



**CORONERS COURT  
OF NEW SOUTH WALES**

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|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Inquest:</b>           | Inquest into the death of Evander Bronson TUALA                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Hearing dates</b>      | 25- 28 August 2025, 15-16 December 2025                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Date of findings:</b>  | 12 March 2026                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Place of findings:</b> | Coroners Court of NSW, Lidcombe                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Findings of:</b>       | <b>Deputy State Coroner Carmel Forbes</b>                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Catchwords:</b>        | CORONIAL LAW – manner of death-death during an affray-can a known person be identified as causing the death                                                                                                                                                                                                                                                                                                                  |
| <b>File number:</b>       | 2022/00104814                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Representation:</b>    | Mr. C McGorey, Counsel Assisting, instructed by Ms. S Tait, NSW Crown Solicitor's Office<br>Ms. A Burkitt instructed by Ms. D Peisah and Mr. J Gear, KPT Defence Lawyers for the family<br>Mr. S Rees, Aboriginal Legal Service for Keidan Donovan Phillips<br>Mr. D McMahon instructed by Mr M. Rifai for Byron Brown Yeo<br>Mr. B Murray instructed by Ms R Bartley for Brayden Holten<br>Mr. S Alexander for Rhamain Dyer |

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Non-publication order:</b> | Orders for non-publication have been made in this Inquest. The Orders may be found on the Registry file.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Findings:</b>              | <p><b>Identity</b></p> <p>The person who died was Mr. Evander Bronson Tuala</p> <p><b>Date of death</b></p> <p>Mr. Tuala died on 9 April 2022</p> <p><b>Place of death</b></p> <p>Mr. Tuala died at St Vincent's Hospital NSW</p> <p><b>Cause of death</b></p> <p>The cause of Mr. Tuala's death was blunt force head injury</p> <p><b>Manner of death</b></p> <p>Mr. Tuala's death occurred after he was hit and then fell during an affray outside the Oxford Hotel near Taylor Square in Darlinghurst. The evidence does not allow me to find who hit Mr. Tuala in the affray before he fell.</p> |

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IN THE STATE CORONERS COURT NSW

LIDCOMBE

SECTION 81 *CORONERS ACT 2009*

## REASONS FOR DECISION

### INTRODUCTION

1. This is an Inquest into the tragic death of Evander Tuala on 9 April 2022. At the opening of the inquest Mr Tuala's family requested that I refer to him as Evander. For this reason, throughout these findings, I will refer to him by that name.
2. Evander was only 23 years of age when he died after being involved in a violent altercation between two groups of young men outside the Oxford Hotel in Darlinghurst NSW. He died from blunt force injuries he suffered when he fell backwards with the rear of his head striking the pavement with force.
3. The events surrounding Evander's death have been the subject of extensive police investigation. The coronial brief of evidence consists of statements from 25 police officers and 33 lay witnesses. There are also over 200 hours of CCTV footage. Five men have been charged with affray. The criminal proceedings for those offences have been finalised. No charges have been laid in relation to Evander's death.
4. Section 27(1)(a) of the *Coroners Act 2009* (NSW) provides that an inquest is required to be held if it appears to the coroner that the person died or might have died as a result of homicide. In this case during the altercation Evander was struck to the head and knocked unconscious before he fell backwards and hit the ground. This inquest has been a close examination of the available evidence to ascertain if the person who struck Evander to the head can be identified.

## **EVANDER TUALA**

5. Evander was born on 10 July 1998. He was only 23 years of age at the time of his death. Evander was the youngest child in his family. He had a strong relationship with his two siblings, Laman and Analia, often saying they were his best friends. He was also very close to his cousins, so close they were like siblings, and he was very special to all his aunties, uncles and grandparents.
6. His mother, Claudia Tuala, has been left bereft by his passing. She described him as a selfless, generous spirit who was happiest when sharing all he had with family and friends. She said he lived for quality human connections, and he was charismatic with a magical way of making people feel special and seen.
7. At the time of his death, he was working as a third-year apprentice electrician. He worked long hours and loved what he did. He loved the autonomy and the independence it gave him, and he loved dealing with clients.
8. Evander's mother said that when Evander was in hospital before he passed that hundreds of people queued for hours over several days to say their goodbyes. There were people of all ages and all backgrounds, who travelled from near and far to be with him one last time. Doctors and nurses commented they'd never seen anything like it. He was never alone in the hospital. His memorial and funeral were attended by hundreds of family and friends.
9. The pain of losing Evander has been unbearable to all his family and they remain devastated.

## **CAUSE OF DEATH**

10. Evander was taken by paramedics to nearby St Vincent's Hospital in Darlinghurst shortly before 1am on Saturday 9 April 2022.

11. A head CT scan was performed at 2:14am<sup>1</sup> shortly after his admission to St Vincent's Hospital. That scan showed (i) fractures of the biparietal, right temporal and right sphenoid bones; (ii) subdural haemorrhage of the falx and frontal lobes; (iii) Subarachnoid haemorrhage overlying the frontal lobes; (iv) haemorrhagic contusions of the front poles and right temporal lobe and (v) features of raised intracranial pressure and generalised cerebella oedema.<sup>2</sup>
12. Evander underwent surgery that same day to evacuate (drain) the haemorrhaging and he remained intubated.<sup>3</sup>
13. Medical investigations on 9 April 2022 determined that Evander's brain function was not compatible with life.<sup>4</sup> Through consultation with family, Evander's life support was discontinued at about 6:20pm on 11 April 2022.
14. Evander was formally declared life extinct at 7:31pm on 11 April 2022.<sup>5</sup>
15. Dr Marna du Plessis completed an autopsy on 13 April 2022. In her report Dr du Plessis noted or opined:
- (1) Evander had signs of blunt force trauma to the face with (i) a laceration above his right upper lip<sup>6</sup> and (ii) a contusion below his right eye.<sup>7</sup> No other external injuries were observed on the face and no facial fractures observed.<sup>8</sup>

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<sup>1</sup> Exhibit 1, Vol 1 Tab 6, p.2.

<sup>2</sup> Exhibit 1, Vol 1 Tab 5 p.2.

<sup>3</sup> Exhibit 1, Vol 1 Tab 3 p.3-7: Surgery described as 'right sided decompressive craniectomy procedure to evacuate the frontal subdural haemorrhage and insertion of an external ventricular drain'.

<sup>4</sup> Exhibit 1, Vol 1 Tab 3.

