



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of BX

Hearing dates: 2 to 6 February 2026

Date of findings: 4 March 2026

Place of findings: Coroners Court of New South Wales

Findings of: Magistrate David O’Neil, Deputy State Coroner

Catchwords: CORONIAL LAW – siege – negotiations – possession of firearm – unexecuted arrest warrant

File number: 2023/00228483

Representation: Mr M Thangaraj SC and Mr C McGorey, Counsel Assisting the Coroner, instructed by Mr Holcombe and Mr Prindiville (Crown Solicitor’s Office)

Mr I Nash for JW, instructed by Ms Naz of LANSW

Ms S Callan SC and Ms S Love for the Commissioner of Police, instructed by the Office of the General Counsel, NSW Police Force

Findings: I make the following findings in relation to the death of BX pursuant to s 81 of the *Coroners Act 2009* (NSW):

Identity: The person who died was BX

Date of death: BX died at around 8:45am on 17 July 2023

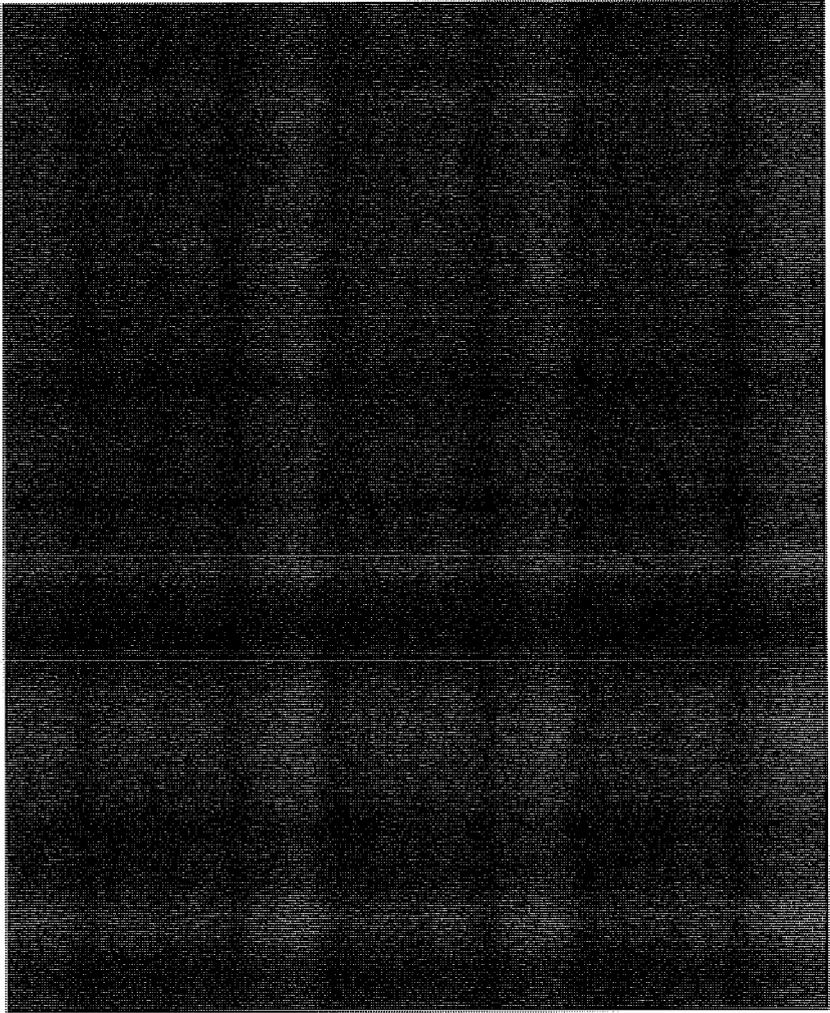
Place of death: Bowenfels, NSW

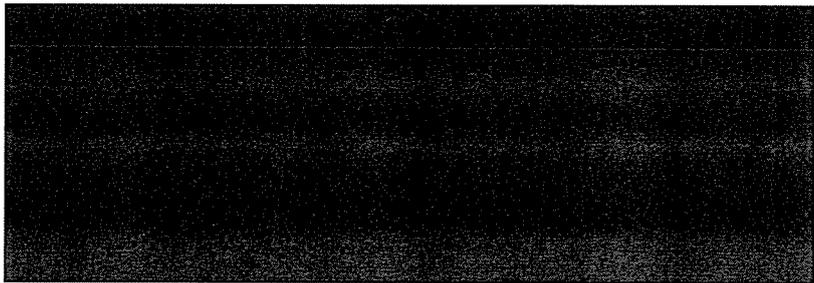
Cause of death: BX died from a gunshot wound to the head

Manner of death: BX's death was intentionally self-inflicted

Recommendations

To the Commissioner of the NSW Police Force, I recommend that consideration be given to using the events of 16 and 17 July 2023 as part of training for tactical police, police forward commanders and police negotiators in respect of the matters to be considered in the context of a proposal to move a special purpose vehicle towards a stronghold [REDACTED]





Non-disclosure and non-publication orders

Non-disclosure and non-publication orders prohibiting publication of certain evidence have been made in this inquest. A copy of these orders, and corresponding orders pursuant to section 65(4) of the Act, can be found on the Registry file.

Introduction

- 1 BX passed away at approximately 8.45am on 17 July 2023. BX died from a gunshot wound to the head. BX was 29 at the time of his death. He is survived by his father and two brothers. In the hours leading up to his death, BX had been involved in a siege involving multiple police officers. Present with BX throughout the siege in the house was JW, who tenanted the house. BX and JW had been in a relationship for four months immediately leading up to the siege.
- 2 As the siege is considered to be a “police operation” under the *Coroners Act 2009* (NSW) (the Act), it was mandatory to hold an inquest.
- 3 The inquest took place in Bathurst on 2 to 6 February 2026.
- 4 The purpose of the inquest, as with all inquests, was to establish who died, where and when the death occurred, and the cause of the death. In addition, the manner or circumstances of the death was considered.
- 5 In an inquest, civil and or criminal liability are not determined, although consideration of the circumstances of the death may lead to adverse comment about an individual or an entity. An important aspect of considering the circumstances is to determine if it is appropriate to make any recommendations under s 82 of the Act.

Coronial Investigation

- 6 Prior to holding the inquest, a detailed coronial investigation was undertaken. Investigating police compiled an initial brief of evidence. The brief included the statement of the officer in charge of the investigation (OIC) in addition to statements from police officers at the scene, statements relating to the examination of the scene, and statements from some civilians (including members of BX’s family).

- 7 The Commissioner of the NSW Police Force (NSWPF) and JW were identified as having a sufficient interest in the proceedings and received notification of their sufficient interest.

Witnesses

- 8 The following witnesses and from the following witness categories gave oral evidence in the inquest:
- (a) One of the Police Forward Commanders (PFCs) during the siege (who at the time of BX's death was an Acting Inspector);
 - (b) Friends and associates of BX;
 - (c) QF;
 - (d) JW;
 - (e) Sergeant Sonia Wiles;
 - (f) Tactical police officers;
 - (g) Police negotiators; and
 - (h) Dr Brad Wright (expert witness). Dr Wright has served 39 and a half years in the Queensland Police Service (QPS). At the time of his retirement in 2025, he had responsibility for developing and delivering command training at the strategic level for the QPS. Dr Wright's tertiary qualifications are:
 - i. Bachelor of Business (Human Resource Management) - Griffith University;
 - ii. Graduate Certificate in Applied Management - Australian Institute of Police Management;
 - iii. Master of Emergency Management - Charles Sturt University; and
 - iv. Doctor of Public Safety - Charles Sturt University.

Issues List

9 Prior to the inquest commencing, an issues list was distributed to the parties. The issues list is neither completely determinative as to what is to be considered in the evidence at inquest nor does it limit what may ultimately be examined. Nevertheless, it guides the content of the inquest from the inquest's outset. The issues were set out in full in counsel assisting's opening as follows:

- 1) What information was to hand that BX was possibly in possession of a firearm when a warrant for his arrest was issued in April 2022? what action was taken to prioritise locating him and executing that warrant?
- 2) Were there features of BX and his activities before 16 July 2023 that pointed to him posing a risk to others in terms of offending involving weapons or firearms? If there were, what were they?
- 3) Did the initial attendance of the officers on 16 July 2023 in the front yard put them and others at risk? Considering the information available at the time, what other options (if any) might have been reasonably available to police at the time?
- 4) Was the response of the NSWPF to BX's refusal to exit the residence and actions on 16 and 17 July 2023 reasonable, including:
 - a) Why did the Armoured Special Purpose Vehicle (ASPV) approach the residence (at about 4.20pm)? What planning was undertaken in relation to the approach of the ASPV, and was that action reasonable and appropriate in the circumstances?
 - b) Was the return fire of shots by Operator 195 reasonable and appropriate in the circumstances?
 - c) Was the strategy of the NSWPF, including the interactions negotiators had with BX, reasonable in the circumstances (outside the ASPV approach at 4.20pm)?

- d) Was the possibility of facilitating contact between BX and family members considered, and if so, why did that not occur?
 - e) What medication did BX request during the siege and why? Was the response of NSWPF to his requests reasonable in the circumstances?
- 5) What were the circumstances surrounding BX suffering his fatal gunshot wound?
- 6) Are there any lessons that can be derived from the events on 16 to 17 July 2023 as regards ameliorating the risk posed by people with the features identified in Issue 2?

Background

- 10 Much of what follows by way of factual background is drawn from an agreed statement of facts. The preparation of this document by the parties has been of great assistance to me (both in its draft form throughout the inquest and in its final form) in delivering these findings.
- 11 BX's parents separated when he was approximately six years of age. As I have already referred to, he is survived by his father and two brothers. His mother passed away from cancer in early 2014. BX exhibited difficulties during his high school years. He had difficulties with regulation of anger; he commenced using cannabis and other substances in those years. It appears he regularly used cannabis throughout his adult life. BX ceased high school in about Year 10. In his late teenage years and into adulthood, he resided at numerous premises, including in Sydney, Canberra, and Queanbeyan. BX held short term casual manual jobs at times but was largely unemployed during his adult life.
- 12 BX had difficulties from his early teenage years with illicit substance use, interpersonal relationships, and aggression. Whilst a teenager, he had at least one inpatient admission for mental health treatment at Campbelltown Hospital.

