherent and argumentative. WX told RC that he had taken Valium.
- 18 The following day (16 April), RC discussed with WX her concerns for his ongoing mental state and substance use and that he needed to get help. She says he was upset about this and told her that she had just made it easy for

him. WX went to the garage, took a shotgun from the safe and loaded it with two bullets. She tried to stop him telling him she would call the police if he left with the gun, and he drove off but as she was dialling the police, he returned. He put the gun back into the gun safe. RC told police she was unsure what to do, as she was concerned for his safety but she was worried that if she called the police it would exacerbate the situation. She said he still was not himself and she stayed with him because she was concerned for him. Over the next few days after 16 April, he improved in his mental state. She told her brother, Nicholas, that WX had not been coping well and had taken Valium, and RC stayed with him until the Sunday afternoon (19 April) when she had to return to the Central Coast to go to work. WX however seemed to improve over those days - he purchased a puppy on 20 April 2015. She maintained contact with him during the week and on the Friday night (24 April) when she returned home he was happy to see her. Everything seemed alright over the weekend, so she again returned to the Central Coast on the Sunday eve (26 April 2015). She was aware that on that evening her brother, ND, was going to spend the night with WX. Text messages between RC and WX seemed normal that evening.

- 19 On the night of WX'S death, RC's brother, ND, went to visit WX, arriving at his house at 7:25pm. When ND arrived, he noticed that WX had been drinking rum. He told police that when he arrived WX did not seem particularly affected by alcohol, however throughout the evening WX appeared to be drinking quickly. ND states he had a couple of drinks of rum, and that WX continued to drink alcohol, and continued to drink much more quickly than ND. During the course of the evening, ND observed WX to become very intoxicated and increasingly emotional. At around 10 pm WX fell over in the kitchen and hit his bad knee, and was moaning because of the pain. ND tried to offer comfort and also tried to help WX towards the bedroom, by putting his arms under WX arms, and trying to drag him down the hallway. WX told him to stop and said he didn't want to go to bed, he wanted to keep drinking. ND tried to talk WX into going to bed but he kept refusing. He appeared to be determined to keep drinking. He continued to drink rum. He continued to say he wanted to keep drinking. At midnight ND again tried to get WX to go to bed and he did not

wish to do so. They talked for another couple of hours - as WX had stated that he did not want ND to leave. ND also chose to stay because WX was unsteady on his feet, and he thought WX might pass out so that he could put WX to bed.

20 WX started to talk to ND about his life, about loving his wife and his parents. He talked about the pain inside him being so bad and that he couldn't handle the pain anymore. ND asked him which pain and he said 'the pain in my leg and the pain inside me'. He said he couldn't deal with life anymore. He talked about his childhood and that he had been to dark places. He was emotional and crying. WX asked ND to check on the dogs in the morning, and he mentioned he was happy that they had moved to Camden because his wife had family support. He asked ND to look after his wife. ND questioned what he was talking about. He replied he was in so much pain.

21 WX stated that he needed to go to the garage and ND became worried as that was where the gun safe was. ND forced WX out of the garage as WX was trying to get to the gun safe, he was very unsteady on his feet and said he wanted to be in there by himself. ND managed to drag him out of the garage onto the concrete area. WX kept saying he wanted to get into the garage. WX was on the ground when ND rang Camden police from his mobile phone. He reported that his brother-in-law was trying to commit suicide and he thought he was going to shoot himself. WX then got to his feet and punched ND in the face and kept throwing punches at ND. ND did not throw any punches back and still tried to grab WX to stop him going to the garage door. There was a scuffle but WX got away, into the garage and locked the door. ND rang the police again and met them in the street, waving them down. He also rang his sister, WX'Ss wife, RC. She said she was going to telephone WX. He saw the police approach the house he heard one say something like 'he is armed', he saw the police walking backwards. He thinks he heard someone say drop the weapon and then all the police went to the ground and ND heard a shot.