<sup>5</sup> Exhibit 1, Vol 1 Tab 4.

<sup>6</sup> Exhibit 1, Vol 1 Tab 3 p.8: facial injuries described in autopsy as "*a 1.5cm wound of the area above the lip on the right... Two sutures were noted...There was an associated sutured wound and laceration of the mucosal surface of the inner lip [slight swelling and a large contusion of the surrounding area]*".

<sup>7</sup> Exhibit 1, Vol 1 Tab 3 p.8.

<sup>8</sup> Exhibit 1, Vol 1 Tab 6, p.2, [5.1]: Dr du Plessis, in her supplementary report, stated it is difficult to distinguish between injuries sustained by a blow or a kick.

- (2) Evander had skull fractures with intracranial haemorrhaging (subdural and subarachnoid haemorrhaging) mainly around the frontal and temporal lobes. Cerebral contusions were also observed in these areas.
- (3) There was no evident external (skin surface) injury to the back of Evander's head however a "*subscapular haemorrhage (contusion) was present on the left occipital area of the head*", which, along with the fracture of the left occipital bone, was consistent with "*a fall to the back of the head*".<sup>9</sup>

16. I accept Dr du Plessis' opinion and find that the cause of Evander's death was blunt force head injury. I am satisfied he received that injury when he fell to the ground hitting the back of his head.

#### **CIRCUMSTANCES OF DEATH**

17. I have drawn from submissions by Counsel Assisting in relation to the following non-contentious factual matters and issues. I am grateful for this assistance.
18. On the evening of 8 April 2022 Evander attended the Oxford Hotel with the following friends: Michael Mallouhi, Natheer Raffie, Kelvin Le, Marvin Lay, Kenneth Monares, Angus Clarke, Harrison Keomoungkhoun, Nathan Jamou, Dustin Pham and Chok Seedam.
19. The other group of men who were involved in the altercation were Byron Brown-Yeo, Keidan Donovan Phillips, Joel Tutt, Rhamain Dyer, and Brayden Holten.
20. There were two altercations between the two groups of men. The first occurred inside the Underground Bar at the Oxford Hotel, and some of the men were asked to leave by the security guards.

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<sup>9</sup> Exhibit 1, Vol 1 Tab 6, p.2, [5.1].

21. At 12:31am on 9 April 2022, both groups exited the Underground Bar onto the footpath on Oxford Street. At the time, a metal fence divided the footpath from the roadway in this area.
22. CCTV footage shows Rhamain Dyer (shirtless with a shirt tied around his waist) and Byron -Yeo (black T-shirt and light-coloured shorts) exiting first.
23. This group was followed by males from the other group including Kenneth Monares (white T-shirt with flannelette jacket in hands), Chok Seedam (dark t-shirt, dark / blue jeans), Evander (white T-shirt, dark pants), Harrison Keomoungkhoun (brown corduroy jacket), Natheer Raffie (brown/maroon shirt holding a cap), and a male with dark hair (light jeans and black shirt with “Balenciaga” on its back).
24. Angus Clark (shirtless wearing black cap), who knew members of Evander’s group, also exited the venue around this time.

**Exchange immediately outside the Oxford Hotel’s entrance to its Underground Bar**

25. Once outside on the public footpath, the members of both groups engaged in a verbal exchange with various people approaching and gesturing at others. Most moved positions at different points but all remained within a few metres of the entrance.
26. Another male, identified by police to be Robert Golbach (dark green T-shirt and blond hair), who has no known association with either group, exited the venue and stood nearby watching.
27. Around this time, Keidan Donovan Phillips (white T-shirt, dark shorts with light grey coloured hooded jumper tied around shoulders) exited the venue. He is seen standing outside near the entrance amongst the two groups but does not move about or engage in the exchanges at this time.
28. Brayden Holten (dark shorts, dark shirt and white shoes) is captured exiting the venue shortly after Keidan Donovan Phillips.

## **Taylor Square**

29. The Oxford Hotel faces Oxford Street near its junction with Flinders Street. At that junction, on the northern side of Oxford Street, is a paved throughfare area known as Taylor Square. Taylor Square is situated between the Oxford Hotel and the Darlinghurst Supreme Court. A person can walk through the throughfare from Oxford Street to Foley Street, Bourke Street and Forbes Street. The Oxford Hotel has an open-seated area on its eastern side facing Taylor Square.

## **Evander's group walks towards Taylor Square**

30. CCTV footage shows Evander and his group turn and walk away from the Oxford Hotel towards Taylor Square.

31. Keidan Donovan Phillips (jumper around shoulders) is seen on the footage walking about a metre or two behind Evander's group.

32. Robert Golbach, who was standing alongside the steel fence, also began walking towards Taylor Square behind Evander's group.

33. Byron Brown-Yeo entered the roadway and ran up Oxford Street, past Evander's group, and climbed over the steel fence back on to the footpath just before the group had reached Taylor Square. This put him in front of Evander's group facing them.

34. Byron Brown-Yeo began approaching Evander's group in an aggressive manner, including swearing and challenging the group to a fight.<sup>10</sup>

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<sup>10</sup> Exhibit 1, Vol 1, Tab 35, p.2-3, [11]-[13].

35. A physical fight broke out initially involving Byron Brown-Yeo and Natheer Raffie, with punches being exchanged between them.<sup>11</sup> Other males present became enmeshed in the fight with punches being thrown and grappling by multiple people within a relatively tight huddle. There were anywhere between about 6 to 8 males at this point.<sup>12</sup> This group's position moved into the Taylor Square area close to the Oxford Hotel's outdoor seated area.
36. At this point the fight was captured by CCTV camera positioned in the outdoor seated area facing back towards the Oxford Hotel. The camera captures a broad area but its focus centres on the immediate seated area as opposed to the footpath area near the roadway where the fight was unfolding. It is possible to make out some people in the fight on an enhanced extract of this footage however the quality of the image appears reduced the more the footage is enhanced.
37. The fight was also captured on an external camera positioned on a taxicab momentarily stationed at the traffic lights on Oxford Street turning right into Flinders Street. Certain individuals can be made out in that footage however not all the individuals, and their actions, at any one time is captured on the footage.<sup>13</sup>
38. The footage captured Evander running into the group, seeming to have a leg in the air (possibly in a kicking motion), with a male in a white or light-coloured shirt following close behind Evander.
39. The male captured on the Taxi CCTV footage moving in close behind Evander was Keidan Donovan Phillips.

