



CORONERS COURT OF NEW SOUTH WALES

Inquest:	Inquest into the disappearance and suspected death of Leisl Alexandra Smith
Hearing dates:	10 June 2025 – 12 June 2025
Date of findings:	29 September 2025
Place of findings:	Coroners Court of NSW, Lidcombe
Findings of:	Magistrate Harriet Grahame, Deputy State Coroner
Catchwords:	CORONIAL LAW – missing person – no physical remains located – suspicious circumstances – homicide – coronial finding after abatement of criminal proceedings – Section 81(3) <i>Coroners Act</i> 2009 (NSW) – recommendations.
File Number:	2013/100191

Representation:	<p>Counsel Assisting the Coroner</p> <p>Ms Gabrielle Bashir SC, Ms Emma Sullivan and Ms Peita Ava Jones instructed by Ms Alecia Wood and Ms Alexis McShane of the Department of Communities and Justice, Legal</p>
Non-disclosure orders / non-publication orders:	<p>Pursuant to s 74 of the <i>Coroners Act 2009</i> (NSW) and the Court's implied or incidental powers, non-publication and non-disclosure orders were made on 10 June 2025. A copy of the orders is available from the Court Registry.</p>
Findings:	<p>Identity</p> <p>The person who died was Leisl Smith.</p> <p>Date of death</p> <p>Leisl died on 19 August 2012, at some time after 2.02pm.</p> <p>Place of death</p> <p>Leisl died at or somewhere in the vicinity of the Central Coast or Upper Hunter regions of NSW.</p> <p>Cause of death</p> <p>Leisl's cause of death remains unknown.</p> <p>Manner of death</p> <p>Leisl's death was a homicide. She was killed by James Scott Church.</p>

<p>Recommendations:</p>	<p>To the Attorney General of NSW</p> <ol style="list-style-type: none"> 1. That the Attorney General of NSW refer to the NSW Law Reform Commission, arising from the facts in this case, the question of whether the doctrine of abatement operating in the criminal justice system should be reformed – for example, to consider whether there may be proceedings in which verdicts can be delivered in circumstances where an accused dies during the currency of their trial, and to consider in particular the operation of the doctrine in circumstances where deliberations of a judge alone or jury have concluded. A copy of these findings is to be included with the referral. 2. That without further delay the Attorney General of NSW implement recommendation 34 of the Report on the Statutory Review of the Coroners Act 2009 (December 2023) published by the NSW Department of Communities and Justice.
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Introduction

1. This inquest concerns the disappearance and suspected death of Leisl Alexandra Smith. At the time of Leisl's disappearance, she was only 23 years of age. She was living with her father at 520 Bruce Crescent, Wallarah on the Central Coast of New South Wales.
2. Leisl had previously studied at TAFE and had a natural affinity with animals. She was a passionate equestrian and had her own beloved horse Molly, who was in foal at the time she disappeared. Leisl was employed casually as a part-time traffic controller and worked from time to time doing yard and stable work for others.
3. Leisl left her father's home for the last time on Sunday 19 August 2012 and drove her car to Tuggerah Railway Station. The last confirmed sighting of Leisl was when she was captured on CCTV footage entering James Church's vehicle outside the railway commuter car park before being driven away by him at 2:02pm. Leisl was reported missing to NSW Police by her father on 30 August 2012.
4. Leisl was born on 2 April 1989 to parents Sandi Harvey and Storm Smith. Sandi and Storm had three other children together, Francis, Grace and Robert, and Leisl spent many of her formative years living with these siblings and with Sandi's older daughter, Jerildene. Through Sandi, Leisl also had another older sister named Louise. Nieces and nephews have been born since Leisl's disappearance.
5. While Leisl's family relationships had at times been tumultuous and fractured, by August 2012 she was living with her father and their relationship was described as loving and supportive. Leisl's mother and sisters, Jerildene and Louise, attended the inquest and their grief at her confounding disappearance was palpable. While divisions in the family remain, Leisl is obviously deeply loved and missed by all.
6. Leisl's family generously shared photographs of her and memories of their fiercely free-spirited daughter and sister through powerful family statements given at the conclusion of proceedings. I learned from her sister that Leisl was a strong Wiradjuri woman. Her family's stories revealed someone who danced to the beat of her own drum, who was adventurous and who was always looking to find joy in life. Although outwardly full of bravado, Leisl was also known for her empathy and sensitivity. She was at once curious and mischievous. She loved to laugh. A country-music enthusiast, Leisl loved wearing her jeans, cowboy hat and boots. She had a natural affinity with animals and an especially deep connection with horses. Notwithstanding

some difficulties in her childhood – ultimately, Leisl simply wanted to be loved and cherished. That the traumatic events I will shortly outline occurred when she was so young and before she could reach her full potential is a particularly cruel burden for her family.

7. I thank members of Leisl's maternal family for their participation in these difficult proceedings. They have my utmost respect for their tenacity and strength. It is clear to me that they are tormented by the procedural history of this matter which has left them without clear answers. They are motivated to seek changes to the law which might prevent others from experiencing similar uncertainty.
8. Leisl's family have been seeking resolution of questions surrounding her disappearance for some 13 years. I am aware that family members continue to hold different views in relation to what happened to Leisl and I regret that my findings in relation to the reasons for Leisl's disappearance are unlikely to be accepted by all.

Role of the coroner and procedural history

9. On 14 March 2013, the Officer in Charge, Detective Sergeant Mick Jones of the NSW Police Force, notified the coroner that Leisl was suspected of being deceased and nominated Mr Church as a person of interest in her suspected murder. A P79B "Report of Suspected Death to the Coroner form" was lodged and a coronial file opened. Coronial Scene Orders were issued allowing the search of various properties and a full brief was ordered. At that stage, the police investigations were continuing. The court file indicates that the coroner was informed from time to time about the progress of the investigation but was waiting to hear if charges were to be laid prior to commencing an inquest.
10. In October 2018, Mr Church was arrested and charged with the murder of Leisl. I then determined an inquest would not commence pursuant to s 78 of the *Coroners Act 2009* (NSW) ('the Act') and the coronial file was suspended.
11. Mr Church's trial for the murder of Leisl Smith commenced in the NSW Supreme Court on 24 January 2022. The trial proceeded as a Judge alone trial. After 68 hearing days, on 24 May 2022, Her Honour, Justice Elizabeth Fullerton adjourned, indicating that she would deliver a verdict on a date to be fixed. Mr Church remained on bail. On 1 July 2022, parties were informed that Her Honour was ready to deliver a verdict on 8 July 2022.

12. Mr Church died by suicide on or about 6 or 7 July 2022, the day prior to the date notified as the day a verdict would be entered. As a result of Mr Church's death, no verdict was ever entered and the judgment was sealed pursuant to the common law doctrine of abatement. It is in these circumstances that Leisl's matter was revived in the coronial jurisdiction.
13. Noting s 27(1)(a) of the Act, an inquest into the suspected death of Leisl is mandatory because I am satisfied that the available evidence suggests she might have died as a result of homicide. Additionally, the manner and cause of Leisl's suspected death has not been sufficiently disclosed from the material in the police brief, making the holding of an inquest also mandatory pursuant to s 27(1)(d).
14. When the case of a missing person suspected to have died is reported to a coroner, the coroner must first determine as a threshold question whether the evidence establishes that the person is deceased.
15. If the coroner forms the view that a missing person has died then the coroner has an obligation to make findings in order to answer questions about the identity of the person who died, when and where they died, and the manner and cause of their death pursuant to s 81 of the Act. The manner of a person's death means the circumstances in which that person died whereas the cause of death is the direct and proximate physiological cause of the death.
16. Pursuant to s 82 of the Act, the coroner may make recommendations, arising from the evidence, where they are necessary or desirable. Matters of public health and safety are regularly the subject of coronial recommendations however it is clear that a coroner's recommendatory power is not confined to such matters. The constraint in s 82 is that the recommendation must be *necessary* or *desirable* and relate to a matter '*connected with*' the death.
17. At this point, it is worth underlining two differences between a coronial inquest and a criminal trial which are relevant to this matter.

Coronial findings cannot determine criminal liability

18. Firstly, it is not the role or responsibility of coroners to determine whether a person is guilty or innocent of a criminal offence. In fact, coroners are statutorily prohibited by s 81(3) from indicating or '*in any way*' suggesting that a person has committed an offence in their formal findings under ss 81(1) or 81(2).

19. However, there is an established body of case law supporting the proposition that the mere recitation of facts about *how* a death occurred and the cause of death, does not contravene the s 81(3) prohibition. This is consistent with the basic function of a coronial inquest as set out in *R v South London Coroner, ex parte Thompson* per Lord Lane CJ:

The function of an inquest is to seek out and record as many of the facts concerning the death as public interest requires.¹

20. In discharging this function:

It is the duty of the coroner as the public official responsible for the conduct of inquests...to ensure that the relevant facts are fully, fairly, and fearlessly investigated. ...He must ensure that the relevant facts are exposed to public scrutiny, particularly if there is evidence of foul play, abuse, or inhumanity. He fails in his duty if his investigation is superficial, slipshod or perfunctory.²

21. In some cases, the coroner's role as investigator and fact finder requires an exploration of facts which might be relevant to criminal (or civil) liability, albeit tangentially. There is no obstacle to this course, as was confirmed in the Queensland Supreme Court decision of *Atkinson v Morrow* (per Mullins J), which considers the cognate provision to s 81 of the Act.³ Relevantly, in that case, Mullins J noted:

The prohibition does not preclude the coroner from exploring facts for the purpose of making the findings required under s 43(2) of the Act which may also incidentally have a bearing on civil or criminal liability.⁴

22. Her Honour cited the English Court of Appeal decision of *R v HM Coroner for North Humberside & Scunthorpe, ex parte Jamieson* in support:

¹ (1982) 126 SJ 625; *The Times*, 9 July 1982; full text decision in P Knapman & M Powers, *Sources of Coroners Law* (1999) Vol 1, p 214 at 218-219.

² *R v HM Coroner for North Humberside & Scunthorpe, ex parte Jamieson* [1995] 1 QB 1, at 26B point (14), per Sir Thomas Bingham MR in delivering the judgment of the Court of Appeal. His Lordship later restated this view in *Jordan v Lord Chancellor* [2007] 2 AC 226, at [23].

³ s 43 *Coroners Act 1958* (QLD). This section has subsequently been modified in the *Coroners Act 2003* (QLD) and is found at s 45 but the effect of the prohibition contained therein is the same.

⁴ [2005] QSC 92, at [26].

Plainly the coroner and the jury may explore facts bearing on criminal and civil liability. But the verdict may not appear to determine any question of criminal liability on the part of a named person nor any question of civil liability.⁵

23. As noted by Queensland Central Coroner O'Connell in the *Inquest into the death of Shandee Renee Blackburn*,⁶ a consequence of recording the facts found by the coroner is that:

...it may well be open, to an objective reader of an inquest decision, to draw such conclusions as that reader believes are open. This is well-recognised in coronial jurisprudence. Lord Lane CJ, in *Thompson*⁷, set out the position as follows:

In many cases, perhaps the majority, the facts themselves will demonstrate quite clearly whether anyone bears any responsibility for the death; there is a difference between a form of proceedings which affords to others the opportunity to judge an issue and one which appears to judge the issue itself.

24. It follows that findings from which a reader may draw their own conclusions about what ultimately occurred do not contravene the prohibition contained in s 81(3) of the Act.⁸
25. In this regard, the leading authority on the construction of s 81(3) of the Act derives from *Perre v Chivell*,⁹ a decision of the Supreme Court of South Australia. In that case Nyland J, was concerned with an application to set aside coronial findings concerning the identification of a person who had sent a bomb to a premises which exploded and killed a police officer.
26. *Perre v Chivell* analysed s 26(3) of the *Coroners Act 1975* (SA), which was relevantly in these terms:

A coroner holding an inquest must not in the inquest make any finding, or suggestion, of criminal or civil liability.

⁵ [1995] 1 QB 1, at 24E-F.

⁶ 21 August 2020, 'Ruling' annexure A at pages 66 – 74, paras [28] and [30].

⁷ Cited above, see fn 1, (full text decision) at 218. His Lordship was there citing, with approval, from the 'Brodrick Report', at [16.40]: *Report of the Committee on Death Certification and Coroners* (1971) Comd 4810.

⁸ This view is supported by the learned authors of *Waller's Coronial Law & Practice in NSW* (4th Ed, 2010) at [81.35]: 's 81(3) does not mean that a coroner cannot make findings of fact which, if accepted by a criminal court, could render the person criminally liable.'

⁹ (2000) 77 SASR 282 (SASC).

27. After careful review of the development of s 26(3), Nyland J concluded at [57] that:
- The mere recital of relevant facts cannot truly be said, of itself, to hint at criminal or civil liability. Even though some acts may not seem to be legally justifiable, they may often turn out to be just that. For example, a shooting or stabbing will, in some circumstances, be justified as lawful self-defence. As I have stated, criminal or civil liability can only be determined through the application of the relevant law to the facts, and it is only the legal conclusions as to liability flowing from this process which are prohibited by s 26(3). Thus, the word "suggestion" in this section should properly be read as prohibiting the coroner from making statements such as "upon the evidence before me X *may* be guilty of murder" or "X *may* have an action in tort against Y" or statements such as "it appears that X shot Y without legal justification". In other words, the term "suggestion" in s 26(3) prohibits speculation by the coroner as to criminal or civil liability. In the present case, the coroner has neither found nor suggested that Perre is criminally or civilly liable for his acts.
28. This authority has since been applied many times in the coronial jurisdiction across Australia.¹⁰ It has been cited with approval by the South Australian Full Court in 2020,¹¹ in the Queensland Supreme Court the same year,¹² and most recently, in the Supreme Court of Tasmania in 2023.¹³
29. I also note that although the prohibition contained in s 81(3) concerns the formal recordings made under ss 81(1) or 81(2), the authors of *Waller's Coronial Law & Practice in NSW* have expressed the view that it would nonetheless 'be inappropriate for a coroner to make a finding of criminal liability, or to speculate that a person may be guilty of a criminal act in the course of his or her reasons'. As stated by President Kirby in *Attorney General v Maksimovich*,¹⁴ a narrow interpretation of s 81(3) would unduly circumvent its legislative purpose.¹⁵
30. I will have more to say about s 81(3) later in my findings.

¹⁰ For some examples see fn 16.

¹¹ *Commissioner of Police & Anor v Coroners Court of South Australia* [2020] SASCF 64.

¹² *Nuemann v Hutton & Anor* [2020] QSC 17.

¹³ *Tkalac v Cooper* [2023] TASSC 7.

¹⁴ (1985) 4 NSWLR 300 at 313.

¹⁵ J Abernathy, H Dillon, B Baker and H Roberts, *Waller's Coronial Law & Practice in NSW* (4th Ed, 2010) at

[81.36].

31. A related question that has caused some consternation for coroners is whether a 'known person' can be named and associated with having caused or contributed to the death in coronial findings. However, in my view, and as has been accepted in other jurisdictions,¹⁶ *Perre v Chivell* is clear authority for the proposition that it is permissible to identify a person as having caused or contributed to a death by some act or omission but, as elucidated above, a coroner cannot draw a legal conclusion about the person's actions (for example, classifying the conduct as constituting the offence of "murder") or attribute legal liability.
32. Indeed, this is an accepted practice in NSW at least where the 'known person' is also deceased by the time of inquest.¹⁷ Examples include the findings in *Inquest into the death of Kate Molanyay*,¹⁸ *Inquest into the deaths of Geoffrey, Kim, Fletcher, Mia and Phoebe Hunt*,¹⁹ *Inquest into the deaths of Eeva Dorendahl and Greg Hutchings*,²⁰ *Inquest into the deaths of John, Jack and Jennifer Edwards*,²¹ and *Inquest into the death of Michelle Daphne Michell*.²²
33. I pause to say that while there is an accepted practice in NSW, it would be preferable for the legislation to be clearer in this regard and it is a matter to which I will return.

Standard of proof

34. The second important difference between criminal trials and coronial inquests is in the applicable standards of proof. The coronial standard is the civil standard *i.e.*

¹⁶ See, for example, *Record of investigation (with inquest) into the suspected death of Lucille Gaye Butterworth* (TAS), 2 May 2016 and *Inquest into the death of Shandee Renee Blackburn* (QLD), 21 August 2020. The applicable Acts in South Australia (*Perre v Chivell*), Tasmania and Queensland are broadly consistent with the NSW Act. *Coroners Act 1975* (SA) at s 26(3): A coroner holding an inquest must not in the inquest make any finding, or suggestion, of criminal or civil liability; *Coroners Act 2003* (QLD) at s 45(5): The coroner must not include in the findings any statement that a person is, or may be (a) guilty of an offence; or (b) civilly liable for something; *Coroners Act 1995* (TAS) at s 28(4): A coroner must not include in a finding or comment any statement that a person is or may be guilty of an offence. Further, the Coroner's Court Bench Book from Victoria cites *Perre v Chivell* with approval, stating '*coroners should focus on finding the relevant facts without making any statement about the legal effect of those facts*' and relies on *Priest v West* (2012) VSCA 327 as authority for the proposition that '*a coroner must determine the identity of any person who contributed to the death as part of the obligation to find the circumstances in which the death occurred*'.

¹⁶ Section 27(1)(a), *Coroners Act 2009* (NSW).

¹⁷ I accept, however, that following the rationale in *Perre v Chevell* a coroner is permitted to name a living 'known person' and it appears that the NSW cases cited either did not consider the issue with regard to that authority, or in some cases did not provide analysis of the issue at all, or took a different approach predicated on the notion that a deceased person has no legal personality.

¹⁸ Findings of Deputy State Coroner Dillon, 29 August 2014, see analysis in paragraphs [27] – [39]. I note, for completeness, that in the narrative of the findings and his reasoning, DSC Dillon goes beyond the approach in *Perre v Chevell* (which was not considered) by, for example, referring to Ms Molanyay's death as a 'terrible crime', but the s 81 formal finding itself accords with that decision.

¹⁹ Findings of State Coroner Barnes, 9 October 2015,

²⁰ Findings of Acting State Coroner Sullivan (as her Honour then was), 26 March 2019.

²¹ Findings of State Coroner O'Sullivan, 7 April 2021, see in particular paragraphs [14] – [16].

²² Findings of Deputy State Coroner Baptie, 28 March 2024.

‘upon the balance of probabilities’ whereas the criminal standard is the significantly more stringent ‘beyond reasonable doubt’.

35. Unlike a criminal trial, it is not necessary for me to exclude all reasonable competing possibilities before I can be satisfied that a fact is established *on balance*. I must, however, feel an actual persuasion that the fact has occurred or exists before it can be found.²³

36. *The Laws of Australia*²⁴ states:

The civil standard of proof is to be applied in Australian coronial inquests; that is to say matters should be established on the balance of probabilities, although strong evidence will be needed to displace this burden where serious allegations are involved.

37. This is an acknowledgment that a sliding scale of proof is necessary for the various matters a coroner is required to find with stricter proof warranted where the finding carries serious consequences. This is the principle from *Briginshaw v Briginshaw*²⁵, explained by Justice Dixon thus:

Except upon criminal issues to be proved by the prosecution, it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters ‘reasonable satisfaction’ should not be produced by inexact proofs, indefinite testimony, or indirect inferences.²⁶

38. It is well established that examples of the type of findings which require stricter proof include a finding of suicide, a finding that a missing person is deceased, or where a coroner makes express or implied criticism of an interested party. In the particular circumstances of Leisl’s case, it would apply where there are findings of fact that a

²³ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361.

²⁴ WestLaw at [20.10.1340].

²⁵ (1938) 60 CLR 336.

²⁶ *Ibid* at 362.

person has done something which reflects adversely on their character or, relatedly, a very grave finding that a person has caused or contributed to her death.

Sufficient interest parties

39. Leisl's mother and sister Jerildene Cane were identified as having a sufficient interest in Leisl's inquest and attended the inquest each day. Mr Storm Smith, Leisl's father, was also invited to participate in the proceedings, however he ultimately declined to take an active role during the hearing. It is apparent that he has a sincere interest in the circumstances of Leisl's disappearance and I do not interpret his decision as reflecting otherwise.
40. The final partner of Mr Church and his parents were notified of their sufficient interest in the proceedings by virtue of being his next of kin. The particular interest possessed by Mr Church's next of kin regarding Leisl's inquest relates to reputational concerns.²⁷ This category of interest was specifically recognised in *Annetts v McCann*, which concerned the parents of the deceased.²⁸ In particular, the Court stated (emphasis added):

... A finding in an inquest into a death is naturally likely to deal with the conduct of the deceased leading to death. An unfavourable reflection on the deceased is usually a matter of concern to her or his parents, spouse or children and, if they choose to appear at the inquest in order to safeguard the reputation of the deceased, the familial relationship suffices, in my view, to establish the deceased's reputation as a relevant interest which should not be adversely affected without according natural justice to those who are seeking to safeguard that reputation. It is immaterial that the common law denies parents, spouse or children a legal right to sue in defamation for damage done to that reputation, for interests falling short of legal rights suffice to give a person standing to seek judicial review. In my view, therefore, if and when the Coroner reaches the stage of contemplating the making of a finding unfavourable to

²⁷The learned authors of *Waller's Coronial Law and Practice in New South Wales* (4th Ed, 2010) at [1.229] recognise this category of interest and suggest it should not have narrow application:

A person's reputation has been recognised as one of the types of interests that may be affected by a coroner's findings. Accordingly, a coroner must not make any finding adverse to the interests of a person without giving him or her (or in the case of a deceased person's reputation, his relatives) the opportunity to be heard.

²⁸ [1990] HCA 57.

the reputation of the appellants' deceased son, he should afford the appellants an opportunity to address him on that contemplated finding.²⁹

41. Mr Church's next of kin declined to participate in the proceedings.

The issues

42. The list of issues for this inquest are:

- a) Is Leisl Smith deceased?
- b) If so:
 - a. can the date and place of Leisl's death be established?
 - b. can the manner and cause of Leisl's death be established?
- c) Related to the manner of death: does the evidence establish that a known person caused or contributed to Leisl's death?
- d) Pursuant to s 82 of the *Coroners Act 2009* (NSW): are there any recommendations that should be made relating to the death of Leisl?

The evidence

43. The Court sat for three hearing days which included taking evidence from the Officers in Charge, Detective Sergeant Mick Jones and Detective Sergeant Matthew Erickson. The Court also received extensive material filling 26 volumes of evidence comprised of, *inter alia*, the transcripts of Mr Church's lengthy murder trial, every trial exhibit and a selection of documents marked for identification ('MFI') at trial. The trial exhibits and MFIs include witness statements, maps, photographs, CCTV footage, reconstructions, telephone intercept material, phone data, and evidence summaries, all of which police had methodically collated as part of their extensive investigation into Leisl's disappearance.
44. The coronial brief of evidence also included material gathered by police after Mr Church's trial, in particular recent signs of life checks, an interactive map by the Mapping Unit depicting the area accessible to Mr Church around Merriwa NSW on

²⁹ Brennan J at [16]. The concept is also supported by plurality at [14]: 'The Full Court appears to have incorrectly assumed that the interests of the appellants did not include the protection of the interests of the deceased.' Also Toohey J at [23]: 'If the Coroner were to make a finding that bore adversely on the conduct of the young men in leaving their employment or in relation to the motor vehicle in which they left the station or, more particularly, as to how Simon Amos received the gunshot wound that caused his death, that would be something in relation to which the parents have a real interest in being heard... Any finding of the sort referred to at the beginning of this paragraph would be one in respect of which procedural fairness (the appropriate emanation of natural justice in the present case) requires that counsel for the parents be given an opportunity to address the Coroner. The relationship of parent and child and the emotional consequences for the family of such a finding demand that such an opportunity be afforded.'

the day Leisl disappeared, and information about the conduct of missing persons investigations.