22 The officer in charge of the police investigation produced transcripts of recordings with the police officers present at the scene, which were consistent

with ND's account. The statement of the officer in charge of the police investigation indicates that the evidence of the police officers, as reflected in their recorded interviews, was that the police approached the premises, calling the deceased by name, trying to engage him. Constable Smith observed the deceased to be carrying a long arm rifle pointed towards the sky and tried again to talk to him, he would not reply.

- 23 Senior Constable Wheatley called out "he is armed" to which Constable Smith yelled "retreat, retreat" and the police walked backwards, WX walked behind the vehicle in the driveway, police kept retreating and they heard a loud bang, a gunshot sound. They found the deceased lying on the ground and observed his injuries. Most of the police state that they heard the shot gun sound while taking cover – the evidence is clear that WX fired the gun at himself almost as soon as police arrived at the scene – this is clear from the evidence of the officers and also ND.
- 24 RC told police about the call that she received at 3:10am from her brother, Nicholas, who was distressed about what had been occurring and sound in a panic. RC rang WX. He said to her "I love you, I can't live like this anymore, I can't live in this pain anymore, I love you".
- 25 A number of Police attended the Camden premises in response to ND's call. The available evidence gives rise to no concern about the conduct of the operation or the involvement of any of the individual officers. I note the evidence shows that the officers involved in that operation acted with a considerable bravery, as indeed did ND. The detailed evidence presented in the police brief indicated there was no time or opportunity for the police to stop WX.
- 26 WX shot himself to the head. This resulted in the injuries that caused his death. A toxicology report indicates that WX had a blood alcohol level of 0.214 grams per 100 mL, and detected the presence of codeine, Codeine 6 glucuronide, Diazepam, Nordiazepam, Oxazepam and Temazepam.

- 27 I note that the scene of WX death was thoroughly and forensically examined by Constable Kimberly Cole, crime scene officer. Constable Cole stated that the results of the examination appeared consistent with the supplied version of events from witnesses and attending police, and that it was her opinion that WX died as a result of his own actions.
- 28 The evidence indicates that WX took his own life in the early hours of 27 April 2015, at his home in Camden South. The injuries that caused WX'S death were inflicted by WX actions of discharging his firearm, which had been stored in a gun safe in WX'S garage. WX was lawfully entitled to possess and use that firearm and to store it in his gun safe.

Evidence as to cause of death

- 29 As detailed above, witnesses described WX'S actions of firing his gun. The autopsy report of the forensic pathologist notes that an external examination was conducted post-mortem - in the presence of crime scene officers, ballistics experts and detectives, and the deceased was found to have injuries of the face and cranium in keeping with the discharge of a shot gun in the oral cavity. The pathologist observed that toxicological analysis detected a high blood alcohol level (greater than four times the legal limit for driving). The pathologist noted that while the effects of alcohol are largely dependent on individual tolerance, this level is likely to have caused some degree of intoxication. In addition, non-toxic blood levels of benzodiazepines. (diazepam and its metabolites) and analgesic medications, paracetamol and codeine, were detected. No additional common medications, or drugs of abuse, were identified. Based on the post mortem examinations the pathologist was satisfied that the cause of death is a shotgun wound of the head.

WX'S history of mental health and substance abuse

- 30 WX had a history of mental illness - some form of depressive illness. The severity of this condition appears to have fluctuated over the years but worsened in the period prior to WX'S death. RC told police that her husband had reached a "real low" in December 2014.

- 31 At the time of his death, the medical records indicate that WX had been prescribed the following medication: Antenex (an anti-anxiety medication that can also be used in the treatment of alcohol withdrawal);Avanza (an anti-depressive); and Nicabate (used to treat nicotine withdrawal) . Mirtazapine (another anti-depressive) was located in WX’Ss home and WX had a history of using that medication.
- 32 WX had a history of substance abuse. The evidence indicates that he was physically injured in an accident at the age of 19 and that he started using opioids at that time. WX presented at Wyong Hospital Drug and Alcohol unit to treat Codeine/Benzodiazepine withdrawal in early August 2014 and again in February 2015.
- 33 In 2008, WX attempted suicide - Police attended that incident and recorded their interactions with WX in the ‘COPS’ system, including that WX had said: “if I had a gun I would have shot myself already .”