- 13 BX reported to friends that he suffered abuse whilst in juvenile detention. A juvenile justice report, which was part of the evidence gathered for these proceedings, noted BX's stays in youth refuges, suspension from school, a reported diagnosis of depression in 2007, his mental health admission to Campbelltown Hospital in 2009, and the engagement of the Infant, Child and Adolescent Mental Health Service at Campbelltown in 2019.
- 14 In September 2020, BX faced charges of travelling without a train fare and resist police. These charges were dismissed by the Local Court of NSW under the *Mental Health (Forensic Provisions) Act 1990* (NSW). A report of a psychologist, Mr Awit, was before the Court. It included a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) and a Major Depressive Disorder with anxious distress. BX participated in psychological sessions with Mr Awit between August 2020 and April 2021, consistent with the terms of the dismissal of the charges by the Local Court. There is no evidence of BX engaging in any other psychological treatment beyond this time.
- 15 BX was in a short-term relationship with a woman in 2021. On 2 August 2021, BX allegedly threatened to kill himself with a firearm and tried to force the partner to accompany him. BX was charged over this event with:
- (a) Take person intending indictable offence (domestic violence);
 - (b) Armed with intent to commit an indictable offence;
 - (c) Stalk or intimidate with intent to cause fear or harm;
 - (d) Use offensive weapon with intent to commit indictable offence; and
 - (e) Possess unauthorised firearm.
- 16 An Apprehended Domestic Violence Order (ADVO) was also issued for the protection of the partner. BX was granted bail. On 12 April 2022, after he failed to appear at court, the Queanbeyan Local Court issued a warrant for his arrest.

- 17 On 15 April 2022, police from the Blue Mountains Police Area Command (PAC) recorded that BX no longer resided at his bail address, with his whereabouts unknown. According to BX's father, while on bail and before he absconded, BX made comments to the effect that if police ever came to arrest him, he would not go quietly. BX's father contacted police at Springwood Police Station to report his concerns about this, as he believed BX was on the brink of contravening his bail obligations.
- 18 In December 2021, another partner contacted police and spoke to them in relation to BX leaving about 100 missed calls over an hour. BX's father reported that BX had last attempted to contact him in about July 2022. BX's brother reported last seeing BX in May 2020, after a lapse of about four to five years of no contact. The last phone contact BX's brother received from BX was in about December 2022.
- 19 As at July 2023, BX's friends understood that BX had unlawfully possessed a sawn off .22 rifle from as early as 2014 to 2015. The firearm BX was charged with being in possession of in the 2021 charges was the same one he had in his possession on 16 and 17 July 2023. It was described as a shortened CZ brand .22 rifle and was found to have no serial number.
- 20 In addition to reporting an understanding as to BX's possession of a gun as early as 2014 or 2015, BX's friends and associates were aware that he held anti-government, anti-police, and anti-vaccination views. During the inquest, these views were acknowledged to align with views held and expressed by sovereign citizens; however, there was no evidence BX identified as a sovereign citizen.
- 21 BX and JW commenced a relationship in approximately March 2023. They met through associates in the Lithgow area. Shortly thereafter, BX and his two dogs moved into the premises JW tenanted.
- 22 BX had a great love of his dogs. A shared love of dogs was a significant factor in a previous relationship BX had. Again, it was a relatively short relationship

measured in months, however, that partner (who was an impressive witness at the inquest) shone light on not only BX's love of his dogs but also his love of nature and knowledge of plants. She described BX as a different person when they went on nature walks together. It seemed to be a place of great peace for BX.

23 That former partner described BX as very caring for the most part of their relationship; however, two particular occasions troubled her. On one occasion, he sat outside her premises, doubting her whereabouts. This episode revealed disturbing controlling tendencies. The other, which may have occurred around the same time, was when, over a period of days, BX, who wanted his partner to receive a parcel he had arranged to be sent to her residence, made over 100 missed calls to her in an hour and sent up to 70 texts over two hours. These events disturbed her enough for her to go to the police in relation to BX's conduct. That partner also described an explosive aspect of BX's nature. The explosions were verbal, not physical, and BX was always remorseful and apologised after such incidents. That same partner formally separated from BX when he failed to answer bail in April 2022.

24 After failing to answer his bail, BX took steps to avoid detection, which included avoiding venues where there was CCTV such as shopping areas and train stations. He also did not attend upon medical practitioners of any form and was not prescribed medication. There was evidence he accessed non-prescription Lyrica in this period.

25 Overall, in the last 14 to 15 months of his life, BX was not vaccinated, had no prescribed medications for pain (he had suffered a workplace injury), and he had no prescribed medications for what seemed to be a serious blood-sugar issue which caused either hyper or hypo glycaemic episodes. He also had no mental health treatment or medication in that period.

The siege commences

26 At 11.44am on 16 July 2023, JW made a triple zero phone call, reporting a fight with her partner. The call was brief and ended before its transfer to a police

operator. During the call, JW was captured saying *"It's time to go, cunt. Fucking abusing, it's time to go"*. JW called triple zero back almost straightaway. She stated *"I don't need anyone to come over. Everything is fine. We're okay. It's just a fight. It's just an argument"*. At 11.49am, in response to JW's call, a Priority 3 domestic job was broadcast over police radio.

27 Shortly before 12.12pm, JW spoke by phone with her sister, QF. At about 12.12pm, QF called triple zero and asked police to attend the residence, referring to her sister being bashed by her boyfriend who had a gun, noting *"He's on the run from the police in Canberra. He's threatening suicide. He's wanted in Canberra for bashing his ex-partner"* and that QF had only heard her sister on the phone, who was hysterical. She referred to the boyfriend's first name but indicated she did not know his last name. QF was asked what type of firearm he had and whether her sister had seen it, and she indicated *"Yes, she's seen it. I think it might be a rifle"*. QF went on to say her sister had hung up on her, and that is when QF had called triple zero.

28 As of 16 July 2023, JW had a mobile phone number on her person in the residence, and during the police operations commencing that day, BX and JW used JW's phone to communicate with police and others. BX also had a mobile phone inside the house.

Initial police response

29 General duties police from Lithgow attended the residence in response to the VKG broadcast. The attending police were uniformed and had body worn cameras attached. Following the upgrade of the job to Priority 2 after QF's triple zero call, it was determined that the attending officers would first meet at a staging area in the carpark near Lithgow Tourist Centre and they would wear ballistic vests. It was also determined that highway vehicles would block the road at either end when police attended the residence.

30 When police were near the residence, they called JW's phone and briefly spoke to her about their planned attendance. JW said there had only been an argument and denied any incident or threats had occurred. Other police officers

then called and spoke to JW by mobile phone. JW denied any firearms on the premises, denied any assault, and denied any threats of self-harm by BX.

31 At about 12.30pm, the officers attended the residence and entered the front yard. At this point, although officers knew JW had a male partner at the residence, they had not confirmed his identity.

32 Police observed dogs inside the residence behind a screen door. Police came within about 10 to 15 metres of the front of the residence. JW approached and spoke with them at that spot. During her interactions with police in the front yard, JW denied there had been an assault and maintained it had been a verbal argument only; said her partner's name was John Smith; denied there was a firearm inside or that she had told her sister of the presence of a firearm; was seen to have a yellow brown bruise on her neck (which she said resulted from a consensual sex act); and denied being assaulted.

33 JW then made a call to QF on speakerphone in the police officers' presence. In that call, JW denied to her sister that she had mentioned a firearm and suggested her sister misheard her refer to a knife. On the call, QF maintained she had heard her sister say there was a loaded firearm inside.

34 While some officers spoke with JW, other officers spoke with BX nearby to the front door. During these interactions, BX stated his name was John and when he was informed that police had received a report there had been a domestic incident and the police wanted to search the premises to confirm there was no firearm present, BX refused consent for police to enter. JW was advised by police that it was necessary for police to carry out a search of the residence to ensure there was no firearm present.

35 Police thought JW would bring BX out to their position to speak further. BX told police he was not coming out of the residence and said he was not going to leave his dogs. BX and JW were informed that police would obtain a warrant to search their residence if they did not consent to a search. BX communicated to

police that he was not permitting them entry to the residence. Police declared a crime scene and directed BX and JW not to enter inside.

36 BX replied to the effect, "Okay. Well, how about this", and entered the house. He then reopened the door and called to JW to come inside. Police then said to JW, "JW, I wouldn't be going back in there". JW then entered the residence, with the front door being closed behind her.

37 At 12.54pm, BX called his father's mobile phone and left a voice message, stating:

"Hi dad. Just wanted to let you know that I love you and that, um, yeah, it's probably the last time that you're going to hear from me. But, um, you know, you were always my best friend, you know, you really were. I just wanted to be your friend, you know. I just wanted to be I just wanted to have me, dad, but, you know, you shouldn't feel bad. Better go. Bye. You'll hear about it. I love you, dad, and what else do I say."

38 After listening to the voicemail, BX's father called him back. BX said to him this was going to be his last stand., he was surrounded, it was only a matter of time until police entered the house, and "He wasn't gonna go to gaol".

39 At about 1.00pm, BX exited the house wearing a hooded jumper. He had a hand in his jumper, which he rapidly pulled out, making a pistol like hand gesture. BX called out to police, stating that he did not want them rifling through his things. He then walked down the side of the house and out of the sight of police. At 1.47pm, BX was seen in the backyard with what seemed to be a Molotov cocktail. He re-entered the home soon after.

40 At approximately 1.45pm, police spoke with BX's father, after his father had called a police station. BX's father confirmed BX's identity to police. This was the first point in time police became aware of BX's identity. BX's father told police he believed there was going to be a shootout if police entered the house. Police spoke to QF by phone and ascertained BX's first name and that he was on the run from police in Canberra. Police encouraged QF to talk her sister into exiting the home.

- 41 At 2.15pm, an acting Assistant Commissioner authorised the deployment of tactical police. Later, police negotiators also attended the scene. The structure for police at the scene was that the general duties police were led by a PFC and there was a team leader for each of the tactical police and the police negotiators.
- 42 During the early course of the siege, Sergeant Wiles had been in the role of the PFC before handing over to an Acting Inspector. During this period, police sought to continue to engage and communicate with BX as long as possible to delay potential actions and to ensure JW was unharmed. The plan at this point was to maintain containment of BX within the residence and establish and maintain communications with BX and JW with emphasis on assuring JW did not come to harm. These discussions followed police consideration of what might trigger BX, which was something they did not want to do.
- 43 At 2.52pm, police contacted JW by phone. After JW answered the call, BX took over the call and made statements about COVID 19 and about police being murderers (saying "*If you come here, it's going to be a big day*"). He then ended the call. Police planning included what events would trigger an immediate police response, what that response would be, and development of an approach to encourage BX to surrender unarmed. Throughout the siege, police tried to keep in contact with BX by phone. Overall, it was difficult to have any meaningful conversation with BX as he dominated the interactions with police whilst expressing his antigovernment, anti-police, and anti-COVID vaccination views. He also criticised police for murdering people and indicated he would defend his property and dogs to the end.
- 44 At times, BX seemed to have turned his phone off. Sometimes he used a megaphone and at times police used a PA system and sent text messages. During the siege, BX was also in contact with friends by phone and JW sent videos to friends through social media accounts.
- 45 At about 3.45pm, an entry was made by police in their log, to the effect, "*Negs [a reference to negotiators] female subject has stated that she is free to leave.*"

Male subject has stated she will remain in the stronghold to make it harder for tactical". By about 4.17pm, an entry was made in the log that JW had stated to negotiators that she was inside the residence of her own free will. A further note was made that police were unable to confirm if it was by duress.

