



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Mr Lachlan Cairns
File number:	2020/127603
Inquest dates:	27 February 2023
Place of inquest:	NSW Coroners Court sitting at Coffs Harbour Local Court
Findings of:	Deputy State Coroner Carmel Forbes
Date of findings:	29 March 2023
Catchwords:	CORONIAL LAW-manner and cause of death-whether a 000 call related to a life-threatening situation-appropriateness of police response to the 000 call
Representation:	Mr M Dalla-Pozza instructed by Ms R Muniz, Crown Solicitor's Office Ms H Fitzsimmons of NSW Legal Aid Commission instructed by NSW Legal Aid Commission representing Mr Cairns' daughter Honey Cairns Mr De Brennan instructed by S Davis of NSW Police, Office of General Counsel

Findings:	<p><i>Identity</i></p> <p>The person who died was Lachlan Alan Cairns.</p> <p><i>Date of death</i></p> <p>Mr Cairns died sometime between 24 June 2019 and 27 April 2020.</p> <p><i>Place of death</i></p> <p>Mr Cairns died in the Barcoongere State Forest, NSW.</p> <p><i>Cause of death</i></p> <p>The evidence does not allow me to make findings as to the cause of Mr Cairns' death.</p> <p><i>Manner of death</i></p> <p>Mr Cairns died in the Barcoongere State Forest of misadventure after his car became bogged. His death was not suspicious.</p>

INTRODUCTION

1. This is an inquest into the sad death of Mr Lachlan Cairns.
2. Mr Cairns died at some time between 24 June 2019 and 27 April 2020 (although the evidence suggests that it is likely he died closer to 24 June 2019 than to 27 April 2020). He died after the vehicle he was driving became stuck in the area surrounding the Barcoongere State Forest, to the north of Coffs Harbour. Mr Cairns was aged 47 or 48 at the time of his death, depending on the date he passed away.
3. As set out in section 81(1) of the *Coroners Act 2009 (NSW)* (the Act), the role of a Coroner is to record findings as to the identity of the deceased, the date and place of the death, and the manner and cause of death.
4. In this inquest a full account has been taken of the circumstance surrounding Mr Cairns' death with a particular view as to whether there are any recommendations that might be made that would prevent a similar death in the future.

Lachlan Cairns

1. Mr Cairns was born on 20 November 1972 in Greystanes, Sydney. He was of Scottish heritage, with family in Glasgow.
2. In his late thirties, Mr Cairns moved to the Coffs Harbour area. This is where he met, and formed a relationship with, Ms Frances Witt.
3. Mr Cairns is survived by his daughter, Ms Honey Cairns, his former partner, Ms Witt, and his sister, Ms Jennifer Cairns.

4. Ms Honey Cairns and Ms Witt are Aboriginal women of Gumbaynggirr country, and they attended this inquest and provided moving family statements about Mr Cairns. Honey explained that she loved her dad with all her heart and that he was a beautiful grandfather to her daughter. She said that he was a hardworking man who took deep pride in his work. That he was an excellent listener who would listen to her for hours. She said that when she went through his belongings after his passing that she found a birthday hat from her daughters first birthday party. She said he had a sentimental heart and was protective of her.
5. She also said that Mr Cairns was an experienced and skilled surfer, he loved golf, he was a keen fisherman and an adventurous traveller. He loved to share stories with strangers and had a warm character with a kind and gentle spirit.
6. Honey describes her father as a resourceful man who loved the land. He was a skilled bushman, with the knowledge, experience, and ability to live in the bush. Mr Cairns valued his solitude and would often seek refuge in the bush as a form of escapism.
7. During his life, Mr Cairns encountered some difficulties occasioned by his use of the drug ICE (Crystal Methyl-Amphetamine). There is some suggestion in the relevant medical records that this caused him to suffer mental difficulties which are described as a schizophrenic or related such disorder. Mr Cairns' medical records indicate that, on 12 December 2018, he reported to the Coffs Harbour Health Campus and that he was experiencing an episode of paranoia and "thinking people were after him", after taking this drug.
8. Honey stated that her father experienced "bad things" during his life but says that he did his best to shield her from those things.