WX’S firearm licence history

- 34 WX held a genuine interest in firearms. His brother-in-law, ND, told police that he was aware that WX had an interest in target shooting, and he was aware of a gun safe in WX garage, bolted to the floor, and believed WX took good care with storing his firearms. Over the years he made a number of applications under the Firearms Act 1996 to possess and use various firearms. The history of those applications will be outlined below. Under the Firearms Act, the Firearms Registry (the Registry) must not grant a licence unless, amongst other matters, the requirements specified in s11 of the Act are satisfied.

- 35 Section 11(3)(a) provides

- (3) A licence must not be issued unless—
- (a) the Commissioner is satisfied that the applicant is a fit and proper person and can be trusted to have possession of firearms without danger to public safety or to the peace

36 Section 11(4) provides:

(3) Without limiting the generality of subsection (3) (a), a licence must not be issued if the Commissioner has reasonable cause to believe that the applicant may not personally exercise continuous and responsible control over firearms because of—

- (a) the applicant's way of living or domestic circumstances, or
- (b) any previous attempt by the applicant to commit suicide or cause a self-inflicted injury, or
- (c) the applicant's intemperate habits or being of unsound mind.

37 Section 11(7) provided, and still provides, that the Registry could refuse an application for a licence "if the Commissioner considers that issue of the licence would be contrary to the public interest".

38 The public interest must be considered in accordance with the objects and principles set out in s3 of the Act – which stated, at the time of WX death, (as well as currently):

(1) The underlying principles of this Act are—

- (a) to confirm firearm possession and use as being a privilege that is conditional on the overriding need to ensure public safety, and
- (b) to improve public safety—
 - (i) by imposing strict controls on the possession and use of firearms, and
 - (ii) by promoting the safe and responsible storage and use of firearms, and
- (c) to facilitate a national approach to the control of firearms.

(2) The objects of this Act are as follows—

- (a) to prohibit the possession and use of all automatic and self-loading rifles and shotguns except in special circumstances,
- (b) to establish an integrated licensing and registration scheme for all firearms,
- (c) to require each person who possesses or uses a firearm under the authority of a licence to prove a genuine reason for possessing or using the firearm,
- (d) to provide strict requirements that must be satisfied in relation to licensing of firearms and the acquisition and supply of firearms,
- (e) to ensure that firearms are stored and conveyed in a safe and secure manner,
- (f) to provide for compensation in respect of, and an amnesty period to enable the surrender of, certain prohibited firearms.

39 On 21 January 2010, WX applied for a licence to possess and use a particular category of firearm, a category A/B firearm. That application required him to complete the prescribed application form, the P561 form, and to return it to

the Firearms Registry for assessment. The P561 form contained a number of mandatory questions for WX to answer and declare to be true and accurate. At the time, mandatory question H(d) was in the following terms:

“Have you ever attempted suicide or self-harm or, in the past 12 months, been referred or treated for alcoholism, drug dependence or a mental or nervous disorder or illness?”.

40 WX answered “no” to that question. This was not an accurate answer in view of his reported 2008 suicide attempt.

41 On 17 March 2010, the Registry sent WX a letter regarding his application. The letter advised of an issue with WX’S ability to exercise “continuous and responsible control” over firearms and referred to WX’Ss reported suicide attempt in 2008. The Registry requested WX undertake a psychiatric or psychological assessment from a registered psychologist or psychiatrist and enclosed a letter with a list of questions for the psychologist/psychiatrist to address.

42 WX had a number of communications with the Registry upon receiving this letter. In an initial phone call, WX told a staff member at the Registry that the psychiatrist/psychologist who had initially seen him was no longer working. He was given permission to obtain the assessment from another psychologist/psychiatrist. In a later phone call, WX asked an officer at the Registry whether his General Practitioner could perform the assessment. He was told that, due to the seriousness of the 2008 incident, a medical assessment would not be accepted. WX obtained an assessment from a psychologist, who had not previously treated WX, the psychologist conducted a one hour assessment of WX.