#### **People within the huddle just prior to Evander going to ground**

40. The people within the huddle from Evander's group, were (i) Natheer Raffie, (ii) Marvin Lay, (iii) Chok Seedam, (iv) Nathan Jamou, (v) Harrison Keomounghoun, (vi) Kelvin Le and (vii) Evander. From the opposing group were Byron Brown-Yeo and Keidan Donovan Phillips. It is unclear if Robert Golbach had joined the group at this

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<sup>11</sup> Exhibit 1, Vol 1, Tab 35, p.3, [14].

<sup>12</sup> Exhibit 1, Vol 1, Tab 8, [6].

<sup>13</sup> Note: Exhibit 1, Vol 1, Tab 8, p.3, [8] Taxi CCTV screen timestamp is 1-hour fast (actual time 12:33am).

point (footage shows he was involved in subsequent fighting after Evander went to ground).

41. Soon after entering the group Evander came to face back towards Oxford Street. Evander then fell backwards while still facing Oxford Street. This was captured on footage at about 12:33:55am.

42. Evander did not put out his hands or attempt to break his fall. The back of his head forcefully struck the concrete / paved surface when he fell to the ground.

43. Evander fell after he was knocked unconscious by another person involved in the physical altercation.

#### **Immediate movements after Evander goes to ground**

44. At the point Evander is captured going to ground, a male in a light-coloured shirt is seen stepping over Evander possibly owing to that person's forward momentum.<sup>14</sup>

45. That male breaks away from the group with another male in a dark shirt. Both males came to be standing near a tree, a couple of metres from the main ground, facing each other and throwing punches.

46. The male in the light-coloured shirt is Keidan Donovan Phillips. The male in the dark shirt is Chok Seedam who was part of Evander's group of friends on the night.

47. About the time Keidan Donovan Phillips and Chok Seedam were fighting near the tree, the taxi's camera captured Brayden Holten running along the roadway, rounding the traffic lights into Taylor Square and heading towards the men fighting. He approached Keidan Donovan Phillips and Chok Seedam.

48. Brayden Holten was not part of the group engaged in the fighting when Evander was knocked to the ground.

49. Soon after Bradyen Holten entered Taylor Square from the roadway, Rhamain Dyer (shirtless), who was captured by the Underground Bar entrance, is seen running

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<sup>14</sup> Exhibit 1, Vol 1, Tab 8, p.3, [9].

towards Taylor Square along the pathway not far behind Brayden Holten. Evander was already on the ground at this point.

50. Shortly after Rhamain Dyer is captured on the exterior Underground Bar Entrance camera running towards Taylor Square, Joel Tutt (white t-shirt and dark shorts) is seen exiting the Underground Bar and walking towards Taylor Square. Evander was already on the ground at this point.

51. Rhamain Dyer is captured by the outdoor bar and taxi cameras running onto screen towards Keidan Donovan Phillips and Chok Seedam's position and then knocking Chok Seedam to the ground.

52. Keidan Donovan Phillips was then captured jogging away from Taylor Square, back along the footpath past the Underground Bar entrance He returns and enters the Underground Bar entrance at 12:34am.

### **Unfolding physical altercation within Taylor Square**

53. After Evander went to ground a rolling physical altercation continued in various spots within Taylor Square. People in the vicinity recorded some of those fights using their mobile phones.

54. The brawl continued for some minutes. Security guards attempted to separate the groups with little success. Numerous punches and kicks were exchanged, with punches and kicks striking the head and body of others.

55. When the altercation ended, Byron-Brown Yeo, Brayden Holten, Rhamain Dyer and Joel Tutt walked together through Taylor Square, away from Oxford Street, towards Bourke / Forbes Street. Brayden Holten was shirtless at this point with his shirt wrapped around his face to conceal his identity.

### **Arrival of Police**

56. Police arrived from about 12:38am onwards. Police attended in response to a call by a person reporting a "brawl" at the Oxford Hotel.

57. Shortly after the altercation, Byron Brown-Yeo, Joel Tutt and Keidan Donovan Phillips were apprehended by police. Each was arrested and taken to Surry Hills Police Station. They were breath tested; DNA tested; and photographed. The examination of Keidan Donovan Phillips recorded bruising to his right hand.
58. Interviews were also conducted. Joel Tutt denied involvement in the altercation. Keidan Donovan Phillips described that everyone was going at it and said that he did not really see Evander fall to the ground. He told police that he was wearing a white shirt under his grey jumper with black and white shorts.
59. The men were in custody for some time. Custody records show that Joel Tutt was detained at 1:30am; accepted into custody at 2:42am; and released on bail at 4:20pm. Keidan Donovan Phillips was detained at 1:30am; accepted into custody at 2:46am; and transferred, bail refused, at 5:18pm. Byron Brown-Yeo was detained at 1:05am; accepted into custody at 2:44am; and transferred, bail refused, at 4:54pm.
60. Each of them was charged with affray. The Fact Sheets which accompanied those charges described the actions of the men during the altercation in the following ways. Joel Tutt was alleged to have grabbed a man by the front of his shirt with his left hand and punched the man in the face with his right fist, continuing to punch the man five times.
61. Byron Brown-Yeo was alleged to have engaged with the other group in a manner that culminated in the violent brawl. It was said that Byron Brown-Yeo was part of a group exchanging punches and kicks and was in close proximity to Evander when he fell to the ground.
62. Keidan Donovan Phillips was alleged to be exchanging punches in a group of four other men, including Evander. It was said that Keidan Donovan Phillips jumped over Evander at one point, when he was lying on the ground, and that he later ran back inside the Oxford Hotel shaking his hand.
63. Brayden Holten attended the police station voluntarily to be arrested on 12 July 2022. In the Facts Sheet accompanying his charge of affray, it was said that Holten was not

part of the fight when Evander fell to the ground, but ran up and joined the group, punching a man and stomping on the back of a man who had been knocked to the ground.

64. Rhamain Dyer was also charged with affray in relation to what occurred inside the Oxford Hotel.

65. The charges have all been finalised.

### **CAN THE PERSON WHO STRUCK EVANDER BEFORE HE FELL BE IDENTIFIED?**

#### **CCTV FOOTAGE AND TAXI FOOTAGE**

66. It is submitted by the representative for the family that the CCTV footage and the taxi footage are cogent and objective evidence that Keidan Donovan Phillips is the person who struck Evander before he fell.