9. There is some suggestion that, in the period leading up to his death, Mr Cairns was living a transient lifestyle; and may have been living out of his 4WD vehicle. Shortly before his disappearance his battery went flat, and his key was damaged when he was in Hungry Head. He called for a locksmith to assist him. Police have obtained a statement from that locksmith. That locksmith observed that it looked like Mr Cairns was “living out of his car” and added that Mr Cairns “seemed to be affected by alcohol or drugs”¹.

Factual Background

10. At some point in around June 2019, Mr Cairns drove to bushland near the Barcoongere State Forrest. This is an area to the north of Coffs Harbour.
11. On 3:36am on 24 June, Mr Cairns called triple zero, reporting that his vehicle was stuck in a hole, and that he had been unable to dig himself out. A transcript of the triple zero recording is at Tab 9A. It records that Mr Cairns told the operator that he was at the “crossroad” of Dirty Creek Road and “Barcoonie” Road (Barcoongere Way), which merges with Dirty Creek Road perhaps some 4-5 kilometres north of where that road enters on to the Solitary Islands Way.
12. Barcoongere Way and Dirty Creek Road are unsealed backroads that are the main thoroughfare through the area. Solitary Islands Way, by contrast, is a sealed road and is a relatively major thoroughfare running parallel to the Pacific Highway.
13. The operator indicated that police would be informed and took Mr Cairns’ mobile phone number. Mr Cairns had told the operator that he was not hurt and that he was fine and the operator told him that normally, if there’s no life-threatening emergency that he would have to contact a towing company.

¹ Exhibit 1 Tab 21 [9].

14. The operator informed police of the phone call and provided them with Mr Cairns' mobile phone number. A Computer Aided Dispatch ("CAD") job was created. This contains the following representation:

"Inf the only one in the car- he has been trying to stuff rocks under the tyres to no avail- doesn't have the equipment to dig himself out. Adv [Advised] he needs to ring a tow company but inf req pol as per director's understanding."²

15. The duty supervisor at Coffs Harbour Police Station at the time was Senior Constable Ellis. Senior Constable Ellis is no longer with the police force, leaving for medical reasons. He was unavailable to give evidence in the inquest. The evidence is that he rang Mr Cairns and had a conversation with him. The updates to the CAD indicate that the call occurred between 3:36am and 4:47am. Before he left the police force, Senior Constable Ellis told the Officer in Charge of the coronial investigation Detective Senior Constable Bird, that Mr Cairns said that he called triple zero because he did not have any phone credit. Senior Constable Ellis offered to contact a tow truck company based in Woolgoolga on Mr Cairns' behalf. Mr Cairns declined this offer because he said that he could not afford to pay for a tow truck company. Mr Cairns asked Senior Constable Ellis to call his cousin. Senior Constable Ellis said that he would do so. Mr Cairns did not report to Senior Constable Ellis experiencing any injury, health issues or having concern for his welfare. This is consistent with the report Mr Cairns provided to the triple zero operator.

16. The precise terms of the conversation that Senior Constable Ellis had with Mr Cairns' cousin is not clear. It is however clear that Senior Constable Ellis rang him.

² Exhibit 1 Tab 11 p.1.

17. Mr Cairns' cousin provided a statement that he received a phone call from police at "about 3:30am" in the middle of June 2019. Whilst he could not remember the exact date, the time he remembers receiving the call is consistent with Senior Constable Ellis making the phone call to him shortly after speaking to Mr Cairns.
18. Mr Cairns' cousin stated that he rang Mr Cairns who told him that he was bogged again, really bogged, and that "they are chasing me again Cuzz, I can see the red lights".³
19. As Mr Cairns' cousin had to be at work, he told Mr Cairns that he would call him back. Mr Cairns' cousin tried to call Mr Cairns a few times the next morning, but his calls went straight through to message bank.
20. Mr Cairns' cousin said that he assumed that Mr Cairns had got out of the bog because "he's pretty resilient".⁴
21. Mr Cairns' cousin and other members of Mr Cairns' family tried to contact Mr Cairns over the ensuing weeks, to no avail.
22. An employee of the National Parks and Wildlife Service, Mr Robert Redden, stated that, at around 6:30am in late June 2019, he was travelling south along Barcoongere Way when he encountered two persons in a vehicle who said they were on a camping trip. The campers told Mr Redden that they had spoken to a person who told them his vehicle had become bogged and that he needed assistance. The man also told the campers that he knew the area quite well.