43 In his report, the psychologist concluded:

WX may have had major depressive disorder in 2007 or 2008;
WX showed no obvious signs of mental health issues on the day he was assessed which suggests that he “currently...has normal mental health”; and
It may be wise for WX to be re-tested in 6 months .

- 44 Although the officer within the Registry who initially assessed the application made a recommendation to grant WX this licence, the Manager of Licencing at the Registry decided to refuse the application on public interest grounds. In November 2012, WX made a second application for a category A/B firearm and again completed the P561 Form and his answer to mandatory question H(d), was “no” (that answer was inaccurate).
- 45 Upon receiving the application, the Registry wrote WX a letter requesting that WX’S general practitioner make a referral to a psychiatrist/psychologist for the purpose of conducting a psychological/psychiatric assessment, and referred to WX’S 2008 suicide attempt. The psychiatrist/psychologist was requested to address a set of questions which were similar, but worded in a slightly different manner, to those which the psychologist had been asked to address in the 2010 assessment.
- 46 On 14 February 2013, WX attended a further one hour assessment with the same psychologist who assessed him in 2010. A report was subsequently provided by the psychologist, who stated that he had seen WX twice and had never treated him, and which concluded:
- “currently has normal mental health”;
.... “see no reason why he should not be successful in gaining a firearm licence in 2013”;
[WX’S risk of relapse was] “very unlikely”;
[WX] “does not pose any risk to himself or to any other person”;
“It is now safe to approve WX’S request for a firearms licence” .
- 47 WX’Ss application was approved on or around 1 March 2013 and WX subsequently applied for permits (by completing the prescribed forms) to acquire a number of firearms pursuant to the licence. These permits were granted.
- 48 On 26 June 2013, WX applied for a category C firearm. (A category C firearm is a more powerful range of firearms than a category A/B firearm and includes self-loading and pump action rifles). On the P561 form, WX answered “no” to mandatory question H(d). In support of that application, WX adduced a letter from Dr Paul of Erina Family Medicine which says that he “completely agreed”

with WX'Ss reasons for applying for this licence adding: it makes "good sense to grant this licence" given "WX'S premature osteoarthritis in his back, knees, wrist and shoulder".

- 49 On 18 August 2013, the Registry granted that licence. WX thereafter was granted permits to acquire further firearms. On 14 March 2013, WX submitted an application for a permit to acquire a long arm (a shotgun). This was approved. This permitted WX to possess the shotgun he used to end his own life.

FINDINGS

Issues for the inquest.

- 50 Issues were identified before the inquest and circulated to the parties. Issue 1 involved the formal findings pursuant to section 81(1) of the Act .

Issue 1 – formal findings

- 51 I am required to make the formal findings under the s81(1) of the Act. My reasons for the findings are as follows.

Identity

- 52 The identity of the deceased person is WX. As detailed above this is established on the evidence of witnesses at the scene, in particular his brother in law who was present, and also by fingerprint identification.

Place and date of death

- 53 The date of WX'S death was 27 April 2015; and the place of death was 31 McCall Avenue, Camden South. These matters are established on the evidence, in particular witness testimony, as detailed above.

Cause of death

54 The cause of death was a gunshot wound – this was evidenced by accounts of witnesses at the scene and also by post mortem findings by the forensic pathologist, as above detailed.

Manner of death

55 There is no doubt on the evidence that the gunshot wound which caused his death was self-inflicted - the issue is whether this was done with intention to end his own life.

56 The evidence of WX'Ss wife and brother in law indicates he was suffering from emotional distress at the time. He also had a history of depression and substance use, including periods of hospital treatment for substance use withdrawal. He was also under the influence of alcohol at the time and was significantly intoxicated – this is indicated by the witness testimony of his brother-in-law, and also by the post-mortem blood alcohol reading, and the pathologist's findings in relation to that post-mortem blood level as set out above. I note that ND told police that WX did not have a history of drinking a lot of alcohol but perhaps from September 2014 may have started to drink a little more often, but he had never witnessed WX drinking heavily. While ND was aware that WX was on medication for depression, he was not aware of any other diagnosed mental health issues.