67. It is submitted that in the footage there were only two people not from Evander's group in the huddle at the time Evander fell. That there was no reason for anyone but one of those two to strike Evander. It is further submitted that when Evander enters the huddle Keidan Donovan Phillips can be seen running into the huddle behind Evander with an arm movement in anticipation of striking. That Keidan Donovan Phillips can then be seen disappearing into the group towards Evander and as Evander falls backwards can be seen stepping over Evander's body and continuing with momentum. It is submitted that the movements of Keidan Donovan Phillips are consistent with him having thrown a punch and the injury on Evander's face consistent with the direction of that punch.

#### **Expert Evidence in Relation to the Footage**

##### **Jarret Le Roux**

68. Jarret Le Roux is a digital forensic expert with 11 years' experience in the examination of digital forensic evidence (director of Triage Forensics). He was requested to enhance the available CCTV footage where reasonably possible.

69. Mr Le Roux spliced four frames to create a multi-view image. The images were those extracted from (i) the Oxford Hotel camera positioned in the outdoor seated area, (ii) the taxi exterior camera, (iii) the Darlinghurst Supreme Court exterior camera facing towards Taylor Square and (iv) a camera positioned on Flinders Street facing towards the Oxford Hotel / Taylor Square (City of Sydney operated). The images spliced together are synchronised in time (i.e. capturing the same event at about the same time). These images are helpful to present what each camera captured at each moment in time.

70. Mr Le Roux enhanced some footage however the extent of that was limited by the *“video compression schemes used, the large field of view of the camera and the distance from the cameras to the incident”*.<sup>15</sup>

71. In his oral evidence Mr Le Roux explained:<sup>16</sup>

*“...When it comes to video forensics the camera view offers an evidentiary field of view in a particular camera. If I refer to The Oxford Hotel footage as an example, the evidentiary field of view of that footage would be the tables where the patrons are sitting. Anything outside of that, the camera - the cameras and the camera system, recording system was not designed to capture evidentiary evidence on the periphery of, of those - of that footage. Similarly with all the other footage. The incident occurs at the far end or far edge of the footage, and hence this is where the limitation arises.”*

72. Regrettably, notwithstanding Mr Le Roux’s efforts at enhancing the footage, the enhanced footage does not capture the actual blow to Evander.

### **Dr Andrew McIntosh**

73. Dr McIntosh specialises in biomechanics and ergonomics. He reviewed CCTV footage, the autopsy report and the medical records. He was requested to comment on the movements of individuals near Evander before he fell to the ground with a view to

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<sup>15</sup> Exhibit 1, Volume 4, Tab 163, [41]. Key image stills extracted from Oxford CH16 camera are frames 2088 to 2104.

<sup>16</sup> T23, 25.08.2025.

identifying how Evander came to fall and the identity of anyone who may have struck him.

74. Dr McIntosh is of the opinion that when Evander fell backwards it was because of an application of force to Evander by a third party rather than slipping or accidental movement on Evander's part. He was also of the opinion that the absence of any attempt by Evander to break his fall or twist around when he fell is consistent with him being unconscious as he fell.<sup>17</sup>

75. Dr McIntosh stated in his initial report dated 28 February 2025:

*"The deceased is in a group of individuals immediately prior to falling to the ground. The deceased is in close proximity to other individuals, e.g. within arm reach. The proximity of the individuals means that one or other person could have struck or pushed the deceased.*

*The following is speculative only and I have not been able to discern with any confidence evidence of the following specific individual striking the deceased. A person wearing a white shirt (and possibly shorts) is circled with an amber ellipse (Figure 8). On the City of Sydney video, the person appears to run into the group and then move through the group on the Oxford Hotel video and Taxi video. He moves away from the group and continues to fight (Figure 9 and Figure 10) before running back down the Oxford St footpath past the Oxford Hotel (Figure 11). My impression on the Oxford Hotel video (frames 51 (time 00:33:54.089) to frame 67 on the PDF file) is that this individual was likely in front of the deceased, positioning him in an area where he could strike or push the deceased, and potentially moving toward the deceased as he falls. However, the deceased may have been struck by a person to the right of the deceased in the image, where the image is severely limited."*<sup>18</sup>

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<sup>17</sup> Exhibit 1, Volume 4, Tab 164, [43]- [47], [56], [64].

<sup>18</sup> Exhibit 1, Volume 4, Tab 164, [51]-[52].

76. He was subsequently shown the enhanced images prepared by Mr Le Roux and in his oral evidence during the inquest he said:

*"...The video quality is very limited and it's not possible to see person B putting his hands on person A or, or a, a movement with his arms which could be consistent with a punch being thrown. There's - yeah, the quality of the video is too poor, in my view...."*<sup>19</sup>

*"...in my first report I made it clear that there was a person that I now agree is referred to as person B and I was very clear that it was speculative, but to me there seemed to be a proximity between person B and person A when person A began to fall over which would make him a potential person of interest.*

*And as well, on reviewing the video again with the extra information for the supplementary report, the person B moves behind person A. I used the term "following". I didn't mean that, that I could read into his mind that he was following. It was just that he was taking the same trajectory a few milliseconds after the person A and that his movement towards person A in combination with the proximity in the video is something that is of significance. But I cannot say that I can observe any clear punch being thrown or arm movements or, or anything that I could say that definitely was from person B. Yeah. Either way, I can't say that happened or I can't say that didn't happen."*<sup>20</sup>

77. When taken to the taxi still image prepared by Mr Le Roux (Exhibit 2), and asked if he agreed that person B seemed to have his arm raised or positioned consistent with a punch, Dr McIntosh said in evidence:<sup>21</sup>

*"There are movements, arm movements certainly. It's difficult to attribute arms to individuals because of the quality of the video. But*

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<sup>19</sup> T4, 26.08.2025.

<sup>20</sup> T4, 26.08.2025.

<sup>21</sup> T6-7, 26.08.2025.