45. I have also received evidence that was available to prosecutors but not admitted at the criminal trial. This is possible because there are different, less rigorous, evidentiary rules in coronial proceedings whereby any evidence, including hearsay evidence, may be admitted if the coroner is satisfied it is relevant and sufficiently reliable and probative.
46. Furthermore, it is appropriate to receive this additional evidence having regard to the scope and responsibilities of a coroner in discharging their death investigation function.³⁰ In short, a coroner is obliged to take all reasonably available steps to gather the information necessary to ground the findings mandated by s 81 of the Act.³¹ Any material relevant to the statutory findings a coroner is required to make may be admitted and this applies to evidence not considered at the criminal trial, including evidence ruled inadmissible.
47. I have therefore received an entire volume of police material supporting, it was submitted to me by counsel assisting, a tendency of Mr Church to inflict serious harm or really serious harm on intimate partners. As I have indicated above, this material was not before the trial court and, without criticism, I merely note that the reason for that is not apparent from the trial transcript.
48. The voluminous size of the brief means it is impossible to refer specifically to all the available material in the scope of my reasons, however it has all been comprehensively reviewed and assessed, and I will distill key components of it.
49. Counsel assisting provided a summary of much of the evidence in this matter in her very comprehensive opening and closing addresses. In preparing these findings I have relied heavily on her account which, in my view, accurately reflects the detailed evidence before me.

³⁰ A coroner is obliged to investigate all the circumstances of a death within the Court's jurisdiction: *Thales Australia Ltd v Coroners Court* [2011] VSC 133 [72] (Beach J). A coroner 'must discover all he or she can about the circumstances surrounding a death': *Priest v West* (2012) 40 VR 521, 560 (Tate JA), citing Law Reform Committee, Parliament of Victoria, *Coroners Act 1985* (Final Report, September 2006) 251.

³¹ Freckleton I and Ranson D, *Death Investigation and the Coroner's Inquest*, Oxford University Press, Victoria, 2006, p 547.

Threshold question – Is Leisl deceased?

50. At common law, there is a presumption in favour of the continuance of life³² however, it is not a rigid presumption and the particular circumstances of any given case must be carefully examined before a finding of death can be made. As I indicated earlier in these reasons, given the seriousness of a finding of death, it is well established that the court should apply the *Briginshaw* standard stringently and only make such a finding on the basis of clear and cogent evidence. In this case, the evidence is sufficient for me to be satisfied, to the requisite standard, that Leisl is deceased.
51. Before traversing the evidence that supports this finding, I wish to acknowledge Leisl's family and offer my deepest condolences for their incalculable loss. The death of a young person, so full of potential, is immensely disturbing and has a devastating impact on those left behind. Their powerful, thoughtful and moving family statements leave me in no doubt that they cherish their memories of Leisl. She will never be forgotten.
52. I also wish to acknowledge that I have been informed that Leisl's father does not accept her death. Given their close relationship and his undoubted understanding of Leisl's character and behaviour, his firm belief that she may still be alive is a matter that I have considered carefully and weighed against the other evidence before me.
53. Nevertheless, I am persuaded that Leisl is deceased based on the following circumstances:
- a) On 19 August 2012, Leisl did not return to look after the horses at 5:00pm as she told her father and partner Mr Craig Elkin she would do. She did not return to Mr Elkin's on the night of 19 August 2012 or to any place thereafter, despite at that time being in a happy relationship with each;
 - b) Leisl did not attend to her beloved horse Molly who was 'in foal' or make any enquiry as to Molly or her other horses after 19 August 2012;
 - c) Leisl never attended her workplace again, did not return calls from supervisors and did not log in to her TAFE course again;
 - d) Leisl's functioning car was abandoned at the Tuggerah Railway Station

³² *Axon v Axon* (1937) 59 CLR 395.

commuter carpark;

- e) Extensive signs of life checks both prior to and in the lead up to the 2022 trial produced no evidence supporting a conclusion that Leisl is alive. Those searches were refreshed in advance of this inquest and they did not disclose any signs of life in the three years following the trial. For example, post 19 August 2012, there is no record of Leisl interacting with Centrelink, Births, Deaths & Marriages, the NSW Electoral Commission, the Australian Passport Office, and Border Force. She has not claimed Medicare or PBS benefits, has not renewed her NSW driver's license, and there is no record of her incurring driving tolls or making large financial transactions in Australia or overseas;
- f) She has not accessed her bank account or set up an account with any other major bank. There is no evidence that she ever had access to substantial amounts of cash and there is evidence that she used her father's account for petrol shortly before her disappearance. There is no record of her establishing accounts with Australian telecommunications providers or household utility suppliers;
- g) Leisl has not accessed or posted on any social media since 18 August 2012;
- h) Leisl failed to attend her appointments with her psychologist Ms Diane Arnott on 30 August 2012, with gynaecologist and obstetrician Dr Raouf Farag on 12 September 2012, or with Centrelink on 17 September 2012;
- i) Despite at least tens of thousands of people being exposed to requests for information, there is no firm evidence establishing a confirmed sighting of Leisl. Methods employed to get further information include rewards posters organised by her father and other posters printed by her mother displayed at distant locations and around Tuggerah and Wyong, at railway stations and police stations; a sustained Facebook campaign by her mother and sister; flyers with images of Leisl; published photographs in the magazine Horse Deals, and news and social media articles with her image. Unfortunately, all subsequent reports of potential sightings of Leisl have either been debunked or are not reliable;
- j) A private investigator assisting Storm Smith in his attempts to find Leisl did not locate her;

- k) Leisl has not spoken to any family or friends since 19 August 2012, and, I am satisfied, has not contacted them in any way (I will return to the confounding messages and 'missed calls' from Leisl's phone number ending in 661 which post-date her disappearance), and that is despite the clear objective evidence showing her to be a very prolific correspondent by text, call and social media prior to 19 August 2012. I find this circumstance to be particularly compelling in light of what I perceive to be a strong yearning felt by Leisl to have connection and communication with the people she cared about³³;
- l) The trial proceedings themselves did not change this lack of contact or produce any sign of life, and nor has this inquest: there has been no contact from Leisl despite significant publicity and media reporting surrounding the court proceedings;
- m) There have been no alerts to DNA matches with any unidentified remains on the databases nationwide of DNA, despite mitochondrial DNA from Leisl's mother being uploaded to the system in 2013;
- n) There is, additionally, evidence supporting a finding that Leisl met her death after 2.02pm and prior to midnight on 19 August 2012 to which I will return.

- 54. As I have stated, I understand that Mr Storm Smith believes Leisl is still alive, that she may have run away or that she has entered witness protection. Essentially, I am informed that he believes she has voluntarily disappeared for reasons which are not altogether clear. The very comprehensive police investigation has, regrettably, not revealed any evidence supporting this theory.
- 55. This inquest examined all of the available evidence of potential identification or 'sighting' of Leisl including reports that were either not called, admitted or ultimately relied upon at Mr Church's trial.³⁴ I intend to canvass in these reasons only some of the potential sightings of Leisl to illustrate the overall quality of this category of evidence and, relatedly, the basis upon which I have concluded that there have been

³³ Detective Sergeant Jones said at inquest that Leisl was someone who craved connection with people as evidenced by her prolific phone use: T98.38.

³⁴ This includes potential sightings of Leisl reported by Storm Smith, James Church, Tommy Bridge, Ashley Hastings, Ashley Cole, Rebecca Thew, Harris and Rimmelzwaan, Ashley Baxter, Janice Tyson, Bradley Turk, Simon Allen, Kay Adams, Stephen Blackshaw, Francis Colless, Jennifer Lang, Kate Baker, Pamela Stephenson, Maria Byrnes, Gregory Byrnes, Constable Nicole Coombs re Mr T phone calls, Debra Bell, Jason McCarthy, Kobie-Rose Palmer, Belinda Lees and Dale Clouten.

no positive identifications of Leisl made after 19 August 2012. In making that finding, I note that it is the experience of this court that it is not uncommon for sightings to be reported in a case like this for a wide variety of reasons. Sometimes these sightings are the result of grief, some are pure mistakes by people wanting to assist. At times, less altruistic reasons are identified.

56. **Ms Debra Bell**, a neighbour of Leisl's, initially made a statement to police that she had seen her on Monday 3 September 2012 standing outside the Grand Hotel on the Pacific Highway in Wyong CBD. Leisl had blonde hair and they chatted about Ms Bell's horses. Ms Bell told police she was there to pay her rent at LJ Hooker. Police pursued this potential sighting and found evidence that undermined Ms Bell's account. Ms Bell ultimately conceded at trial that her last sighting of Leisl was before her disappearance (on 11 August 2012) at a garage sale she was holding.
57. **Ms Rebecca Thew** (a person with no relationship to Leisl) reported in January 2013 to the 'Find Leisl Smith' Facebook page that she saw someone who looked like Leisl around five months earlier, when she gave her money for a train ticket at the Ourimbah train station and then sat with her on the train, after she attended a job interview or dropped her son at daycare. Ms Thew stated that she caught the train on a Sunday or Monday as her car was off the road. Her next account was via an online missing persons report in March 2013 and contained new details about her conversation with Leisl. It appears that the next day, Ms Thew and Mr Storm Smith began communicating. She told Mr Smith that she was certain the person she saw was Leisl and that it happened at the end of August 2012. This account is consistent with her recorded police interview. However, Ms Thew ultimately conceded in her sworn testimony, when confronted by the evidence of when her licence was suspended and her car not registered, that she must have been on the train between 13 June and 4 July 2012. There was also evidence that the job interview occurred at the end of July with the job awarded on 26 July 2012. Ms Thew's account was not only debunked based on timing, but I accept the submission that it was more generally of dubious reliability. While she demonstrated extreme reluctance to engage with police, Ms Thew inserted herself into the investigation, contacting various persons close to Leisl, including Mr Smith, Leisl's mother and Mr Elkin, asking Mr Smith at some stage to *'throw some more tips at me'* when he was questioning her. Her account grew (such as to include that the girl had recently dyed her hair and that her horse was expecting a foal, based on information she had

sourced elsewhere). In all the circumstances, I accept counsel assisting's submission that Ms Thew's account can be disregarded.

58. **Mr Ashley Cole**, Leisl's farrier and friend, thought he saw Leisl in September or October 2012 on the Sparks Road rail overpass bridge east of Bruce Crescent, but he was not 100% sure it was her. He was driving at 80 kilometres per hour and it was a brief glance out the window, he doubled back to look but could not see her. Police investigated all the roadworks on Sparks Road throughout September and October 2012. Two jobs were easily eliminated and close attention centred on roadworks performed around 7 October 2012 by the Asphalt Man. The traffic controller on that job, Mr Dean Troughton identified the two women he worked with, neither of whom were Leisl. He confirmed to police that he did not know Leisl. One of the women, Kelly Campbell, made a statement that she worked on that job and named another as being on the job with her. The other woman, Kristy Taylor, made a statement that she was on that job. Alicia Andrews also gave evidence that she worked for the company but did not remember that job and does not know Leisl. None of the other employees knew Leisl. This potential sighting was investigated and it was not Leisl who Mr Cole saw.
59. **Ms Kobie-Rose Palmer**, an acquaintance and confidante to Leisl, gave evidence that she may or may not have seen her in November 2012. Her sighting was of a girl with brown hair and eyes that looked like Leisl, walking a medium sized dog. She could not say for certain it was Leisl. She also gave evidence about seeing a woman resembling Leisl riding a motorcycle without a faceguard on Bruce Crescent in December 2012 or January 2013, but she herself doubted that sighting was in fact Leisl. From Ms Palmer's police statement, it is clear there have been other occasions where she mistakenly thought she saw Leisl. The equivocal nature of Ms Palmer's accounts, combined with no other signs of life evidence, leads me to conclude that she was mistaken about seeing Leisl.
60. **Mr Jason McCarthy**, an acquaintance of Leisl, gave evidence at Mr Church's trial of receiving a phone call in about late 2014 when he was on the noisy main street in Cessnock but ultimately could not say it was Leisl Smith. His evidence was in any case, I accept, of dubious reliability, and the date he nominated for the phone call was not supported by objective records.
61. **Mr Storm Smith** gave evidence at the trial of what he regarded as three certain sightings of his daughter. One in a still image from the Equitana event in November

2012, one on television in April 2013, and one in a car at Windsor NSW in June 2014. I have considered all this evidence very carefully, noting its potential importance given the close familiarity between father and daughter.

62. With respect to the last sighting, Mr Smith's account was that he was stopped at the intersection on Bridge Street, intending to turn right, waiting for oncoming traffic to pass. Coming towards him, very slowly, was a driver that he was certain was Leisl. The woman looked at Mr Smith and he '*really locked eyes on her*'. Although she was driving slowly it was, overall, a reasonably quick interaction. He said he didn't check the car's license plate because he was '*too shocked that it was [Leisl]*'. Although he had opportunity to turn around and attempt to catch up with the car, Mr Smith explained that he did not elect to do so. The trial court heard that there was evidence that Mr Smith first reported this sighting on 23 July 2020 to the Australian Federal Police, although Mr Smith insisted he originally reported it in 2014 or 2015.
63. It is significant that Mr Smith strongly maintained his assertion that it was Leisl in the 2013 television news broadcast even after he was presented with contradictory evidence from a young woman named Stephanie McCallum-Keily who identified herself as the person in the footage. Mr Smith told the trial court that none of his sightings of Leisl was stronger than the other. He said he was '*confident they're all of her*'. Some days after his evidence concluded, police located another young woman named Emily Phillips who identified herself as the woman in the Equitana photograph. To my mind, it has been irrefutably established that it was not Leisl that Mr Smith saw in the photograph or news footage. Consequently, I do not accept that the woman Mr Smith saw driving a car in 2014 was Leisl either, given he places the strength of this sighting as no higher than the others. Mr Smith's confidence that he has seen Leisl on these three occasions appears to be an honest mistake, which is readily understandable in circumstances where his earnest wish is that she might still be alive.
64. **Ms Belinda Lees**, Mr Church's partner and Leisl's neighbour, thought she might have seen Leisl driving a car on Bruce Crescent on 3 February 2013, whilst Belinda was alone riding her horse. However, it was later established by police that this was in fact Leisl's sister Jerildene who was visiting from Tasmania.
65. **Mr James (Jim) Church** told police he was with Belinda Lees when he thought he saw Leisl in a car with Mr Smith on Bruce Crescent in about early February 2013;

however, he accepted in his next police interview in April 2013 that this must have been Leisl's sister.

66. It appears there was another occasion where Mr Church told Ms Lees he had seen Leisl with Mr Smith but when she suggested reporting this to police he replied, '*No, I don't want to have anything to do with the silly bitch*'.
67. Although there are some discrepancies, this may be the same incident that Mr Church did eventually report to police in February 2013. During that interview, he reported seeing Leisl driving on Bruce Crescent in a white Falcon Ute before Christmas 2012. According to Mr Church, he saw Leisl as he was turning into Ms Lees' driveway and Leisl looked straight at him before diving under the car's dashboard. He said he was '*absolutely sure*' it was Leisl wearing a straw cowboy hat and he reported it to Ms Lees '*straightaway*'. In his next interview with police Mr Church maintained it was his belief it was Leisl. For reasons that will be elaborated upon later, I consider Mr Church to be a person lacking in any credibility. I do not accept Mr Church's account of seeing Leisl after 19 August 2012 because it is not corroborated by other evidence. It is implausible that she would be in a car on the street where she had lived when her family and others were looking for her. I am also persuaded that having regard to all the evidence in this case, Mr Church's account is a deliberate lie designed to mislead investigators and deflect suspicion.

The police investigation

68. When Leisl did not return to Mr Smith's residence at 5pm on 19 August 2012 to feed the animals and rug the horses as she had promised, he became concerned. Separately, Mr Elkin, Leisl's partner, was surprised when Leisl did not come to stay at his place that evening as expected. Mr Smith and Mr Elkin sent text messages to Leisl, and Mr Smith left her voicemails, between 5:59pm and 10:33pm on 19 August 2012 that went unanswered.
69. Both men continued their worried attempts to contact Leisl on her mobile throughout 20 August 2012 and into 21 August 2012, urging her to contact them. These messages, too, were not replied to.
70. I will have more to say about what the phone records reveal later, but suffice to say, for present purposes that Leisl's phone was in fact switched off or inactive from 2:33pm on 19 August 2012. Leisl's phone number was later re-activated from

12:24pm on 21 August 2012 and was then active until 26 November 2012. This activity included contact from her number with both her father and Mr Elkin in the form of text messages or missed voice calls, however all of their attempts to speak with Leisl on her phone were unsuccessful.

71. It is apparent from his phone records that Mr Smith was immediately suspicious that Leisl wasn't the author of the messages. He gave evidence at Mr Church's trial that he was extremely concerned about Leisl but assumed she was staying at Mr Church's property on a horse float and didn't want him (Mr Smith) to interfere. Once he learned Leisl had been with Mr Elkin on 19 August 2012, he thought she might have left her phone at his place and it was Mr Elkin who was operating her phone.
72. Mr Smith conducted enquiries into Leisl's whereabouts by sending messages to many people asking for information, explaining she was missing and that he was desperate to know she was safe and well. He drove past Mr Church's property to see if he could spot her and had a conversation with Ms Lees about Leisl being missing. He made enquiries with numerous other locals and associates regarding her possible whereabouts.
73. In the evening of 30 August 2012, Mr Smith reported Leisl missing to Wyong Police Station. He gave evidence at the trial that he went to report Leisl missing a few days earlier but police were not interested. There is no police record of any such contact. I am satisfied, based on Mr Smith's phone messages, that the earliest he might have attended a police station to file a missing persons report was 27 August 2012, being the day he nominated to Mr Elkin that he was considering doing so. However, there is insufficient evidence for me to make a positive finding that a report was attempted and rebuffed in the circumstances described by Mr Smith.
74. Either way, it is clear that, by the time Mr Smith approached police for assistance in locating Leisl, a significant period of time had elapsed. Police frequently regard the 24 to 72 hour period after disappearance as particularly crucial in terms of evidence collection and in this case, I accept the delayed report caused some difficulties for investigators. I am not critical of Mr Smith for not reporting Leisl's disappearance sooner. It is clear to me that he was endeavouring to find Leisl using his wide network of friends and community members and had reason to believe she was alive and had voluntarily left. Although he was suspicious about who was operating Leisl's phone, he had not given up hope. He sought affirmation it was her, for

example on 26 August 2012 writing, *"Leisl, I hope this is the sim card you are using. I am extremely worried about you. Are you ok? Please let me know. Dad. xxxx"*

75. General Duties police attached to Tuggerah Lakes Local Area Command commenced enquiries into Leisl's whereabouts the evening of Mr Smith's report. Thereafter, it appears that almost daily attempts were made to contact Leisl on her mobile between 31 August 2012 to 4 September 2012. Associates of Leisl were also contacted. By 5 September 2012, police had also spoken with Mr Elkin.
76. On 10 September 2012, Leisl's matter was allocated to Tuggerah Lakes Detectives' Office in Wyong. Detective Senior Constable Milton and Plain Clothes Senior Constable Cupitt made a number of enquiries that same day, including attending the home of Mr Church and interviewing him. The investigation clearly intensified from this date onwards.
77. I observe at this juncture that the 11-day period before Leisl's matter was transferred from general duties police (who do not have specialist investigative training) to detectives was not in breach of the NSW Police Force missing persons investigations policies and procedures which were operative at the time.
78. On 12 September 2012, Detective Senior Constable Milton took a statement from Mr Elkin. Mr Elkin also handed over his mobile phone in order for it to be forensically examined. On 14 September 2012, concerns for the welfare and whereabouts of Leisl increased as she had not been seen or heard from for almost one month. Police enquiries continued.
79. On 26 September 2012, NSW Police located Leisl's Honda Accord sedan in the commuter carpark at Tuggerah Railway Station. CCTV footage of the carpark and the nearby Tuggerah Super Centre dating back to the day Leisl vanished was seized. That footage depicted Leisl entering Mr Church's vehicle on 19 August 2012, contradicting his account to police that the last time he had seen her had been '*ages ago*', '*months*' before September 2012.
80. Detective Senior Constables Milton and Pratt interviewed Mr Church for a second time on 27 September 2012, presenting him with still images from the seized CCTV footage which show him in the company of Leisl. In response, Mr Church said he had given Leisl a lift in his Ford Ranger Utility (Ute) from the train station to the Pacific Highway in Wyong, dropping her in front of the bakery. Mr Church's Ute was seized.

81. On 22 October 2012, Strike Force Wehl was established to investigate the suspicious disappearance and suspected murder of Leisl. Detective Sergeant Mick Jones was appointed as the Officer in Charge and Detective Sergeant Gavin Haydon was assigned to assist the investigation as the Second in Charge (2IC). Detective Sergeant Matt Erickson joined the Strike Force in 2018, fulfilling the 2IC role from about January 2022. Those officers were assisted in Leisl's matter by Senior Criminal Analyst Jenifer Lawson.
82. The sheer volume of material collected by those investigators is direct testimony to their relentless pursuit of justice for Leisl, following up all the false leads and red herrings, and chasing down all possible sightings, and any signs of life. The work of the investigating police and their analyst on this complex case has been exceptionally thorough.
83. Their work naturally included consideration of any persons who might have had motive and opportunity to harm Leisl. It was necessary for police, for example, to examine Mr Smith as a person of interest in circumstances where he was one of the last people to see Leisl on the day she disappeared. It was also the case that Mr Church was implicating Mr Smith in his second police interview, making grave but ultimately unsubstantiated allegations about him.
84. The comprehensive work of the investigating police enables me to be satisfied, to the requisite standard, that Mr Smith, Leisl's father, had no involvement in her death. There is no objective evidence which implicates him in any way. I also make this finding based upon what I interpret to be Mr Smith's genuine worry and ongoing concern for Leisl in the days, months, and years following her disappearance. His text messages, pleas to the media, posting of a reward for information, and hiring of a private investigator to locate Leisl are all examples of this. Furthermore, at the time of Leisl's disappearance their relationship appeared to be positive, loving and supportive. Mr Smith was happily providing Leisl a home and car, a mobile phone, and regular financial and emotional support. These protective acts are entirely inconsistent with an intention to cause Leisl harm. It is also significant that after Leisl disappeared, Mr Smith was sent text messages from her phone number that convinced him she might still be alive. This was not only a callous device deployed by someone to confuse Mr Smith, it is also a reasonable explanation for him not reporting Leisl's disappearance sooner.

85. It is apparent to me that every reasonable line of enquiry regarding Leisl's fate was rigorously pursued by police, but in the end two potential suspects required the most extensive scrutiny: Mr Church and Mr Elkin.

James Church

86. Mr James (Jim) Scott Church was identified as a person of interest in relation to Leisl's disappearance very early in the police investigation.
87. Mr Church was the last known person to see Leisl on 19 August 2012, the day she vanished. Mr Church was 42 years of age and, like Leisl, lived on Bruce Crescent, at number 315. Mr Church had another property of around 40 acres at 3315 Clarence Town Road, Brookfield, and he owned a white 2012 Ford Ranger Ute bearing registration CGE 48U. It had a large alloy toolbox on the rear tray.
88. He and Leisl were friends, and she completed yard and stable work at his property in exchange for horsemanship lessons before they commenced a sexual relationship around 2011 which endured up to around the time of her disappearance. Mr Church kept his relationship with Leisl a secret for the entirety of its duration. Leisl did not.
89. In around March or April 2012, Mr Church began an intimate relationship with Ms Belinda Lees and as that relationship developed, it appears that he hoped to marry Ms Lees. However, he continued to secretly engage in a sexual relationship with Leisl.
90. On 6 July 2012, Ms Lees discovered a series of messages from Leisl claiming she was pregnant to Mr Church. Two days later, Ms Lees met with Leisl who made allegations about Mr Church including that she was pregnant with his child, and that he had been physically violent towards an ex-girlfriend. When confronted by Ms Lees about the allegations, Mr Church denied them. However, he recognised that Leisl's claims had the potential to destroy his relationship with Ms Lees.
91. On 9 July 2012, Leisl saw her psychologist and confided that her 'best mate' had a girlfriend, had accused her of being a thief, that she thought she was pregnant to him, and she loved him. Through Leisl's own text messages, it is easily established that this was a reference to Mr Church. The psychologist's notes continue in July 2012, prior to Leisl's relationship with Mr Elkin, to report that she is very distressed, and frustrated and angry with others.