57 The question is whether, given that level of intoxication, WX could form a clear intention to commit suicide or end his life. It is noted that the evidence of those who knew WX stated that he had suffered from physical pain for a number of years and was finding this difficult to manage, and his depression had been worsening in the months leading up to his death. I note the evidence of ND, of words said by WX on the evening of his death (as detailed above, including a request that ND look after WX'S wife), which indicates suicidal intent. I note WX'Ss deliberate actions of going to the garage to obtain his firearm. I also note the prior suicide attempt, and the evidence of

his wife as to his deteriorating mental state in the months before his death and in particular in the last few weeks.

58 Having regard to all of that evidence I am satisfied that WX did shoot himself with intent to take his own life, and that intention was present regardless of the impact of his intoxication, although it is probable that his state of mind was influenced by his level of intoxication. I therefore find that the manner of death is suicide. I find this established to the requisite standard being on the balance of probabilities.

Other Issues examined during inquest

59 The inquest considered aspects of the regulatory scheme by which a person is granted, or refused, a licence under the Firearms Act. Evidence establishes that WX had a previous suicide attempt and a mental health and substance abuse history, yet he was granted a number of firearms licences and permits.

Issue 2

60 Issue 2 was stated as:

The adequacy or otherwise of the manner in which the application process for firearms licences deals with persons who have a history/ risk of self-harm arising from mental health issues and/or substance use.

[Within issue 2, the following sub-issues were particularised]

- (i) the form of the mandatory questions asked of WX (as an applicant for a firearms licence) in the P561 form;
- (ii) the adequacy or otherwise of the questions that the psychologist had been asked to address;
- (iii) whether an expert in the position of the psychologist had available sufficient information to enable them to conduct meaningful assessments;
- (iv) whether there was any difficulty in allowing an applicant for a firearms licence to select her or his own expert (as WX had done by selecting the psychologist); and
- (v) the level of the Registry's engagement with the relevant statutory test (the "fit and proper person" test).

Findings made in the inquest into the deaths of John, Jack and Jennifer Edwards (the Edwards Inquest) relevant to issues in current inquest

- 61 In relation to sub-issues 2(i)-(v), since the date of WX'S death, the Coroner has had cause to consider similar questions. In particular, in 2020 the State Coroner presided over an inquest into the deaths of John, Jack and Jennifer Edwards ("the Edwards inquest"). The State Coroner delivered findings in April 2021.
- 62 In the Edwards Inquest, each of the deceased persons were shot by a person (who was one of the deceased) using a firearm for which he had been granted a licence under the Firearms Act. There was a thorough examination in the Edwards inquest of the firearms application and approval process, and numerous recommendations were made by the State Coroner. Issues such as the approach to and understanding of the "fit and proper person test"; the use of the P650 forms; and assessment and information processes within the Registry, including how licence decisions are made within the Registry, were subject of examination.
- 63 During the Edwards inquest, Superintendent Bell, who was at the time the Commander of the Registry gave evidence and described a number of reforms that had been taken since the date of the deaths of John, Jack and Jennifer Edwards, pursuant to a reform process at the Registry termed the Transformation Project.
- 64 Two statements from Superintendent Bell (dated 27 July 2020 and 5 September 2020) were tendered in the current proceedings (exhibits 4 and 5). So too was a publicly available information sheet prepared by the Registry concerning the Transformation Project (exhibit 6).
- 65 The evidence of Superintendent Bell supports the conclusion that work has been, and is being, done to address issues set out at sub-issues 2(i)-(v). Given the process of reform and review underway at the Firearms Registry there was no utility, in the present inquest, in concentrating on those matters, and the scope of the inquest accordingly narrowed to focus on matters not

subject of detailed consideration in the Edwards inquest – namely how self harm risks are identified and/or assessed as part of firearms licence application process.