*there, there are arm movements which, which - but I can't say that I can see. So I'm not saying there is one. I'm not saying there isn't one. I'm just saying the quality of the video is not - I'm not able to say with sufficient confidence that I can say, say there's a punch or not a punch."*

78. After being played an enhanced recording of the taxi footage, referable to image 6719, and asked if it what was captured appeared to show arm movement by person B consistent with it being a punch, Dr McIntosh said:<sup>22</sup>

*"Look, I was specifically talking about Evander being punched as opposed to other hand movements, but if I'm just looking at that I can't - I'm not looking at a movement. I'm looking at hand positions. So I'd have to look at the video being played to be able to determine - so, so if someone's got their hand up like this, they've got their arm up, that's a posture that someone's in. It's not a movement. They've got to that point by moving their arm. So it, it doesn't tell me anything, if someone's got their arm up, specifically about whether that's a punch or anything.*

*...So, so, in answer to your question, there are arm movements which could be consistent with a punch. There are arm movements which could be consistent with someone shoving someone. There are arm movements which could be consistent with an arm just moving and not connecting any - with anything. And I certainly can't see Evander clearly to know whether any of those hand movements contacted him. The best evidence about a contact with Evander is of injuries to the front of his face."*

79. Relevant to the abovementioned evidence, when asked if there was any possibility of inferring the angle or trajectory of the blow to Evander given the way he fell backwards (as captured in the footage), Dr McIntosh said<sup>23</sup>:

*"...all you can really say is that when the punch landed or the blow landed to the face the impact force was acting from the front of the face*

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<sup>22</sup> T6, 26.08.2025.

<sup>23</sup> T8, 26.08.2025

*rearwards, but someone could be standing sideways and swinging a punch sideways, you know, with, with a round arm action and the force vector would be acting from the front to the rear of the head, even if the person was standing offset to the side and, and swinging their arm as opposed to someone standing front on.*

*...someone could stand slightly to the side and still when the hand reaches the face the force could be acting from front to rear as opposed to someone standing directly in front and punching straight in front of them.”*

## **Summation**

80. While the footage is indicative that Keidan Donovan Phillips may have been a person who struck Evander before he fell, I accept the evidence from both experts that the footage does not capture the actual blow to Evander. I accept that the footage is not of a quality to make a finding from the footage that a particular person struck Evander. While the footage depicts Keidan Donovan Phillips’ arm pulled back as he entered the group that is only a moment in time, and it does not necessarily mean that a punch was thrown or landed. The footage does not exclude the possibility that the blow that struck Evander came from someone else in the group during the short and frenzied altercation with punches flying.

81. I was pleased that Mr McIntosh was able to inform the court that the footage does not depict anyone kicking or stomping on Evander while he was on the ground.

## **WITNESS ACCOUNTS**

### **People associated with Evander’s group**

82. **Michael Mallouhi:** in his statement to police on 9 April 2022, Michael Mallouhi stated that while he was standing on the footpath nearest to the road, he saw Evander standing across from him nearer to the pub. He (Mallouhi) heard yelling and turned to his left and saw a male “run up full speed” and “king hit” Evander to the right side of his face as Evander was turning around, causing Evander to fall onto his back and

hit the back of his head on the ground. The male had come from the direction of the Underground Bar entrance. The punch as a forceful forward punch with the male's momentum adding to its force.

83. The male was wearing a white t shirt and was just over 6 foot tall with blonde hair and a light-coloured moustache and a skinny face. He looked about 19 to 20 years old and had a skinny build like himself and appeared to be of "Aussie appearance".

84. Michael Mallouhi later saw a male with a white shirt wrapped around his face (shirtless). He thought this was the same person who struck Evander. He said that the male and a male in a black shirt and dark hair ran together into Forbes Street when police arrived.

85. In his evidence in the inquest, Michael Mallouhi's memory of what he witnessed regarding Evander going to ground was less clear. His evidence about this included:<sup>24</sup>

*Q. Just at that point just to clarify, so then do you turn around or do you have a view?*

*A. No, I turn around to see what's going on, cause a lot of screaming.*

*Q. When you turn around can you recall as best you can what you saw?*

*A. Just a big group of people throwing punches, and the only person on the ground was Woody.*

*Q. Just as best you can recall now, as best you can, you've just said you saw Woody on the ground?*

*A. Yes.*

*Q. Do you see Woody go to ground? Do you have a memory of that?*

*A. Yeah and no, if that makes sense.*

*Q. Can you just explain what you mean by that?*

*A. Cause I saw him drop but I, I didn't see, like, clear. Like I just saw him in the group fall. If that makes sense.*

*Q. You saw him in a group of four?*

*A. No. He - in a group and then he fell.*

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<sup>24</sup> T32, 25.08.2025.

*Q. Did you see how he fell?*

*A. Yeah, on the back of his head.*

*Q. Could you see who was next to him or near him at that time?*

*A. No.*

*Q. Are you able to estimate how many persons were near Woody at that time?*

*A. Six maybe. Six. Seven.*

86. Further in his oral evidence, in reference to the male in the white T-shirt, Michael Mallouhi said:<sup>25</sup>

*Q. I'm just trying to clarify what you did and didn't see, so thank you. When you see the guy with the white shirt, and I'm asking this relative to when Woody goes to the ground, is he around that group then or do -*

*A. Yes.*

*Q. --you know or can you recall now?*

*A. Yeah, he was there.*

*Q. How do you know that?*

*A. My memory's coming back now.*

*Q. You saw the male with the white shirt?*

*A. I think, I think he wasn't, but he came from that direction, you know what I mean.*

*Q. Putting aside the direction though, did you see him near Woody when he went to ground?*

*A. No.*

*Q. When do you recall seeing him? When I ask that, I mean relative to something that's going on?*

*A. I saw him come from that direction. I turned around, he was there. And then I turned around to look at Kelvin and he was, he was beside - he was on that same side with his shirt off at that point.*

87. When he was taken to his statement that he gave to police on the day of the altercation and shown his comments that he had seen the “king hit” to Evander and described the appearance of the person who delivered it, he said that the statement would be accurate.<sup>26</sup>
88. **Angus Clark:** when first spoken to by police at the scene shortly before 1am on 9 April 2022, Angus Clark stated that Evander was already on the ground when he exited the Underground Bar and denied witnessing what happened to him.<sup>27</sup> As conceded in his evidence at inquest CCTV footage shows Angus Clark exiting the venue when the two groups were still in and around the Underground Bar entrance.
89. In his subsequent statement to police on 10 April 2022, Angus Clark said that as the group was moving up Oxford Street (away from the Underground Bar entrance) he saw “one guy come from behind” Evander. He saw Evander turn around towards where this male was standing. As Evander turned around, Angus Clark saw the other male dip his head down and swing his right arm at Evander hitting him in the head. This male appeared indigenous in appearance and “fat, a bit shorter than Woody” and was wearing a black tank top with a black short sleeve shirt. Once struck Evander fell “straight back, in the way an unconscious person would like he didn’t break his fall”.<sup>28</sup>
90. Angus Clark’s description, in his statement to police, of the male that struck Evander best fits with Byron Brown-Yeo (who was wearing a black shirt). He is seen in the footage to be amongst the group of persons throwing punches when Evander went to ground.
91. In his oral evidence, after describing how he walked near to Evander as the fighting broke out, said:

*“...a bit of a bloke with a bigger build with a black tank top come from around the top. He’d kind of circled, gone up towards Bondi kind of way, and then circled back around. And because there was so much going on,*

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<sup>26</sup> T39, 25.08.2025

<sup>27</sup> Exhibit 2, Tab 30, timestamp 00:47 min.

