



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the disappearance and suspected death of Heather Scott
Hearing dates:	5 September 2023
Date of findings:	5 September 2023
Place of findings:	State Coroners Court, Lidcombe
Findings of:	State Coroner, Magistrate Teresa O’Sullivan
Catchwords:	CORONIAL LAW – Cause and manner of death Natural disaster; floods; extreme weather; climate; Landslide; landslip Missing person
File number:	2022/69355
Representation:	Advocate Assisting the Coroner: Senior Constable Alison Storm

Findings:**Identity of deceased:**

The deceased person was Heather Scott.

Date of death:

Heather Scott died on 28 February 2022.

Place of death:

Heather Scott died at 131 Upper Wilsons Creek Road, Upper Wilsons Creek, NSW

Manner of death:

Heather Scott died when then house she was in was swept away in a landslide caused by intense rainfall during extreme weather conditions.

Cause of death:

The medical cause of Heather Scott's death is unknown.

Table of Contents

Introduction:	1
The Inquest	1
The Evidence	1
Background	2
Upper Wilsons Creek Road, Upper Wilsons Creek	2
Floods in Northern NSW	3
Last sightings of Heather	3
28 February 2022	4
Police and Emergency Services Response	5
Further Signs of Life Checks	10
Time, Date and Place of Death	10
Cause and Manner of Death	10
Findings required by s81(1).....	11
The identity of the deceased.....	11
Date of death	11
Place of death.....	11
Cause of death	11
Manner of death.....	11

The Coroners Act 2009 (NSW) in s81 (1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the death of Heather Scott

Introduction:

1. The Coroners Act 2009 (NSW) in s81 (1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.
2. These are the findings of an inquest into the death of Heather Scott.
3. In making these findings, I extend my sincere condolences to the family and friends of Heather Scott. While this inquest cannot answer the ultimate question of where Heather's remains are located, it is hoped that from the inquest process some closure can be achieved for Heather's family and friends.

The Inquest

4. The inquest was held for the purpose of a public examination into the circumstances of Heather's disappearance and suspected death.
5. Pursuant to section 81 of the *Coroners Act 2009 (NSW)* (the Act), the role of a coroner is to make findings as to the identity of the person who died, and the date, place, cause and manner of the person's death. In circumstances such as Heather's, where a death is reasonably suspected but no remains recovered, an inquest is usually required so that a formal determination can first be made as to whether the person is deceased. Proof that the missing person is deceased "must be clear, cogent, and exact"¹ before a finding of the fact of death is made.

The Evidence

6. The hearing of the inquest into the disappearance and suspected death of Heather Scott was held at the Coroners Court of NSW in Lidcombe on the 5 September 2023. The sole witness required to give evidence was Detective Sergeant Russell Ewing, who is the officer in charge of the investigation. Detective Sergeant took carriage of the case after the conclusion of the search

¹ *Briginshaw v Briginshaw* (1938) 60 CLR 336

operation 9 March 2022, it should be noted that he was not a participant in the physical searches for Heather.

Background

7. Heather and her husband Michael Scott moved to 131 Upper Wilsons Creek Road, Upper Wilsons Creek in 1998 living at first in a caravan. Soon afterwards, the local community came together over the following years built a house for the pair, replacing the caravan.
8. Michael passed away in 2001, leaving Heather a widow. They did not have children.
9. Heather had close relationships within the Upper Wilsons Creek community. She was especially close with neighbours, Kristen, Jason and 13-year-old Leila. Leila was Heather's goddaughter, but they were so close, Heather was like a grandmother to Leila.
10. Heather was robust and active woman who was considered a pillar of the spiritual community and touched the lives of many people. She was thought of as a kind woman who was practical, strong, and forthright.
11. Heather has a brother, Robert Shirtcliffe, who lives in New Zealand. He was unable to make it to the inquest, but he will be travelling to Australia later in the year to visit Heather's home and where she had gone missing.

Medical History

12. Heather survived cervical cancer when she was 45 years old.
13. In her later years, Heather developed arthritis and joint pain in her knees, toes and feet which eventually began to affect her mobility and balance. In the five years prior to her disappearance, her mobility reduced to the point that she rarely left the property.

Upper Wilsons Creek Road, Upper Wilsons Creek

14. Upper Wilsons Creek is part of the Byron Shire Council in the Northern Rivers area in NSW. Upper Wilsons Creek sits in the Mount Jerusalem National Park and the only road in the locality is Upper Wilsons Creek Road. The locality is isolated and

made up of a small community; the properties are heavily forested with only small sections cleared for dwelling areas.