- 66 There remain some concerns as to how the questions to applicants on the application forms are worded - I note Dr Nielsen's opinion, as expressed in his first report, that question H (d) is a compound question which should properly be separated out into its various parts, that is, a separate question for the components of self-harm, substance abuse, mental health et cetera. I also note there remains some concern as to how information is collected and shared so as to be able to identify risk in relation to firearms licences, however the information accessed by the Registry is in the process of review and reform as part of the Transformation Project, and therefore no further time has been spent on this issue in this inquest. Given the considerable changes to date made by Registry under the Transformation Project, which is not yet complete, and the detailed recommendations made by the State Coroner in the Edwards Inquest, the focus of this inquest narrowed to the issues set out below.
- 67 Counsel Assisting submitted that a finding, or a recommendation, should be made that the Registry explore whether a system of "periodic reviews" should be implemented (being periodic medical review of holders of firearms licences and permits).

Findings - Issue 2

- 68 The evidence establishes that WX had a mental health and substance abuse history, and also indicates that both his substance abuse and his mental health deteriorated in the months preceding his death. This raised for consideration whether periodic review of his mental health and/or substance abuse stability/treatment, may have identified his worsening mental state so that his licences were suspended and/or revoked, or treatment encouraged, thereby lessening or removing the possibility of a self-inflicted death through

use of his firearms. The conclusion as to his worsening mental health and substance abuse is based on the evidence detailed above.

69 There is evidence of past suicidal ideation - in 2008 WX had attempted suicide as detailed above in these reasons for decision. The process of Registry requiring a psychological assessment because of that past incident, is also detailed above; and I find that the Firearms Registry used independent sources of information to identify that risk, and did not rely solely on WX self-report, and obtained an psychologist's assessment of the risk at time of application. However there was no process for reviewing any subsequent deterioration and presence of risk due to such deterioration.

70 The inquest heard from Dr Nielssen a Consultant Forensic Psychiatrist who questioned the quality of a psychological assessment/report when it is provided by a clinician who is not the applicant's regular treating clinician.

71 Dr Nielssen observed that the present regulatory model provided for assessment of current risk, and prediction of future risk. In Dr Nielssen's opinion there were clear limitations in the value and reliability of such a predictive exercise:

“Posing questions in terms of risk assessment is futile, as no practitioners, including the most expert fortune tellers, can ever predict a person's future circumstances, or know for certain that they will not develop addiction, mental illness or dementia at some stage in the future .”

72 Dr Nielssen noted that an attempt to predict the level of risk an applicant for a firearms licence with mental health issues might present at some future point in time, may lead to unfair or discriminatory outcomes, because mental health conditions were susceptible of change. In order to achieve the protective purposes of the Firearms Act, the regulatory practices adopted by the Registry permit a very low tolerance of risk. Dr Nielssen observed:

“To completely exclude people on the grounds of psychiatric disorder would appear to be discriminatory, as people recover from episodes of illness and the nature of the mental illness might not affect the safe possession of firearms.”

73 Dr Nielssen was asked to address in his report whether medical practitioners should conduct periodic reviews of relevant patients in order to assess the ongoing capacity to own and use firearms. He stated that in his opinion this would be a desirable approach to ensure licensed gun owners adhere to treatment and remained fit, because conditions such as mood disorders and substance use disorders are known to be relapsing and remitting conditions. Dr Nielssen explained that this scheme would involve the following stages:

First, at the time of submitting the application for a firearms licence, an applicant would be assessed or screened by her or his General Practitioner. The object of this preliminary assessment or screen would be to identify the existence or otherwise of any particular condition which might represent a risk associated with granting that applicant a firearms licence.

74 Dr Nielssen noted that it would be necessary to develop a form intended to serve as an “aide memoire” or “a checklist criteria of fitness” to enable the General Practitioner to conduct this preliminary assessment or screen.

75 Dr Nielssen adds that, as long as the form were:

“well designed and gets the right information, honest information, it would be well worth the cost of such a system”.

76 Dr Neilssen also commented generally on the change in the record-keeping landscape which is occurring because of the Commonwealth My Health Record initiative, which allows medical practitioners to access to a lot of information about patients. Dr Nelson states it could be as simple as asking the health professional to endorse that the practitioner has examined the applicant’s My Health Record history, and did not find any information in it that raise concerns about the veracity of the medical history provided.