- 46 Whilst police were uncertain as to the precise situation JW was in, they determined to treat her as a hostage. This was an appropriate approach to take. At around 4.21pm, a team of officers approached on foot towards the residence walking alongside an ASPV. The aim of the approach was to set up a position near to the residence. During the approach, BX fired four shots in the direction of the ASPV from his sawn off .22 rifle. The first shot was fired towards the ASPV and police when the ASPV was about 40 to 60 metres from the residence. A further two shots were then fired by BX towards the ASPV and officers. After the fourth shot, an officer identified as Operator 195, fired three shots at the residence.
- 47 Operator 195 stated he saw what appeared to be an object pointed out the window. This appeared to him to be a shortened black firearm. He rolled out from the ASPV and fired three rounds at BX and then rolled back to take cover behind the ASPV. At the time he returned fire, Operator 195 could not see JW. Following Operator 195 firing these shots, BX moved away from the window and was no longer visible to police. Operator 195 subsequently used his mobile phone to take a photograph of the window and he saw three holes at the top part of the window, which looked to be caused by the rounds he had fired.
- 48 Following the exchange of the gunfire, the ASPV and tactical police retreated a short distance. Following the exchange of shots, BX called Negotiator 93, with whom he had previously been in contact, and accused police of shooting at him and said that a round had just missed JW's head. BX confirmed that shots had come from his residence. During the call, BX made statements about fighting the government and how he had been a rural fire service volunteer in Canberra (stating this "*made them good while police were paid and were not good*"). He commented that the shots fired at the house had almost hit JW and he noted his two dogs were with him and the house was barricaded.

49 Police could hear JW in the background sounding semi hysterical and making statements about the shots. Police told JW that the safest place for her was outside the house. JW replied she could not leave the house because she had her dogs. Later, JW made statements to the effect she was not under duress. Police remained uncertain as to JW's status and continued to regard her as a hostage.

50 At 4.50pm and again at 4.53pm, police recorded BX stating words to the effect that he would not be coming out and JW is not a hostage. At 4.55pm, police recorded that BX had used a megaphone. He used that megaphone on multiple occasions thereafter.

51 BX made another call to his father's mobile phone at about 5.02pm and left a voice message which included the following:

"Hi dad, it's Dan. They just tried to advance on the house, and they shot at me and they shot into the house. Yeah, like, M16s. So, yeah, I just wanted to tell you, I'm just trying to [inaudible] love you. At the moment, cause they shot into our house, they had no idea, they don't know what happened, they don't know who they are shooting at, that's what I mean, it's against their rules of engagement. I love you dad. I won't be here, but um, you know, I'll see you eventually, me and you, we have um like, God is going to look out for me. God is real. God is going to make sure that this stuff changes, no one had to do this shit and I hope I inspire someone to, you know, stand up for it themselves. Love you, dad."

52 The police mission remained to save the life of JW. At about 5.19pm, police moved another vehicle forward. At times, police engaged BX or attempted to engage him using the vehicle's PA system.

53 At about 6.45pm, a friend sent a text message to BX, stating:

"Also, get JW to post everything to Facebook and make it shareable so then people know it's not a hostage situation and that the cops are totally going against protocol by shooting into a house with innocent people inside, even go live or something."

54 JW appeared in a streamed video posting on a local radio station's Facebook page. In that post, JW stated:

"It is 6.44pm um, at Coorwull Road. I am sitting behind a stack of rice with the dogs because I am hiding from the police who have shot through my house without identifying a target. I am not scared of my partner. I love him very dearly."

55 At about 6.40pm, JW posted comments on Facebook:

"There's not [a] fucking hostage situation I'm staying here with my partner willingly I love him, the police are the one's traumatising me, so please don't make things worse if you don't even know...they shot right through our house only a few feet from me and the dogs."

56 At about 6.59pm, BX spoke by phone to Negotiator 10. During that interaction, he questioned the shots fired at the residence and said words to the effect of *"I am going to die, I am going to call my loved ones before I die, I am a man, I am defending my home, cops are killers."*

57 After 7.00pm, BX made a call to an ex-girlfriend which continued for 4 hours and 48 minutes. BX did most of the talking in this call, albeit the conversation was not continuous. At times whilst the call was still on foot, BX had interactions with police. BX used a megaphone to respond or communicate from inside the residence at times. At other times, communications with negotiators occurred by phone, as previously referred to.

58 At about 8.02pm, JW used a megaphone to shout out *"I love this man, I don't want to come out"*, with BX shouting *"I'll defend my home from anyone"*. A transcript of JW's Facebook post made at about 6.44pm (referred to above) was obtained by police. Following discussions between the negotiation team leader, the Tactical Commander, and the PFC, it was agreed that in the management of the operational response, JW should continue to be treated as a hostage.

59 At 9.07pm, Negotiator 10 sent a text message to BX stating *"BX, this is the police. We are not going away. We also don't want to wake up your neighbours, and we don't want anyone to get hurt. Please answer the phone so we can talk about this"*. No reply was received as a result of sending the message.

- 60 At about 9.38pm, BX called Negotiator 10. During the exchange, BX made various statements, including referencing the Constitution, being a sovereign citizen, COVID 19, and border closures. He expressed anger at the government taking firearms away from citizens and blamed politicians. He viewed police as agents of the politicians. He said *"You're going to come into my home and you're going to murder me, okay, it's going to be a big thing"* and, further, *"I don't give a fuck about your lives, I'm dying, I've been making arrangements for people to look after my partner, and you'll murder me and destroy my life."*
- 61 At about 10.14pm, BX spoke to negotiators about a story he heard on Channel 7 news. He was recorded to have said that he had been misnamed in a news broadcast as Bernard and said he wanted police to drive one of the vehicles to Channel 7 and "fix it". He also said *"if you sort this out, I might come outside."* Attempts were made to use that subject as a talking point. However, BX did not engage.
- 62 At about 11.15pm, Negotiator 97 received JW's medical records from a hospital when she had told clinicians in May 2023 her partner had taken over everything. The records indicated that BX yells at her, does not believe her, accused her of cheating, and puts holes in the walls when angry. JW had told clinicians that BX refused to leave when she asked him to move out and she felt sorry for him as he had nowhere to go. The clinician expressed in writing *"JW is becoming increasingly isolated from community."*
- 63 By 11.38pm, negotiators felt that meaningful dialogue had still not been established between themselves and BX or JW. At 11.41pm, BX spoke with Negotiator 10 about going to prison forever for attempted murder of a police officer. BX presented as aggressive and aggravated during this interaction. It was subsequently determined that no further attempts should be made in the short term to contact BX or JW so as to encourage BX to make further contact.
- 64 At 1.18am, BX contacted triple zero, stating in part that police was traumatising him and that police kept harassing "us". He referred to blaring sirens and said, *"they shot into my house and almost hit my innocent girlfriend."* He said he did

not feel safe and denied having any weapons. He said *"they are wearing blue, not sure what white cars with blue stripes on them, I am not sure"*. When asked specifically if it was police, he said *"it may have been, I am not too sure, but regardless, they wanted to come into my house and search it."*

65 At about 3.10am, BX requested painkillers from police to treat a headache. Negotiators advised that NSW Ambulance would provide those once BX exited the residence [REDACTED].

66 Between 4.24am and 5.17am, Negotiator 10 continued attempting contact with BX and JW using the PA system and mobile phone without success. Between 5.17am and 6.05am, police did not attempt to communicate with BX and JW. Subsequent attempts to contact them by megaphone were not answered.

67 At 8.05am, BX made a triple zero call during which he indicated:

"[the police] are outside big trucks and guns...they want to arrest me...they wanted to come in here since yesterday and um, basically, the negotiator is pretending he cannot hear us....I've asked for some medication, which uh I don't know, they said they were going to give, but they haven't... they are saying, you know, I've killed myself and stuff, so uh, yeah, um, I'm wondering what the deal is because the negotiator is not talking."

68 At 8.14am, BX made another triple zero call saying he was *"besieged by police at the moment"*, he was trying to talk to a negotiator, and *"they're yelling out, screaming out, they are saying like that, they are besieging my house, I am just trying to like talk to somebody because I cannot talk to them."* He again said *"I have requested for medication, and I am like really sick man"*. When asked what police were doing there, he said:

"they're here because they wanted to search my home and I didn't want to allow them so they've got a warrant, here with guns... They came storming in my house like with full rifles and body armour and I'm here with my girlfriend and she hasn't done anything, she's just here, and like she doesn't want to, she does not want to leave my house, she's a bit scared because they've shot into the house...two or three times. Luke, it was closer to hitting her than it was to hitting me."

69 At about 8.45am, JW exited the home holding the sawn off .22 rifle above her head. JW was physically shaking and crying when she did so. JW surrendered

the firearm to police and said BX was inside, deceased, having shot himself. Police at the scene had not heard a gunshot within the residence. Police then entered the residence. On entry, police observed BX at the end of the hallway directly ahead of the entrance. He was slumped on a mattress at that spot. He was found to have a gunshot wound to his head. BX showed no signs of life and was later declared deceased by paramedics at 9.30am.

70 JW reported to police *“earlier in the night we knew it was going to happen so we cut hair off BX's head just so that I and one of BX's ex partners would have a piece of him after everything went down.”* BX left a short “last will and testament” expressing his wishes for his dogs to be cared for after his death.

Issue 1: What information was to hand that BX was possibly in possession of a firearm when a warrant for his arrest was issued on 15 April 2022? What action was taken to prioritise locating him and executing that warrant?

71 BX was arrested in August 2021 in relation to an allegation that he had threatened his ex-partner with an old bolt action firearm and that he had access to other weapons (batons, machetes, and axes). In addition, BX’s ex-partner believed BX had undiagnosed mental health issues, namely depression, bipolar, and anger management issues. She further alleged he had engaged in controlling and threatening behaviour towards her in order to convince her to remain in their relationship.