92. On 14 July 2012, Mr Church changed his mobile number and told Ms Lees this was to stop Leisl from contacting him. Despite Mr Church's representations to Ms Lees, he and Leisl remained in contact after this date. There is evidence of the purchase of one new handset and two SIM cards at around this time, on 19 July 2012 at a Coles store in Wadalba which is of significance in this context.
93. On 16 July 2012, Leisl told Ms Lees that she was going to make Mr Church's life a misery including by reporting him to the Australian Quarter Horse Association and getting him barred. On 23 July 2012 Leisl's phone records reveal that she placed a call to the Association lasting 7 ½ minutes. On 28 July 2012 Leisl messaged Ms Lees that Mr Church was going to be banned from the Association for life and she had arranged for five other people to ring in with complaints. Ms Lees told Mr Church of this and observed him to be furious.
94. In fact, Mr Church was not ever barred from the Australian Quarter Horse Association and there is evidence from them that verbal complaints are never actioned, only written ones. However, I accept that as at late July 2012 Mr Church was under the impression that his standing within the Association was in jeopardy and that Leisl was responsible for that state of affairs.
95. Throughout this period, Leisl continued to claim she was pregnant with Mr Church's child. On 2 August 2012, Leisl told her psychologist that she thought she was pregnant and that she had told Mr Church this and he did not want to know. Later that day, Leisl had a blood test which established she was not pregnant, however the evidence shows that she continued to represent to others that she was pregnant up to the time of her disappearance, and that she told both Mr Church and Ms Lees that she was pregnant to him.
96. On 2 August 2012 in the same session, Leisl also alleged that Mr Church had tried to run her down in a car, which is consistent with messages she sent to Ms Lees and Kobie-Rose Palmer around the same time. Leisl further reported that Mr Church had been physically aggressive before. This record in the psychologist's notes is of particular significance in the context of material that was tendered in the coronial proceedings that was not tendered or called in the trial proceedings, as to Mr Church's tendency towards inflicting violent assaults on his previous intimate female partners.

97. There is further evidence from Leisl's friend Blanche Morris that around this time Leisl confided in her that she had told Mr Church she was pregnant and he wanted her to have an abortion. According to Leisl, who Ms Morris describes as extremely upset and hysterical, Mr Church didn't want anything to do with the baby and he told Leisl he would '*kill her if she had the baby*'.
98. On 10 August 2012 Leisl threatened to send compromising images of Mr Church to Ms Lees and told her she was going to take Mr Church to Family Court '*for half of everything*'. She warned Ms Lees to be careful with Mr Church as Leisl was ruining his 'Mr Respectable' reputation. Interestingly, following her disappearance, Mr Church saw a psychiatrist, Dr Hoey on 23 April 2013 and told him that Leisl '*went crazy*' and tried to '*blacken*' his name.
99. On 13 August 2012 Leisl and Mr Church were again intimate in the Ourimbah State Forest. Leisl's messages to Ms Palmer the next day underscore Leisl's confusion about her relationship with Mr Church, saying she knows she shouldn't have slept with him but she loves him, and she shouldn't believe the things he says because '*none of it*' is ever going to happen. Leisl also informed Ms Lees by text message of the liaison between her and Mr Church the day before. Ms Lees apparently believed Mr Church when he denied it.
100. Also on 14 August 2012, Leisl took a photograph of herself with a visible bump seemingly consistent with pregnancy and sent it to Ms Palmer stating she was expecting twins and was about six months along.
101. Mr Church told Ms Lees he was sick on the evening of 14 August 2012 and she was told that he remained unwell in the days leading up to 20 August 2012. Their phone records reveal that during this period Mr Church and Ms Lees did not spend the night together.
102. Leisl spoke to Mr Church for ten minutes on Thursday 16 August 2012 at 6.09pm. She told a friend at around this time she was going to be renting a house from Mr Church but he would be fixing it first.
103. On Friday 17 August 2012, Mr Church's Ford Ranger was captured on Point-to-Point cameras driving west along the Golden Highway to Merriwa in the early morning and on a return journey a few hours later. His mobile phone was inactive during this time. However, at 5.56pm, once he was home, Mr Church left a 35

second voicemail message on Leisl's phone. Mr Church's evidence at trial was that that was a message letting her know he was home.

104. On or around Saturday 18 August 2012, Leisl played Mr Smith a voicemail that was left on her phone by Mr Church where her father heard Mr Church tell Leisl that he was having his house fixed and she could move in. There is an inference available, contrary to Mr Church's account, that this was the message he left on 17 August 2012.
105. Leisl spent the evening of Saturday 18 August 2012 with Mr Elkin and returned to her home shortly after midday on Sunday 19 August 2012 to attend to the animals. She showered, was very bubbly with her father, got dressed, and left home at about 1.00pm. On leaving, she gave her father a kiss and a cuddle and told him she would return at 5:00pm to feed the animals. Her father described her as looking '*radiant*'. He said '*She'd... been through her room, done everything...done all the washing, her personal washing, been and done everything that had to be done in the horses, cleaned the horse yard, went and had a shower, got changed. She looked rather stunning actually. Came up to me. I was up the front of the place. Came up to me, threw her arms around me and said: "I really love you, Dad".*' Leisl said she would be back at 5:00pm to throw the rugs on the horses, hugged her father and drove away.
106. Leisl did not return at 5:00pm as promised, nor did she come back to stay with Mr Elkin that night.
107. There is evidence that Mr Church purchased fuel at 1.12pm at the BP Petrol Station in Charmhaven that day. At around 2:00pm, Leisl met Mr Church outside the Tuggerah Railway Station commuter carpark. CCTV captures her getting into his car.
108. His car is captured travelling north on the M1 passing under the Sparks Road overpass at 2.13pm. At 2.34pm, Mr Smith messaged Leisl to ask her to explain spending money to purchase fuel from United Petroleum the day before. He did not receive a reply.
109. Mr Church's Ford Ranger was captured after that on Point-to-Point cameras at 4.22pm at Sandy Hollow on the Golden Highway, travelling in a northwest direction; and then again at 10.34pm that evening, south of Merriwa travelling back along the

Golden Highway in a southeast direction. This was the same route he had driven two days prior.

110. Mr Church's phone was turned off or inactive from 1.06pm on 19 August 2012 until 1.15am on Monday, 20 August 2012.
111. As I have observed above, Leisl's phone was also turned off or inactive from 2.34pm on 19 August 2012. When she didn't return, Mr Smith and Mr Elkin left many worried messages on Leisl's phone urging her to contact them. Mr Church left none.

Craig Elkin

112. On around 25 July 2012, Leisl resumed contact with and later recommenced a sexual relationship with, a former boyfriend named Craig Elkin. Earlier in time, she and Mr Elkin had been in a de facto relationship for around three years before drugs were discovered in Leisl's car and Mr Elkin was convicted and sent to prison for supply of those drugs. At the time they resumed their relationship, Mr Elkin was subject to a 2-year extension to an AVO that was in place to protect Leisl which included a condition that he was not to contact her. That extension had been granted on 16 December 2010. The resumption of their relationship in July 2012 and August 2012 was in fact in a breach of that AVO via their ongoing contact. At the time of her disappearance, Mr Elkin lived in the garage of 5 Marathon Street Wyong, at the home of Mr Michael Peace. Mr Elkin was someone that Leisl's father described as a person she would turn to in times of trouble.
113. The original AVO against Mr Elkin was made on 17 December 2009 and was based on threats by Mr Elkin to kill Leisl and her father on 30 November 2009. There are records to support the fact that Mr Elkin was also physically violent previously with Leisl. Following the original AVO being granted, there was one charge of breaching that AVO in 2010 when on 3 December 2010, Mr Elkin approached Leisl in a shopping centre and told her that he loved her. That offence was dismissed under s 10 of the *Crimes (Sentencing Procedure) Act 1999* (NSW).
114. As mentioned, Leisl spent the evening of Saturday 18 August 2012 with Mr Elkin. In his first statement, Mr Elkin told police that Leisl left his home around midday on Sunday, returned at 1.30pm and then left again at 3.30pm after watching a movie, telling him she loved him. However, this timing could not have been correct on any account, and it appears that Leisl left Mr Elkin's home at around midday to return

to her home, telling him that she would come back later. Mr Elkin in a later ERISP interview with police said he thought in fact Leisl only left once and went to her father's house. Mr Peace gave evidence that he was hanging out clothes when Leisl left that day in the afternoon, saying to Mr Elkin '*I love you*' and '*I'll be back soon*'.

115. Leisl's last text message contact to Mr Elkin was at 1:56pm on 19 August 2012, a time coinciding with when she was driving behind Mr Church or pulling into the Tuggerah railway commuter carpark.
116. Mr Elkin died in circumstances unrelated to this inquest on 28 August 2015.
117. Mr Elkin was the subject of close scrutiny by police and at the inquest. I had before me evidence of the history of his relationship with Leisl which included a serious threat and allegations of violence. There were also several claims that he had confessed to killing Leisl. Available phone and work records of Mr Elkin from his employer, All States Trailers Pty Ltd, have been closely examined. Evidence was also tendered of Mr Elkin's violence against an intimate partner after Leisl's disappearance. All the material was carefully considered. Some of the evidence pertaining to Mr Elkin is summarised below.

How Mr Elkin came to be a suspect

118. Mr Elkin was imprisoned for driving offences, commencing on 12 August 2013. He found himself in prison with Mr A. That is a pseudonym granted by this Court, and was a pseudonym also used for the same witness in the trial proceedings. Mr A was a person with an extensive history of fraud. Mr Elkin and Mr A found themselves discussing a Western Australian case that they called *Millard*, which must have been the case of *Mallard*³⁵, where a person was found by the High Court to have been wrongly convicted of murder, after having served a significant period in custody. Mr Andrew Mallard's case is a well-known miscarriage of justice and he ultimately received a large sum of money from the West Australian State Government by way of compensation. Mr Elkin asked Mr A if he could get a pay out if police charged him over his missing girlfriend and he was found not guilty. Mr A told Mr Elkin that if he was wrongly accused, he could get \$1,500 a day.
119. Mr A reported to police in September 2013 that Mr Elkin had confessed to killing

³⁵ *Mallard v The Queen* [2005] HCA 68.

Leisl. A formal interview was conducted with him in October 2013, in which he detailed the supposed confession to Detective Sergeant Jones. According to Mr A, on the day she went missing, Leisl parked her car at Tuggerah Railway Station and from there met up with Mr Church and Mr Elkin at the Tuggerah soccer fields. They had arranged to meet because Leisl was claiming to be pregnant and either one of them could have been the father. Mr Elkin left after some time but later received a phone call from Leisl asking to meet up. He met her at the huts in Wyong and from there drove with Leisl in his blue Vectra to his former cottage on Chandlers Lane, Wyong Creek. He took the back roads and entered the block of land from the rear, where he parked his car. From there they walked together into the surrounding bushland. They got into an argument, he hit her on the head with a piece of wood killing her, and, after collecting some tools from the cottage, he buried her.

120. Police investigated Mr A's story and almost immediately began unravelling his claims. For example, it was established that the cottage on Chandlers Lane had been occupied since 2011 by a young man who did not know Mr Elkin, and that the route Mr Elkin was supposed to have taken at the rear of the cottage was inaccessible to vehicles. To say the least, Mr A's account was highly implausible, if not impossible.
121. Police obtained the records of Mr Elkin's phone calls made from prison. They discovered that on 9 September 2013 Mr Elkin made a call to a Ms Jo Herring. Mr Elkin told her that he knew from a website called Websleuths that Mr Church had been shot. He thought that owing to that, the police investigation had cleared Mr Church and they may now target him. He told Ms Herring that he was going to 'play' police in relation to the disappearance of Leisl, as if he could claim false imprisonment, he would get paid \$1,500 a day. On 15 September 2013, Mr Elkin was recorded talking to his daughter on the prison phone about a potential scam that he was going to play on the police.
122. On 7 November 2013, Mr Elkin was interviewed by police. He told police that Mr A had told him about the website Websleuths and passed on information suggesting that Mr Church had been cleared and the police were 'gunning' for Mr Elkin. Mr Elkin admitted that he got an idea they could make money out of it, and he told Mr A to report to police that he took Leisl to Chandlers Lane and killed her and put her in the bush. He crafted his story to accord with the CCTV footage he had seen on the news of Leisl parking at Tuggerah Railway Station so police would '*bite*' on it,

but his intention was to get a barrister to knock holes in the story once it came to trial.

123. Although Mr A initially stuck to his story, by the time of Mr Church's trial in 2022, Mr A gave evidence where he admitted the scheme and promise of payment. Evidence adduced at trial further dismantled the scheme, including that Mr Elkin did not own a blue Vectra at the time of Leisl's disappearance, and Mr Peace who did own it, did not purchase it until 2013. It is also notable that in all Mr Church's various accounts, he never said that Leisl and he met with Mr Elkin, nor that she left with him, indeed he said that he had never met 'Craig'.
124. I am satisfied that the evidence overwhelmingly supports a finding that this was a false confession in the context of what can only be described as a hare-brained and completely disgraceful scheme concocted by Mr Elkin and Mr A to profit from the saddest of circumstances, Leisl's likely death.

Other evidence of confessions attributed to Mr Elkin

125. Leisl's sister Grace Smith reported that an acquaintance, Samantha Hibberd, told her on 14 October 2013 that she would visit Mr Elkin at his home and he had confessed to killing Leisl in a very gruesome way, namely butchering her and feeding her to pigs. In a later interview with police, Ms Smith said she could not recall whether Ms Hibberd told her this or if it was something she had heard from other people. At Mr Church's murder trial in 2022, Ms Smith gave evidence that she had personally heard Mr Elkin talk about killing people (not Leisl) using this particular method, but once she watched the film *Lock Stock and Two Smoking Barrels* she knew that his statements were just movie references.
126. Ms Hibberd herself gave a statement to police and evidence at the trial. She had a different recollection of her conversation with Ms Smith in October 2013, significantly that she did not convey any information about Leisl to Ms Smith that day. She said that she had never been inside Mr Elkin's home and that she had never had a lengthy conversation with him.
127. On 7 November 2013, Mr Elkin was interviewed by police and the conversation asserted by Ms Smith was put to him, which he denied.
128. It was submitted by counsel assisting that this supposed confession amounts to nothing more than gossip. I accept this submission in circumstances where Ms Smith's original account was denied by Ms Hibberd and ultimately resiled from by

Ms Smith herself.

129. There is further evidence, however, concerning Mr Elkin and admissions.
130. Mr Elkin later entered into a relationship with a woman named Ms Vicky Canny commencing in 2014. Ms Canny's brother gave evidence that he and Mr Elkin were ice users and that when they were using ice Mr Elkin would say that he had '*done the bitch and no-one would find her*', that he did this on 19 August 2012, and claimed that police had dug up his property.
131. Ms Canny told police that between 8 - 10 March 2015, during an argument, Mr Elkin said he killed Leisl using the particular technique mentioned earlier and threatened to do the same to her. Mr Elkin was violent towards her, threatened her and said he would put her where he claimed he put the other one. He also claimed that he burnt his property down to destroy evidence. However, when Ms Canny later confronted Mr Elkin about Leisl, he said he made those claims to scare her during the fight, that he had not in fact done anything to Leisl, that he loved Leisl and would never have done anything to her. He wanted to know where she was. Ms Canny gave sworn evidence to this effect.
132. In my view, and as submitted by counsel assisting, the circumstances of these admissions render them completely unreliable. It is also true that to other people Mr Elkin denied killing Leisl.
133. Mr Elkin's tendency to be physically violent to intimate partners, as evidenced in the summary just given and historical medical notes pertaining to Leisl, are matters that I have also considered carefully as potentially supporting a finding that Mr Elkin was somehow involved in Leisl's death.
134. However, the evidence immediately prior to Leisl's disappearance in 2012 is that she and Mr Elkin were in a loving and happy relationship with no reports of violence between them. Mr Peace, who lived at the same address as Mr Elkin, observed them to have an affectionate relationship and gave evidence that he heard Leisl say '*I love you*' to Mr Elkin when she left on 19 August 2012. Separately, Mr Smith reflected that Leisl seemed to be growing '*happier and happier and happier*' throughout this period.
135. The last contact between Mr Elkin and Leisl was an exchange of text messages at 1.56pm on the day she went missing. Phone records from immediately after Leisl's disappearance reveal that Mr Elkin made a total of 72 calls and text messages to

Leisl's mobile number between 20 August 2012 and 3 October 2012, and further attempts after that date. He told Leisl he loved her and he missed her. In his messages to Mr Smith during this same period, he provided information about Leisl's last movements to assist with his enquiries and expressed that he wanted to know whether she was safe. Mr Elkin was cooperative with police in September 2012 when they spoke with him, including handing over his telephone so it could be forensically examined.

136. Overall, I am satisfied that Mr Elkin was not involved in Leisl's death and this finding is supported by other objective indisputable evidence that I will now briefly discuss.

Mr Elkin's phone and work records

137. Before the court were Mr Elkin's All States Trailers Pty Ltd timesheets which had been filled out by his foreman, showing when he was at work both prior to and after Leisl's disappearance. Also available were Mr Elkin's phone records and evidence of cell tower sites, indicating the location of his phone when in use.
138. As I have noted above, Leisl's phone number continued to be used for a time after her disappearance. The cell tower sites which transmitted these 30 activations, and are indicative of where the user was located, were also in evidence.
139. There was further evidence relevant to this topic. That is, Mr Elkin was not observed by those who knew him to drive in the period from November 2011 to the end of 2012. He had lost his licence in this period and was relying on others to drive him places. And whilst he had procured a red Toyota Celica on about 8 September 2012, it was in a state of disrepair and not apparently driveable.³⁶ I interpolate that this evidence also serves to underscore the scam nature of Mr Elkin's gaol confession.
140. Collectively, these records show that Mr Elkin was, in most instances, at work on the 'Tuggerah Straight' (a section of the Pacific Highway)³⁷ and not proximate to the cell tower that was picking up signals from Leisl's number when it was used after 19 August 2012.
141. And, without a car or licence, Mr Elkin did not have the ability to scoot out to cell

³⁶ Evidence of Detective Sergeant Jones – inquest day 2, 11 June 2025: T93.21-25.

³⁷ The Tuggerah Straight is the industrial area of Tuggerah. It is bounded by the Pacific Highway to the east and Gavenlock Avenue to the west, McPherson Road to the north and Wyong Road to the south: T58, inquest evidence of Detective Sergeant Jones.

tower locations from work to activate Leisl's number ending in 661, and get quickly back to work again.

142. There was one activation of Leisl's number utilising the Wyee cell tower that occurred 9 minutes after Mr Elkin finished work on 25 September 2012. Given the distance between these locations, approximately 20kms, I am satisfied it would not have been possible for Mr Elkin to reach the Wyee cell tower range in the time available.
143. In the end, there are only six (out of 30) activations of Leisl's number, all on 5 September 2012 between 7.46pm and 8.14pm, for which Mr Elkin's location cannot be ascertained through cell tower evidence and/or his work records. This was the same evening that Mr Elkin voluntarily presented himself at Wyong Police Station to assist with their investigation into Leisl's disappearance but he was, it appears, finished with police by 6:33pm. This conduct in itself is inconsistent with him being the user of the 661 SIM.
144. As will be explored later, this summary stands in stark contrast to the evidence about Mr Church's opportunity to be the user of Leisl's number. It is the totality of the evidence on this topic which persuades me that Mr Elkin was not the person operating Leisl's phone number ending 661 after her disappearance.

Detailed analysis of James Church

145. Returning then to Mr Church, he gave six interviews to police which I will briefly summarise.

First interview

146. On 10 September 2012, Mr Church was interviewed by Detective Milton and Senior Constable Cupitt. It was recorded only on an audio handheld device but Mr Church's demeanour is described by the attending police in their statements. They observed Mr Church to start sweating profusely once the recording started and for its duration. Early on in the interview, Mr Church claims that in 2011 Mr Smith had accused him of having a sexual relationship with Leisl and Mr Church said there was *'no way in the world'*. Mr Church later said of the allegation that he was having sex with the much younger Leisl: *'I'm not going to tolerate that sort of thing at all. Like, you know, like it's, it's not only bad personally, but it's your reputation and things like that, you know. I work locally and I've, and I've grown up in this area also.'* Mr Church also

told police he was aware that Leisl was seeing a person called 'Craig'. When asked if he knew the fellow Craig's last name, he answered that he did not know, he had never met the bloke.

147. Mr Church told police that he had missed a call from Leisl's number '*last week*' and went through his answering machine to show the call was placed on 4 September 2012. He confirmed he didn't speak with Leisl. He said he otherwise had not seen or spoken to Leisl in '*months*'. Mr Church said he had '*nothing*' else he could tell police that would assist their investigation.
148. However, Mr Church did indeed have something to tell that he was concealing from the police. On 26 September 2012 Leisl's car was discovered at the Tuggerah Railway commuter carpark, as was CCTV footage of her with Mr Church.

Second interview

149. The next day, 27 September 2012, Detective Milton returned to re-interview Mr Church, this time with Detective Pratt. He showed Mr Church still images from the CCTV footage before conducting an audio recorded interview.
150. When confronted with this footage and the fact he had previously asserted that he had not seen Leisl for months, Mr Church said: '*Yeah. But I only meant like, I didn't document it...*'.
151. Mr Church clarified that Leisl called him on the 19 August 2012 and asked him to pick her up from Tuggerah Railway Station. All she said was '*I need a lift*'. He assumed she called him from the station.
152. Mr Church said he arrived at Tuggerah Railway Station and drove around in the car park looking for her. Mr Church claimed that he didn't see Leisl driving behind him until he pulled over and did a U-turn at the entrance of the car park. He said she waved and gave him '*the stop sign and I'll be five sort of thing*'. The CCTV footage refutes all that. In the same interview Mr Church also said that he did not enter the car park.
153. Mr Church agreed that Leisl entered his Ford Ranger. He said he gave her a lift to Wyong. He dropped her off in the main street of Wyong, outside the little bakery on

the 'main drag', which he agreed was 'pretty much' opposite the Wyong Railway Station.³⁸ He said he drove straight there with no stops along the way.

154. Mr Church was informed by police that there were three calls that morning to his number from Leisl. He was asked where he went after he dropped her and he answered '*I probably just came back here*' meaning his home, where they were interviewing him.
155. Police told Mr Church that Mr Smith believed Leisl had been pregnant with Mr Church's baby earlier in the year. Mr Church's response was: '*No way in the world, no way in the world, I can guarantee... I've never had any sexual relations with her, like, no, that's what put our friendship, no, that was the end of it, no way in the world. I've heard him say that to everyone, it's not a problem, like I've got no problems at all. No way in the world, there is just no way. It can't be 'cause I never had sex with the girl.*'
156. Immediately after the interview, Mr Church tried to call his girlfriend Belinda Lees three times. From 8.48pm he sent her text messages begging Ms Lees to help him, saying he is really upset and that he needs her help. Ms Lees responded, '*If you lied to me about giving her a lift to the station you lied about everything ...I imagine that the only reason you would help her... is that she is or was carrying your child...you were probably cheating on me the whole time*'. Mr Church responded that apart from giving Leisl a lift, which he only did to keep the peace, there was no truth to anything else. He pleaded with Ms Lees that he could be in '*serious trouble*' and that his life has just been turned upside down.

Third interview

157. On 12 February 2013, Detectives Jones and Haydon interviewed Mr Church again. By this date Ms Lees had shown police the Facebook communications she had received from Leisl, commencing in July 2012.
158. Mr Church now admitted that he knew that Leisl was making allegations about him and had threatened to report him to the Australian Quarter Horse Association. However, he continued to deny having any intimate relationship with Leisl. He told

³⁸ As confirmed by Detective Sergeant Jones at inquest, there was a bakery in this location called Legends Bakery as at 2012: T53 and see Trial Exhibit A2.

police that *'there's no way in the world'* that happened, repeatedly saying *'I haven't had any relationship with the girl'*.