77 If the preliminary assessment or screen conducted by the General Practitioner were to identify the existence of some condition which might represent a risk, the applicant would be referred by the general practitioner to an appropriately qualified expert for assessment (eg to a psychiatrist).

78 Detective Inspector Kehoe gave evidence that, under the Act, a licence may be granted for a period of up to 5 years. It follows that, given mental health and substance abuse conditions can be relapsing conditions, that in some cases, a licence holder's mental health and patterns of substance use could change. The evidence indicates that this was so for WX.

79 I note the following observations of Dr Nielsen:

“the low base rate of adverse events means that risk assessment will not help to identify which applicants might commit suicide using their firearm or worse still, a homicide offence. Despite the history of an admission to a psychiatric hospital following a suicide attempt and ongoing treatment for depression, the probability that WX would commit suicide using one of his firearms would have been no more than 1 per 100 per annum..... This figure is still about 50 times greater than adult males in the wider community, but it is too low to form the basis for a decision about the suitability for holding a firearms licence on its own without discriminating against the vast majority of licence holders who will not commit suicide or harm another person. Moreover, it seems unlikely that WX applied for a firearms licence for the purpose of committing suicide, as it would have been no reason to buy so many firearms, and he may well have had no intention to commit suicide or to use a gun in an irresponsible way at the time of his assessment by [the psychologist].

It does seem that his chronic pain and benzodiazepine addiction, which may have become more severe in the two years after the two assessments by [the psychologist], were important factors in WX decision to commit suicide.”

Submissions as to whether there is a need for a system of periodic reviews

80 Counsel Assisting submitted, having regard to both Detective Inspector Kehoe's and Dr Nielsse's evidence, that there is merit in the Registry exploring whether a system of periodic reviews, as proposed by Dr Nielsse, could be implemented.

81 It was submitted that the proposed scheme would serve to minimise some of the risks inherent in firearms ownership by allowing changes in the risk profile of a licence holder to be identified.

- 82 Counsel Assisting submitted that a scheme for periodic review would not result in a significant additional impost on the finite resources of the Registry, however conceded that there is no evidence on the probable cost involved. Nor was there any evidence as to the cost of the proposed periodic review system to the MBS or other agencies.
- 83 Council Assisting accepted that a model which required the Registry to conduct its own reviews would not be reasonable - requiring the Registry to conduct its own reviews of the nearly 230,000 licence holders would be a resource drain.
- 84 Whilst a system for periodic reviews would impose an additional cost on an applicant, it is submitted that these costs are reasonable in the interests of public safety.
- 85 Counsel Assisting submitted that the Coroner would make the following recommendations:

Proposed Recommendation 1:

- 86 (1) That the Commissioner of Police give consideration to whether it is feasible for the following scheme to be implemented in respect of any future applicant for a licence issued under the Firearms Act 1996 ("an applicant"):
- (a) That an applicant be screened or assessed by her or his General Practitioner with the aim of such screening or assessment to be enable that General Practitioner to identify whether the applicant is suffering from any mental health and/or substance abuse issues relevant to the question of whether the applicant is:
- (i) at the time of that assessment or screen, a suitable person to hold a licence issued under the Firearms Act 1996; and
- (ii) during the term of any licence that might be granted under the Firearms Act 1996, likely to remain a suitable person to hold a licence issued under that Act;

- (b) That an applicant be, as may be determined by the General Practitioner who performs the assessment or screen referred in (a), referred by her or his General Practitioner to an appropriately qualified expert for the purpose of that appropriately qualified expert conducting an independent medical assessment; and
- (c) That an applicant be reviewed by the appropriately qualified expert referred to in (b) above on such further occasions and at such intervals as that expert considers appropriate having regard to the nature and extent of any mental health and substance abuse issues identified by that expert that may be relevant to the question of the continuing suitability of the applicant to hold a licence issued under the Firearms Act 1996.

Proposed Recommendation 2:

- (2) That the Commissioner of Police give consideration to developing a form which could be used by a General Practitioner for the purposes of enabling that General Practitioner to conduct the screen or assessment which is referred to in Recommendation 1.