72 That partner also noted that BX had presented to her as a sovereign citizen, held anti-COVID-vaccination views, and liked to live off the grid. In later conversations with police, she described BX as anti-establishment.

73 When the warrant for BX's arrest was issued on 12 April 2022, the assigned priority was "minor". This reflected, in part, the work of the Monaro Police District, which included homicides, shootings, robberies and sexual assaults, and specifically impacted upon the officer then assigned responsibility in relation to prioritising warrants.

74 Three days after the warrant was issued, a police officer from Blue Mountains PAC created an action on the warrant after the warrant was automatically allocated to that area command due to the last known bail address. After police checked that address, BX's file was updated to read "whereabouts unknown" and a notice was sent back to Monaro Police District tasking the officer in charge of the charges against BX to serve or execute the warrant.

75 As set out above, BX took significant steps to avoid police detection and was not located prior to the events of 16 July 2023. Whilst the evidence established that all relevant policies were complied with, the facts of this matter are yet another reminder of the importance of locating alleged domestic violence perpetrators subject to arrest warrants for failing to appear, in particular when the alleged perpetrator is believed to have access to firearms and other weapons.

Issue 2: Were there features of BX and his activities before 16 July 2023 that pointed to him posing a risk to others, in terms of offending involving weapons/firearms? If there were, what were they?

76 There were unquestionably factors in BX's background that pointed to him posing a risk to others in terms of offending involving weapons and/or firearms. However, not all of those factors were known to police prior to 16 July 2023. The information known to police from police holdings was the information set out above relating to the 2021 charges and the Children's Court charges from 2010 (involving BX allegedly intimidating his mother and putting a hole in the back of a dining chair), each of which constituted a domestic violence order breach. The punching of the hole in the chair constituted the intimidation. These charges were finalised by a 14-month bond.

77 BX's only other charges arose from not purchasing a train ticket, which was finalised by a diversionary order under s 32(3)(a) of the *Mental Health (Forensic Provisions) Act 1990* (as previously referred to). These charges were not revealing of BX's anti-government, anti-police, and anti-vaccination views beyond what was alleged in the 2021 charges. Beyond the appropriate step

taken in relation to the arrest warrant, police could do nothing else to identify the risk BX presented to himself, others, and police.

- 78 Further factors indicating that BX may pose significant risk were known to friends and previous partners. By and large, this group of people knew BX: possessed a firearm and other weapons; was not prepared to go back to prison; likely had mental health problems which were untreated; and behaved in a controlling and coercive manner at times. They also knew he held some conspiracy theories. The combination of these factors strongly suggested he would pose a risk if confronted with being arrested and, in particular, if he faced the prospect of going into long term custody.

Issue 6: Are there any lessons that can be derived from the events on 16 and 17 July 2023 as regards ameliorating the risk posed by people with the features identified in Issue 2?

- 79 It is convenient to now deal with Issue 6 as it refers specifically to Issue 2.
- 80 The foregoing sets out that police took appropriate steps in relation to the warrant for BX's arrest and that his steps in seeking to avoid detection, following his failure to appear, hampered any potential for police to locate him prior to 16 July 2023. In that sense, there was nothing more police could have done and there is nothing to be learnt in relation to ameliorating the relevant risk.

Issue 3: Did the initial attendance of the officers on 16 July 2023 in the front yard put them and others at risk? Considering the information available at the time, what other options (if any) might have been reasonably available to police at the time?

- 81 It was common ground that the attendance of officers in the front yard on 16 July 2023 placed them and others at risk. This conclusion flows inevitably from consideration of the previous issues. However, given the triple zero calls police had received, they had no choice other than to attend at the premises and seek to talk to BX, whose identity was not known to them at that time. It was also appropriate to talk with JW. Police took the sensible precaution of phoning ahead to tell JW of their pending arrival and to ask her to speak with them outside. Police engaged successfully with JW and, to some extent, BX, until the

issue of them coming inside to search the premises was raised. The general duties police involved in those early interactions with BX and JW then, sensibly, withdrew.

- 82 The officers involved at this stage and, in particular, PFC Sergeant Wiles, are to be commended for their actions. Expert witness Dr Wright, who himself had many years' experience in Queensland, wrote as follows in relation to these early interactions:

"I am of the opinion that the response by the first response police was in accordance with all policy and training and an example of good practice. The initial assessment of risk leading to staging and briefing a larger group and then calling JW and attempting to convince her and BX to meet police outside the house displayed sound operational thinking and a desire to deescalate the situation while continuing their objective of investigating domestic violence and ensuring JW's safety.

On attendance, the attempts to separate BX and JW to speak to them is consistent with normal procedure and training including for domestic violence response. When BX and JW returned inside the house and refused entry, the decision to not follow them despite having lawful authority, again shows a focus on safety and deescalation."

Issue 4: Was the response of the NSWPF to BX's refusal to exit the residence and actions on 16 and 17 July 2023 reasonable?

- 83 This issue was divided into a number of sub-issues, which I will deal with in order before looking at the issue in overview.

Sub-issue 4(a): Why did the ASPV approach the residence (at about 4.20pm)? What planning was undertaken in relation to the approach of the ARV, and was that action reasonable and appropriate in the circumstances?

- 84 Ultimately, it was common ground that it was reasonable for the Tactical Commander to want tactical officers to move to a position near the residence. This is a standard aspect of establishing containment as part of the accepted approach of "contain and negotiate". The immediate purpose of the approach was to ensure that specially trained and equipped officers were proximate to carry out a forced entry, if necessary, to respond to any imminent threat to JW.

85 Secondly, those officers would also have been better placed to intercept BX if he attempted to flee the residence. Thirdly, approaching the residence with the ASPV was a first step towards being able to relieve nearby general duties officers or assist in the evacuation of nearby residents. As the evidence revealed, those steps would not have been taken immediately but would have occurred at a later time when additional tactical officers attended.

86 Dr Wright, in his report and oral evidence, was clear in relation to the issue of the ASPV being moved forward. In his report, he wrote:

"As previously provided, this incident was appropriately assessed as high-risk, and the appropriate response was contain and negotiate utilising specialist resources including TOU [tactical police]. Contain and negotiate requires police to be placed in effective containment positions and to have the capacity to rapidly deliver an EA [emergency action] plan. As best as possible, police should apply the principles of cover and concealment, noting concealment is not always possible, and at times, overt 'police presence' is an appropriate use of force, overt placement may also be required to support negotiations, and armoured vehicles support this action."

87 In oral evidence, Dr Wright was asked about the circumstances that existed prior to the ASPV being deployed. Noting that he had heard or read the evidence which occurred before he gave evidence, he was asked whether he adhered to his position that the ASPV should have been deployed. His evidence was that whilst he would have moved the ASPV forward, he would have tried to mitigate the aggression from the subject, including by forewarning the subject or person of interest. That comment brought into sharp focus the subsidiary aspect of sub-issue 4(b) (namely, what planning was undertaken in relation to the approach of the ASPV). I note the reference to the ARV in sub-issue 4(a) was treated at inquest as a reference to the ASPV.

88 The evidence was that the appropriate approach in relation to the decision to move the ASPV forward was for the Tactical Commander to discuss the plan with the negotiators and then, upon agreement (which on the evidence was almost invariably reached), the PFC would be approached to consider approval of the proposal. I appreciate that sieges are dynamic situations which inevitably means the format is not followed in a precise way. However, what should occur is that: the negotiators have knowledge of what the Tactical Commander

proposes and an opportunity to comment on it; the PFC has sufficient discussion with the Tactical Commander; and, if possible, the negotiators are to make a well-informed decision as to whether to approve the Tactical Commander's proposed course of action.

89 The evidence was that there was virtually no discussion of the tactical commander's plan to move the ASPV forward.

90 The evidence of Negotiator 94 (who was the negotiation team leader at the time) on this point was contained within his directed statement. He set out that he arrived at the command post at 3.22pm and spoke with the PFC. There was no mention in his directed statement of any discussion with the Tactical Commander or PFC about the decision to move the ASPV into position.

91 It was the evidence of Negotiator 10 that when he arrived at the scene at about 4.00pm, the negotiators were in a different vehicle to the vehicle the PFC and Tactical Commander were in. This evidence tended to undermine the Tactical Commander's evidence that negotiators were present when he spoke with the PFC. The PFC could not recall any discussion with the Tactical Commander regarding the ASPV. He had no notes of any such discussions and there was a paucity of any indication of a discussion about moving the ASPV forward in his directed interview.

92 The PFC's reason for supporting the advance of the ASPV was that it would facilitate the ability of general duties officers to withdraw. Whilst this was an appropriate consideration, the PFC's role required he be fully informed before granting approval. This did not happen.

93 The Tactical Commander's evidence was that he did not discuss with the PFC the possibility BX may shoot at advancing police; he did not assess or consider whether residents needed to be evacuated before the vehicle went in; he did not consider whether bullets would pass through the walls of the house (given the ammunition police were using and given the nature of the building); he did not consider where any bullets discharged by BX, whilst BX was aiming at

police, may end up; and he did not consider whether or not police behind the house would be in danger if police in front of the house shot.

94 He did not discuss with anybody, including the negotiators, the quality of the dialogue with BX up to the stage of determining when to advance. He did not know of BX's mental health status. He did not discuss with the PFC or Negotiator 94 that BX's father had indicated that BX had undiagnosed mental health issues and refused to take medication. The Tactical Commander indicated, in a non-responsive answer, that even if he knew that BX had said words to the effect of *"I'll die protecting my partner or property... This will be a big event"*, it would not have changed his decision to move the ASPV forward. The Tactical Commander's evidence that negotiators were present when he spoke with the PFC was undermined somewhat by Negotiator 10's evidence, referred to above, and does not suggest there was any discussion specifically with Negotiator 94, who was the negotiation team leader at the time.

95 The Tactical Commander did, in a frank passage, go on to say:

"If I can outline how the conversation took place was, when we arrived, I introduced myself to the PFC, reassured him that we were there to assist with the operation, let him know what resources I had on the way, advised him that once my guys were kitted up and ready to go that we would move them forward to a position outside of the premises to allow the extraction of the police as well as a base from which to recover JW if at any point we believed she was at risk."

96 I accept that accurately reflects what happened. The Tactical Commander told the PFC what he was going to do and the PFC, thinking solely that this would facilitate the general duties officers being withdrawn, approved what was to happen.