³ Exhibit 1 Tab 7 [8].

⁴ Exhibit 1 Tab 7 [9].

23. Mr Redden continued driving south and saw a man, wearing boots, walking along the road. The man had his back to him. Mr Redden says that he slowed down as he passed the man, but the man did not attempt to stop him or ask for assistance; rather, after glancing in Mr Redden's direction he "kept his head down".⁵ Mr Redden noticed that the man appeared to be fine.
24. Mr Redden marked on a map the point where he last saw the man. This is near the point where Barcoongere Way and Dirty Creek Road merge.
25. On 9 July 2019, Mr Cairns' vehicle was found by members of the public on an unmarked 4WD road off Dirty Creek Road in Barcoongere State Forest. It was in a bog hole that was 3 metres wide, 8 metres long and 1.5 meters deep. It was 700 meters on an unnamed 4WD track from Dirty Creek Road.
26. Dirty Creek Road merges with Barcoongere Way about 1.5 kilometres south of the intersection with the unnamed 4WD track where Mr Cairns vehicle was found.
27. Between the intersection with the unnamed 4WD drive track and Barcoongere Way the road goes through an area described by Detective Senior Constable Bird as really thick scrub and as Barcoongere Way proceeds south towards the point it merges with Dirty Creek Road the bushland begins to open up to residences and logged areas. After the point it merges with Dirty Creek Road it continues south for just under three kilometres before it exits onto Solitary Islands Way which is also known as the Old Pacific Highway.
28. Between the Barcoongere Way exit onto Solitary Islands Way it is in a similar condition to Dirty Creek Road. There are properties in that area which are acreages.

⁵ Exhibit 1 Tab 20 [6].

29. Barcoongere Way and Dirty Creek Road were relatively heavily frequented arterial roads. Detective Senior Constable Bird stated that Dirty Creek Road would be estimated to have up to 10 cars a day and National Parks Officers would drive Barcoongere Way daily.
30. Solitary Islands Way is a sealed road and relatively a busy thoroughfare.
31. After the vehicle was located, Police conducted a cursory search of the immediate area around the Mr Cairns' vehicle but did not locate anything of note. Police also attempted to call Mr Cairns' mobile number but were unsuccessful.
32. Detective Senior Constable Bird gave evidence that empty beer bottles were located in the vehicle and 3 or 4 empty bottles of the same brand were found on the track to the side of the vehicle.
33. On 12 July 2019, Police informed Mr Cairns' cousin that the vehicle had been located. Mr Cairns' cousin then formally reported Mr Cairns' disappearance. He told police that Mr Cairns had no fixed place of abode, had mental health issues, and was residing in his car.⁶
34. Up until that point there was no concern raised by the family to the police that Mr Cairns was in any risk.
35. A Search co-ordinator was appointed. The Rescue and Bomb Disposal Unit were notified as was the Coffs/Clarence Commander and Northern Region Office.
36. A search had already commenced by NSW Police and SES on 9 July 2019, the day the vehicle was located. On 12 July 2019, a further search in the area surrounding Barcoongere State Forest and Yuraygir State Conservation area was conducted. SES were

⁶ Exhibit 1 Tab 5 [24].

contacted and three search teams were deployed along with the SES coordinator. The search teams were briefed and given the time of night, were tasked to only perform track sweeps around the immediate area where the vehicle had been located. A request for assistance was submitted for Pol-Air to attend. They advised they would be attending the following day. The media unit were advised. Detectives were advised and attended to examine the vehicle. The boghole was drained.

37. The search resumed the following morning at 9:00 AM. An additional search coordinator was appointed. Pol-Air, NSW Police and SES teams arrived and were deployed.

38. On 23 July 2019 searches were conducted at the Yuraygir National Park.

39. On 18 August 2019 Detective Senior Constable Bird and Senior Constable Trotman conducted patrols of the fire trails of Barcoongere State Forest and Yuraygir National Park. Flyers were handed out to campers.