15. Heather lived at 131 Upper Wilsons Creek Road, a 69.8 hectare piece of land owned by Thomas and Marissa McEwan. The property is heavily forested and the area behind Heather's house was an escarpment dropping into a ravine, at the bottom of this ravine is a creek that runs along the base of the property.
16. Also living on the property were Thomas and Marissa McEwan, along with three other families: Bronte Williams and Robert Beesly with their daughters Daisy and Jasmine; Kristen Boddington and Jason Campbell with Leila; and Charlie Ronaldson who lived on his own.
17. There were five houses on the property accessed by a winding communal driveway beginning at Upper Wilsons Creek Road. Heather's was the last house along the driveway, furthest from the road.
18. Heather's house was a single storey blue weather board house with a red tin roof; there was one room containing a kitchen, living and sleeping area. North of the house was a bathroom and garage connected to the house via a covered walkway. Heather parked her car, a white Subaru hatchback with NSW registration AAW20V, in the garage.

Floods in Northern NSW

19. Towards the end of February and the beginning of March 2022, Northern NSW experienced severe weather conditions and intense rainfall. These weather conditions resulted in catastrophic flooding, riverbank erosion, and widespread landslides in country and urban areas causing damage of homes and critical infrastructure. There had been extensive landslides to the west of Mullumbimby, specifically in the neighbouring localities Upper Main Arm, Upper Wilsons Creek, and Huonbrook.

Last sightings of Heather

20. On Friday 25 and Saturday 26 February 2022, Heather spent time with Kristen, who told police she seemed fine and didn't express any concerns that would indicate she was intending to leave the property.

21. On Sunday 27 February 2022, the weather at Upper Wilsons Creek was clear with intermittent rain during the day. Charlie Ronaldson did a run to the shops for supplies for all the neighbours, including Heather.
22. During that Sunday, Heather, Robert, and Leila drove to look at the nearby causeways to see how high the water had risen due to the rainfall; they were unpassable due to flooding. They drove back to the property and Heather returned to her home.
23. At about 3pm, Thomas McEwan saw Heather driving her Subaru down the driveway to the garbage bin on the road. As she drove back to her house, Heather passed by Thomas, and he waved. This was the last time Heather was seen.
24. By late afternoon the clouds became darker, and the rain became heavier; by this time everyone on the property had returned to their homes and didn't leave for the rest of the night.
25. Overnight there was intense and continuous rainfall that was widespread across Northern NSW.

28 February 2022

26. Bronte Williams and Robert Beesly woke about 3.30am to the front door of their house being forced open by a sudden flow of water and mud which flooded into their house. While sweeping out the mud and water, both Bronte and Robert heard a rumbling sound lasting for about 20 seconds. Neither left their house to investigate the cause of the noise.
27. Kristen Boddington and Jason Campbell woke up about 4am and noticed the electricity was out. At about 4.30am, they heard a loud cracking and rumbling sound lasting for 3-5 minutes. Kristen thought it sounded like trees cracking; Jason recognised the sound to be a land slip from previous experiences. Neither left their house to investigate the cause of the noise.
28. Later in the morning, Thomas McEwan rang Heather on her mobile phone to check her electricity and water were still connected, however his calls rang out on each attempt.
29. Jason and Bronte, who lived in the houses closest to Heather, went to check on Heather. They found the communal driveway closest to her house completely

blocked by mud and trees, and further along they saw Heather's house and garage were gone. They both called out Heather's name but there was no reply. Jason walked to the edge of ravine and saw a fridge, parts of wall and her roof. He did not see any sign of Heather.

30. Other land slips occurred in Upper Wilsons Creek overnight and the only access road to the property was washed away and unpassable.

Police and Emergency Services Response

31. Due to the catastrophic weather event causing widespread flooding and property damage in the surrounding localities, police and emergency services were unable to attend in person that day.

32. On Tuesday 1 March 2022 New South Wales Police Force (NSWPF) Aviation crews attempted to fly over the property to conduct an aerial search but were unable to do so because of the extreme weather conditions. This same day, Detective Senior Constable Parker spoke with the Fire Captain for Wilsons Creek Rural Fire Brigade, John Milfud, and was told Upper Wilsons Creek had been completely cut off by landslides. The Senior Constable became aware that the residents had made contact with each other and were safe, apart from Heather. After making enquiries with the Fire Captain, he was advised the only way to access 131 Upper Wilsons Creek Road was to hike.