159. He reiterated that Leisl called him asking for a lift, *'...so I met her at the train station, I drove into the train station, she drove in behind me and got out laughin' like it was a joke, and I, I, What the, I thought you needed a lift. Anyway, so she got in the car and I said, What do you need? So I took her to Wyong and dropped her at Wyong. There wasn't a massive conversation in the car because it's obviously, it was just another ploy to, can I see you, you know what I mean...'*.
160. Mr Church repeated that he dropped Leisl in the middle of Wyong in the main street, with the drive taking no longer than 10 minutes. He said he thought there used to be a bakery there *'but I don't know if there is or not'*. He said he dropped her near the railway station but not at the station.³⁹
161. He said that after dropping Leisl at Wyong, his parents came over. He remembered they arrived as he was feeding the horses and stayed for a while. They had been at an auction and were dropping over some items they had purchased for Mr Church. Mr Church explained that he had spoken with his parents about the investigation and they had reminded him that they had visited on the 19 August 2012. Mr Church's parents gave statements to the police supporting his alibi on 15 February 2013. His mother, Mrs Janet Church, even produced a receipt dated 19 August 2012 from the auction house.
162. Later telephone intercepts disclosed that Mr Church asked his parents to say they were with him at his home, and that Janet Church acknowledged that he lied to her and his father.
163. Mr Church told police in his third interview that he stayed at Ms Lees' home on the night of 19 August 2012. However, as I have noted above, that was later established, through phone records and witness testimony, to be a lie.
164. Mr Church claimed in his interview that he couldn't remember speaking with Leisl on the phone in the lead up to 19 August 2012 and that he had never left a voicemail message on Leisl's phone. When directly asked if he had left her a voicemail a

³⁹ Detective Sergeant Jones' evidence at inquest was that the location nominated by Mr Church in his third interview was at Alison Road, north of the Legends Bakery in Wyong: T54.

couple of days prior to 19 August 2012 about some plans they had, Mr Church said:
'That's incorrect. And I heard that from the last Detective and I said that's just not true that I was building a house for her or running away with her, or moving away, or anything like that.'

165. These were also lies. The objective phone evidence shows that Mr Church was constantly in contact with Leisl and that he did, in fact, leave voicemail messages, including one on 17 August 2012 at 5.56pm two days prior to Leisl's disappearance. This is consistent with the evidence of Mr Smith that Leisl played him a voicemail on or around 18 August 2012 where Mr Church told her that he was having his house fixed and she could move in. Leisl also told a friend of these promises made by Mr Church on around 16 August 2012.

166. Mr Church was asked if he had anything else he could tell police:

Q: Is there anything else you can tell us or you think you need to tell us or anything like that?

A: No, the only thing I can tell you, mate, is hope she shows up, and I hope she gets in a heap of strife when she bloody gets, because she's caused a heap of shit, she's brought a heap of drama. She's done nothing but bloody give me grief. I haven't done anything - -

Q: OK.

A: - - - to deserve any of this.

167. However, again these were lies. There was much more that he could tell the police. And police kept investigating. Detectives requested that RMS review their records and that NSW Police Highway Patrol and Traffic Services branch conduct a series of checks.

Fourth interview

168. The results of those checks triggered a meticulously planned fourth interview of Mr Church which took place on 4 April 2013 by Detectives Jones and Haydon. Mr Church confirmed that he did not drive into the carpark looking for Leisl. He said she pulled up behind him and either he or she exited their vehicle. That is when Leisl indicated, *'I'll be 5'*. From there, Leisl drove into the car park. Detective Jones told

Mr Church that the CCTV showed Mr Church leaving his vehicle to speak with Leisl. Mr Church claimed he asked Leisl '*what the?*' because he did not expect to look in his rearview mirror and see her in her car. Mr Church told conflicting stories about having a replacement mobile telephone.

169. Mr Church was told that his parents had provided statements supporting his alibi but that recently discovered RTA records undermined it. Specifically, that an RTA Point-to-Point camera had captured Mr Church's white Ford Ranger travelling northbound at Sandy Hollow on the Golden Highway at 4.22pm, the time he said his parents were visiting. Mr Church was incredulous: '*Mate, my car wasn't at Sandy Hollow. But, I know, I'm not going to argue with you. But, and I'm pretty sure it can't be in two places at once.*'
170. Mr Church said he had no jobs, property, friends or associates that way, other than a bloke he buys hay from at Denman. However, when shown on a map that Denman is south-east of Sandy Hollow he agreed that he did not go to get hay in Denman on 19 August 2012.
171. Police told Mr Church that his vehicle was captured at Sandy Hollow two hours and 22 minutes after it was captured on CCTV leaving Tuggerah Railway Station, which was entirely consistent with a trip directly between those two destinations travelling at the posted speed limit. Mr Church's response to this was: '*I went home*'.
172. Police then told Mr Church that his Ford Ranger was captured on an RTA Point-to-Point camera travelling southbound at Merriwa on the Golden Highway at 10.34pm on 19 August 2012. Mr Church said he couldn't explain this, '*Sure you've got the right number plate...?*'.
173. Mr Church said his former employee Mr Wayne Brown occasionally borrowed his car but he didn't think he had taken it on 19 August 2012. Detective Jones was quick to confirm that he and Detective Haydon had already spoken with Mr Brown and he was emphatic that he hadn't driven Mr Church's vehicle in August 2012.
174. Mr Church was informed that police had analysed his phone records. He was told that those records indicated that his mobile phone and landline were completely inactive from before his car was captured travelling northbound on the Golden

Highway until 1.15am on Monday 20 August 2012. Mr Church's explanation was '*I would have been at Belinda's house. I don't make phone calls*'.

175. What followed were a series of unconvincing attempts by Mr Church to explain why it was that Ms Lees was trying to call him multiple times on his mobile and landline if he was in fact at her home with her on the evening of 19 August 2012.
176. Mr Church's explanation for his phone re-activating at 1.15am and him listening to voicemail messages at 1.18am was that he checks his messages when he turns his phone on and he didn't know if it was unusual for him to do this at that time of the night. Police informed Mr Church that their review had not revealed any other occasions when he checked voicemails around 1.00am.
177. Police next told Mr Church that his Ford Ranger had been captured by RTA Point-to-Point cameras making the same journey up and back down the Golden Highway on Friday 17 August 2012. On that occasion, his vehicle was captured northbound at Sandy Hollow at 7.36am and southbound at Merriwa at 12.46pm. Mr Church was unable to explain what he was doing in the 5 hour 10 minute interval between tripping the cameras: '*I don't know. I have no explanation at all*'. He again denied that it was his car: '*Yeah, I don't want to argue with you. But what I'm saying is that -- I don't have any explanation for why it would say my car was there, 'cause I don't have any explanation, it doesn't make sense.*'
178. The topic of voicemails was raised with Mr Church, who had previously denied ever leaving one for Leisl. Detective Jones identifies a voicemail placed by Mr Church at 5.56pm on 17 August 2012 to Leisl's phone. It is suggested that this was the message that Mr Smith later heard in which Mr Church told Leisl he had organised a place for her to live. Mr Church said: '*Didn't happen*'.
179. Mr Church reiterated that it was Leisl who initiated contact with him on 19 August 2012 and that she wouldn't stop ringing. This is contradicted by the phone records which show Mr Church rang Leisl first at 10.03am and they then called each other back and forth. At this point, Mr Church did not agree that his version had been contradicted and asserted that he got home to 10 or 20 messages on his answering machine from Leisl that had been left the day before when he was staying at Ms Lees' house. He acknowledged the various ways in which Leisl was causing trouble

for him, personally and professionally, but said by having contact with her he *'was just trying to keep the peace'*.

180. Mr Church accepts in the interview that Leisl contacted him in excess of 800 times between 1 June 2012 and 19 August 2012, and that he contacted her well over 200 times in the same period. It is pointed out that he did not try to contact Leisl after 19 August 2012 even after he was told she had gone missing. Mr Church's explanation was that he would only ever return her calls. He said he wasn't at all concerned about her: *'Like I said, I used to return her calls. And it'd only be just to shut her off and keep the peace. If she wasn't calling, I was happy.'*
181. Mr Church claimed he had never owned a firearm, and repeatedly denied a sexual relationship with Leisl or her directly telling him she was pregnant, although he agreed she had told other people she was pregnant. He believed Leisl was infatuated with him.
182. During the interview, Police laid out their case theory directly suggesting to Mr Church that Leisl was a threat to his relationship with Ms Lees, his reputation and his finances, and for that reason he made a decision to eliminate this threat. According to police in the interview, Mr Church hatched a plan where Leisl was led to believe that he was going to start a new life with her. They assert that he went up past Sandy Hollow on 17 August 2012 to select and prepare a site to kill Leisl and dispose of her body. He then contacted her that afternoon and left a voicemail stating he had a place for her to move into. Over the course of the morning on 19 August 2012, police allege that Mr Church contacted Leisl and arranged for her to meet him at Tuggerah Railway Station for the purpose of taking a drive together to see the place he was fixing for her. He stopped his car just before the entrance to the car park and made a deliberate attempt to avoid the CCTV cameras at the station by not driving into the car park. What Mr Church did not account for was the Tuggerah Super Centre CCTV system that captured his vehicle. Police asserted that from there, Mr Church drove with Leisl directly to the Merriwa region, to the site he had previously scouted, and killed her. Mr Church returned home about 1.15am on 20 August 2012 when his mobile phone was used to retrieve voicemails.

183. Mr Church denied being deliberately dishonest with police, denied it was his car in the RTA images, denied taking Leisl through Sandy Hollow on 19 August 2012 and denied killing her.
184. The interview concluded at 3.05pm. Mr Church called his parents at 5.23pm. He told them that he had just been interviewed for murder but that he didn't do it. He said the police gave him *'absolute hell about the disappearance'*. Mr Church's father tells him to *'Keep denying Jim'*. Mr Church then tells his parents that police are going to contact them and are disputing their account of being at Mr Church's home in the afternoon of 19 August 2012.
185. Detective Haydon then spoke to Mrs Janet Church and told her that police had footage of her son in Merriwa. Mr Church and his parents have another conversation immediately afterwards, commencing at 6.15pm, where Mr Church tells his parents that police are *'bullshitting'* about the footage and that he was at his place and they came to visit him. He tells them:

'Just stick to your story whatever they say regardless, just say "no I'm afraid you're wrong"'.

'Like I said, "Jim was there", and like I said tell them that I either went to Belinda's or I was there, whatever you please, I can't remember, just say you can't remember if he was going or if he was staying but say I was there for Christ's sake...'

'Mum, no matter what they say, if they say "Jim's said something different" or whatever, just say "I know what we did", and I said "I don't know anything else other than we came and visited Jim". That's it, that's all you have to say.'

186. By 7 April 2013, Mr Church was contacting a friend of his, Mr Clayton Evans and went to see him that day. Although denied by Mr Church, I am satisfied that this contact was prompted by a discussion between Mr Church and Ms Lees, who were canvassing an explanation for the evidence presented by police about Mr Church's movements on the Golden Highway on 17 and 19 August 2012. Ms Lees' account under oath, which I accept, is that Mr Church could not figure out why he would have been in Merriwa and he was thinking about it for a while when Ms Lees suggested: *'Hang on, doesn't your friend, Clay, doesn't he live out that way?'* She said that Mr

Church *'just kind of hesitated'* and *'all of a sudden it was like a penny dropped'* and he said to her *'Oh shit, yeah, that's right. Yeah, you can get to Clay's that way. Yeah, that's why my car must have been there.'* Ms Lees advised Mr Church to tell the police and together they checked Google maps for the route.

Fifth interview

187. On 9 April 2013, Mr Church and his lawyer requested a further recorded interview and the fifth record of interview took place where Mr Church admitted that he had told lies in past interviews, deliberately withheld information and repeatedly professed that he was now wanting to tell police the truth and to make full disclosure.
188. Mr Church admitted to police that he was in fact in a sexual relationship with Leisl. He said he was not originally truthful as he was withholding that information from Ms Lees as he did not want to lose her. He admitted to having text and phone contact with Leisl. In relation to his car being on the Golden Highway on 17 and 19 August 2012, he now claimed that he had checked with friends that he had up that way *'and they have documented to me and they told me verbally that I was there, so I was there'* and then blamed his mother for his *'mistake'* about previously saying his parents were with him on 19 August 2012. He was not sure when his relationship with Leisl ended, there was never a day or date. He also now admitted that Leisl did tell him that she was pregnant in 2012. He denied it was to him, but could not be sure, and claimed that Leisl told him later it was Craig Elkin's baby, although he then agreed that he asked for proof that she was pregnant and said that he believed she was pregnant at times.
189. I pause to note that this assertion about Mr Elkin is of some significance because of text messages sent after Leisl's disappearance from her phone number which also alleged that the baby was Mr Elkin's - something singularly claimed by Mr Church, and something that was actually impossible, noting the resumption of Leisl's relationship with Mr Elkin did not occur until late July 2012.
190. Mr Church now gave an account that he lied in the second interview when he said he fell out with Leisl because of her threats, and said it was in fact because he terminated the relationship. He gave Detectives Jones and Haydon a new account, which included details that he and Leisl spoke in the car ride about their relationship and Mr Church said it was *'done'*, he was with Ms Lees and *'that's that'*. It was at

this point that Leisl said to stop the car and let her out. Mr Church said he stopped his car at the 'Old Bakery' which was a building on the Pacific Highway as you come into Wyong. He said he wasn't sure if it actually ever was a bakery but that's what the building used to be called.

191. Mr Church was asked if he drove straight from Tuggerah Railway Station to the 'Old Bakery' location. Mr Church said he wasn't sure and then said he thought they parked and chatted for two minutes, possibly on McPherson Road. Mr Church said it was somewhere out the back of the industrial area at Tuggerah.
192. When police provided Mr Church with a map he indicated they stopped somewhere in the industrial area behind the Tuggerah Straight but he had been wrong about McPherson Street. He said he could not be certain what road they stopped on and *'I won't pin-point an area Mick'*.⁴⁰
193. From that location, Mr Church said they kept driving northbound towards Wyong and that is when he told Leisl the relationship was over. After dropping her off, Mr Church said he drove straight to Big Jacks Creek to visit his friends Clayton and Kim Evans.
194. Mr Church said he could not be sure where he joined the M1 Pacific Motorway (the F3 Freeway as at 2012) but he may have gone through Wyong and travelled the back way up Hue Hue Road first or he might have doubled back to Tuggerah before entering the motorway. From the M1, Mr Church described getting onto the New England Highway and taking the Golden Highway where they intersect just before Singleton. Mr Church said he drove the Golden Highway into Merriwa and at the pub turned right to follow a road through to Big Jacks Creek.⁴¹
195. Mr Church then gave an account of arriving at the Evans' property in the evening on account of a dinner invitation, a story which was later debunked as untrue. The lie expanded in colour and texture and included telling police that there was a diary

⁴⁰ I note Mr Church's uncertainty as to where he stopped his car to talk to Leisl is undermined by the evidence of Detective Sergeant Jones at inquest that Mr Church knew this area in Tuggerah *'very well'*: he grew up in the area and his family home was only a couple of kilometres from the Tuggerah Straight: T57.

⁴¹ As confirmed at the inquest by Detective Sergeant Jones (T52), the most direct route to Big Jacks Creek would have kept Mr Church on the New England Highway without any diversion onto the Golden Highway.

entry that he claimed Mrs Evans said must be written on the dates that he came,⁴² and that he and Mr Evans checked and saw that it said 'Churchie dinner', later saying he could see something written but not what it said. He said his visit on the 17 August 2012 had similarly been documented in the Evans' diary. Mr Church insisted that the whole purpose of his trip on 19 August 2012 was to go to have dinner with the Evanses as he had been there on Friday 17 August 2012 and '*played horses with Clay*' but was unable to stay later so he was invited to return on the Sunday. That was so even though he did not call them before attending on either date. He claimed to now remember these visits.

196. There were indeed diary entries in the Evans' diary later discovered by police. However, the evidence of Mr Evans in the trial was that the entries for 17 and 19 August 2012 were blank when Mr Church arrived on 7 April 2013, and that he (Mr Evans) wrote them in at the time of that 2013 visit to remind himself of what they were in order to confirm what had taken place. He said Mr Church had told him he had been at the Evans' place that weekend and it would be helpful if Mr Evans had a recollection of it.
197. Police asked Mr Church if he had been to see Mr Evans since the last interview only days earlier, and Mr Church said that he did call Mr Evans and then went to see where the Point-to-Point cameras were, and to see Mr Evans on 7 April 2013. Police asked him not to contact Mr or Mrs Evans.
198. Mr Church was also asked if Leisl ever bought him or gave him a phone. Mr Church stated that he did not know if he ever used a phone that Leisl gave to him, but he was not sure and he could not remember. These answers are relevant to evidence of a handset purchase at Coles Wadalba on 19 July 2012, which Leisl's SIM card was transferred into after her disappearance.

⁴²According to Ms Lees, when Mr Church got back from visiting the Evanses on 7 April 2013 he told her that Kim Evans had '*verified everything, verified the dates*' after checking her '*meticulous*' notes in her notebook: *R v Church*, T547. His account is contradicted by Kim Evans' evidence at trial. She said that on 7 April 2013 she told Mr Church that she didn't write in her diary very often. He asked her to jot down the dates of 17 and 19 August so she could follow-up and try to trigger her memory. They had had this discussion at her workplace and once she got home she couldn't find her diary but found Clayton's. There were no entries '*only where Clay had put the dates with an asterisk to, so we could try and work out some dates*': *R v Church*, T2470.

199. The day after Mr Church's fifth interview, 10 April 2013, police spoke to Mr and Mrs Evans separately. Mrs Evans provided police with banking records to show that in fact, the family were on holiday in Nelson Bay from 17 to 20 August 2012.
200. On 11 May 2013, Mr Evans phoned Mr Church, who failed to take the advice of police not to be in contact and attended on Mr Evans who was again at Nelson Bay. Their conversation was covertly recorded. Mr Evans broke the news to Mr Church that he and his wife were actually at Nelson Bay on 17 to 20 August 2012, and the police had their bank statements. Mr Church responded initially, *'Oh okay. Well that's a bit of a problem'*, before suggesting that if the police asked about it, Mr Evans should say: *'I don't know'*, that as to the alibi: *'to the best of your knowledge that was the weekend'* and *'I thought it was that weekend. I'm sure it was. It must have been a mistake'*. Mr Church told Mr Evans that he had some advice from a friend with troubles and was told, *'No body, no problem'* before referring to the false alibi as a *'little problem, no biggie'* and then proposed that Mr Evans say: *'I don't even know if I went or if I was with Kim or if I was here or where I was...or if I come home...'*, and that it would be fine *'as long as you don't know definitely one way or another'*. I note that this is a bit reminiscent of Mr Church's equivocal account to police about whether he ever used a phone of Leisl's. Mr Church told Mr Evans that Mr Evans would get a good horse out of it, before finally suggesting that Mr Evans should say: *'I probably went back'* (to Big Jacks Creek).
201. Mr Evans at trial, did not take Mr Church up on his suggestions. The Evanses were at Nelson Bay from 17 to 20 August 2012. Mrs Evans did not say to Mr Church on 17 August 2012 to come back for dinner on 19 August 2012 and contrary to his specific memory of it, Mr Church did not go to their property at Big Jacks Creek for dinner on 19 August 2012. The third alibi was debunked.

Sixth interview

202. On 20 August 2013, one day after the first anniversary of Leisl's disappearance, and three months after his alibi of visiting with the Evanses was shattered, Mr Church was shot at his home causing superficial injuries.⁴³ Police attended his property that

⁴³ Trial Exhibit DC – expert certificate of Dr Ray Lopez: *'CT scan showed no penetration onto peritoneum or muscular planes of the abdomen. (Superficial only). There was no bullet found on CT (as suspected by exit wound).'*

night and he was interviewed the next day. He later participated in a 'walk-through'⁴⁴ with police on 27 August 2013 where he had another opportunity to describe what happened.

203. Mr Church told police that he got out of bed after hearing voices, went out his front door to investigate, and encountered two men outside. They asked where Leisl was and when Mr Church suggested she *'could be dead for all I know'* the smaller of the two responded that dead people don't keep running up bills. They said she owed a lot of money but they did not demand any money from Mr Church. The taller bloke was becoming more aggressive and was slowly advancing towards Mr Church with the smaller bloke standing to his left. The bigger man *'roared'* at Mr Church and lunged at him but missed. Mr Church jumped out of the way and collided with the smaller assailant. They were face-to-face when a gun fired, and although he heard the gun discharge with a *'big bang'* Mr Church never saw the firearm. At this point Mr Church bolted down the driveway and took refuge behind his garden shed. Mr Church heard another loud bang as he was running away. Mr Church heard running footsteps and then a car *'vroom'* away along Bruce Crescent. Mr Church told police he had \$5,000 in cash at home but the men left without taking anything.
204. The objective evidence establishes that Mr Church placed a call to '000' at 11.14pm.⁴⁵ Mr Church said this was within mere minutes of the assailants speeding off.
205. Mr Church's account of the shooting to Mr Smith had some startling inconsistencies. Mr Smith gave evidence that Mr Church told him: *'That two big guys came and knocked on the door and he came out of the house. He had to come through the house through the family room, out the back door, and around to the front of the house, and over, I know it was in front of a carport, around there, and they wanted, pardon my language, they said to him, "where's fucking Leisl", and he said something like, "I don't know", and someone produced a gun and he wrestled with the gun and the gun went off.'*⁴⁶
206. Mr Church's account also varied from what was recorded by ambulance officers who conveyed him to hospital. According to their records, Mr Church reported that his

⁴⁴ Trial Exhibits CZ and

⁴⁵ Trial Exhibit B, rp 846, entry 8632.

⁴⁶ *R v Church*, trial day 5, 7 February 2022: T98.

condition was a result of ‘a gunshot after he was shot by one of two offenders who broke into his house’.⁴⁷

207. Police obtained CCTV footage from three properties on Bruce Crescent. This did not support Mr Church’s version that the assailants fled in a car, in fact there was no vehicular activity at the relevant time.⁴⁸
208. Nor were there any witnesses that supported Mr Church’s account. A neighbour, Ms Amanda Taylor, gave evidence at Mr Church’s trial that her dogs and horses were agitated around 9.30pm on 20 August 2012. The dogs were barking and her horses were galloping around but there was no obvious cause. It took her about 10 minutes to settle them. Later that evening, at about 10.45pm, she was feeding her kangaroo joey and observed the lights at Mr Church’s home to be off and everything to be quiet. She went to bed at 10.55pm.
209. Police attended Ms Taylor’s property at about 11.30pm in relation to the shooting. She was asleep when they arrived. She remarked to them that, *‘it’s a bit funny because everything’s quiet’*. She said, *‘no horses are galloping around and no dogs are barking. I don’t think he was just shot’*.⁴⁹ Ms Taylor’s evidence was that, based on her experience, if there had been a gunshot in the still of the night her horses would have reacted, either by running around or standing and looking in the direction of the sound.
210. No bullets or firearm casings were located by police either inside or outside Mr Church’s premises and there was no damage detected that may have been caused by the second projectile. Nothing of forensic interest was found at his home. A police dog did not give any indications of human scent that could be tracked and a foot patrol found nothing of interest.
211. Detective Sergeant Erickson gave evidence at the inquest regarding Mr Church’s gunshot wound. I have already observed that it was a superficial injury. It was described by one of the police officers on scene as comprising of small entry and exit points on the lower right side of Mr Church’s abdomen.⁵⁰ From the photographs

⁴⁷ Trial Exhibit DC, rp 2276.

⁴⁸ Inquest day 2, 11 June 2025: T110.45-47 – evidence of Detective Sergeant Erickson.

⁴⁹ *R v Church*, trial day 8 – 10 February 2022: T359.

⁵⁰ *R v Church*, trial day 35, 30 March 2022:T2165. See also trial exhibit DD – photographs of Mr Church’s injuries.

in the brief it is apparent that the bullet followed a diagonal trajectory. Detective Erickson said:

‘...from what I have read within the brief of evidence, in particular to the angle of the injury, with the body-worn, sorry, with the walk-through video that Detective Sergeant Laksa did with him. It just wasn't consistent with how a firearm - how he alleged the firearm was pointing at him being consistent with the angle of his wound.’⁵¹

212. By the time of Mr Church’s trial, it remained unknown whether there was an independent shooting or whether this was a final desperate ruse that Mr Church either organised or did himself. Aspects of the account appear inherently implausible to me. Few people knew the extent of Mr Church’s relationship with Leisl and one must wonder why people wanting to find her would only visit him and not her close friends and relatives. If they had somehow been sent by Leisl in the hope that he might help to clear a debt, one might think a clear demand for money would have been made. The various versions of the story given by Mr Church and the lack of any independent evidence, such as sightings of suspicious vehicles on Bruce Crescent that night, only increase the likelihood that the account given by Mr Church is untruthful and designed to interfere with the investigation. In my view it is extremely unlikely that Mr Church was shot by people looking for Leisl, but given the other available evidence before me it is probably unnecessary for me to make a conclusive finding on this issue.