40. On 3 September 2019 Detective Senior Constable Bird commenced Operation Bushtrails, a search operation for Mr Cairns. On 4 September 2019 Detective Senior Constable Bird arranged for cadaver dogs.

41. Operation Bushtrails was conducted over 18 and 19 September 2019.

42. On 6 January 2020 Detective Senior Constable Bird and Senior Constable Ziesig organised a meeting to hold a larger scale search of Barcoongere and Yuraygir National Parks. This search was however delayed due to bushfires.

43. Further searches were conducted in Pottsville, Kingscliff and Tweed Heads.

44. On 24 March, 25 March and 26 March 2020 NSW police commenced operations Bushtrails Stage 2. A large search was conducted around the last known place of the

deceased some 1.2 kilometres from where Mr Cairns' vehicle was bogged. This search was conducted with a significant cohort of police, approximately 40.

45. Police also checked Mr Cairns' bank records to see if any withdrawals had been made, made efforts to obtain his call charge records (through the completion of I-Ask requests) to see if his phone had been used and made inquiries with Mr Cairns' real estate agent. Police also distributed flyers containing Mr Cairns' image throughout the local area.

46. There were some sightings of Mr Cairns reported to police, however the objective evidence and the quality of the sightings were unreliable, and I place no weight on them.

47. On 27 April 2020, skeletal remains, later identified through dental comparison as being Mr Cairns', were located by employees of a forestry company who were conducting a re-vegetation planting in the area. The remains along with Mr Cairns' wallet (including his NSW Drivers licence) in a pair of shorts, were located about 1.5 kilometres from where Mr Cairns' vehicle had been located. They were located on the northern side of a "wind row", which is described by the Officer in Charge as being a large line of pushed over trees piled up high to protect the regeneration trees from the wind⁷.

48. Analysis of the skeletal remains revealed that Mr Cairns had suffered, at around the time of his death, a fracture C4 laminar and fracture of his right scapula. A forensic anthropological report dated 18 May 2020, stated that these fractures could have been the result of a fall.

49. The forensic anthropological report was not able to establish a date of death except to say that, by reference to the condition of the skeleton the minimal time of death is "at

⁷ Exhibit 1 Tab 5 [112].

least one year”⁸. Whilst Mr Cairns was clearly alive on 24 June 2019 this evidence indicates a long period of time had elapsed between the date of Mr Cairns’ death and the date his remains were found.

50. The location of Mr Cairns’ body indicates that, rather than walking south on Barcoongere Way towards Solitary Islands Way, which as noted was a relatively busy thoroughfare and only some 4-5 kilometres distant from the point at which Mr Cairn’s vehicle became bogged, Mr Cairns walked in the opposite direction. The evidence does not explain why he might have done so; especially given his reported resourcefulness and bushcraft experience. A potential explanation may be the perceptual and/or mental disturbance Mr Cairns may have been experiencing at around that time. He had told his cousin on the phone that he was being “chased” and “seeing red lights”

51. The available evidence does not permit me to make a finding as to the cause of his death. I am satisfied it was not suspicious.

52. Acting Inspector Kendall from Coffs/Clarence Police Department reviewed the police response in relation to Mr Cairns call to 000.⁹ He informed this court that it is not the role of Police to recover private vehicles except in life threatening circumstances. He referred to the NSW 4WD operations manual which states that;

“any winching operations involving police equipment and/or personnel should be restricted to police vehicles unless in life threatening situations. Not to be used for the general recovery of private vehicles”¹⁰.

⁸ Exhibit 1 Tab 3 p 9.

⁹ Exhibit 1 Tab 15A.

¹⁰ Exhibit 1 Tab 15A [8].