33. That same day, a military helicopter was utilised to winch in a NSWPF/Victorian Police Search and Rescue Team to conduct a search for Heather and assess the site. The site consisted of soft mud and debris, and there was a risk of further land slips due to the ongoing weather conditions and the saturated ground on the site and upslope from the site. No sign of Heather was found.

34. On Wednesday 2 March 2022, Detective Senior Constable Parker and Chief Inspector Kehoe hiked to 131 Upper Wilsons Creek Road where they spoke to Heather's neighbours. The Detective Senior Constable took photos of the property and the land slip site.

35. On Thursday 3 March 2022, Mr Michael Neville (Senior Engineering Geologist from Public Works Advisory) and Mr Yossi Levkovitch (Engineer and Senior RESFAC

from Public Works Advisory) attended the site with NSWPF Police Bomb and Rescue officers.

36. Mr Neville's assessment of the site was:

- The land slip reached from the scarp face on steeply sloping ground approximately 120m upslope of Heather's house.
- The land slip was approximately 350m long and 150m wide.
- Supersaturated material comprising rock fragments and clayey sand (crushed rock) formed a large debris flow, encompassing slope deposits and forest trees.
- Heather's collapsed house was moved approximately 100m downslope.
- Due to the ongoing supersaturation along with flowing/seeping water in the clayey sand matrix and sandstone boulders, there was potential for re-saturation to occur if there were further heavy rainfall events.
- The site is accessible only by foot.
- Heavy machinery should not be used as the site was so unstable.

37. On Friday 4 March 2022, Detective Senior Constable Parker and Queensland Police dog squad officers hiked to the property. While the Queensland Police dog squad conducted their enquiries, he took further photos and videos of the land slip site.

38. Sergeant Michael Hood from NSWPF Rescue and Bomb Disposal, who had been deployed to the Northern Rivers Region to assist emergency services, was requested to conduct a site assessment, and prepare a briefing for Fire and Rescue NSW and NSW Urban Search and Rescue who would be coordinating the search for Heather.

39. On Saturday 5 March 2022, Sergeant Hood with Senior Constable David Crane of Victoria Police Search and Rescue Unit attended the property; they spoke with Heather's neighbours who said they had been searching but had not found her.

40. Sergeant Hood hiked to the site, which he found difficult due to the ground being uneven and made up of deep mud that was so soft it went past his boots; there was still rainfall and the land was saturated. He took photos of the site using his

phone and used a Remotely Piloted Aircraft System Drone to take aerial images of the site to assist in planning the search operation.

41. On 7 March 2022, Inspector Russell Turner of NSW Fire and Rescue attended the site as coordinator of the search operation. It was a multi-agency operation with the 20-25 personnel made up of members from the NSWPF Rescue and Bomb Disposal, NSW Fire and Rescue, NSW Urban Search and Rescue, NSWPF officers, NSW Ambulance officers, Mr Levkovitch, an Engineer from Public Works Advisory and NSWPF Dog Unit officers accredited to detect human odour in various search environments.

42. At about 12pm on 7 March 2022, as the weather was clear, the search for Heather began. There were ongoing concerns regarding the unstable ground surrounding the site and the water still flowing freely through the site.

43. The search for Heather consisted of excavating down to mineral earth where possible in and around the remaining structure of her house. A surface search was conducted which spanned the width of the damage path caused by the landslip, extending from above the remaining house structure down to the creek where Heather's white Subaru was found.

44. During the search and excavation, the searching personnel noted:

- Heather's house had been moved about 100m down the ravine, breaking into pieces.
- The damage trail caused by the landslide was made up of rocks, boulders, broken trees and branches, and soft mud and clay that was very thick and hard to walk through.
- Water was flowing from above and through the site.
- The red tin roof was the only part of the house that remained intact. It was found resting against trees, which was believed to have stopped it from moving further down the ravine. Beneath the roof was overturned wooden floorboards and household debris.
- The roof was in the centre of the landslide site.

- Floorboards were embedded upright in the mud and acted as a retaining wall under the roof, preventing the roof and debris from sliding further into the ravine.
- Heather's white Subaru was destroyed and laying on its roof in the creek at the bottom of the ravine.
- Household items were scattered downslope from the remains of the house site.
- Personal items identified as belonging to Heather were found in the debris surrounding the main remaining structure of the house.

45. Excavation through the debris was conducted by hand and using hand tools. During the search personal items were located, of note a handbag, wallet and mobile phone. These were determined to belong to Heather.