Trial evidence

213. Mr Church gave evidence at his trial in 2022. By this time, police had discovered footage of Mr Church’s car travelling north under the Sparks Road overpass at 2.13pm on 19 August 2012 captured by a Mobile Automated Number Plate Recognition (MANPR) camera system affixed to a NSW Police highway patrol vehicle attending a car accident. This discovery categorically ruled out Mr Church’s suggestion in his fifth interview that he might have joined the M1 from Hue Hue Road. As confirmed by Detective Jones at the inquest, to pass under Sparks Road

⁵¹ Inquest day 2, 11 June 2025: T111.30-35.

in 2012 Mr Church's last opportunity to join the M1 would have been from Wyong Road at the Tuggerah interchange.⁵²

214. Returning to Mr Church's trial evidence under oath, to put it briefly, Mr Church's story changed again. I will now summarise some of the more significant variations in his account.
215. Mr Church said that when Leisl entered his vehicle at Tuggerah Railway Station he was angry because he did not expect her car to be working and when he saw her drive up behind him he '*knew it was a ruse*' to see him. He said he sped off quickly and knew he would have been '*easily*' above the speed limit.
216. When the Crown put to Mr Church that the CCTV footage did not show an apparent difference in the speed and manner of his driving upon his arrival at the railway station and when he drove off, Mr Church said he was not qualified to say one way or another.
217. Mr Church gave evidence that he continued to drive very fast once they were on the Pacific Highway. Leisl told Mr Church to stop so he jammed on the brakes, pulled over and '*ripped*' the handbrake. In contrast to his fifth interview with police, Mr Church was able to pin-point and mark the spot on the Pacific Highway where he pulled over with Leisl. He said it was a location within the Tuggerah Straight south of McPherson Road near a guard rail and he explained that he was unable to nominate it previously because the map Police presented to him with did not have it marked.
218. Mr Church said they stopped there and exchanged some angry words before he sped off. Mr Church estimated they stopped for under twenty seconds. He said when he told police in his fifth interview that they stopped for a few minutes or a couple of minutes that he wasn't being accurate and they were '*just figures of speech*'.
219. From there, he drove aggressively and fast. Leisl was described by Mr Church to be emotional over his relationship with Ms Lees and to be '*going on*' about nobody caring about her. After they crossed the Wyong River and were on the northern side

⁵² Inquest day 1, 10 June 2025: T51.45-46.

of the bridge, Leisl said *'Fuck you, let us out of here'*. According to Mr Church, he pulled over and Leisl hopped out slamming the door behind her.

220. Mr Church nominated an area near River Road on the Pacific Highway as the location where Leisl exited his vehicle, specifically a site at 6 - 8 Pacific Highway.⁵³ Mr Church explained that she got out at this site which was known to him as the 'Old Bakery'. He said he stopped opposite 'the railway' as distinct from 'the railway station', which had been his account to police in his second interview. When the Crown put to Mr Church that his evidence was inconsistent with his earlier accounts in so far as the nominated site was not in the middle of Wyong, Mr Church said he considered it to be the middle of Wyong.
221. Mr Church's evidence was that he was *'being flippant'* when he told police in his second interview that he dropped Leisl off in the main street of Wyong outside the little bakery *'pretty much'* opposite the railway station.
222. After dropping Leisl off, Mr Church's evidence under oath was that he did a U-turn across the double-white lined highway which had traffic travelling both ways. He proceeded south driving dangerously and very fast. He took Wyong Road at the roundabout and travelled west to join the M1.
223. He described his trip onto the M1 as fast and stated that he was not required to stop or give way at traffic lights, other intersections, or the construction work on Wyong Road. Mr Church said that when he entered the M1 he was furious and driving flat out. He suggested he could have been driving as fast as 130km/h but had not looked at his speedometer. He said he did not need to slow down for the traffic accident under the Sparks Road overpass which had generated an ambulance and police response.
224. The reason Mr Church said he could not confirm with police his driving route onto the M1 in his fifth interview was because he *'didn't give it any consideration'* and *'didn't give it any of the thought I have given it now'*. He denied that his evidence at trial was a complete fabrication catering to the CCTV and MANPR evidence.
225. Mr Church's evidence was that after the Sparks Road overpass he slowed down to the posted speed limit and drove normally the rest of the way to Mr and Mrs Evans'

⁵³ See Trial Exhibit GA, image 2b: RP2769.

home. When he arrived and he discovered they were not at home, he waited out front for four hours in his car, including having a sleep, before returning home.

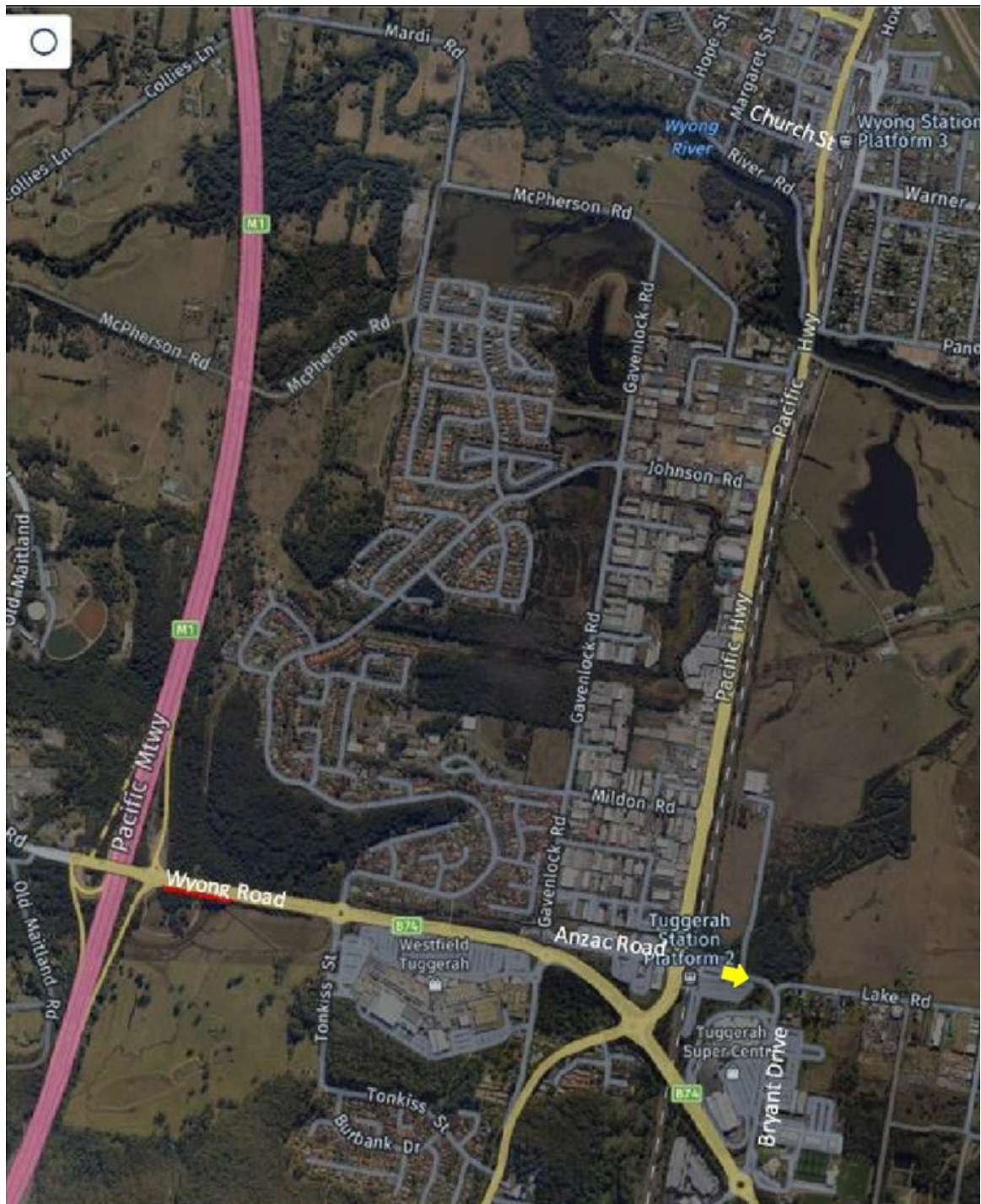
226. He gave evidence that he had driven to the Evans' property two days earlier on 17 August 2012. They were not home on that occasion either, and he sat there for three hours on his own outside.
227. Consistent with his phone records, Mr Church's evidence was that he did not try to call the Evanses on 17 or 19 August 2012 to ascertain their whereabouts. Nor did he try to call them in advance to arrange either visit. The time to drive from the Central Coast to Big Jacks Creek was accepted by Mr Church to be over three hours.

Mr Church's credibility

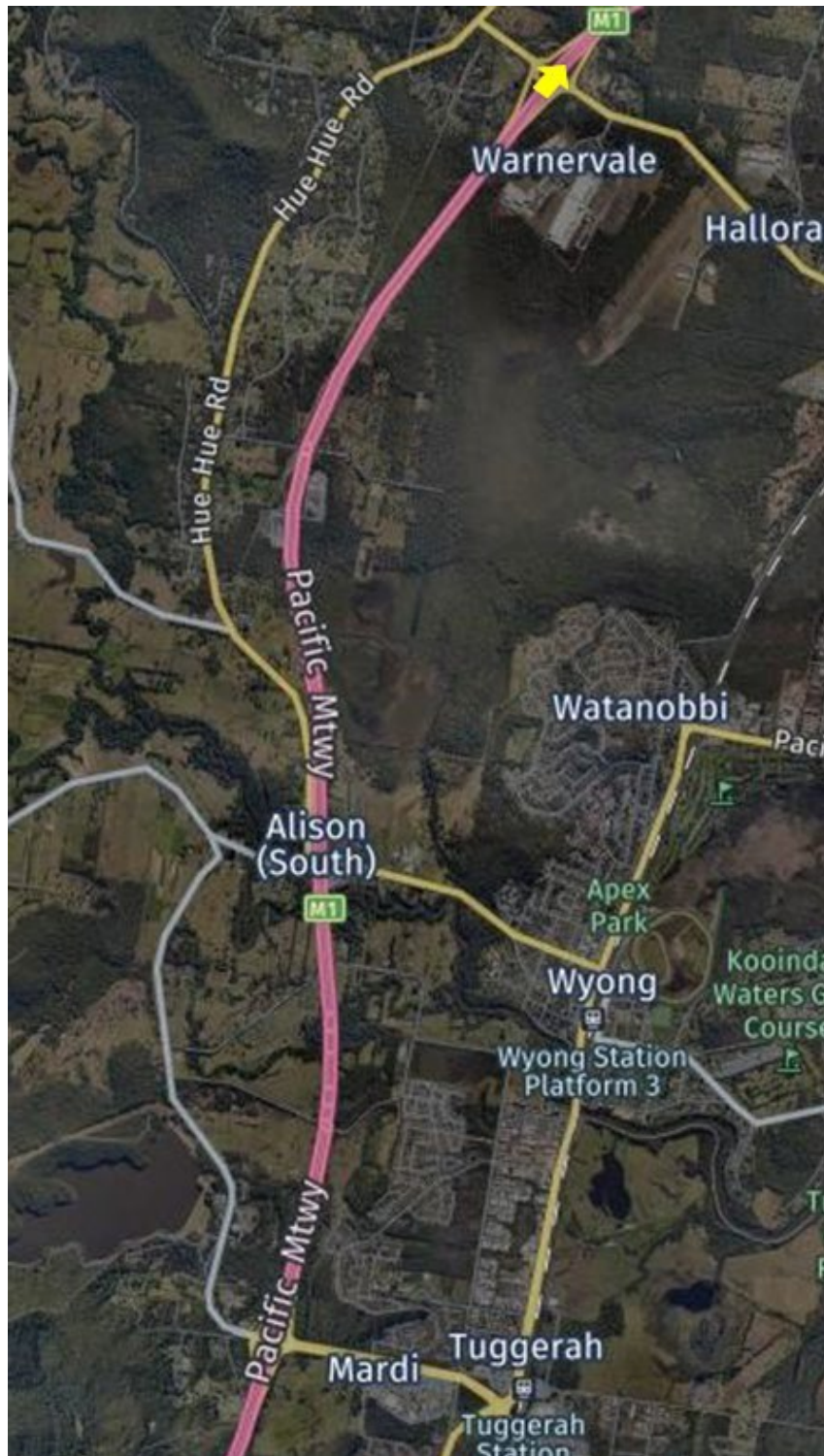
228. Before proceeding any further it is necessary for me to make some remarks about Mr Church's credibility. This is so because on some matters it will be necessary for me to determine whether Mr Church was being truthful.
229. I did not have the advantage of directly observing Mr Church's demeanour in court while giving evidence, as the trial judge did. However, in making my assessment of Mr Church's credit I have had the benefit of watching his video recorded ERISP interviews and listening to others which were audio recorded only. I have listened to intercepted conversations in which Mr Church sought to influence friends and family for alibis. I have also read the trial transcript and consider his answers on cross-examination were evasive on multiple occasions. Even on paper, he was an unimpressive witness.
230. The foregoing overview of Mr Church's police interviews and trial evidence highlight just some examples of the inconsistencies in his accounts and matters he relied upon that were later proven to be demonstrably false. There were many other troubling examples like these before me in evidence. Other aspects of Mr Church's evidence were contradictory or entirely implausible.
231. These matters compel me to find that Mr Church's credibility was severely compromised and that unless reliably corroborated, his evidence should, at the very least, be put to one side, because it cannot be relied upon.

Mr Church's purported car trip

232. The court was interested in understanding whether Mr Church's account at trial regarding his car trip on 19 August 2012 from outside the Tuggerah Railway Station commuter carpark to the M1 under Sparks Road, which crucially involved Leisl exiting his vehicle in Wyong, was possible.



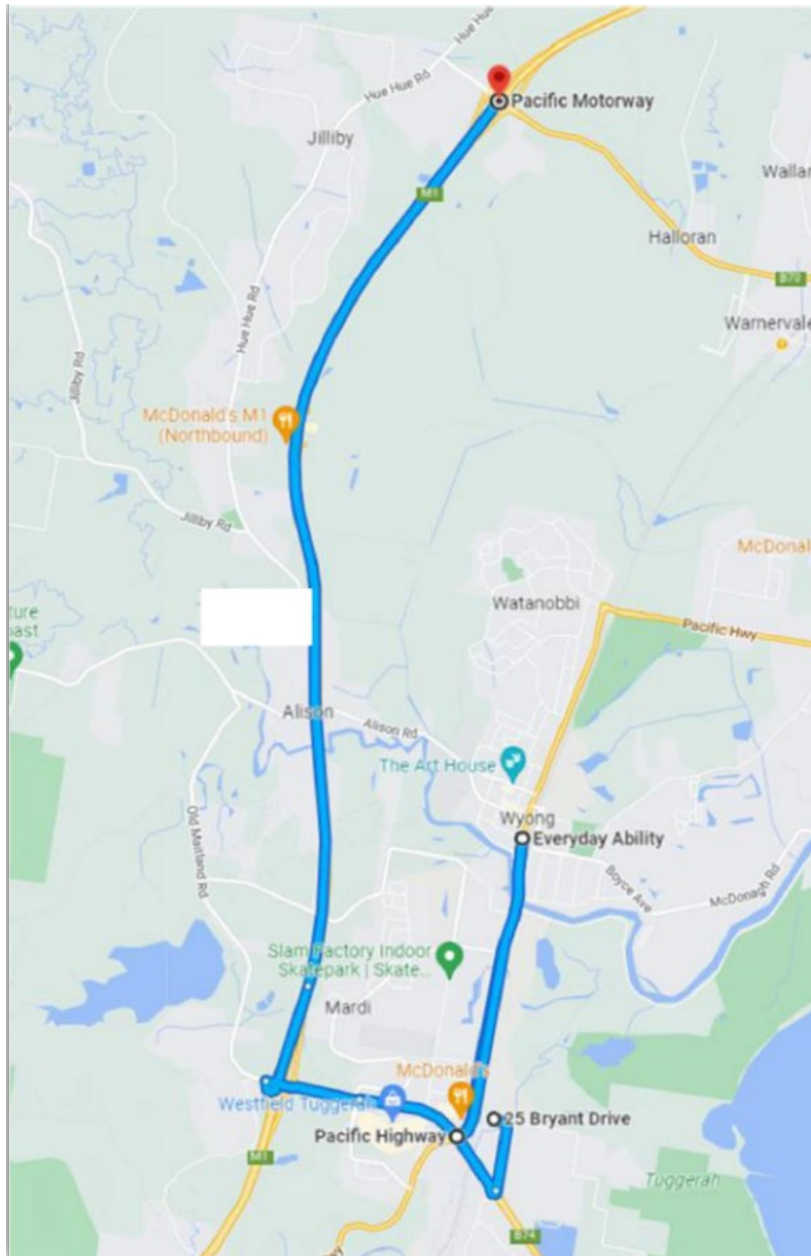
Extract of Exhibit EU – Yellow arrow indicates start of journey from Creek Avenue outside the Tuggerah Railway Station commuter carpark. The 'Tuggerah Straight' is the industrial area to the west of the Pacific Highway. Wyong Railway Station is opposite Church Street (both marked). M1 is labelled 'Pacific Motorway'.



Extract of Exhibit EU – M1 is labelled 'Pacific Motorway'.
Yellow arrow indicates the location of the Sparks Road overpass.

233. In 2022, police did test runs above the speed limit, to test the possibility that Mr Church's account of dropping Leisl in Wyong, and then taking the route by which he must have gone to be captured going past the accident, namely turning around and rejoining Wyong Road and then onto the M1, could be true.

234. This is documented in stills in the brief of evidence⁵⁴ starting from outside the commuter carpark at Creek Avenue, along Bryant Drive, onto Wyong Road and then northbound on the Pacific Highway all the way to Wyong Railway Station at the Church Street intersection where the police car turns and travels south again to rejoin Wyong Road, then heads west to join the M1 all the way to the Sparks Road overpass, *the travel time was 11mins and 27 secs*, with the police car travelling non-stop at around 1.00am in the morning.



Extract of Exhibit EW - Journey from Creek Avenue Tuggerah (marked as 25 Bryant Drive) north to Wyong Railway Station and back again to Wyong Road then travelling west to the M1. Sparks Road overpass is marked with a red icon.

⁵⁴ Exhibit EX.

235. It must be factored in that the test drive went further north on the Pacific Highway than Mr Church's final account at trial – all the way to Wyong Railway Station rather than the purported site of the 'Old Bakery' near River Road. The difference between these two locations is 226 metres and at 60km/h⁵⁵ this return journey would take 27 seconds. This results in a total trip time of 11 minutes.



Extract of Exhibit GB, Image 3b - Locations of River Road and Wyong Railway Station (opposite Church Street) are marked. At trial Mr Church nominated an area near River Road on the Pacific Highway as the location where Leisl exited his vehicle: 6 – 8 Pacific Highway. This site is marked with a yellow star.

236. The objective evidence from the CCTV footage is that on 19 August 2012, Mr Church and Leisl left Creek Avenue outside Tuggerah Railway Station at 2.02.30pm and the objective evidence from the MANPR data is that Mr Church was passing the accident site below the Sparks Road overpass at 2.13.49 pm.⁵⁶ That is a time of 11 minutes and 19 seconds, marginally more than it took the speeding police vehicle in no traffic at 1.00am in the morning.

⁵⁵ The posted speed limit on this stretch of the Pacific Highway in 2012 was 60km/h: Trial Exhibit EN.

⁵⁶ Exhibit 15.

237. The police car was noted by Justice Fullerton at Mr Church's trial to be travelling 15-20kms over the speed limit,⁵⁷ with no traffic, where the police officer was cutting roundabouts,⁵⁸ and where the route in 2022 had more traffic lights and roundabouts than on 19 August 2012, and in 2022 there was no construction in contrast to the roundabout to the east of the M1 being under construction in August 2012.⁵⁹
238. Also on 19 August 2012, as has been noted, there was an accident on the M1, causing traffic to slow,⁶⁰ at the very time Mr Church's car was heading north on the M1. Additionally, Mr Church said he pulled over and stopped for Leisl to get out near River Road, that would also add time, so too would the U-turn from a parked position across double white lines in traffic, not to mention if there was a stop elsewhere, either on the Tuggerah Straight or in the back of the industrial area for Mr Church and Leisl to talk. To accept Mr Church's account would require me to be persuaded that all these factors added only about 19 seconds to the trip. I would also need to be persuaded that he was travelling at break-neck speed.
239. To understand how long Mr Church's purported route would take at or about the speed limit, the court had access to tracker data⁶¹ from Mr Church's car which recorded his own journeys between 11 January 2013 and 21 February 2014, at a time when construction to the roundabout was complete. By way of example, Mr Church's fastest journey time from Lake Road (near the commuter carpark) on Bryant Drive to the Sparks Road underpass was 9 minutes and 38 seconds. The slowest was 11 minutes and 40 seconds. These journeys do not start all the way back at the commuter carpark, or account for a drive into Wyong near River Road. Tracker data from Mr Church's car recorded journey times for the latter ranging from 2 minutes 34 seconds and up to 3 minutes 51 seconds. These times are simply one way and do not account for Mr Church turning around and coming back south on the Pacific Highway. Adding these times together, the quickest journey time taking the route represented by Mr Church (according to his own driving habits) is 14

⁵⁷ *R v Church*, T4380.12

⁵⁸ *R v Church*, T4381.39-47

⁵⁹ *R v Church*, T4380.49-49

⁶⁰ Evidence of Detective Sergeant Jones at inquest on 11 June 2025: T97.17-25: from the in-car video 'you can actually see the vehicles travelling north past the accident scene, they are travelling at a much slower speed than the posted 110 kilometres an hour speed limit.' See also Trial Exhibit EQ which are still images from the accident site showing brake lights of passing traffic illuminated.

⁶¹ MFI 162.

minutes and 46 seconds and that is without all the additional factors referred to at paragraph 238.

240. It was submitted by counsel assisting that by objective evidence and fair inference, police completely disproved Mr Church's account of dropping Leisl in Wyong. I accept that submission.
241. Apart from the sheer improbability of Mr Church's account based on the time available, I base this finding on a number of grounds. Firstly, that Mr Church proffered this version not in the weeks after Leisl's disappearance but only once all the objective data from the cameras was known. Secondly, that I do not accept Mr Church to be a witness of credit whose account can be believed. Thirdly, that there was some evidence at trial that Mr Church had a tendency to drive at or about the speed limit.
242. On this final point, the tracker data from Mr Church's Ford Ranger taken over a period from January to November 2013⁶², demonstrates that on the large or vast majority of occasions, and in particular when travelling on Wyong Road, the Pacific Highway and the M1, Mr Church travelled at around or below the speed limit. It is also clear from the time and distance calculations between the Point-to-Point cameras, that on 19 August 2012 (and on 17 August 2012) at the time he was travelling between them, Mr Church must have been travelling at or around the speed limit. I accept the submission of counsel assisting that this is a good basis to infer that Mr Church was travelling at or about the speed limit on 19 August 2012.

Lies told by Mr Church

243. I move now to a series of nineteen lies told by Mr Church, although in my estimation he told many more. Not only do his lies support my finding that Mr Church lacks credibility but I accept counsel assisting's submission that many of his lies exhibit a consciousness of his involvement in the death of Leisl, and his knowledge that the truth would implicate him in causing her death. Counsel assisting submitted that these lies can be used in the nature of admissions against Mr Church's interest implicating him in the causation of Leisl's death.

⁶² Trial Exhibit FB.