53. Acting Inspector Kendall is of the opinion that, on the information provided by Mr Cairns to the 000 operator, he was not in a “life threatening” situation.
54. The Officer in Charge of the coronial investigation Detective Senior Constable Bird also informed this court that it is not Police core business, or practice to use police vehicles to tow civilian vehicles unless there is a life-threatening situation.
55. There is no objective evidence to suggest that Mr Cairns was in a life-threatening situation at the time he spoke to the 000 operator or to Senior Constable Ellis. In fact, the evidence suggests that the reason he called 000 was because he didn’t have credit to ring anyone else or money to pay for a towing company. Whilst he was on an unnamed track, he was in an area that was within kilometres from a sealed road. The fact that he was bogged and unable to move his vehicle in a State Forest at night and alone did not amount to life threatening situation. Especially, in the context of him having been put in contact with his cousin by police.
56. Even though he was in an area with the potential to get lost, being lost was not a concern that was raised with the 000 operator or with Senior Constable Ellis.
57. Police were not aware that Mr Cairns had been drinking and/or may have been suffering from any mental disturbance. There is nothing in the 000 call to suggest that Mr Cairns was in a life-threatening situation. I am not of the opinion that the 000 operator should have made a different assessment of the call or that she should have contacted police directly or included in the CAD message the extra details that he was bogged in a lot of water and had no credit on his phone. She appropriately gave police the requisite information for them to contact Mr Cairns and it was for police to assess an appropriate response upon talking to Mr Cairns themselves.
58. Acting Inspector Kendall gave evidence that he had previously been in the role of shift supervisor at the Coffs/Clarence Police Area Command. He gave evidence that

supervisors undertake their own risk assessment to determine what response to an incident is required. He said that the types of matters which a shift supervisor would consider in a risk assessment would include:

- the age and number of persons stranded
- the medical needs
- the location of the vehicle
- the time of day and prevailing weather conditions
- the food and provisions
- whether other persons in a position to assist.

59. In this case Mr Cairns did have another person to assist. As far as police were aware this occurred. There was no reason for police to consider that Mr Cairns' cousin and Mr Cairns had not sorted out the situation. I am satisfied the police undertook an appropriate risk assessment with sufficient information. I am not of the opinion that further guidance, by way of a documented risk assessment for police, would reduce the likelihood of a similar death in the future.

60. Acting Inspector Kendall gave evidence that during a typical shift the station would receive more than 200 calls (excluding 000 calls). Detective Senior Constable Bird stated that in his experience the station would receive in the six hours from 6:00 AM more than 500 including 000 calls. Either way this speaks to a high volume of calls. I accept the submission that it is unworkable for police to document every call that is received by way of a COPS entry.

61. The Radio Operations Group at 000 also process a high volume of calls. As this matter did not involve a life-threatening situation the means of communication and content of the communication from 000 to police was appropriate.

Conclusion

62. I accept the submission that New South Wales Police do not have resources to act as tow truck drivers for 4WDs that become bogged unless there is a life-threatening situation. I further accept that police do not want to expose themselves to liability for any damage that may occur in the process of retrieving such vehicles.
63. I am satisfied that Mr Cairns did not communicate to the 000 operator or to Senior Constable Ellis that he was in a life-threatening situation. I am of the opinion that Senior Constable Ellis acted appropriately in the steps that he took upon receiving the 000 message from Mr Cairns. He offered to call a tow truck company and upon Mr Cairns request, he rang his cousin.
64. I am also satisfied that the searches conducted once the vehicle was found and then after Mr Cairns was reported missing were appropriately robust and expeditious.
65. This is a very sad unfolding of events.
66. I offer my condolences and sympathy to Mr Cairns' family and thank them for participating in this inquest when it has been so difficult and sad for them. The moving family statements that they presented at the inquest are a testament to their love of Mr Cairns and the ongoing grief they suffer.

Findings pursuant to s 81 (1) Coroners Act 2009

Identity

The person who died was Lachlan Alan Cairns.

Date of death

Mr Cairns died sometime between 24 June 2019 and 27 April 2020.

Place of death

Mr Cairns died in the Barcoongere State Forest, NSW.


Cause of death

The evidence does not allow me to make a finding as to the cause of Mr Cairns death.

Manner of death

Mr Cairns died in the Barcoongere State Forest of misadventure after his car became bogged.

His death is not suspicious.

A handwritten signature in black ink, appearing to read 'C Forbes'. The signature is written in a cursive, flowing style.

Magistrate Carmel Forbes

Deputy State Coroner

29 March 2023

NSW Coroners Court