46. Two police dogs accredited to detect human odour in various search environments (PD Marshall and PD Vegas) conducted searches through the site, each day marking the boundary for the searchers. On 7 and 8 March, both dogs indicated interest in the void under the roof on the western side of the site. Showing an interest indicates the dog has a scent of human remains. There was no other indication throughout their search of the site.

47. The search was suspended about 3.30pm due to deteriorating weather conditions and concerns for the safety of the excavation and search crew.

48. Tuesday 8 March 2022, the search operation commenced about 9.40am.

49. Excavation continued under the roof structure and upslope from the structure. Upslope a mattress was located buried in the mud and debris which searchers determined to belong to Heather due to being made up with bedding, sheets, and blanket. The area between the mattress and the roof was where both cadaver dogs had given their indications. Excavation began around the mattress, which was deeply impacted into the mud and debris. To remove the mattress from the mud and debris required extensive and careful excavation.

50. The search operation was suspended for the day at about 4pm.

51. On Wednesday 9 March 2022 the search operation commenced about 9.15am.

52. The excavation of the mattress re-commenced, and it was eventually removed from the mud. Underneath was a void which was further excavated and explored but there was no sign of Heather.

53. The excavation below and area surrounding the roof structure was completed on this date. The excavation consisted of the following actions:

- Removal of an estimated 90 cubic metres of mud and debris;
- Exposing intact floorboards located under the roof;
- Exploring the voids and cavities exposed after access holes were cut into the floorboards.

54. At about 12pm on Wednesday 9 March 2022, the search operation was concluded for the following reasons:

- The imminent arrival of further heavy rainfall raised concerns regarding the safety of the searchers as the site was still oversaturated and unstable;
- No further excavation could be done using only hand tools; and
- Excavation machinery would be required to do further excavation, however the terrain was too unsafe for heavy machinery and the site could only be accessed by hiking in on foot.

55. Heather's body had not been located during the search or excavation.

56. Search Coordinator, Inspector Russell Turner, opined in his statement dated 31 March 2022 there was nothing further that could be done to excavate the site using manual means. The basis of his opinion was:

- All areas around the work site that were able to be manually excavated had been overturned and searched down to mineral earth.
- All that remained was a mass of tightly packed mud, rocks, and vegetation, possibly with household effects within.
- Further excavation of this substrate mass and removal of tree trunks would substantially increase the risk of further collapse into the valley and would put rescuers at an unacceptable risk of injury or death.
- There was no sign of a decomposing surface victim such as scent or flies.

57. He continued on to say that if Heather had been swept away during the landslide, as had not been found within the remains of the structure, she would be located somewhere underneath the mud within the broader landslide debris field.

58. Heavy machinery would need to be utilised if further excavation was required, but this would not be a safe or practical solution without a substantial engineering project to stabilize the land slip area.

59. The Officer in Charge, Detective Sergeant Russell Ewing, took over carriage of the investigation into Heather's disappearance.

Further Signs of Life Checks

60. Police also conducted the standard enquiries that would be made in the event of a person being reported missing. These included requests to external agencies for any signs that Heather was still alive, including various interstate and national bodies, including police forces, road authorities, utility providers, government housing providers, corrective service organisations, Births, Deaths and Marriages departments, Medicare, financial institutions, and Centrelink. No signs of life were detected.

61. Sadly, to this date, there has been no further evidence to indicate that Heather Scott is still alive.

Time, Date and Place of Death

62. The last time Heather was seen alive was at 3pm on 27 February 2022. She was last seen driving towards her home along the communal driveway of 131 Upper Wilsons Creek Road, Upper Wilsons Creek. It is believed she had settled in for the night and did not leave her home.

Cause and Manner of Death

63. The cause of Heather's death is at this stage unknown.

64. The manner of death is Heather died after the house she was in was swept away in a landslide caused by intense rainfall during extreme weather conditions.

Findings required by s81(1)

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

The identity of the deceased

Heather Lucy Scott

Date of death

28 February 2022

Place of death

131 Upper Wilsons Creek Road, Upper Wilsons Creek, NSW

Cause of death

Unknown

Manner of death

Heather died when then house she was in was swept away in a landslide caused by intense rainfall during extreme weather conditions.

Heather was a well-respected and loved member of the close-knit community of Upper Wilsons Creek. I offer my condolences to Heather's family and friends.

I close this inquest.



Magistrate Teresa O'Sullivan

State Coroner

5 September 2023