244. The first lie is Mr Church's lie to police in his first interview that the last time he had any conversation with Leisl was '*ages ago*', that it was '*months ago*', and that he had not spoken to her on 18 or 19 August 2012. Included in this is Mr Church's deliberate subterfuge of individually checking through the message alerts on his home answering machine purporting to demonstrate to police that no such calls had been made. The compiled phone records and the CCTV footage from Tuggerah Railway Station which captures him getting out of his car to talk to Leisl on 19 August 2012 show these statements to be demonstrably untrue.
245. The second lie is Mr Church representing to police in that same interview that he '*heard from her last week*' as there was a missed call from her phone number on 4 September 2012. An inference is available from the phone records that this was untrue. I will come back to address the evidence of 'missed' calls from Leisl's phone number later.
246. The third lie was in Mr Church's second interview, saying that Leisl asked him to pick her up and he did so and then dropped her at or close to the bakery, pretty much opposite the Wyong Railway Station. He also said in this interview that they went straight from Tuggerah to Wyong and they '*did not go anywhere else*'. This was later abandoned as a version by Mr Church and disproved by the phone records, which established that it was Mr Church who initiated phone contact on 19 August 2012. The combined effect of Mr Church's car being captured by cameras outside Tuggerah Railway Station, then under the Sparks Road overpass and then at Sandy Hollow on the Golden Highway allow me to know Mr Church's travel time between Tuggerah Railway Station and the Sandy Hollow Point-to-Point camera. As I have already canvassed, the evidence establishes that Mr Church could not have dropped Leisl in Wyong.
247. The fourth lie was in the second interview, that Leisl asked Mr Church to pick her up and he drove around in the carpark looking for her, she waved and gave him the stop sign only saying '*I need a lift*' and he dropped her in the CBD of Wyong. The same evidence as above proves this to be a lie.
248. The fifth lie was in the third interview where Mr Church said Leisl rang and rang him and he called back and she asked for a lift, that she drove into the station behind him and got out laughing like it was a joke and he dropped her in Wyong. Again, the

phone evidence and his various accounts prove this to be a lie, as does the CCTV footage which shows he did not drive into the station.

249. The sixth lie was in the fourth interview where Mr Church said that he did not expect to see Leisl driving her car, that he saw her in it in his rearview mirror and then at her request gave her a lift and dropped her in Wyong. I am satisfied that the available inferences from the CCTV footage and the evidence already referred to prove this to be a lie.
250. The seventh lie was in the fifth interview where Mr Church said that he and Leisl spoke during the car trip (contrary to an earlier account), that he called the relationship off and that she told him to stop the car and let her out at the 'Old Bakery' on the Pacific Highway. He said this was after they parked on what might be McPherson Road and chatted for a few minutes at the back of the industrial area in Tuggerah. Mr Church recanted this account in the same interview, asserting: they did not park; it was not McPherson Road; he was not sure where they stopped to talk; and he was not sure if he dropped her near or outside the 'Old Bakery'. The objective evidence from the CCTV and MANPR disproves this story.
251. The eighth lie was in the fifth interview: that Mr Church dropped Leisl in the township of Wyong CBD and the suggestion in the same interview that he may have gone from there along Hue Hue Road before joining the M1. Police tracked the supposed route through Wyong CBD and onto Hue Hue Road which showed that to join the M1 this way Mr Church would have entered after the Sparks Road overpass.⁶³ This is not the route he took. As the MANPR footage⁶⁴ proves, Mr Church must have entered the expressway south of that point causing him to travel *under* Sparks Road.
252. The ninth lie was to Mr Smith when Mr Church saw him at a chemist shop in Kanwal and told him that he dropped Leisl '*under the railway bridge right along the waterfront*' at Wyong, '*somewhere near*' a motel, '*just past the bowling club*'. Mr Church told Mr Smith he '*took the turn under the bridge. Turned left, went under the bridge along the river. The road goes next to the river and there's a motel just past the bowling club*' (at Strathavon). Mr Smith marked the approximate location on a

⁶³ Trial Exhibit FA.

⁶⁴ Trial Exhibit 15.

map.⁶⁵ Mr Church also told Mr Smith that he and Leisl stopped along the Tuggerah Straight, they talked and he then drove into Wyong, dropping her at Strathavon.

253. The tenth lie was in Mr Church's evidence at trial: that he dropped Leisl at a site he knew as the 'Old Bakery' just off River Road on the Pacific Highway. The address of that site was established to be 6 – 8 Pacific Highway. Mr Church and his brother were the only witnesses to give evidence that this site was known as the 'Old Bakery'. The evidence of Mr Kevin Ayres, a baker of 49 years' experience who had lived and worked in the Wyong area all his life, contradicted an assertion that there was ever a bakery at that site. His evidence was corroborated by a member of the Wyong District Museum Historical Society, Ms Margaret Boldt. The preponderance of evidence persuades me that I cannot accept Mr Church's claims. In any case, Mr Church's description of what occurred is contradicted by the objective evidence already explained.
254. The eleventh lie was Mr Church's repeated claims that he did not leave a voicemail message on Leisl's mobile service a couple of days prior to 19 August 2012 about her being able to live in his house. He ultimately conceded he may have left a message at some point during their two-year relationship with that content. On this point, I accept the trial evidence of Mr Smith that on 17 or 18 August 2012, Leisl asked him to listen to a voicemail left by Mr Church in which he spoke about having a house fixed for her to move into. Not only do I consider that Mr Smith was giving honest testimony, I note that his account is supported by Leisl's phone records.
255. The twelfth lie was the first false alibi, namely that Mr Church went straight home after dropping Leisl in Wyong. Mr Church later disavowed this version as a 'mistake'. It was submitted by counsel assisting that this alibi was not only an egregious lie but was a deliberate one that constitutes an admission by Mr Church. I accept that submission.
256. Mr Church went straight to Sandy Hollow and beyond. I have already canvassed the evidence that Mr Church went straight to the M1 and under the Sparks Road overpass. In addition, I had evidence⁶⁶ before me as to the time taken to travel from the Sparks Road overpass at the relevant point on the freeway to the Sandy Hollow

⁶⁵ See Trial Exhibits DM1 and DM2 and see GK images 1, 2 and 3.

⁶⁶ Trial Exhibit FY.

Point-to-Point. Travelling at the speed limit on the M1 from Sparks Road to the Sandy Hollow Point-to-Point in 2013, Highway Patrol Officer Magri took 2 hours 3 minutes and 34 seconds; this compares to the journey time of Mr Church on 19 August 2012 of 2 hours, 8 minutes and 18 seconds.

257. The thirteenth lie was that Mr Church's parents came to his home in the afternoon of 19 August 2012, a lie he relied upon in his third and fourth interviews before resiling from it once other evidence rendered his alibi untenable. I consider this is another lie which constitutes an admission by Mr Church.
258. The fourteenth lie was the second part of the false alibi: that after his parents visited he stayed the night of 19 August 2012 with Belinda Lees. Ms Lees and their phone records did not support his alibi. This was a further lie arising from a consciousness of knowledge of his own involvement in Leisl's death, which was also later abandoned by Mr Church.
259. The fifteenth lie was the elaborate and constructed series of lies told by Mr Church in an attempt to set up a third false alibi about being with Clayton and Kim Evans, to 'play horses' with Mr Evans on 17 August 2012, and of being invited back for dinner on 19 August 2012 by Mrs Evans and returning to have dinner with them on 19 August 2012 after driving through Wyong CBD (having dropped Leisl in Wyong). These false alibis, including Mr Church's lies about the diary entry, were debunked for both days, given that the Evans family were in Nelson Bay from 17 to 20 August 2012. These lies were exposed through thorough detective work. As a consequence, Mr Church was forced to abandon his account of having dinner with the Evanses in his trial evidence.
260. The sixteenth lie was the fourth false alibi: that Mr Church went to the home of the Evanses without calling them prior, and sat there in his car, in the dark, for four hours on 19 August 2012, having also been there without calling and found them not there and sitting there in the day for three hours on the 17 August 2012. This was a palpably and knowingly false account in a fairly desperate attempt to cling onto the final alibi, and one which Mr Church notably did not remember in any of his prior records of interviews, while proffering memories of being elsewhere.
261. The seventeenth lie was the thoroughly persistent lie to police up to the point of the fifth interview when Mr Church finally admitted the lie, namely that he had not, 'never

ever', 'no way', been in a sexual relationship with Leisl, when there was a sexual relationship from 2011 up until at least 13 August 2012. I consider this purposeful lie, told over and over again to police, indicates a consciousness on Mr Church's part of involvement in Leisl's death. He also told the same lie many times over to Ms Lees, his family and friends.

262. The eighteenth lie was actually a series of lies Mr Church told his parents: that he was not at the Point-to-Point cameras in Sandy Hollow and Merriwa but with them⁶⁷ in an attempt to persuade them to maintain the first alibi. These lies of Mr Church were abandoned in his fifth interview and at trial, where he gave different versions which purported to explain his car being captured on the Golden Highway.
263. The nineteenth lie was a series of additional lies to Ms Lees about his whereabouts on 17 and 19 August 2012, specifically that he was sick in the days leading up to 19 August 2012 (to explain why they did not spend any time together) and that he was at his property at Brookfield on the 19 August 2012 and spent the night there. Mr Church told these lies knowing his true whereabouts and how this would implicate him.
264. Finally, the conduct of Mr Church in his conversations with Mr Evans on 11 May 2013, where he attempted to influence Mr Evans' statements to police at the time that Mr Evans told Mr Church that he and Mrs Evans were in Nelson Bay and not at Big Jacks Creek, also exhibits a consciousness of knowledge of involvement in the death of Leisl.⁶⁸

Evidence from phone records

265. There was a substantial body of evidence from phone records forming part of the circumstantial case. Mr Church's phone records⁶⁹ and the oral evidence of Mr Jason Betts from Telstra in the trial⁷⁰, indicate that Mr Church turned off his phone at 1.06pm on 19 August 2012 and did not turn it back on or suddenly come into cell tower range until 1.15am on 20 August 2012, when he used his phone to retrieve voicemail messages. The objective evidence that Mr Church was at the BP in Charmhaven at 1.12pm on 19 August 2012, suggests that the phone was

⁶⁷ Trial Exhibits FE, FF, FH, FK and FL.

⁶⁸ Trial Exhibits EC and EE.

⁶⁹ Trial Exhibit B.

⁷⁰ *R v Church*, T1470.

purposefully turned off and was not outside of phone tower range. Leisl sent her last message to Mr Elkin at 1.56pm on 19 August 2012, and her phone was switched off or inactive until it was next used on 21 August 2012. She did not reply to text messages from her father at 2.34pm, Mr Elkin at 5.59pm, her father at 6.34pm, 7.22pm and 7.23pm, or answer calls from her father at 7.01pm and 7.23pm which went to voicemail, or a further message from Mr Elkin at 10.33pm that night, or thereafter.

266. I will come shortly to the use of Leisl's mobile number ending in 661 after 19 August 2012, but first I need to go back one month to 19 July 2012.

19 July 2012 phone purchase

267. The next piece of the circumstantial case is drawn from several pieces of evidence about events on 19 July 2012 and relates to what I will call the Coles Wadalba handset. On 14 July 2012, a month before Mr Church drove off with Leisl in his car, and in the context that they were at that time in a sexual relationship that he was keeping secret from Ms Lees, Mr Church disconnected his mobile phone number ending in 824 and changed it to the number ending in 350.⁷¹ He did not provide his new mobile number to Leisl. It appears this was done at a time when Mr Church had agreed with Ms Lees that he would stop contacting Leisl.⁷² After 14 July 2012, all documented phone interactions between Mr Church and Leisl were through Mr Church's landline only.
268. On 19 July 2012,⁷³ Mr Storm Smith sent a text message to Leisl reminding her of her psychology appointment that afternoon at 3:00pm in Toukley. At 1.56pm Leisl called Mr Church on his landline. At 3.00pm her phone is captured pinging off the Toukley cell tower, and the medical notes in the brief confirm that she attended that appointment. At 6.00pm Mr Church advises Ms Lees by text message that he is at the shops and will be home in an hour. At 7.53pm, Leisl tells Ms Lees that Mr Church had called her that day, and they met at 'Maccas'.

⁷¹ Trial Exhibit B, rp 395, rp 709, entry 5937.

⁷² Trial evidence of Belinda Lees: *R v Church*, T500. At trial, Mr Church gave evidence that he changed his number for a variety of reasons: Ms Lees was pressuring him to change it, he had come to the realisation that he couldn't continue having sex with Leisl because he really wanted to be with Ms Lees, and he saw it as a way to 'cut the calls down' because it was 'only a matter of time' until he got caught especially with the volume of calls and texts Leisl was making: *R v Church*, T3535 – T3536.

⁷³ Trial Exhibit B, rp 719.

269. However, the court had other information about that day. There were some agreed facts in the trial⁷⁴, which were relied upon in the inquest as a summary of available evidence as to some happenings that afternoon from which, in combination with the known contact between parties,⁷⁵ inferences can be drawn.
270. First, on 19 July 2012 a Vodafone SIM card ending in 648 was purchased at Coles Wadalba, which is in close proximity to Toukley. It was subscribed in the name "*Leiloea Smith, 520 Bruce Crescent, Wallarah 2259, DOB 2 April 2018*" (that is the person would have been 6 years pre-birth, living at Leisl and Storm's address with their surname). It was only used once that day at 5.34pm, possibly to check activation, and thereafter to call or message only Leisl's 661 number, until it was disconnected by Mr Smith on 28 July 2012. That is, it was only used to receive from and send messages to Leisl's mobile.⁷⁶ The irresistible inference is that Leisl was not calling and messaging herself, so that SIM card was being used by someone else. It is most unlikely that Mr Elkin was the user of the 648 SIM as they appear to have only got back in contact days before and there is nothing whatsoever to tie him to that service.
271. From the known phone contact,⁷⁷ it is clear that on 27 July 2012 the text message exchanges between the 648 SIM and Leisl's phone are most proximate to two very short voice calls to Mr Church's landline from Leisl. On 28 July 2012,⁷⁸ Leisl called Mr Church's landline within 15 minutes of the text message to her phone from 648 at 4.15pm. There are no more calls following Mr Smith making an enquiry about the number 648, and it was disconnected by him on that day and later disconnected completely by Vodafone on 20 August 2013.
272. There is an inference available by virtue of the documented meeting between Mr Church and Leisl that afternoon at McDonalds, combined with the fact that from 14 July 2012 Mr Church changed his mobile number to deceive Ms Lees to think he was not in contact with Leisl, that the 648 SIM card was used by Mr Church in that short period to avoid Ms Lees detecting these communications. The SIM and who was using it is important for a further reason, namely a handset was also purchased

⁷⁴ Trial Exhibit HC.

⁷⁵ See Trial Exhibit B.

⁷⁶ Trial Exhibit HC.

⁷⁷ Trial Exhibit B, in particular rp 734, entries 6506-7.

⁷⁸ Trial Exhibit B, rp 737.

that day at Coles Wadalba. There were no voice calls made by the 648 number so it is not possible to know the IMEI of the handset that was used with the 648 SIM.

273. Before turning to the handset, I note that there was another SIM card ending 893 with Leisl's name, address and a date of birth in the year 1970 - which is Mr Church's year of birth. This was purchased and activated on 19 July 2012, was never used and was disconnected on 24 December 2012.
274. Most importantly, at 4.31pm on the same day, a purple Samsung E1190 mobile phone handset was sold at Coles Wadalba, which had IMEI number 358077045237308.⁷⁹ Leisl's bank account⁸⁰ shows that she was at Coles Wadalba that day, having just withdrawn sufficient cash for the purchase close by. The phone records reveal she met with Mr Church that day at McDonalds,⁸¹ and there is a McDonalds in Wadalba. From Mr Church's phone usage that day it is clear that he was away from Ms Lees between 4:00pm and 7:00pm,⁸² affording him an opportunity to take possession of the handset from Leisl at the time of its purchase. This very handset was used with Leisl's 661 SIM card in it, *after* her disappearance from 12.31pm on 21 August 2012.⁸³
275. The agreed facts⁸⁴ also explain that on call charge records (CCR) the last number is always replaced with a 0, so this IMEI number ending in 308 shows as 300 on the CCR.
276. Counsel assisting submitted that taking into account the fact that Leisl was with Mr Church on 19 July 2012, and that it can be safely inferred that the 648 SIM card purchased at that time was later used by him to contact her, I would also be persuaded that Mr Church received the Wadalba handset (with IMEI 308/300) purchased at the same time and that he used this handset *after Leisl's death*, with her 661 SIM card in it. I accept that submission. There is further evidence, which I will now address, to support a finding that it was Mr Church using that handset with the 661 SIM in it, and that it was not Mr Elkin.

⁷⁹ Trial Exhibit HC.

⁸⁰ Trial Exhibit GZ.

⁸¹ Trial Exhibit B, rp 720, entry 6161.

⁸² Trial Exhibit B, rps 719 – 720.

⁸³ Trial Exhibit A-10, rp 345.

⁸⁴ Trial Exhibit HC.

Use of Leisl's 661 number after 19 August 2012

277. From 20 August 2012,⁸⁵ Mr Smith was sending worried messages to Leisl: at 9.41am '*Where are you?*'; at 3.20pm '*Leisl, are you ok? I am really worried about you*', which were met with no response. Mr Elkin was also trying to contact her. Their calls were being diverted to voicemail. Of particular significance, Mr Church, despite being Leisl's self-described '*best mate*' and having a '*weak spot*' for her, never contacts her after 19 August 2012. It was submitted by counsel assisting that this conduct is because of his knowledge that Leisl was already deceased at his hand.
278. At trial, there was a very useful summary of complex evidence that it was submitted grounds such a finding.⁸⁶ From that document, it can be seen that the first activation of Leisl's 661 number after 19 August 2012 was on 21 August 2012 at 12.24pm using Leisl's usual handset (IMEI 3587024834710). So, whoever activated Leisl's number had Leisl's mobile phone. This handset has never been found.
279. The next activation of Leisl's 661 number was also on 21 August 2012 at 12.31pm but this was using the handset with IMEI number ending in 308/300, that is the Coles Wadalba handset. The SIM card from Leisl's mobile has been changed into this handset within a matter of six minutes.
280. A map indicating where the relevant cell towers were located in 2012 was before the court.⁸⁷ This helped with understanding the evidence given by Mr Betts from Telstra and Mr Rupinder Malhi from Vodafone.⁸⁸

⁸⁵ Trial Exhibit A-10, rp 343 – 344.

⁸⁶ Trial Exhibit A-10.

⁸⁷ Trial Exhibit CG.

⁸⁸ Both of whom gave evidence on *R v Church* trial day 29 – 21 March 2022.

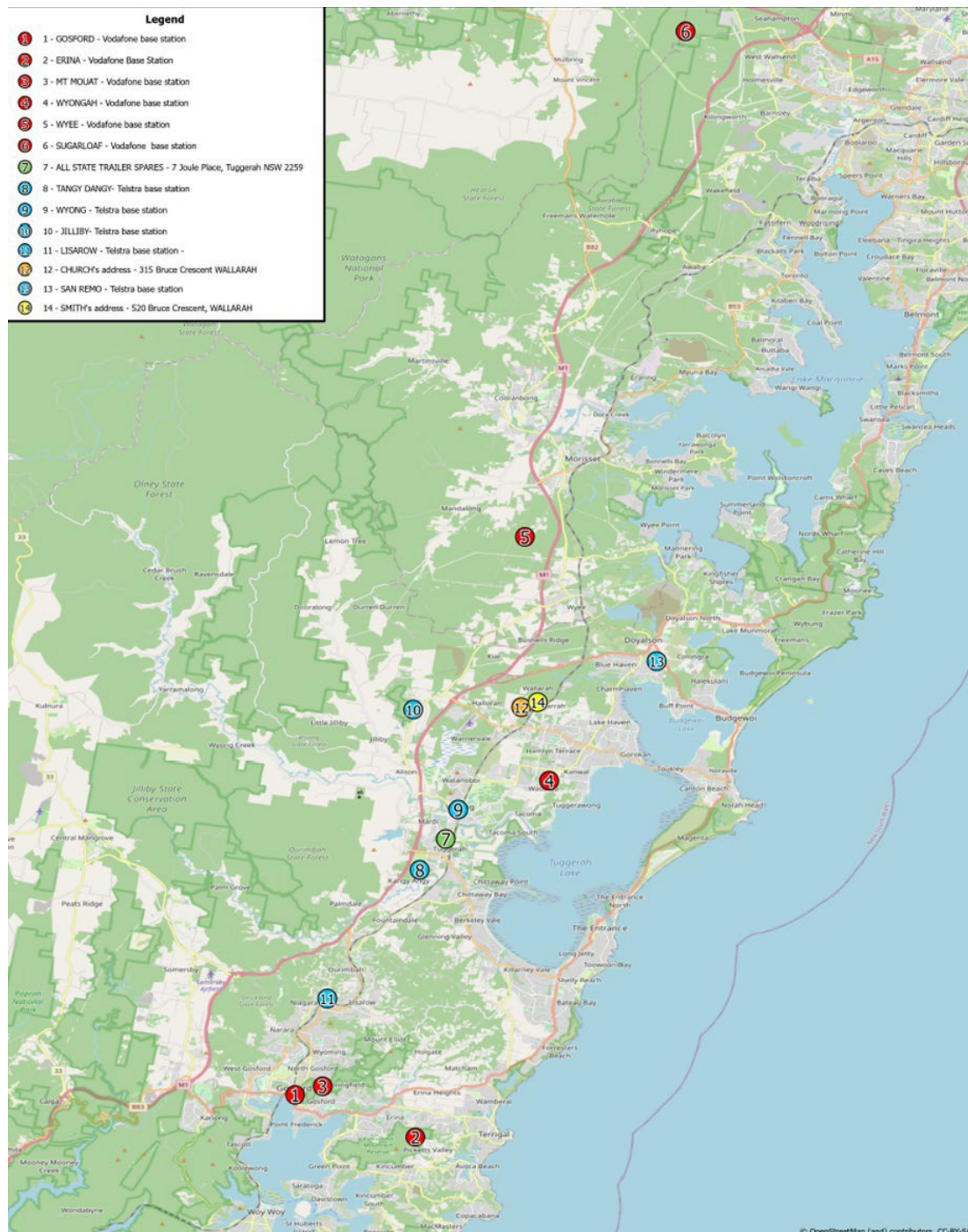


Exhibit CG - Map showing relevant cell phone towers

281. At 12.24pm Leisl's 661 number was pinging from the Gosford cell tower. At 12.31pm, after the SIM had been transferred into the Wadalba handset, the 661 number pinged off the Erina cell tower. The evidence about cell tower range and functionality made plain that whoever was using the 661 number was in all probability somewhere near these places. Mr Elkin can be excluded because he was at work at All State Trailers just off the Tuggerah Straight all day, and his phone is correspondingly recorded in the Tangy Dangy/Wyong cell tower area.

282. Mr Church, however, was moving. His work diary⁸⁹ places him at Durren Durren working at Ms Birshen Matheson's home commencing at 10.30am, and she gave evidence in the trial that he was there.⁹⁰ He was finished and back within the Tangy Dangy cell tower range by 11.51am and at 12.02pm. As I have already noted, the 661 number was used 22 minutes later at 12.24pm utilising the Gosford cell tower.
283. The effect of Ms Matheson's evidence⁹¹ was that the drive from Kangy Angy, where the Tangy Dangy cell tower is located, to Gosford CBD can take less than 20 minutes, making it entirely feasible that Mr Church was using the 661 phone number both at the time it pinged off the Gosford tower and when the 661 SIM card was then placed in the Coles Wadalba handset to again retrieve Leisl's voicemails and pinged off the Erina tower nearby.
284. Nine minutes later there was no recorded cell tower activation when a heartless text message was sent to Mr Smith at 12.40pm and a text message was sent to Mr Elkin at 12.41pm. I note that the message to Mr Smith is entirely consistent with the allegations that Mr Church was making about Mr Smith to police, from his very first record of interview, which are uncorroborated and do not bear repeating. It is also consistent with Mr Church's other deceitful conduct, all of which I consider were attempts by him to throw police off his trail and cover up his conduct in causing Leisl's death. The message prompts Mr Smith to call Leisl's number multiple times and on each occasion, he is diverted to voicemail.
285. At 12.50pm the 661 number is being used to listen to voicemails and is pinging off the Mt Mouat cell tower – which is in a similar area to the Erina and Gosford towers. Having regard to the range of the Mt Mouat tower which has the potential to capture cell activity almost as far as Jilliby,⁹² I am satisfied that there was ample time for Mr Church to be back in the area of the Jilliby tower by 1.12pm (22 minutes later), as established by his phone records.⁹³
286. On 22 August 2012, there was a voicemail retrieval by the 661 number at 1.18pm utilising the Gosford cell tower. Mr Elkin was at work in Tuggerah at this time. However, it was entirely possible for it to be Mr Church who was in the range of the

⁸⁹ Trial Exhibit GW1.