97 The Tactical Commander went on to explain why residents were not evacuated at that time. Whilst his earlier evidence was that he had not considered that issue, it was clear that experience told him that the capacity to extract the people from the surrounding houses was not there until further armoured capabilities arrived.

98 He then went on to further explain his approach by saying:

"The standard position is contain and negotiate and we were looking to enhance the containment that was occurring and relieve the general duties that...didn't have access to as much ballistic protection as the tactical operatives did; to remove them to safety."

- 99 I am satisfied there was no considered determination of whether moving the ASPV forward was the appropriate step to take at the time. There was no consideration of what risks it presented and whether the particular circumstances as known to police required that other steps be taken prior to moving the vehicle forward.
- 100 It is relevant to restate some of the important circumstances at the time the ASPV moved forward:
- (a) QF reported being told by her sister that BX had a firearm inside the residence.
 - (b) BX had made threatening gestures towards police (i.e., the pistol gesture).
 - (c) BX was seen with what was suspected to be a Molotov cocktail in the rear yard.
 - (d) BX had presented a barrel near a window confirming the suggestion a firearm was present.
 - (e) BX's father had confirmed BX's identity to police and checks from then on showed BX was at large on a firearms-related offence. BX's father reported his concern that BX would engage in a shootout with police if they went in.
 - (f) Police had contacted JW by phone and on one occasion when she answered, BX took over the call and made statements about COVID-19 and police being murderers, as well as saying *"If you come here, it's going to be a big day"*.

(g) During Negotiator 93's phone communications with BX at about 3.30pm, BX made numerous statements of concern, including:

- (a) *"I will die protecting my property, my partner can't shoot straight",*
- (b) *"I don't care if I die today";*
- (c) *"I know your SWAT team is down there ready to go. I'm ready to go";*
- (d) *"There is an innocent person in here you need to be careful";* and
- (e) *"I'm ready...you ready to end my life today".*

(h) The police approach involved a darkened, armoured vehicle with five officers in dark clothing, helmets, and carrying long-barrelled firearms. The approach was along a road in full view of the front of the residence over a distance of about 60 metres.

101 Accepting that the vehicle was to be moved into position does not answer the question as to the timing of that movement nor as to whether there was benefit in forewarning BX and JW as to what police were going to do. A little more time would have allowed consideration of who may specifically be at risk if shots were exchanged and what may have been able to be done to mitigate that risk. Furthermore, there could have been proper consideration of whether forewarning BX and JW was the preferable approach.

102 The Commissioner submitted that as the priority was being close enough to react quickly if something putting JW at risk of harm took place, it was important to do so quickly. That position was supported, to some extent, by Dr Wright's evidence. He acknowledged the importance of the vehicle being put in place as soon as practicable after arrival. However, his important caveat was that the approach in Queensland, almost unfailingly, was to forewarn the person of interest. The aim of moving the vehicle into place quickly was reflective of the standard approach that the tactical officers involved took (that is, the approach they had taken in previous work of a similar nature). The Tactical Commander wanted to achieve containment as quickly as possible. In my view, that meant that other factors were not given consideration.

103 There were a number of factors militating in favour of forewarning BX and JW, including:

- (a) Forewarning had been productive in the dealings of the general duties police with JW and BX. I understand there were important differences in the earlier situation. Nevertheless, it needed to be taken into account that that approach had been productive.
- (b) BX had refused police entry into “his” property. It was obviously a major concern for him and he had so expressed in dealings post the initial engagement with police and prior to the ASPV being moved. Detailed consideration should have been given to that issue.
- (c) BX had made mention of the SWAT team down the road.
- (d) Police had accepted a number of factors which raised the possibility of shots being exchanged.
- (e) BX would have been heightened by moving the ASPV forward.
- (f) The presence of the gun meant shooting was a risk.
- (g) The Molotov cocktail, the hand action replicating a pistol, and the barrel in the window.
- (h) BX's comments about dying defending his property.

104 Relevant to this issue is the educational material in the “Communicate to Connect” document. This document was relied upon by the Commissioner as evidence of training of the PFC. That training took place after this incident. However, the issue the PFC was taken to was one he confirmed he was aware of prior to the incident on 16 July 2023.

105 The “Communicate to Connect” document includes the following text: *“Communication is one of our tactical options. De-escalation could be considered and utilised to resolve situations peacefully”*. The document also notes that there are occasions when de-escalation is not the safest option and that officers are to “[c]onstantly reassess the situation and your choices and

respond accordingly.” There is also a notation that this information was published in the Police Monthly in 2018.

106 There is a reference in the same “Communicate to Connect” document to “high-risk situations.” A high-risk situation includes consideration of:

- *“the seriousness of the offence committed by the person*
- *whether the officer has reasonable grounds to believe the person:*
 - *may use, or has an intention to use, lethal force*
 - *has or may cause serious injury or death,*
 - *has issued threats to kill or injure any persons*
- *whether the person*
 - *has a history of violence,*
 - *has a history of mental illness,*
 - *is exhibiting violence or making threats of violence,*
 - *has implicated other people, hostages, bystanders,*
 - *appears to be affected by factors such as alcohol, drugs, mental illness, and or others.*

While the presence of the above indicates a potential high-risk situation, a combination of these may elevate the level of the risk.”

107 Further on, there is a note in relation to situational awareness, further referencing stress response, noting:

“What has occurred or is occurring can impact an individual's ability to communicate effectively.

High stress situations can trigger a fight, flight, or freeze response. This can cause physical reactions in the body.

The fight, flight or freeze response can impact both police officers and individuals involved in a high-risk situation.

Be sure to understand your physiological and psychological response to stress and learn to manage this before attempting to communicate.”

108 I understand that the “Communicate to Connect” document is not the training material that is necessarily directed specifically to tactical operators or negotiators. I would think, however, the underlying principles would not alter. The document is used in training of people in the position of the PFC on 16 July 2023 and everything I have referred to seems particularly relevant to the role

the PFC was to play on that day. There was guidance in those principles as to the discussion and consideration which should have informed the PFC's determination as to whether to approve the ASPV moving forward and as to when it should move forward if approval was given.

109 It is noteworthy that the PFC indicated in his evidence that it would be beneficial to notify a person of interest of the ASPV being moved forward if communication lines were open. I find that because there was no discussion along those lines prior to the vehicle moving forward, the PFC's view was not considered. I am not suggesting that I could or should determine ultimately what the outcome of such discussions and consideration should have been. I accept that reasonable minds of highly trained tactical and negotiating police may differ on that issue. Dr Wright ultimately conceded that those at the scene may have had a different view to his. His view remained that forewarning would have been of benefit.

110 What is troubling, however, is that with the benefit of hindsight, involved police seemed to remain wedded to the view that the decision to move the ASPV forward when the vehicle was moved, and in the absence of fulsome discussion and without forewarning, was the correct decision when:

(a) in fact, shots were fired at risk to police, civilians, and importantly (and somewhat ironically) at risk to JW; and

(b) ultimately, the vehicle did not move into the position it was aimed to move it to (it got to a position 40 to 60 metres away from the residence, which was short of the planned ultimate position).

111 The evidence of the involved officers, even as I have suggested with the benefit of hindsight, did not suggest to me that they have contemplated a different course since the incident.

112 The Tactical Commander was asked "*was it considered that BX be told by negotiators that this vehicle was coming and that he should not panic, or whatever words they wanted to use.*" His answer was "*That is something that I*

would not support, no". He was then asked "You did not consider it? That was my question", and he answered "No".

113 The Tactical Commander was also asked:

"Q. Given your answer that you were happy for BX to be fatigued when something may happen and that you were happy to wait it out as long as it took for a peaceful resolution, so in those circumstances was an unannounced moving forward of the ASPV with multiple visible armed police consistent with building trust with BX?"

A. I didn't consider that as

Q. What about in hindsight?"

A. When the armoured vehicle moves forward and tactical police move forward, it is my experience that there is generally an elevation in the person that's conducting the siege, for want of a better term, and that has generally one of a number of effects. One, they become heightened for a period of time, and then negotiators reassure them and continue to talk to them. Two, they realise the gravity of the situation in which they find themselves and surrender, or three, they continue on with the situation as it is."

114 This siege was different to any other siege the police officers who gave evidence at inquest had been involved in in that shots were exchanged. As I have said, some of the involved officers seemed entrenched in the approach that was taken being the appropriate approach despite shots being exchanged, a shot being claimed to have nearly hit JW, the stated aim not being successfully achieved, and the evidence given by Dr Wright of the opposite approach being the norm in high-risk situations in Queensland.

115 Negotiator 10, in evidence that was at times unhelpful, sought to draw a distinction between the approach regarding forewarning in relation to a bearcat and an ASPV. He was also asked:

"Q. Did they tell you that the ASPV had approached and why it was approaching, or they didn't know themselves from what you understood?"

A. My job is to be concerned with the negotiation, not with how tactical are performing their duties."

116 Whilst Negotiator 10 was not the team leader at the time that decision was made, he did function as a team leader at times. I found that answer curious.

117 Negotiator 10 was then asked if he was aware that there were discussions around developing talking points for when a different vehicle, the bearcat, approached, in case BX had a reaction to that. He said, "Yes". He was asked if that was an instance where there is a tactical act and the negotiating team have forward knowledge of that and they plan around that. He said that is correct.

118 Negotiator 10 was then asked again in relation to the ASPV approach and as to "*whether that would be something that tactical police are totally disinterested in*". He said:

"Not totally disinterested in, sir, but the ASPV to the general public looks like a normal motor vehicle. A bearcat does not. A bearcat when it deploys to a job will elicit a variety of reactions from people and we need to prepare for that."

119 Again, this is a curious answer given shots had been fired when the ASPV approached on 16 July 2023.

120 Consistent with what I have previously set out about the lack of discussion, Negotiator 10 noted:

"In my time as a negotiator, I've responded to numerous sieges. Our standard practice as an organisation whole, going to a job like that, is that Tactical will go forward to have containment. That's the first job I've been to where that sort of response [that is, the shooting] has occurred when they've gone forward for containment."

121 Negotiator 10 was also asked the following:

"Q. I'm seeking to better understand your position. I'm not being critical. If there's a concern that a BearCat approaching by its physical features could trigger a response adverse in the person of interest inside a siege?"

A. Yes.

Q. I'm just trying to understand. If you had this view, a dark vehicle with four to five officers bearing arms, in black tactical gear, approaching on foot directly in view of that premises, that would not necessarily trigger an adverse view from the perspective of negotiators and planning?"