<sup>28</sup> Exhibit 1, Volume 1A, Tab 36, [13]-[14].

*he came up to Woody but as Woody's turned, turned to kind of confront him, the bloke in the, the black tank top had thrown a punch and kind of caught Woody at the last second..."<sup>29</sup>*

*"...So as [Evander] kind of turns around to meet this bloke, I don't remember if someone yelled out to him or he heard something that made him turn around, but as he's turned around this bloke has - in the black singlet has kind of thrown his arm up to strike Woody and has collected him hard enough in the jaw or the face. It was definitely a strike to the head. And he's knocked him out."<sup>30</sup>*

92. The reference to the male wearing a black tank top, who "circled" back (before striking Evander), is also consistent with that being Byron Brown-Yeo.

93. **Chok Seedam:** Chok Seedam declined to make a written statement about what he witnessed on the night. In his oral evidence, Chok Seedam said "[f]rom best I can remember, I don't know how I ended up on the [ground]. Like I said, like that, that stage is like a big blur to me - - - Like that's, that's where it gets really hazy for me".<sup>31</sup> The event Chok Seedam is describing is when he was knocked to the ground by Rhamain Dyer.

94. Chok Seedam recalled someone picking him up off the ground and soon after seeing Evander on the ground.<sup>32</sup> He did not see anyone hit Evander or how he came to go to ground.

95. After being shown the footage and stills of himself and Keidan Donovan Phillips moving away from the group, shortly after Evander went to ground, Chok Seedam said he could not recall what preceded them pairing off, stating:<sup>33</sup>

*Q. Do you see the male you've identified as you and the white shirt male*

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<sup>29</sup> T53, 25.08.2025.

<sup>30</sup> T57, 25.08.2025.

<sup>31</sup> T7, 28.08.2025.

<sup>32</sup> T8-9, 28.08.2025.

<sup>33</sup> T25-26, 28.08.2025.

*moving over to that tree?*

*A. Yep.*

*Q. Looking at the footage, it would appear that you are part of the pack, or very close to it, when, just before you pair off with the white shirt male, yes?*

*A. Yep.*

*Q. Just take your time to really think carefully, do you have a memory as to what occurred at that point in time, what led you and that male to pair off in that way, and what was happening?*

*A. I have no memory of why, why we paired off.*

*Q. You can't assist as to - and I'm only asking in terms of memory - as to whether you grabbed that male and moved with that male for some reason relating to Evander, or not?*

*A. I'm not sure why I moved off.*

*Q. Is it possible that you were struck in the head before you went to the ground that night?*

*A. I can't remember either. I was, I just remember getting up off the floor.*

*Q. If you knew, if you saw who struck Evander, would you tell - and you could remember that - would you tell her Honour?*

*A. Yes.*

*Q. Would you have any reason not to assist her Honour?*

*A. No.*

*Q. Can you just face her Honour when you say that? You're under oath.*

*A. Yep. If I knew who struck him, I would, I would help, but I don't. I don't have, I don't have recollection of what happened.*

*Q. You're aware that there were people charged with this matter?*

*A. Correct.*

*Q. Did you know any of them, to your knowledge?*

*A. No.*

*Q. Have you had any contact with them since this event?*

*A. No.*

*Q. You have no friendship or connection with them in any way?*

A. No.

Q. Is there any possibility you don't want to tell the Court if you do have a memory because you're worried about being seen as a dog, or--

A. No.

Q. No? There's no chance of that?

A. No.

Q. If you knew, you would tell the Court?

A. Yes.

Q. You have no allegiance to anyone--

A. No.

Q. --that would prevent you doing that?

A. No.

96. **Kelvin Le:** in his statement to police on 10 April 2022, Kelvin Le said he was part of the group of people when punching began between Natheer Raffie and Byron Brown-Yeo. He did not report seeing Evander being struck or falling to the ground although he subsequently saw Evander lying on the ground.<sup>34</sup>

97. **Marvin Lay:** in his statement to police on 11 April 2022, Marvin Lay said he was part of the group of people when Byron Brown-Yeo and Natheer Raffie started throwing punches. He was there with Evander, Michael Mallouhi, and Natheer Raffie. At some point he turned around and saw Evander was on the ground face up unconscious. He then ran over to Evander and put him in a recovery position. He did not see Evander being punched or his fall to the ground.<sup>35</sup>

98. **Harrison Keomoungkhoun:** in his statement to police on 21 April 2022, he described being with others moving away from the Underground Bar entrance towards Taylor Square when things turned violent. When the fight abated, he saw Evander lying on the ground, unconscious, in a recovery position with a security guard nearby him. He did not see Evander getting punched or falling to the ground.<sup>36</sup>

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<sup>34</sup> Exhibit 1, Volume 1A, Tab 38, [14]-[15].

<sup>35</sup> Exhibit 1, Volume 1A, Tab 39, [18]-[21].

<sup>36</sup> Exhibit 1, Volume 1A, Tab 41, [13].