⁹⁰ Trial day 30 – 22 March 2022.

⁹¹ *R v Church*, T1811.

⁹² Trial Exhibit CM and evidence of Mr Malhi *R v Church*, trial day 29 – 21 March 2022, T1768 – T1771.

⁹³ Trial Exhibit A-10.

Lisarow tower 16 minutes earlier.⁹⁴ Shortly afterwards, text messages were sent in quick succession to Mr Elkin and Mr Smith.

287. On 27 August 2012, there was another voicemail retrieval at 2.12pm following a faux attempt to call Mr Elkin at 2.08pm, who was at work at the time of both activations. The cell tower was the Gosford tower and again, it is entirely possible for it to be Mr Church who was last recorded by the Tangy Dangy tower at 1.41pm and who was home in Wallarah using his landline by 2.56pm. Mr Elkin sent a message to Leisl's number to say he missed the call and is worried about her at 7.17pm, consistent with his worksheets, that have him finishing work at 7:00pm that day.
288. The next day by 10.16pm it is clear that Mr Elkin thinks Leisl has left him. He sent her a message telling her he loves her, does not want to hassle her and that her belongings are safe. This is consistent with his account to police. Mr Smith sends a loving message on 28 August 2012, only to receive a horrible message back when the 661 number is next used on 31 August 2012. That message states, '*...tryed to tell you so good onya you know I have been seein craig an if you would of backed off I would of told you the truth that im pregnant to him...*'. This has echoes of Mr Church's earlier representation to police that Leisl might be pregnant to Mr Elkin which, as I have noted, was singularly asserted by him.
289. Looking at the activations on 31 August 2012, again Mr Elkin is at work and the 661 SIM is pinging off the Gosford tower at 10.06am and at 10.25am, both entries being entirely possible for Mr Church who is recorded comfortably either side of the use, pinging from Jilliby.
290. By 2 September 2012, Wyong Police had left voicemail messages for Leisl. It can be inferred that the user of Leisl's number came to learn that police were looking for her through the documented retrieval of voicemail messages on 3 September 2012 at 10.00am.⁹⁵ By 10.10am the user is making the first of only three voice calls which are all to the same place: the answering machine of Mr Church. The other two are on 4 September 2012 at 10.16am and 10.55am. The last one of these was brought to the attention of police by Mr Church in his first interview when he played through his answering machine in an attempt to prove Leisl had recently contacted him

⁹⁴ Trial Exhibit A-10.

⁹⁵ Trial Exhibit A-10.

(although they did not speak). It was submitted by counsel assisting that this call was masterfully deployed by Mr Church in an attempt to throw police off his scent.

291. Returning to the 3 September 2012 uses. The phone using SIM 661 pings at Gosford from 10.07am - 10.10am. It is again not Mr Elkin, who was at work. On this occasion Mr Church's work diary shows he was with Ms Wendy Paxton at Somersby from 9.15am for 35 - 40 minutes. The evidence⁹⁶ shows that as finely timed as this might be, it is entirely possible for this to be Mr Church, especially as his phone records show that he arrived at Somersby early that day, showing him there at 8.51am.
292. The 4 September 2012 calls to Mr Church's home number at 10.16am and 10.55am respectively, pinged from the Wyongah tower. Mr Church's mobile phone was last recorded by the Tangy Dangy tower at 9.56am. It is entirely feasible that it is him calling his own land line and then hanging up.
293. In the evening of 5 September 2012 between 7.46pm and 7.53pm, the evidence establishes that the user of the 661 SIM was in the range of the Wyongah tower. There was plenty of time for Mr Church to have made these activations, whose own phone records place him at Clarence Town earlier in the evening at 5.49pm and in the range of the Jilliby tower by 8.28pm. There were also two text messages sent at 8.05pm, to Mr Smith, and 8.14pm, to Mr Elkin. The connecting cell tower is not known but their content is revealing. The message to Mr Smith is cruel and implicates Mr Elkin. The message to Mr Elkin plays with his feelings including making a promise to return. The messages set Mr Elkin and Mr Smith up against each other. This is the conduct of a calculated liar, consistent with what is known about Mr Church from his six records of interview with police.
294. I do not propose to go through the remainder of the 661 activations except to say that on the evidence called and tested at trial, including from persons whose homes Mr Church worked at on given days when the 661 number was used, each and every one of the uses of the 661 SIM was at a time where Mr Church may well have been within the range of the towers where its signal was captured.

⁹⁶ Trial Exhibits CG and CL.

295. The one use of the 661 number that could cause some consternation is the voicemail retrieval on 26 November 2012 at 12.23pm utilising the Sugarloaf cell tower. Mr Church's phone is recorded only four minutes earlier by the San Remo Wandewoi Avenue tower, which is one of two Telstra towers most proximate to Mr Church's home address. The unchallenged evidence of Mr Malhi in the trial⁹⁷ was that the Sugarloaf tower was elevated and while he did not have the coverage map for that site, the elevations meant that it could cover a range of 30 - 40km. Mr Church's home was 38.96kms away from the Sugarloaf tower. That is, these activations do not exclude or make less probable Mr Church being the user of the 661 number.
296. In addition to all the above, police prepared summary tables⁹⁸ to illustrate that there were notable discrepancies between the spelling of certain words in messages sent by Leisl before her disappearance on 19 August 2012, and in the messages sent from her number after that date.
297. Considering the evidence in combination, I am satisfied on balance that Mr Church was the user of the 661 number after Leisl's disappearance in an attempt to trick Leisl's loved ones and police into believing Leisl was still alive. Further I am satisfied that he had her SIM card in his possession at some point shortly after she last used it to message Mr Elkin on 19 August 2012.
298. This is a further circumstance implicating Mr Church in Leisl's death.

Bikie Theory

299. At his trial, Mr Church raised a theory that Leisl's disappearance may be connected to a drug debt owed by Mr Elkin to his associate Mr Bobby Botterell. His evidence was that, according to Leisl, Mr Elkin had ripped off some ice from Mr Botterell and Mr Botterell had come looking for Mr Elkin. Mr Church allegedly heard Mr Elkin making threats to Leisl that she was '*fucking dead*' over the phone in early August 2012 which she explained was because he (Mr Elkin) believed she had been the one to tip off Mr Botterell. Mr Church claimed Mr Botterell was a bikie with a fearsome reputation.⁹⁹

⁹⁷ *R v Church*, trial day 29 – 21 March 2022 T1771 - T1773.

⁹⁸ Trial MFIs 160 and 161 re use of 'heyya' and 'karma'.

⁹⁹ Evidence of James Church, *R v Church* trial day 51 – 28 April 2022, T3342.

300. Mr Church's story does not hold up to scrutiny.
301. Mr Botterell's evidence at trial was that there was never any animus between himself and Mr Elkin and no debts owed. He stated that he never supplied Mr Elkin with ice, and that the cannabis he supplied him was always paid for upfront. He denied being in an outlaw motorcycle gang in 2012.¹⁰⁰
302. If that were not sufficient, there is also the evidence as to how and when this theory evolved, which I consider significant. Specifically, that despite ample opportunity to proffer this information, and its apparent relevance to the police investigation, Mr Church failed to do so in every single one of his first five police interviews. Nor did he mention it to friends or family in any of the thousands of hours of intercepted conversations obtained by police.
303. Even after the shooting incident at his property on 20 August 2013, in which Mr Church claimed the assailants came looking for Leisl and said she was '*running up bills*', Mr Church did not implicate Mr Elkin or Mr Botterell as potential suspects. Nor did he mention these matters during a police walk-through of his property on 27 August 2013 related to the shooting or tell his then girlfriend, Ms Emma Jewell.
304. It appears to me that the genesis for Mr Church's theory in all likelihood comes from something Mr Smith reported to Ms Lees on 28 August 2012. On that day, according to Ms Lees, Mr Smith said that Leisl had witnessed Mr Elkin stealing drugs and that if the bikies got hold of her they would '*rip her from limb to limb*'.¹⁰¹ There is an available inference that at his trial Mr Church developed that story based on evidence contained within the brief of evidence, including that Mr Elkin was associated with Mr Botterell and that Mr Botterell had links to an outlaw motorcycle gang.

Evidence not available at trial

305. As I have stated earlier, the inquest received an entire volume of material supporting the existence of a tendency for Mr Church to inflict serious harm or really serious harm on intimate partners. Some of the material also reveals a tendency for Mr

¹⁰⁰ Evidence of Mr Bobby Botterell, *R v Church* trial day 48 – 22 April 2022, T3157 – T3197.

¹⁰¹ Evidence of Ms Belinda Lees, *R v Church* trial day 12 – 18 February 2011, T614.

Church to deliberately inflict cruelty to animals, which the court accepts is conduct that can, in certain circumstances, be linked to domestic violence.

306. This is a case where there is strong circumstantial evidence pointing to Mr Church's involvement in Leisl's disappearance. There is evidence that Mr Church was the last known person to see Leisl and it is clear that he had an opportunity to harm Leisl, given that they were alone and travelling in a motor vehicle at the time of the last known sighting. There is evidence of Mr Church's growing alarm that he could no longer control her behaviour which had the real capacity to disrupt his new relationship and his standing in the horse community. There is evidence of his admitted lies about the nature of his intimate relationship with Leisl and the true extent of their ongoing contact. There is evidence of false alibis as to his whereabouts at critical times on the day she disappeared, as well as a myriad of other lies, some of which I have already referred to. There is evidence that both of their phones were inactive or switched off at critical times on the 19 August 2012. There is evidence of his opportunity in relation to the use of her phone subsequent to her disappearance. There is evidence that Leisl told her psychologist that Mr Church had been physically aggressive to her and that she had informed friends that he had threatened her and on one occasion tried to run her over. It is in this context that I have also considered the available evidence of the existence of a tendency for Mr Church to inflict serious injury, and on at least one occasion grievous bodily harm, on intimate partners. In my view the evidence is certainly *relevant* to my task as a coroner. While acknowledging that the usual rules of evidence do not apply in this jurisdiction and that there is no requirement for me to analyse the admissibility of the evidence pursuant to the regime set out in the *Evidence Act 1995* (NSW), there is still a requirement for procedural fairness and I have a duty to carefully consider my decision to admit evidence which falls into this category. I have given the matter considerable thought and in my view this tendency evidence goes beyond being merely relevant, in my view it is significantly probative in my task of determining what happened to Leisl. Mr Church has a demonstrated history of significant violence to women with whom he had an intimate relationship, particularly when he could not control them.

307. While much of the evidence revealed in these coronial proceedings was well known to family members, I acknowledge the pain that those in court felt as they listened to the summary of distressing accounts which graphically disclosed Mr Church's

longstanding pattern of significant violence towards women, knowing he was with Leisl at the time of her last confirmed sighting. Male violence against women remains a very significant and well-known problem within our community, nevertheless, to hear these accounts of his behaviour over many years was disturbing for all.

308. I turn now to summarise the evidence in this category, noting that each woman was contacted and courageously consented to her name being used and her testimony being relied on.¹⁰²
309. **Ms Anna Keys** commenced a relationship with Mr Church in February 2005. She lived with Mr Church and their relationship was good for the first six months, however after that he became verbally degrading to her and she witnessed him bashing dogs and horses, she saw him punch her horse in the face making it flip, causing permanent injuries which made it unfit to compete. In February 2006, Ms Keys understood that Mr Church had been unfaithful to her. In February or March 2006, Ms Keys started counselling with Dr McKerral and one day confronted Mr Church about his infidelity. Ms Keys told police that he grabbed her around the throat, forced her head into the oven, and threw her onto the floor. When she was face down, he put his knee on the back of her head and commenced to twist her neck five or six times. She thought her neck was about to break, when he stopped and drove off. She later discovered her neck was in fact fractured.
310. Ms Keys' statement was corroborated by her account given to, and clinical observations made by, a chiropractor Matthew Hall who was so concerned he sent her for X-rays in 2008 which showed a fracture to C7 - the bone at the base of the neck. There is opinion evidence by radiologist Dr Michael Jones that the fracture is consistent with the mechanism of injury described by Ms Keys. There was also a complaint in contemporaneous notes made by her psychologist Dr McKerral of verbal abuse, the physical assault with neck twisting and physical assaults on horses.
311. Ms Keys eventually went to her car where she stayed until dawn when she called her mother who came and helped her, gathered some clothes and she left and went to live with her parents. Ms Keys' mother gave a statement that Ms Keys told her

¹⁰² Inquest day 2, 11 June 2025: T117 – evidence of Detective Sergeant Erickson.

that Mr Church grabbed her around the neck. Ms Narelle Cassin, a former work colleague of Ms Keys, saw evidence of a cut to Ms Keys' forehead, bruising on her shoulder and a sore neck and Ms Keys told her that she had a fight with Mr Church who grabbed her and dragged her on the kitchen floor and pushed her into a cupboard. She also told Ms Cassin that Mr Church had punched a horse in the head, knocking it to the ground. There were other accounts of terrible cruelty to horses.

312. Ms Keys moved back in with Mr Church for a short time but then left him in August 2006 and later moved interstate. This was also documented by Dr McKerral who provided her psychological therapy throughout, and provided a statement to police.
313. **Dr Jennifer Stewart**, a veterinarian, has provided a statement detailing facial fractures to three different horses she treated in the 1990s. The injuries were attributed to Mr Church and were reportedly caused by a farrier's hammer or a rasp. A few years later, Dr Stewart was working with Ms Keys and knew she was engaged to Mr Church. Dr Stewart was concerned for her safety and asked Ms Cassin to watch her closely. Ms Keys later confided in Dr Stewart that Mr Church was violent in the relationship.
314. Prior to that relationship, Mr Church was in a relationship with **Ms Jacquelyn Sternbeck** for 10 - 11 years until around July 2002. After she moved into Bruce Crescent he became nasty and violent and assaulted her. She states that he never wanted anyone to see that side of him, he wanted others to think he was wonderful.
315. She gives accounts of how Mr Church rammed her head into a cupboard and twisted her arms. He threatened to shoot her dogs but she stood between them and the rifle, and he threatened to shoot her too. He tried to attack her with a stock whip when she tried to stop him assaulting a horse in the head. He had kicked the horse enough that it was nearly unconscious. He did not like her talking back to him. He hurt her at a rodeo. On one occasion he grabbed her by the throat in the kitchen and choked her until her knees went out and she almost passed out. She thought he was going to kill her but he stopped. She had called the police a few times and they had told her they could not do anything, so she stopped reporting to them. She moved interstate. After she left he threatened to kill her and her family and shoot her horse if she made any claims against him.

316. There is evidence to corroborate Ms Sternbeck's account given by Ms Bronwyn Noone. She witnessed Mr Church being derogatory and on one occasion ran into the kitchen and saw Mr Church stood over Ms Sternbeck who was on the ground. Mr Church was choking her. Ms Noone screamed at him, he let go, apologised to Ms Noone and ran out. Ms Sternbeck told Ms Noone that it happened '*all the time*'. She also describes witnessing Mr Church have Ms Sternbeck pinned up against the side of a horse truck by the throat, he then grabbed her by the hair and threw her down with extreme force. Ms Noone yelled out and Mr Church told them both to get out of his sight. Ms Sternbeck confided in Ms Noone that she was scared that if she left him he would shoot her and her horses, however eventually she left him.
317. After they separated, Mr Church told Ms Noone that he would kill Ms Sternbeck and that no-one would ever find her if she pursued a property settlement against him. Ms Noone fearfully reported this to Ms Sternbeck urging her not to make any claim as she believed Mr Church would carry out the threat. In 2003, Mr Church threatened to shoot Ms Sternbeck's prized gelding.
318. Others give evidence of hearing sounds and screams from Ms Sternbeck consistent with the rodeo assault. Ms Sternbeck's sister gives evidence of the threats against their family, going to the police and being told that they could not help them.
319. **Ms Deborah Hinton** had a relationship in 2005 – 2006 with Mr Church and describes him having a '*dark side*' and engaging in intimidation of her after they broke up. In 2006 she had a horse that Mr Church saw her with. The horse was later found dead with a bullet hole in its head. She contacted police to report her opinion that Mr Church was responsible. After that, she noticed that Mr Church started to avoid her whereas before he would bully her and give her a hard time. She had seen Mr Church punch horses in the face but he never did it out in the open.
320. There is corroborative material from Wyong Equine Clinic as to Ms Hinton's horse being shot in the head, dated 14 July 2006. This date is only a week or so after Mr Church attempted to break the neck of Ms Keys, according to the notes of Dr McKerral¹⁰³ and in the period where Ms Keys had left him.

¹⁰³ Reported to have occurred 6 weeks prior to 6 September 2006: statement of Dr Jennifer McKerral at paragraph 6; Volume 5, rp 84.

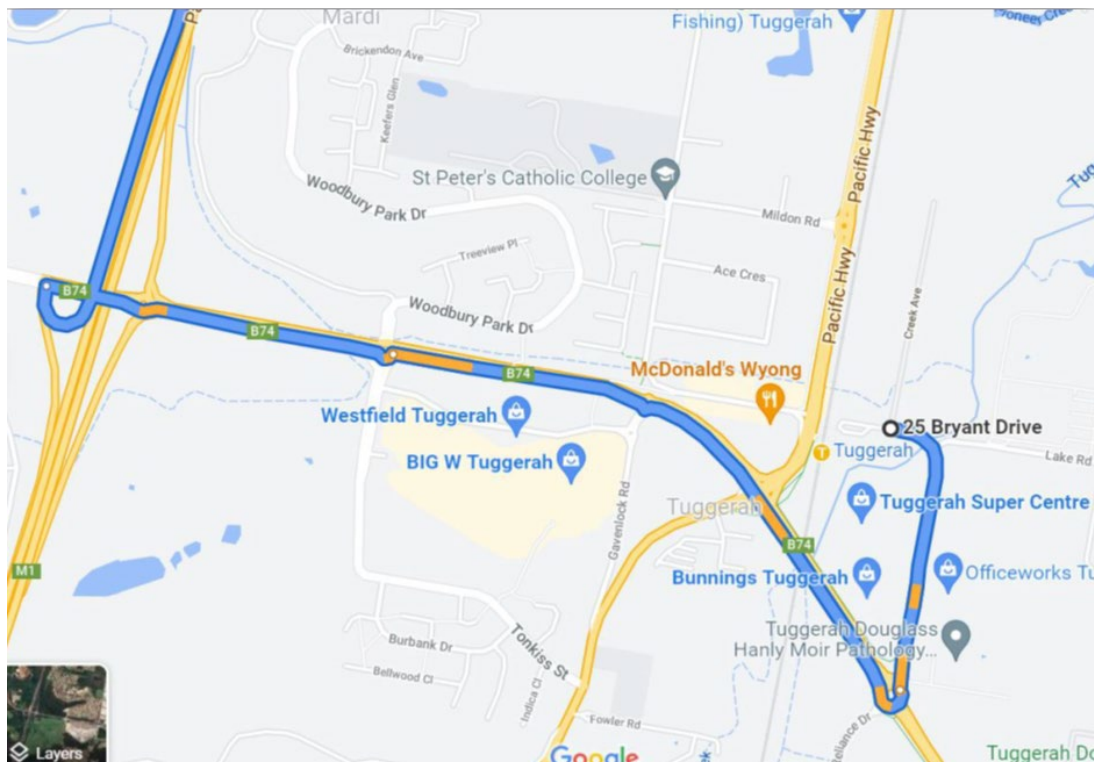
321. There is evidence that Mr Church's extreme violence is longstanding. **Ms Charmaine Mawby (Lester)** started seeing him in 1990. She observed him to stab a horse and then blamed the horse for moving which was inconsistent with the intentional act she had observed. The horse required stitches. They were engaged in 1991, however as in the later relationships, things deteriorated. On 25 April 1991 Mr Church headbutted her leaving her with an egg on her forehead. Ms Mawby states that he would grab her by the hair and slam the back of her head against the wall. The violence got progressively worse. She describes him slamming her head against the wall so many times that she would pretend to faint at which point he would cry and ask what was wrong with her and say that he had no idea what happened. On one occasion he had her on the floor with his hands around her throat and choked her until she blacked out. When she came to, she went to use the phone and he ripped it out of the wall. She describes going to her car and him kicking the car. She thought a call to the police would make things worse and called his mother. Her friend and Mr Church's parents came and she left him for a month. Mr Church said he was getting counselling so she went back, however by December 1991 they split as there was continuing violence. He once said to her that if she was pregnant her life would be over or not worth living.
322. Ms Mawby states that in April 1992 they recommenced a casual relationship, however he slammed her head against an external wall claiming that she slammed the door too hard. He slammed her head again into the wall and she pretended to faint. She ended up moving out and getting an apprehended violence order against him.
323. **Mr Wayne Brown** gave evidence (as did Ms Mawby and Ms Sternbeck) that Mr Church had a .22 rifle. Ms Mawby said he shot a dog with the rifle after it bit her. There is consistent evidence that he kept it in his bedroom cupboard. Mr Brown had seen him shoot two horses with it, and others previously. He stated that one had a broken leg and one was hit by a car. His evidence is that he had seen Mr Church smack horses in the face and guts, that he had seen him kick horses and throw hammers at horses, including at Ms Sternbeck's horse. He was aware of arguments between Mr Church and Ms Sternbeck and between Mr Church and Ms Keys, but said he wasn't aware of violence between them. He also told police that Mr Church had horse tranquilizer in his fridge which if injected, could kill a human.

324. Mr Brown's mother, **Ms Christine Brown** stated that she frequently heard Mr Church abuse Ms Sternbeck and heard breaking sounds but did not see the violence with her. She describes Mr Church as having a bad temper. She saw him be violent with horses. He punched a horse in the nose very hard in anger.
325. **Ms Kobie-Rose Palmer** gives accounts of injuries to one horse through a blunt force trauma wound from a metal object that broke the jaw of the horse on 30 June 2013, after she left it at Ms Lees' property, and of another horse being left lame in May 2013 which Mr Church had shod within the last few days. There were four nails in the horse's sole rather than the hoof. There is supporting evidence for these allegations in the brief. **Ms Chelsea Brown** also gives evidence of cruelty to horses and intimidation by Mr Church, as do several others.
326. **Ms Emma Jewell**, who was in a relationship with Mr Church from around July 2013 (that is, after Leisl's disappearance), gave a statement to police on 16 December 2021, some three years after his arrest. For the first time, Ms Jewell disclosed that Mr Church was physically violent and emotionally abusive towards her throughout their relationship. She had not previously reported Mr Church as she was scared to do so, given his threats against her. Ms Jewell gives an account of regularly being called derogatory names, of Mr Church destroying her property, and one occasion when he held his forearm across her throat whilst yelling at her. She was petrified. After they separated in 2019, Mr Church said, *'I am going to burn down our house, so you better get what's important out if you want it. What makes you think I won't kill you and bury you up the back? Take your glasses off, you are about to get hit'*. At this point Mr Church jumped a fence and ran at Ms Jewell with his fists up towards his face, Ms Jewell yelled at him to stop and he did. Ms Jewell made a contemporaneous diary entry about this incident and others which she provided to police.
327. Mr Church was confronted with the allegations of violence from Ms Mawby, Ms Sternbeck and Ms Keys by police in April 2013. He denied being violent to any of these women and labelled them all 'crazy'. Consistent with my finding with respect to Mr Church's credibility, I find his denials wholly unconvincing.
328. Although the accounts of these women are untested, the similarities between them and the corroborating material persuades me that the evidence should be accepted

as reliable and satisfies me that Mr Church did have a tendency to inflict serious injury, and on at least one occasion grievous bodily harm, on intimate partners, and that this is significantly probative, in combination with the other circumstances I have outlined, in determining what happened to Leisl including who caused her death.