A. Nah. As I said before, from experience, that happens most of the jobs we go to. Officers in some sort of body armour with specialist equipment will go forward to contain, and I've never experienced that sort of reaction before. So it's based on experience."

122 In answer to the next question, he volunteered:

"Well, I guess the other way to put it is that we do have jobs where we go to, and people ask, 'What's going on outside?' And we will say, 'This is what's going on. There are specialist police coming forward to contain the situation, so that it's safe for them, for you and everybody else. It's not something we have to plan for, sir. That negotiators on the ground know that that is a possible reaction, and they know how to respond to it. They don't need to be tasked for that."

123 Again, that is a curious answer in relation to him being asked questions specific to the events on 16 July 2023 given shots were exchanged when the vehicle approached. As noted above, some of the police involved in this incident seem wedded to the view that containment is to take place as quickly as possible without consideration beyond the need to contain.

124 Furthermore, Negotiator 10 was later asked:

"Q. Have you had occasion where you, and I'm asking about a scenario where Tactical approach from the front or with a view of the household in daylight to take up a forward position, is there ever occasions, do you have experience with negotiators giving the person inside the house forewarning that there will be a vehicle approaching you, and this is the reason for it, and they're not going to force entry? Is that discussion of that kind occur?"

A. It's very...a very difficult question to answer, sir, because every job is done on its own merits."

125 I then questioned the witness:

"Q. I think the question was about do you have experience of it happening? It doesn't matter about what sort of job?"

A. Yes, I do. Yes. In relation to the use of the BearCat."

126 Shortly after that evidence, the following exchange occurred:

"Q. I thought your earlier evidence was about letting the person of interest know in relation to the BearCat, and the distinction was drawn between the public-

A. I'm sorry I may have spoken unclearly, sir. The information I gave to my guys was we are going to be moving the BearCat forward shortly, and when that does occur, just be ready in case it does elicit a reaction".

127 I found that evidence confusing.

128 Negotiator 10 was then asked about the impact of the firing of shots:

"Q. But was it you're understanding that as compared to his [BX's] presentation before the approach and shots fired, he was more agitated now?

A. Yes.

Q. And elevated?

A. Yes.

Q. Did you consider at the time that was attributable or connected to the events that had just occurred, the approach and the shots fired?

A. I definitely saw a connection between the two, yes.

Q. I'm speaking in this immediate period, say while Negotiator 93 was involved as the primary, before you, as I understand it, take over. At that time, was the view being reported to you that this, 'We're having poorer dialogue with BX now as compared to what was occurring immediately before'?

A. Yes"

129 It is accepted BX was agitated and heightened after the exchange of fire. The physiological basis of this was referred to in the "Communicate to Connect" police training. In addition to any physiological effect, BX had now crossed a line in shooting at police and the prospect of a very long prison sentence loomed large in his mind (as revealed in parts of his phone conversations with his friends and his former partner). Police firing back and, as he had expressed, just missing JW, no doubt confirmed (if not heightened) his anti-police sentiment.

130 Post the incident, Negotiator 8 told Negotiator 10 that some meaningful dialogue had taken place up until shots were fired and that afterwards negotiations had somewhat deteriorated. Furthermore, it was Negotiator 8's

view, which I accept, that the lack of meaningful dialogue had a really big impact on what happened through the night. To his credit, Negotiator 10 worked tirelessly to try and engage BX productively throughout the night. However, those efforts, through no fault of Negotiator 10, were unsuccessful.

131 In their evidence, the Tactical Commander and Negotiator 10 also explained their support for moving the ASPV forward without forewarning by indicating that forewarning may have triggered the following responses in BX: self-harm; harm to JW; firing at police; and attempting to flee.

132 Other evidence suggested forewarning may have given BX a better opportunity to prepare how and from where to fire at police.

133 The Tactical Commander agreed that the risks that were present prior to the ASPV's movement forward were the same as the risks which existed after the ASPV was parked. Further, if the police were concerned about BX having time to prepare to shoot police, the simple response, as submitted by counsel assisting, was that the ASPV was moving so slowly that BX had ample time to prepare. As for flight, BX knew he was surrounded by armed police with vehicles. His comments prior to the incident were contrary to the suggestion he might flee; rather, he had indicated he would stay to resist efforts for police to move into the house. I accept those submissions which were made by counsel assisting in response to the Tactical Commander's and Negotiator 10's evidence of the risks attendant forewarning BX.

134 Despite referring to the risks set out above, Negotiator 10, in later evidence, indicated that he could not see a downside in forewarning BX. Again, I found this curious in light of his earlier evidence as to the purported risks.

135 Dr Wright indicated the following points in relation to his experience in Queensland:

- "[Notifying a person in siege that the ASPV is approaching] can be useful in developing negotiator rapport and attempts to mitigate a negative response."

- *"I think that option to advise the person that is subject to negotiation...of the very overt tactical and present assist put into place is something that I would typically do as a commander and that the reasons to do that are the ones that have been raised in evidence, which is to attempt to mitigate them feeling like they're being attacked or there's an action being taken against the house"*
- *"When I look at the evidence, BX specifically said, 'I'm protecting the house. If people come inside then there's going to be a shootout', or words to that effect. I would see that as a kind of further reason to advise him that they weren't coming inside, that they were coming to the front as a containment position, to support negotiations and explain that."*
- *"I think the other thing that occurs during the negotiators doing that is you get a reaction, so when the negotiators tell the person subject of the negotiation that the tactical officers are to move forward, you get a reaction then, and you can then react to that reaction, and you know whether you can or you look at different options, or you wonder if its escalated it too far to potentially, say, pause that action."*

136 I accept there would be some differences in Queensland and, self-evidently, Dr Wright's experience is not identical to the experience of trained officers in NSW. Nevertheless, his comments cause me to think there is merit in considering the Queensland approach, in particular bearing in mind those factors I have already set out several times, namely: the proposed approach was not successfully achieved; shots were fired; JW and police were put at risk; and effective engagement was not achieved after shots were fired.

Recommendations

137 In oral submissions, the Commissioner of Police resisted counsel assisting's submission that it is open to me to conclude it is necessary and desirable to recommend to the Commissioner of Police that NSWPF consider, with respect to its operating procedures and training, whether strategies can be implemented to mitigate the risk of adverse reaction of a person of interest in a siege when approving the movement of tactical vehicles and officers towards a stronghold in view of the person of interest.

138 The proposed recommendation included the consideration of: whether to give the person notice; the types of factors that should be legitimately weighed; the risk to surrounding residents, police, and occupants in a stronghold if an

adverse reaction occurs; and, specifically, the use of the approach of the ASPV on 16 July 2023 and the exchange of fire as part of scenario training for tactical commanders and PFCs.

139 Counsel for the Commissioner submitted that lessons have been learnt from the siege and the evidence at inquest (the attendance of high-ranking officers throughout the inquest was also noted). My view, as made clear above, is that the events of this siege have not caused significant reflection amongst some within the tactical and negotiation commands. No evidence was given to suggest change has been implemented in circumstances where no effective discussion took place with the PFC and the negotiation team leader about the decision to move the ASPV forward.

140 Counsel for the Commissioner further respectfully submitted that:

“if the forewarning had been given and BX nevertheless shot upon police and the siege continued as it did, this inquest would understandably be scrutinising the wisdom of giving the forewarning. It needs to be appropriately scrutinised. It is a valid issue for consideration, particularly having regard to the view expressed by Dr Wright, but it has limits, in terms of its implications.”

141 The Commissioner is correct. That is the nature of the jurisdiction. Whatever the events are, it is mandatory to hold an inquest, and when police are fired upon and police return fire, there will always be scrutiny of the events.

142 I make two comments in relation to the submission. *Firstly*, I note, without any criticism, that in other submissions, both counsel assisting and the Commissioner, where it was relevant to their submission, cautioned against speculation. In circumstances where trained professionals are called upon to assess risk, it is important not to confuse discussion of appropriate risk assessment with mere speculation. *Secondly*, the possibility that, if forewarned, BX may have shot at police does not dissuade me from the view that forewarning should have been considered and discussed.

143 In my view, the facts and circumstances examined in this inquest provide an ideal educational tool to consider the appropriate extent of the discussion

between the tactical commander, the negotiation team leader, and the PFC about decisions in relation to moving ASPVs forward, including what issues should be considered by those three leaders prior to containment taking place by way of movement of an ASPV.

144 Given my comments on the manner in which some of the evidence was given, if the recommendation were accepted, there may also be benefit in training for those who are due to give evidence. I understand this may be occurring in relation to other instances of deaths in police operations. If it is, I commend it and encourage its continuance. If it is not, I encourage the Commissioner to give it some consideration.

145 For the foregoing reasons I will make a recommendation in relation to police training.

146 The Commissioner has submitted that the full content of the recommendation be limited in its distribution. I accept there is good reason to do so to protect police tactical considerations.

Sub-issue 4(b): Was the return fire of shots by Operator 195 reasonable and appropriate in the circumstances?

147 I am satisfied as to the following matters set out in the written submissions of counsel assisting. They are not controversial:

- (a) Operator 195 was proceeding as he was tasked to do;
- (b) Operator 195 did not initiate the exchange of shots;
- (c) There were several other officers out in the open, albeit using a vehicle (the ASPV) for cover, when the shots were fired at them; and
- (d) He took a position that gave him a clear view of BX and returned fire towards BX.

148 I note Dr Wright's opinion that the movement to a position to provide cover and direct shots and the return of fire was consistent with expected training and protocol.

149 Operator 195 was one of the witnesses who gave evidence that he had never been involved in an operation where shots had been fired towards police. He was an impressive witness. He suggested he may have been a little complacent. The potential for complacency, in my view, feeds into the advisability of education, including education as to the facts and circumstances considered in this inquest. It is clear Operator 195 acted both completely within policy, protocol, and training and with a level of courage given the situation in which he found himself and his colleagues.

Sub-issue 4(c): Was the strategy of the NSWPF, including the interactions negotiators had with BX, reasonable in the circumstances (outside ASPV approach at 4.20pm)?

150 The police approach was pursuant to policy, procedure, and instruction. The essential approach was to contain BX in the residence and attempt to negotiate with him and JW. Efforts were made to establish rapport with BX and persuade him to surrender.

151 I accept it was appropriate to treat JW as a hostage throughout the siege despite some of the comments she made and the fact that those comments were known to police. It would not have been appropriate to second guess the situation given the possibility that she was acting under coercion. Even in the days after the siege (up to and including the time of giving evidence), JW's statements were inconsistent. In saying that, I acknowledge that she was a young woman at the time and went through an extraordinarily traumatic event during which, on her own evidence, she consumed drugs which impacted her actions and perceptions.