99. **Nathan Jamou:** in his statement to police on 21 April 2022, Nathan Jamou said he joined the group of people when he saw a male (Byron Brown-Yeo) punching Natheer Raffie. He did not report seeing Evander being struck or falling to the ground although he subsequently saw Evander lying on the ground.<sup>37</sup>

100. **Natheer Raffie:** in his statement to police on 10 April 2022, he described walking away from the venue's entrance when a "fat guy" (Byron Brown-Yeo) jumped the fence onto the footpath and came at him with his fists up and they "*punched on*". At some point he saw Evander fall over to the ground. He did not report seeing Evander being struck before he fell to the ground.<sup>38</sup>

101. **Kenneth Monares:** in his statement to police on 31 May 2022, he described walking with "*Natheer, Kelvin (Le), Chok (Seedam), and [Evander]*" away from the venue towards Taylor Square when the physical altercation unfolded. At some point he realised Evander was on the ground, lying on his side, with other people around him. He did not report seeing Evander being struck or going to ground.<sup>39</sup>

#### **People associated with the opposing group**

102. **Joel Tutt:** in his interview with police on the morning of 9 April 2022,<sup>40</sup> he denied being involved in the brawl and said he stood nearby and watched it unfold before leaving the scene. He specifically denied throwing any punches. He denied seeing anyone get knocked unconscious or injured but said he saw a "*guy on the floor...just laying there*".<sup>41</sup>

103. CCTV and mobile phone footage shows Joel Tutt was not immediately in the group's presence when Evander was struck and went to ground. He joined the altercation shortly afterwards. That footage also captures Joel Tutt's active involvement in the physical altercation that followed including throwing punches.

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<sup>37</sup> Exhibit 1, Volume 1A, Tab 43, [1]-[13].

<sup>38</sup> Exhibit 1, Volume 1A, Tab 37, [15].

<sup>39</sup> Exhibit 1, Volume 1A, Tab 45, [12]-[15].

<sup>40</sup> Exhibit 1, Volume 2, Tab 80.

<sup>41</sup> Exhibit 1, Volume 2, Tab 80, p.12-13.

104. Joel Tutt gave evidence in the inquest.<sup>42</sup> He said that after exiting the Venue onto Oxford Street, he saw his *"friend (Byron Brown-Yeo) getting surrounded by ten – by about ten, 15 people"*.<sup>43</sup> When he (Joel Tutt) first exited the venue *"there was already someone on the ground"* surrounded by other people.<sup>44</sup>

105. He headed over to help Byron Brown-Yeo. By this point he believed Rhamain Dyer and Brayden Holten were also outside in this area.<sup>45</sup> Punches were being thrown and *"I got hit with a punch and then I threw a punch back"*.<sup>46</sup> He said he threw a couple of punches.<sup>47</sup>

106. Joel Tutt agreed that he had earlier seen Keidan Donovan Phillips outside where the 'commotion' had unfolded.<sup>48</sup> Keidan Donovan Phillips was *"in the commotion with the, like – with, with the big group there"*. Asked what he was doing, Joel Tutt replied *"I don't know. He was arguing with someone, I'm pretty sure"*. He maintained he did not see Keidan Donovan Phillips throw any punches.<sup>49</sup>

107. Asked if Keidan Donovan Phillips had said anything to him about the physical altercation or if he had punched anyone, Joel Tutt denied he had and said *"Keidan hasn't told me anything. I haven't spoken to Keidan"* and *"He didn't tell me anything really, yeah. I didn't really ask, no"*. Asked why he did not ask his friends if they knew who had struck the deceased, he replied *"No, I didn't ask them briefly, no. I didn't want to get into it, no"* and *"It's just I didn't feel like I wanted to talk to him about it, no"*.<sup>50</sup>

108. He denied he ever suspected Keidan Donovan Phillips had struck Evander and said he had no knowledge of who did.<sup>51</sup>

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<sup>42</sup> T39-82, 27.08.2025.

<sup>43</sup> T42, 27.08.2025.

<sup>44</sup> T44, 27.08.2025.

<sup>45</sup> T44, 27.08.2025.

<sup>46</sup> T44, 27.08.2025.

<sup>47</sup> T47, 27.08.2025.

<sup>48</sup> T49, 27.08.2025.

<sup>49</sup> T52, 27.08.2025.

<sup>50</sup> T58-59, 27.08.2025.

<sup>51</sup> T59, 27.08.2025.

109. **Byron Brown-Yeo:** after his apprehension by police, before being taken to Surry Hills Police Station,<sup>52</sup> Byron Brown-Yeo made several statements including that he had been “rushed” by about four people and had swung back at them in self-defence. He said outside the venue he had jumped the fence when the other males “*were mouthing off*”, he said to that group “*I don’t care how many...of you there are*” and “*come on then*” and then he then hit one of them. He was then attacked by three others with punches and kicks. When he got up and turned around, he saw a male in a white shirt “*on the floor knocked out...I don’t know how*”.<sup>53</sup>
110. **Rhamain Dyer:** footage shows Rhamain Dyer ran past Evander after he had gone to ground. He was not immediately present when Evander was struck or went to ground. Rhamain Dyer did not make a written statement to police and repeated in his oral evidence during this inquest that he had no memory of key events and could not identify people seen in the footage.
111. **Brayden Holten:** declined to make a written statement to police. In his oral evidence he agreed he was captured on the exterior taxi camera running along the roadway, around the fence into Taylor Square towards where Keidan Donovan Phillips was fighting another male (Chok Seedam). He saw Evander on the ground but did not see who struck him or how he went to ground.<sup>54</sup>
112. He also agreed he is seen in the mobile phone footage running around with his shirt around his face.
113. **Keidan Donovan Phillips:** in his interview with police after his arrest on 9 April 2022, Keidan Donovan Phillips denied being part of or seeing any part of the brawl outside the Oxford Hotel. He denied Byron Brown-Yeo was involved in that fight and did not know if Joel Tutt had been.<sup>55</sup>
114. Asked what he saw outside the venue he said “*just arguments, everyone just arguing*” but he denied recognising the people arguing. Asked again to describe what

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<sup>52</sup> Exhibit 2, Tab 27.

<sup>53</sup> Exhibit 2, Tab 27.

<sup>54</sup> T20, 27.08.2025.

<sup>55</sup> Exhibit 1, Volume 2, Tab 81, A96 - 103

he saw he said, *"I don't really want to say anything"*. He denied he suffered injuries from the night.<sup>56</sup>

115. At one point, police asked, in response to his request to view the CCTV footage, if he wanted to view that because he was part of the incident he replied *"No - - - I just wanted to see the footage..."*.<sup>57</sup>

116. Asked what he was wearing he stated a white shirt, black and white shorts and a grey hoodie. He identified himself from CCTV stills as being outside the Oxford Hotel near to the Underground Bar entrance. He said he did not recognise anyone else in the CCTV stills but the male in the white shirt (Evander) had been "blowing up" at his friends and making threats. Asked if his 'mates' were visible in the CCTV stills, he denied they were.<sup>58</sup>

117. Asked why he was seen on footage to 'walk away and then...come back', he said he did not know and that *"I was pretty drunk"* having had *"shots...like, four shots. About four vodka and raspberries"*. He denied having consumed any other substances on the night.