Findings

329. As illustrated above, there was abundant evidence before the court that Leisl was threatening to not only ruin Mr Church's relationship with Belinda Lees, but to ruin his reputation in equestrian circles. I accept counsel assisting's submission that Mr Church had several motives to harm Leisl: she continued to resist his attempts to control and silence her; he believed she could be pregnant with his child (whether she was actually pregnant or not is beside the point) and not only did he not welcome that possibility, there is evidence that he had threatened to kill her in these circumstances; he wanted to continue his relationship with Ms Lees but that relationship was clearly at risk if Ms Lees discovered the truth about his ongoing sexual relationship with Leisl; and Leisl was threatening to damage his personal and professional reputation.
330. I am satisfied, on the basis of objective evidence, that on 19 August 2012 Mr Church did not go on the Pacific Highway or through Wyong and did not drop Leisl in Wyong at all. I am positively satisfied that he drove from the Tuggerah Railway Commuter Carpark at Creek Avenue with Leisl in his car to the M1 via Wyong Road, and up the M1 under the Sparks Road overpass, past the Point-to-Point camera at Sandy Hollow and on past Merriwa, having told Leisl that he had a property for her to live at in the voicemail which she had played to Mr Smith the day before.



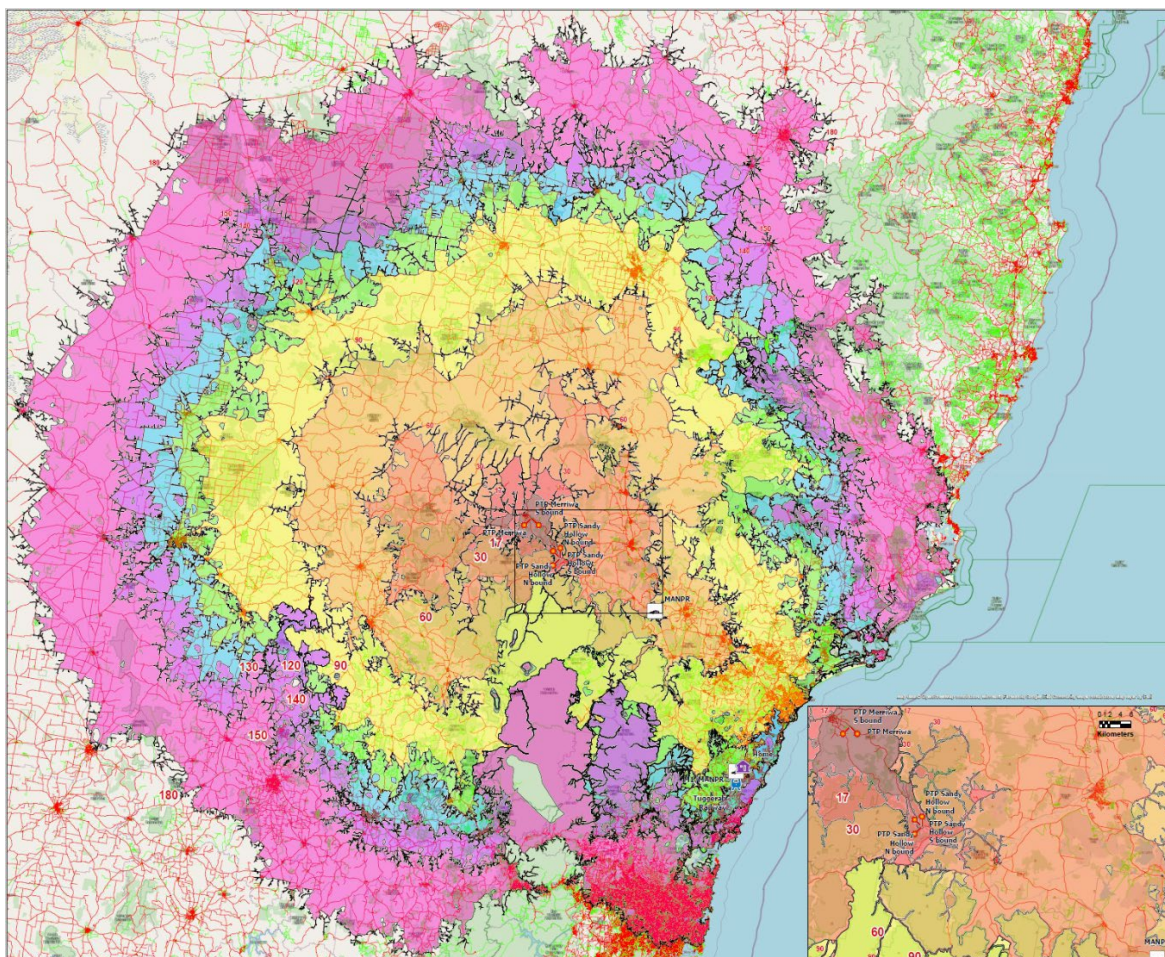
Trial Exhibit DM, Image 19a - Journey from Creek Avenue Tuggerah (marked as 25 Bryant Drive) to the M1 via Wyong Road (B74).

331. Either at the end of their journey or enroute, Mr Church inflicted fatal harm on Leisl. I have considered both possibilities and am unable to make a firm finding either way. It remains *possible* that Mr Church killed Leisl soon after they commenced the journey at 2.02pm from Tuggerah Train Station. However, given the time it would have taken to travel along the M1 and under the Sparks Road overpass to get to the Sandy Hollow Point-to-Point camera by 4.22.07pm, it would appear a very risky plan. It would mean that Mr Church killed Leisl in the car as he drove or during a brief stop which could only have been a matter of minutes in an exposed location. Mr Church's car was examined by Police on 28 September 2012 and I note that there were no relevant findings.
332. It seems much more likely that she was killed at a more secluded destination in the Upper Hunter region. I note that the couple had previously had sexual relations in bushland, most recently at Ourimbah State Forest on 13 August 2012.¹⁰⁴ It is always possible she was lured into bushland with this kind of assignation in mind or that she was told she would be able to view the accommodation that he had promised. These are mere theories and it is impossible to say precisely how she came to her death or where it happened.

¹⁰⁴ Trial Exhibit B, p 372; Evidence of James Church, *R v Church* trial day 58 – 9 May 2022, T3926.

333. The telephone records do not assist in determining a time or place of death. While Leisl does not respond to Mr Smith's text message at 2.34pm or Mr Elkin's text message at 5.59pm, there could be a number of explanations for this. Nevertheless I am satisfied that she was killed on 19 August 2012 at some point after 2.02pm. I note that Mr Church had commenced his journey back towards his home when he was captured on the point to point camera at 10.34pm travelling in a southeast direction.
334. Having carefully considered the matter I am unable to rule out the possibility that Leisl was killed whilst still in the Central Coast area.
335. Wherever she died, I think it most likely that Mr Church concealed Leisl's body somewhere in the Upper Hunter region. I am aware that considerable further work was done after the trial to see if an area could be narrowed down for further searching. This included an extensive analysis by the NSW Police Force Mapping Operations Unit, which plotted the maximum distance Mr Church could have travelled by road during the time period between his vehicle being captured travelling north-west on the Sandy Hollow Point-to-Point camera at 4.22pm on 19 August 2012, and his return journey travelling south-east via the Merriwa Point-to-Point camera at 10:34pm on the same date. This analysis resulted in the creation of a series of detailed maps, which plotted the driving ranges for nine different time durations ranging from 17 minutes to 180 minutes.¹⁰⁵

¹⁰⁵ Tab 6.3 of coronial brief of evidence, Statement of Jost Preis dated 12 February 2025.



Tab 6.3 , Overview map of the driving ranges with nine different time durations overlaid.

336. Considering the detailed maps produced by the NSW Police Force Mapping Unit, it is unsurprising that Leisl's body has never been found. A vast area was accessible to Mr Church whilst he was 'off-grid' on 19 August 2012 and between the Point-to-Point data times. From that analysis, and given the Point-to-Point evidence, including the preparatory run, it is the opinion of Detective Sergeant Jones that Leisl's remains may lie in the Goulburn River National Park or in its vicinity.¹⁰⁶ I accept that this is likely the case, but I am unable to make specific findings in relation to the place of her death. I note that should Leisl's remains ever be located, I will have these proceedings re-opened.
337. I find that Mr Church's 17 August 2012 trip captured on the Point-to-Point cameras must have been a reconnaissance trip for the 19 August 2012 journey with Leisl, likely undertaken to locate and prepare a burial site.¹⁰⁷ Mr Church had not taken that route previously and only did so again on 7 April 2013, after the police had told him

337. I find that Mr Church's 17 August 2012 trip captured on the Point-to-Point cameras must have been a reconnaissance trip for the 19 August 2012 journey with Leisl, likely undertaken to locate and prepare a burial site.¹⁰⁷ Mr Church had not taken that route previously and only did so again on 7 April 2013, after the police had told him

¹⁰⁶ Inquest day 2, 11 June 2025: T99.13-19.

¹⁰⁷ This is also the opinion of OIC Detective Sergeant Jones. See inquest day 2, 11 June 2025: T99.13-19.

his vehicle was captured there and he went to both check the cameras and to drive to see the Evanses, realising he needed a different (false) alibi.

338. The available evidence does not enable me to make a finding as to the physiological cause of Leisl's death.
339. For the reasons stated above I make the following formal findings pursuant to section 81 of the Act:

Identity

The person who died is Leisl Alexandra Smith.

Date of death

Leisl died on 19 August 2012 at some time after 2.02pm.

Place of death

Leisl died at or somewhere in the vicinity of the Central Coast or Upper Hunter regions of NSW.

Cause of death

Leisl's cause of death is unknown.

Manner of death

Leisl's death was a homicide. She was killed by James Scott Church.

The need for recommendations

340. Pursuant to s 82 of the Act, coroners may make recommendations connected with the death under investigation where they consider it necessary or desirable to do so.
341. This inquest has drawn attention to the doctrine of abatement and its impact on those awaiting verdict in a criminal trial. While the circumstances of this case are undoubtedly rare, the pain caused to Leisl's relatives has caused me to consider whether there should be consideration of potential reform to the criminal justice system in this area. I will canvass this in more detail below.

Missing persons investigations

342. Before I turn to the issue of abatement, I intend to address the topic of missing persons investigations and why the adequacy of the initial investigation into Leisl's disappearance in 2012 did not rise to prominence as an issue in the inquest.
343. Firstly, as noted above, by the time Leisl was first reported missing, the critical 24 to 72 hour investigative window was already lost and, as I have found, Leisl was already dead. Tragically, while a more proactive initial investigation might have hastened the production of an earlier criminal brief or captured more evidence, it would not have saved Leisl's life.
344. Secondly, the coronial brief of evidence contained the NSW Police Force's missing persons investigations policies and procedures operating in August 2012. The court also received evidence regarding the investigative steps taken between the date Leisl was reported missing and the date when the investigation was transferred to Tuggerah Detectives (a period of some 11 days). From that material it appears to me that the investigation into Leisl's disappearance in that initial period after she was reported missing was conducted in accordance with the prevailing procedures.
345. Thirdly, there have been vast improvements to NSW Police Force missing persons investigations procedures and processes since 2012. Indeed, since 2019 comprehensive standard operating procedures have brought much-needed rigour, structure and guidance to all missing persons investigations. Changes include each police command now having specialised Missing Persons Coordinators, who have a proactive role in providing guidance and support on such investigations. In turn this ensures the involvement of homicide detectives from an early stage, if required. There are also maximum mandatory time frames for investigative functions to be performed. The current Missing Persons, Unidentified Bodies & Human Remains Standard Operating Procedures (2024) (Missing Persons SOPS) were before the court and this document illustrates the improvements made since 2012. No deficiencies in those policies, relevant to these proceedings, was identified.
346. Detective Sergeant Jones gave some evidence about the improvements made to missing persons investigations and the importance of the new Missing Persons SOPS. He said:

*'...as a general duties supervisor now, it's extremely helpful for me. It's something that is in the forefront of our minds every day if we have a missing person that we - it's not something that's put aside because other competing priorities take over, it's something that we're always looking at, and we're ensuring that the steps that are being followed, and then it is handed to investigators at the appropriate time.'*¹⁰⁸

347. In all these circumstances, I did not consider that this was an issue warranting further investigation in Leisl's matter. I make no recommendations on the issue.

Abatement

348. Mr Church's death on the eve of his trial verdict had an immediate consequence for those proceedings. As a result of his proven death, by virtue of the legal principle of abatement, the proceedings were extinguished.
349. The primary rationale underlying the doctrine of abatement in the criminal context is rooted in the notion of fairness: a defendant must be alive in order to be held accountable and to defend themselves. It would also be unjust to maintain a conviction which cannot be rigorously tested through the appeal process after death. A further rationale is that two of the primary objects of the criminal justice system – punishment and rehabilitation – clearly cannot be achieved after the death of the accused.
350. If Mr Church's matter had been a jury trial and not judge alone, the jury would have been discharged without delivering a verdict. There would be no sealed or unpublished reasons and no record of their deliberations.
351. However, it was a judge alone trial, and in the words of the trial judge, there was not only a verdict which could not be entered or returned, there were *'very lengthy reasons which were ready to be published this morning'* which would now never be seen. The court papers could be marked 'no further proceedings' because the trial had concluded without verdict.
352. Her Honour's clear explanation of why this was so, and further comments bear repeating:

¹⁰⁸ Inquest day 2, 11 June 2025: T76.9-14.

Where an accused person dies during the currency of his or her trial, the trial proceedings come to an end. If a jury had been empanelled in Mr Church's trial and Mr Church died whilst the jury were in deliberation, the jury could not return a verdict, and the jury would have been discharged.

Because of Mr Church's death yesterday, which brought his trial to an end, I cannot announce my verdict today.

I am conscious that for Ms Smith's many friends and members of her family, many of whom gave evidence in the trial, some of whom are here today and others who I understand are listening to the proceedings via AVL, the fact that there can be no announcement of a verdict will be difficult to deal with.

I am conscious as the presiding judge that after a lengthy police investigation, and a thorough police investigation, into Ms Smith's disappearance almost 10 years ago, a lengthy trial into what the Crown alleged was her murder, a trial that Ms Smith's mother, Ms Harvey attended every day, and I acknowledge her attendance here today, a trial in which her father, Mr Storm Smith gave evidence, and I acknowledge his attendance here today, the fact that there can be no announcement of my verdict, will be difficult to accept.

I want to assure Ms Smith's many friends and many members of her family, some of whom I know have travelled considerable distance to be here today, that the law simply does not allow me to return a verdict to publicly announce it or to publish very lengthy reasons which were ready to be published this morning. The trial was conducted with every fairness to the accused.

I regret that the trial proceedings have concluded without verdict. I hope the members of the public and, more importantly, Ms Smith's family members and her many friends understand the position as I am obliged to abide by it as a matter of law.¹⁰⁹

353. However, while the criminal proceedings abated upon Mr Church's death, and as such are now 'finally determined' as that term is to be understood pursuant to s 79 of the Act, the question of determining what happened to Leisl was necessarily

¹⁰⁹ *R v Church*, 8 July 2022: T3.

revived in the coronial jurisdiction. Unfortunately, much as I would have greatly benefitted from reading Justice Fullerton's lengthy reasons, of course, like Leisl's family, it is a document that I cannot have access to.

354. During the course of these proceedings, I was interested in understanding the impact that the doctrine of abatement has had on Leisl's family and on the involved investigators. I learned that the abatement of Mr Church's trial, understandably, has caused deep distress for Leisl's family and frustration for police whose extensive investigation came to an abrupt and unsatisfactory end without the finality of a verdict. Key issues have been left unresolved including, as observed by Leisl's mother Ms Sandi Harvey, that the presumption of innocence still applies. It has provoked consternation as to whether a trial without a verdict in such circumstances is just, or whether it may call for potential legislative reform of the criminal justice system. Ms Harvey and Leisl's sister Jerildene Cane have each publicly called for law reform in this area.

355. The following evidence from Detective Sergeant Mick Jones serves to illustrate some of the doctrine's impact on those involved in this case:

*'I believe in our investigation. I know in my heart what the result was going to be at trial. I have no doubt that we were going to get a successful prosecution in the Supreme Court. All evidence proves to that. It's disappointing that we didn't get that conviction, and I know it's hard for Sandi and the rest of the family, because they aren't able to bury their daughter, sister, aunty, and they haven't got somewhere where they can go and visit her, and having that conviction would have helped with them reconciling and trying to move forward.'*¹¹⁰

356. According to Detective Sergeant Matt Erickson:

'...there's no answer for Sandi, there's no answer for Storm or Jerildene. Like, Mick used the word, "I feel robbed". Probably I would have the same opinion as that. We put so much work into this, and to know, to have an understanding that there is a verdict there and there is a decision been made, and all the evidence has been heard. Directions, Judge Fullerton has understood her own

¹¹⁰ Inquest day 2, 11 June 2025: T102.30-37.

*directions, and made that final determination, and we just can't get it. I just feel - that just doesn't sit right, it just does not sit right at all.*¹¹¹

357. He went on to acknowledge that although the present inquest will result in factual findings determining what happened to Leisl, very understandably he:

*'...would have preferred it to be through the criminal courts. It's tested at a much higher level, your Honour. But we're not left with that. We're here now, and all can - with the greatest respect, all I can comment on is how – what we're dealing with now, and what I think should happen in the future, and that is I believe that we should be able to have access to a decision that was made after a trial was run.'*¹¹²

358. I understand his view and I too would have preferred such a decision to have been made in a higher court using a criminal standard of proof, after a defended hearing.

359. It was submitted by counsel assisting that a recommendation for law reform is within my power pursuant to s 82 of the Act as it is a matter relevantly connected with Leisl's death. I accept that submission and intend to make a recommendation on this subject because, in my view, it is necessary and desirable to do so. However, this leads me to consider what would be the appropriate form of the recommendation, because I am not able to suggest a simple resolution to this complex issue by relying on the facts of this one rare case.

360. Detective Sergeant Mick Jones gave his opinion that the law of abatement should be changed so that where a verdict has been decided whether by judge, as in Leisl's case, or by jury, but not yet entered, the death of an accused should not thwart its delivery. This view is informed by the fact that by this stage of the proceedings, an accused will have had an opportunity to participate in the proceedings, including having his or her interests represented and to test the evidence, there will have been closing addresses and complete deliberations. I understand that this view is shared by Leisl's mother.

361. However, Detective Sergeant Matt Erickson takes a more expansive position. In his view, the bright line after which the death of an accused should be immaterial to

¹¹¹ Inquest day 2, 11 June 2025: T130.45 – T131.2.

¹¹² Inquest day 2, 11 June 2025: T133.23-28.

proceedings is when the parties' cases have closed and the summing up delivered in a jury trial, and in both a judge alone and jury trial, where deliberations have commenced. I understand that this approach broadly accords with Jerildene Cane's view, although she posited another option: that in the case of a jury trial the relevant point ought to be once a majority agree as to the verdict.

362. It may be appropriate for reform of this kind to be integrated into the *Criminal Procedure Act 1986* (NSW), however the solution is unlikely to be straightforward, and the different views of individuals impacted in this case serve to highlight the complexity of the issue.
363. Matters are further complicated when one considers that entry of the verdict is not necessarily the end of the matter, given that an accused enjoys certain rights of appeal. The doctrine of abatement could require that the verdict be overturned because the defendant did not have an opportunity to appeal by virtue of his death. How could law reform in this area address this issue and provide finality? Any such reform might naturally sit in the *Crimes (Appeal and Review) Act 2001* (NSW), where challenges to both acquittals and convictions lie and which already permits the Attorney General to refer a case to the Court of Criminal Appeal to be dealt with as an appeal notwithstanding the death of the convicted person.¹¹³
364. It would remain then to consider who could bring such an application and what point would form the jurisdictional foundation or threshold for such an application, for example: a record announcing that the judge and/or the foreperson of a jury has advised that a verdict been reached but not yet been returned, or at some earlier point in the trial. Implications as to the effect of provisions of the *Jury Act 1977* (NSW) might also need to be considered. There is also a question as to how any proposed exception should be informed by comparative laws, where cases can persist after the death of a party. I do not pretend to have answers to these difficult questions.
365. Given the potential ramifications associated with reform in this area, the many permutations of which are well beyond the scope of this inquest and its unique

¹¹³ See *A reference by the Attorney General for the State of New South Wales under s 77(1)(b) of the Crimes (Appeal and Review) Act 2001 re the conviction of Frederick Lincoln McDermott* [2013] NSWCCA 102 at [20] – [21].

factual matrix, my recommendation will be formulated broadly to enable further consideration of potential reform to the doctrine of abatement.

Coroners Act

366. Finally on the topic of s 82 recommendations, I return now to the challenges confronting coroners arising from the breadth of the word 'suggest', as it appears in s 81(3) of the Act. Relevantly, that subsection creates a prohibition on the coroner 'in any way' suggesting that an offence has been committed by any person. As acknowledged in the December 2023 Report on the Statutory Review of the Act:

It creates confusion about the ability of coroners to make findings of fact relevant to the coronial proceedings, which might ultimately be relevant for a finding of guilt in future criminal proceedings. This is inconsistent with the general practice that a coroner is entitled to express views and make comments as to the appropriateness of actions or inactions of particular persons or agencies in the exercise of their functions. (p 74)

367. The report goes on to recommend that the Act should be amended so as to reflect the generally accepted position that coroners should not offer opinions in terms of findings of guilt but may comment on where responsibility for the death lies¹¹⁴ (as I have done in this case).

368. This inquest is an good example of the difficulties with s 81(3) as presently drafted. It was submitted by counsel assisting that my findings and counsel assisting's submissions should be referred to the NSW Department of Communities and Justice which undertook the Statutory Review on behalf of the Attorney General for its consideration as a cogent example of the need for reform to the provision.

369. It is difficult to understand why this and many other important recommendations from the Statutory Review have not already been actioned.

Recommendations pursuant to section 82 Coroners Act 2009

370. For the reasons stated above I make the following recommendations pursuant to section 82 of the Act:

¹¹⁴ See recommendation 34.

To the Attorney General of NSW

Recommendation 1

371. That the Attorney General of NSW refer to the NSW Law Reform Commission, arising from the facts in this case, the question of whether the doctrine of abatement operating in the criminal justice system should be reformed – for example, to consider whether there may be proceedings in which verdicts can be delivered in circumstances where an accused dies during the currency of their trial, and to consider in particular the operation of the doctrine in circumstances where deliberations of a judge alone or jury have concluded. A copy of these findings is to be included with the referral.

Recommendation 2

372. That without further delay the Attorney General of NSW implement recommendation 34 of the Report on the Statutory Review of the *Coroners Act 2009* (December 2023) published by the NSW Department of Communities and Justice.
373. I intend to refer these findings and counsel assisting's submissions to the NSW Department of Communities and Justice to inform the position grounding recommendation 2.

Conclusion

374. Leisl was a vibrant young woman and her death is a devastating loss for all those who love her. I again express my deepest sympathies to Leisl's family and loved ones.
375. Contrary to his '*no body, no problem*' claim to Mr Evans, I have been able to set out Mr Church's role in Leisl's disappearance and death because of the exceptional and indefatigable work of NSW police officers during the investigation. The tireless work of the police in this case has ensured that despite every twist and turn, at least some aspects of Leisl's death can now be officially recorded.
376. The court heard the evidence of Detective Sergeant Mick Jones in relation to the personal impact of this investigation upon him, given his deep emotional and professional investment in providing an outcome for Leisl and her family. Detective Sergeant Jones took it upon himself to tell Leisl's story, to obtain the evidence to

demonstrate what happened her, and to be her voice. The extent of his engagement ultimately took an emotional toll on Detective Sergeant Jones. So too, his colleague Detective Sergeant Gavin Haydon, a fine investigator who I am informed left the NSW Police Force in part due to the impact of this investigation.

377. The court also heard from Detective Sergeant Matthew Erickson, who provided important assistance in the investigation from 2018, and who was critical in preparing the matter for the trial in 2022. Detective Sergeant Jones also spoke of Senior Criminal Analyst Jenifer Lawson, the analyst on Leisl's matter, who he commended for her exemplary assistance and whose assiduous work in distilling complex evidence into digestible summaries has assisted me greatly.
378. I not only extend my gratitude to them but I formally commend Detective Sergeants Jones, Haydon and Erickson and Ms Lawson for their work in this enormous and multifaceted investigation, which enabled the matter to proceed to trial, and ultimately which has enabled me to make my factual findings in this court.
379. Finally, I thank my counsel assisting team, Gabrielle Bashir SC, Emma Sullivan and Peita Ava Jones, and their instructing solicitors, Alecia Wood and Alexis McShane, and Vivian Wei before them, who diligently assisted me and ensured the fair and efficient conduct of these proceedings.
380. I close this inquest.

Magistrate Harriet Grahame
Deputy State Coroner
NSW State Coroner's Court, Lidcombe
29 September 2025