152 As for the police plan, the plan included forcing entry if the police considered JW was at immediate risk of harm, which was completely appropriate. Throughout the night, police continued efforts to communicate with BX, albeit

there were limited instances of communication, and that communication was not productive. On occasion, BX decided to not talk to police. On other occasions, police determined to not seek to contact him or JW for a period of time to see if that would evoke attempts by BX to contact them.

153 Negotiator 10 was the primary negotiator communicating with BX between approximately 6.20pm on 16 July 2023 and 8.00am on 17 July 2023. As I have previously indicated, he continued to make efforts to build rapport with BX. He estimated he probably rang the phones one hundred times: "*At least 100, and I would say we had less than hour of any sort of dialogue in that entire 12 hour period.*"

154 As I have set out above, much of that dialogue included BX expressing anti-government, anti-police, and anti-vaccination views, along with expressing his dim regard for police. It was no doubt extremely frustrating for Negotiator 10 and those assisting him. The overall strategy was appropriate throughout.

Sub-issue 4(d): Was the possibility of facilitating contact between BX and family members considered, and if so, why did that not occur?

155 The primary family member police considered as a person who could possibly be put in contact with BX was BX's father. It is clear police gave this possibility serious consideration. In the end, the police position noted that BX and his father had not really spoken in the previous 18 months and, as such, in that period the relationship, as his father described, had "*kind of deteriorated*". There is no doubt it was, at various times, a very positive relationship, but the ultimate determination of the police was that if they could establish meaningful dialogue with BX, including talking about his relationship with his father, they would have given further consideration as to whether BX could be put in touch with his father. However, that did not occur and police appropriately, in my view, determined they should not, in those circumstances, put BX's father forward as someone for BX to speak to in the context of it being organised by police.

Sub-issue 4(e): What medication did BX request during the siege and why? Was the response of the NSWPF reasonable in the circumstances?

156 I am satisfied the police response regarding medication was reasonable. I note that in her evidence, JW indicated that BX's requests were made by him as a joke. As with other evidence from JW, I am unable to accept that evidence uncorroborated, as BX did seem concerned about the issue when he rang triple zero the next morning. The police response to the request was to inform BX that paramedics were onsite [REDACTED]. They further indicated that if BX was not willing to come out the front door, delivery could be made to him if [REDACTED]. There was no response by BX to that police proposal.

Issue 4 (Overview): Was the response of the NSWPF to BX's refusal to exit the residence and actions on 16 and 17 July reasonable?

157 Counsel assisting submitted, and the Commissioner agreed, that there are lessons to be learnt from the events on 16 and 17 July 2023. I have made clear my findings in relation to the areas where I think lessons can be learnt. As indicated above, I will be making recommendations in relation thereto. It is important I acknowledge my acceptance of counsel assisting's submission that management of sieges of the kind that occurred on 16 and 17 July 2023 (where an armed person is making a threat either to himself and/or others and/or police and where persons inside, in the company of the armed person, are in communication with others on social media) are extremely complex to manage.

158 I commend all police involved for their courage in attending to their tasks.

159 The evidence at the inquest was that there is ongoing training within relevant commands regarding dealing with people who harbour views of, or similar to, sovereign citizen ideology. It would seem obvious that specific training in this area is required and police are to be commended for this approach.

- 160 In relation to the overall management of the siege, beyond the comments I have already made under the various sub-issue headings, an ancillary issue arose in relation to the structure employed by NSWPF at sieges.
- 161 This issue arose in the context that this was the first and, as at the time of giving evidence at the inquest, only siege in which the Acting Inspector (as he then was) has ever been the PFC. The Commissioner made the point that he was in that position from about 2.40pm to 6.30pm. However, what is most relevant in the circumstances of the evidence in this inquest is that he was involved in the approval of the approach of the ASPV in the circumstances already referred to above in detail. It seems to me extremely onerous that a PFC, at his first siege, has the responsibility of determining whether to approve the proposed course of a tactical commander who has been involved in several hundred sieges.
- 162 Dr Wright, who himself had been involved in hundreds of sieges in Queensland, explained that, in their system, a tactical inspector has oversight of the tactical commander. The perceived benefit of this is that the tactical inspector is always very experienced in the siege situation. As I have said, the PFC who gave approval to the ASPV moving forward was in that position on the day for three and three quarter hours and was then relieved from that role by a PFC of extensive experience, who remained the PFC for the following 14 hours.
- 163 During submissions, Counsel for the Commissioner referred to the cognitive load upon the PFC. I accept it was great. In a sense, that underscores how onerous a position the PFC was in. I make those comments, accepting that NSW and, indeed, all other States and Territories, as I am advised, follow the ANZCTC protocol in this regard. It is only Queensland who takes a different approach. I also heard within the evidence the suggestion that both Dr Wright, from time to time, and representatives from NSW, attend at what appears to be a national conference where these issues are discussed. I accept the Commissioner's submission that this is not the inquest in which I should suggest any change to the NSW approach. That is a completely appropriate submission. The issue was not examined in full during this inquest.

164 I do make the observation, however, that given the lack of consultation and discussion between the PFC and the Tactical Commander as to when the ASPV would move forward (in the sense of what was discussed before that took place and what could have been done before that took place), efforts should, to the extent possible, always be made to have an experienced PFC in charge as soon as possible.

165 I understand there may be practical difficulties with this from time to time, but I also understand that the decision to put the ASPV in place is likely to always be considered during the early stages of a siege. That presents a challenging position for police, but one which invites ongoing consideration arising from the facts and circumstances examined in this inquest.

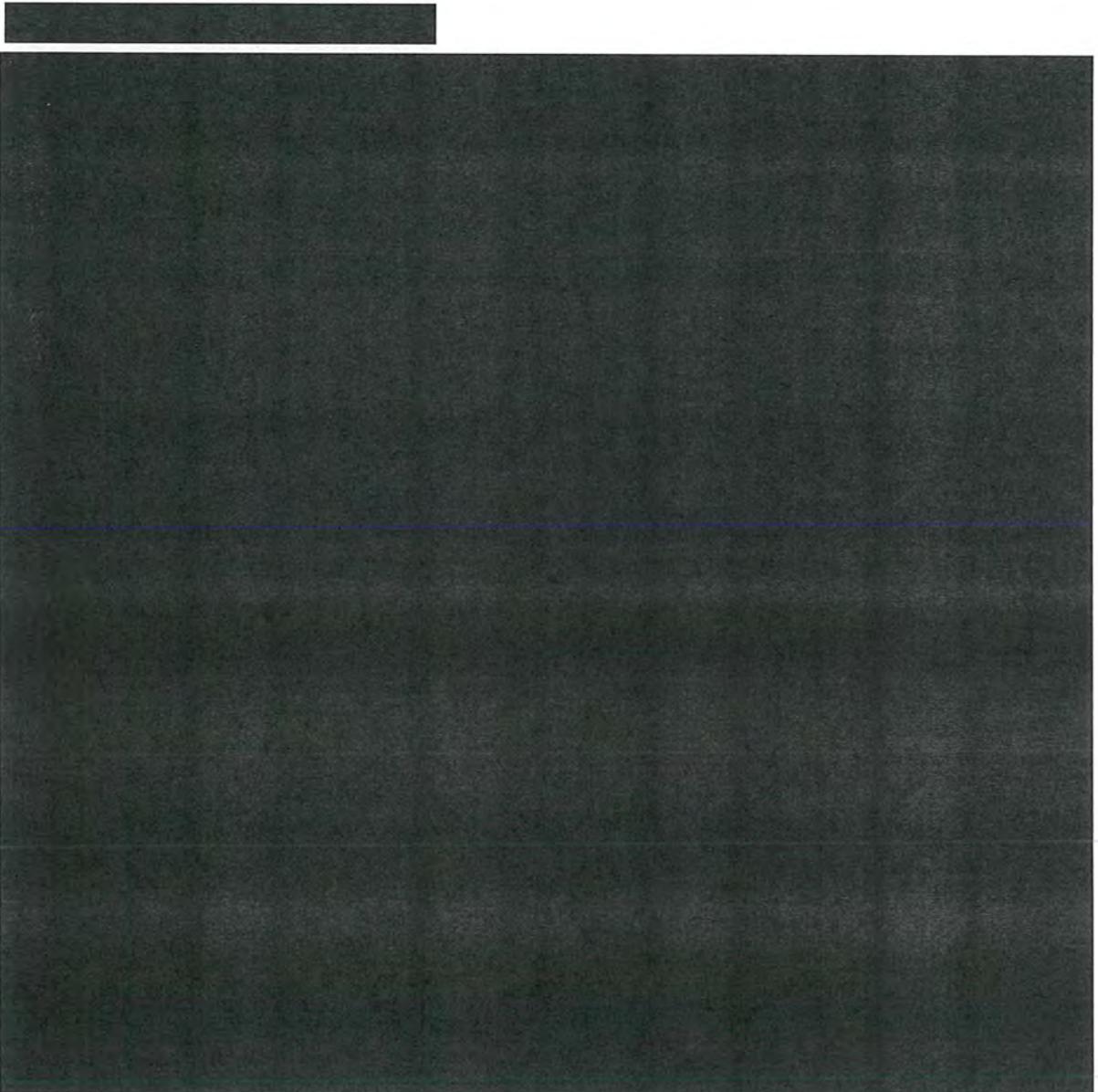
166 Another ancillary issue which arose flowed from one witness' evidence that, during the siege, she was contacted by an individual from an unnamed media organisation. That witness had been talking to BX on the phone during the siege. Her evidence was that the media individual said words to the following effect to her: "*We can help BX get out of this if we could get through to him*". As counsel assisting observed, this evidence serves as a timely reminder that the NSWPF Media Policy, which was tendered into evidence, plays an important role in ensuring that engaging with persons during a siege (in particular, the person of interest or any person inside the premises) is a task to be conducted only by the NSWPF.