87 Counsel assisting acknowledged that there may be difficulties with the proposal for periodic reviews, which will need to be worked through. For this reason, the Recommendations proposed by Counsel Assisting are intended to require the Commissioner to do no more than to explore the feasibility or otherwise of that proposal.

88 The Commissioner of Police submitted on the issue of Periodic Reviews:

3. It is submitted that the appropriate starting point when considering this topic, is the number of existing licence holders, together with the number of applications that are made annually for a firearms licence.

4. At the time of this Inquest there were in excess of 246,000 licence holders. New applications total in excess of 15,000 with re-applications totalling in excess of 39,000.

5. The resources required to carry out a periodic review, of even a small percentage of existing licence holders, cannot be understated.

14. There is no evidence before the Court to suggest that the costs of obtaining such a report would be borne by the MBS. The service provided

does not address any ailment or condition, but facilitates an administrative requirement.

15. I note that the "highest" it is taken by Counsel Assisting (paragraph 66) is that "...It is ...at least possible that Medicare would cover part of these costs." (emphasis added)

16. Without wishing "to give evidence from the Bar Table" it is has been my experience that Medicare will not fund the costs of a Cardiologist to carry out specific heart testing on an annual basis. These costs will only be met on a bi-annual basis.

17. In this background, I submit that it is highly unlikely that Medicare would fund the costs of medical experts that are not directly associated with and treating an existing or ongoing medical ailment.

18. Without any direct evidence on this matter, it is submitted that the Court should not speculate on what might be "possible".

19. For the above reasons Recommendations 1 and 2 are opposed.

Findings on proposed recommendations 1 and 2

89 I am not persuaded that I should make the recommendations proposed by Counsel Assisting. Whilst I note that the recommendation is limited to exploring the feasibility of periodic reviews, and whilst I also observe that there is much that would be required to be worked out, I have declined to make the recommendations for additional reasons. Whilst Dr Nielssen was a persuasive and impressive witness in relation to the benefits of periodic reviews I am concerned about a number of potential ramifications. I also note that the recommendations are not supported by the Commissioner of Police.

90 If a general practitioner was involved in periodic reviews this might cause those with mental health or substance abuse conditions to not consult their general practitioner for help and assistance, in fear of ramifications for their firearms licence. As noted by Dr Nielssen, a person with a mental health condition is not necessarily a person who is a risk in his or her use and possession of firearms. Yet, the need for the person to have a candid and ongoing therapeutic alliance with the general practitioner, to ensure treatment if there is deterioration in a mental health condition, is crucial to the ongoing health and safety of that person and also the community. In WX'S case he had held firearms safely for a lengthy period from the time. WX had also sought help for his conditions at various times - which may have have contributed to his safe possession and use of firearms in previous years. Further, it was his increasing substance abuse which appears to have been a

large contributor to his overall deterioration preceding his death, and people are not always honest with medical practitioners about their substance use. Encouraging honesty by those with relapsing illnesses, with their treating clinicians, is in the public interest. If those with mental health conditions that were deteriorating, and those with substance use conditions that were deteriorating, did not seek help from their general medical practitioner, because of concerns of being reported for their firearms licence, this could lead to conditions to be untreated perhaps increasing risk.

- 91 Dr Neilssen's report is persuasive in relation to potential benefits of adding periodic reviews to the medical assessment processes, however, for reasons detailed I am not satisfied that proposed recommendation 1 and 2 should be made.

Closing

- 92 I acknowledge and express my gratitude to Counsel Assisting, Mr Michael Della Pozza, and the solicitor from Crown Solicitors Office, Ms Leah Burgoyne, for their assistance both before and during the inquest. I also thank the Police Officer in Charge, Detective Senior Constable Lloyd, for his work in the Police investigation and compiling the evidence for the inquest.
- 93 On behalf of the Coroners Court of New South Wales, I offer my sincere and respectful condolences to WX'Ss wife, brother-in-law and other family members.
- 94 I close this inquest.



Magistrate Carolyn Huntsman

Deputy State Coroner

Coroners Court of New South Wales