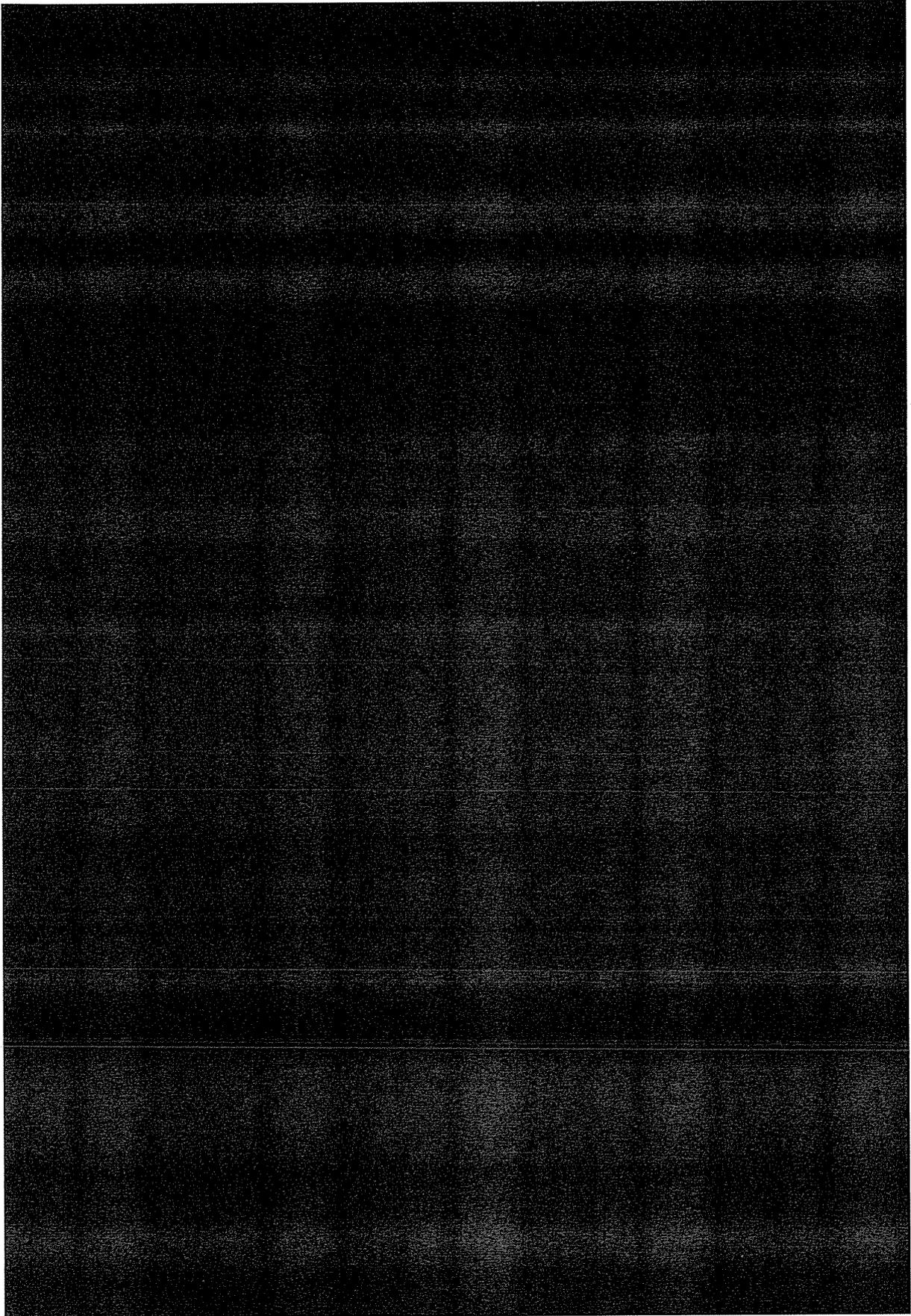
167 If such a call was made, and I have no reason to doubt that witness' evidence in that regard, it should not have been made. It was completely inappropriate to seek to, effectively, in my view, interfere in a siege situation in this way.

Issue 5: What were the circumstances surrounding BX suffering his fatal gunshot wound?

168 Shortly after exiting the residence, JW told police that BX had taken his own life. She repeated that statement in her interview with police on 17 July 2023. She gave sworn evidence of the same in this inquest. Importantly, BX's DNA was found on the gun's trigger. JW's DNA was not found on the gun's trigger.

169 Evidence was examined in the inquest about statements made by JW to others in relation to how the fatal shot was fired and where she was positioned when the shot was fired. Over a period of time, there had been conflict in some of her accounts, better described as differences. As I set out above, JW had been in a most traumatic event during which, on her own admission, she had consumed drugs. On examining all the relevant evidence, through the assistance of the examination conducted by counsel who appeared at inquest, in particular, examination of statements attributed to JW at various times and cross examination of those who attributed those statements to JW, I am completely satisfied on the evidence (including, as I have mentioned, the DNA evidence), that BX took his own life by way of a self-inflicted gunshot wound.







Statutory findings required by s 81(1) of the *Coroners Act 2009* (NSW)

179 I make the following findings:

Identity

The person who died was BX

Date of death

BX died at around 8.45am on 17 July 2023

Place of death

Bowenfels, NSW

Cause of death

BX died from a gunshot wound to the head

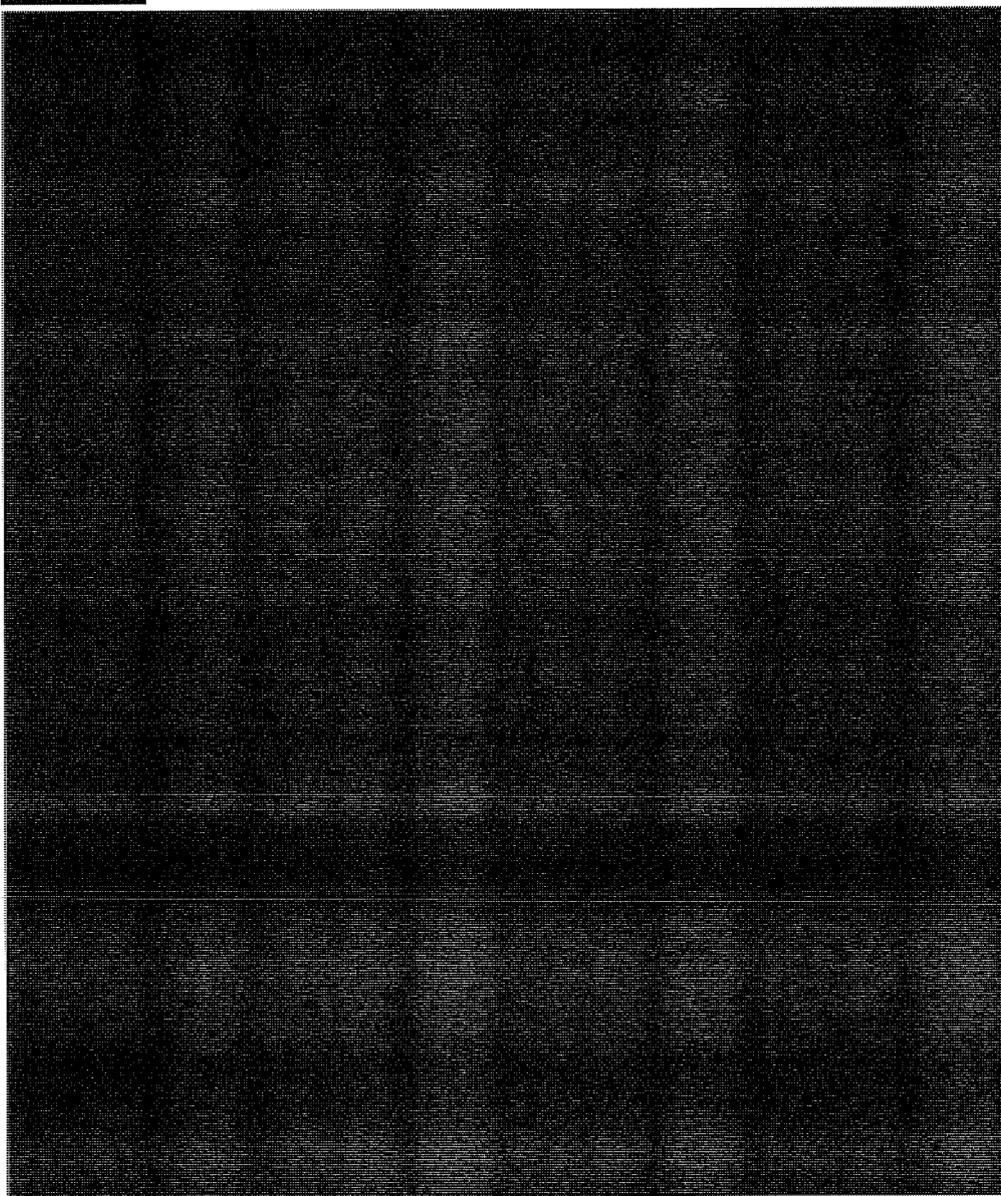
Manner of death

BX's death was intentionally self-inflicted

Recommendation

180 Pursuant to s 82 of the Act I make the following recommendation:

- (a) To the Commissioner of the NSWPF, I recommend that consideration be given to using the events of 16 and 17 July 2023 as part of training for tactical police, police forward commanders and police negotiators in respect of the matters to be considered in the context of a proposal to move a special purpose vehicle towards a stronghold 

Conclusion

- 181 On behalf of the Coroners Court of NSW, I offer my sincere and respectful condolences to the family, extended family, friends, and associates of BX.
- 182 BX's life was complex and difficult. Despite many examples of interpersonal difficulties, friends and former partners described strong bonds and enjoyable times in his company. He had a loving relationship with his father and a supporting and caring brother.
- 183 BX's brother was invited, following conversation with the assisting team, to provide me with a family statement setting out some of his thoughts relating to BX and the inquest. I received a statement from BX's brother and I thank him for that. I also thank him for his attendance during most of the inquest, which was no doubt incredibly difficult for him.
- 184 My thanks to the OIC, Detective Chief Inspector Stephens, as well as Detective Sergeant Holgate and Detective Senior Constable Armour for their work in putting together a thorough and detailed brief during the investigative stage of the coronial process.
- 185 I thank all the lawyers who participated in the inquest for the manner in which they conducted the inquest. Their assistance was much appreciated. When inquests are conducted in the manner in which this one was conducted by the lawyers, it is of benefit to families, which is a very significant consideration.
- 186 I thank the assisting team for their industry and assistance in bringing the matter to inquest. Mr Holcombe and Mr Prindiville of the Crown Solicitor's Office have worked tirelessly to ensure all avenues were covered and, so far as possible, an agreed position was taken between the parties as to the facts. As I said at the outset, this was of great assistance to me and allowed me to deliver oral reasons for my findings in the week following the inquest. I also thank Mr McGorey of counsel and Mr Thangaraj SC for their invaluable assistance.

David O'Neil .

Magistrate David O'Neil

Deputy State Coroner

Coroners Court of NSW

4 March 2026