118. When put that police suspected he had followed Evander around the corner of the Oxford Hotel, Keidan Donovan Phillips answered, *"Wasn't that where the fight was"* and *"It all broke out. There was, like, ten of 'em"*.

119. When asked if he struck Evander after following him around the corner, causing him to fall to the ground, he responded *"No"* and *"I don't want to say anything else"*. Asked if he pushed Evander or if he saw someone else hit or push him to the ground, he responded *"No"* and *"Nup"* respectively.<sup>59</sup>

120. When put that police believed he was 'right there' when Evander went to ground, 'to the point where you almost had to stop over him', he responded, *"[y]eah. I don't really remember. I don't really want to say anything."*

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<sup>56</sup> Exhibit 1, Volume 2, Tab 81, A104

<sup>57</sup> Exhibit 1, Volume 2, Tab 81, A119-120

<sup>58</sup> Exhibit 1, Volume 2, Tab 81, A151-157

<sup>59</sup> Exhibit 1, Volume 2, Tab 81, A207-211

### Other people (not connected with either group)

121. **Peter Dissenga:** he was the licensee at the Oxford Hotel. In his statement to police on 9 April 2022, he described seeing two groups outside yelling and then beginning fighting. He saw security guards attempting to break up the fighting. He called triple zero. He saw a male laying on the ground (Evander) and told an employee to call an ambulance for that male. He did not report witnessing how Evander came to be on the ground.<sup>60</sup>

122. **Shem Mollenido:** he was working as a security advisor at the Oxford Hotel. He saw two groups of males fighting outside and intervened, with other guards to separate them. He saw a male (Evander) laying on the ground with other people surrounding him. He did not report witnessing how Evander came to be on the ground.<sup>61</sup>

123. **Khalid Hewadpal:** he was working as a security guard at the Oxford Hotel. He intervened when the two groups were fighting outside. At one point he saw a male (Evander) laying on the ground. He did not see what caused Evander to go to ground.<sup>62</sup>

124. **Yonan Noona:** he was working as a security guard at the Oxford Hotel. He saw two groups yelling at each other outside the venue and got between them. One of the groups then moved towards Taylor Square. Near to the traffic lights punches started to be thrown. He did not himself intervene and moved to the main entrance of the hotel. He saw a male falling to the ground (Evander). The male looked unconscious with his arms beside him. His head struck the ground with force. He approached and put the male (Evander) into a recovery position. He did not report witnessing Evander being struck or what caused him to fall onto the ground.<sup>63</sup>

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<sup>60</sup> Exhibit 1, Volume 1A, Tab 47.

<sup>61</sup> Exhibit 1, Volume 1A, Tab 49.

<sup>62</sup> Exhibit 1, Volume 1A, Tab 50.

<sup>63</sup> Exhibit 1, Volume 1A, Tab 51.

125. **Simon Jovanovic:** he was working as a security guard at the Stonewall Hotel, on Oxford Street across the road from the Oxford Hotel slightly closer towards the city end. He was standing at one of the Stonewall Hotel's entrances which opened onto Oxford Street.

126. In his statement to police on 27 April 2022, Simon Jovanovic said he saw two groups arguing on Oxford Street pathway outside the Oxford Hotel moving towards Taylor Square. People in these groups started shoving and punching each other which led to a large-scale physical altercation involving many people. From his position he saw a male in a white T-shirt run into the fighting This male was facing him. He saw another male come from the right and hit the male in the white shirt on his right-side jaw. He could not describe the appearance of the male he saw strike the-male in the white t shirt or what they were wearing.<sup>64</sup>

127. In his oral evidence in the inquest, he estimated he was about 20 to 25 metres away from the physical altercation when he made his observations (in his statement to police he estimated about 35 metres).<sup>65</sup> He described the person he saw struck and go to ground to be of *"slim build. Young. No more than mid-twenties. He's not Caucasian. He had a light-coloured shirt on"*.<sup>66</sup>

128. **Carlos De La Paz:** also worked as a security guard at the Stonewall Hotel. He came to the hotel's entrance after being told by Simon Jovanovic, by radio, to look across the road. He saw a large group of people fighting across the road. He saw a male, possibly wearing a cap and dark clothing, approach a shirtless male. He then saw an arm with a closed fist hit the male, who was wearing the cap, in the face causing him to fall to the ground. The latter did not get back up off the ground. He did not know if the person who threw the punch was the shirtless male or someone else.<sup>67</sup>

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<sup>64</sup> Exhibit 1, Volume 1A, Tab 52.

<sup>65</sup> T15, 26.08.2025.

<sup>66</sup> T15, 26.08.2025.

<sup>67</sup> Exhibit 1, Volume 1A, Tab 53.

129. In his oral evidence in the inquest hearing, Carlos De La Paz said he recalled seeing a male wearing a black cap and black shirt being struck and then falling to the ground. He did not see that male get up.<sup>68</sup>

130. Carlos De La Paz's description of the male who was struck and fell is not consistent Evander's appearance (e.g. Evander was not wearing a cap or a black shirt). Nor does his account assist in the identification of the person who struck that male.

131. **Ibrahim Mohammed:** was driving the taxi (T5520) that pulled up on Oxford Street and whose exterior camera captured some of the altercation. In his statement to police on 9 April 2022, he stated he was in the driver's seat facing east (away from the city) at this position. He saw males yelling at each other. He said he saw a male punch another male causing the latter to fall to the ground. He did not see that male move after he fell to the ground. He described the male who hit him as having a "stocky build" but could not recall his clothing.<sup>69</sup>

132. In his oral evidence at hearing, Ibrahim Mohammed said he made these observations when he looked over his left shoulder back on an angle towards the Oxford Hotel. He could not recall (now) if he had a clear view of the male who was struck or if people moved between him and that male. When shown the taxi's exterior camera footage, Ibrahim Mohammed said the camera's "*viewpoint is more advanced. I mean, this view is very close to the situation*" whereas he was looking back over his left shoulder out the rear passenger seat window. Footage captured by his taxi's camera provides a similar, if not near the same, viewpoint of what he might have seen. Although Evander can be seen to fall, the blow to Evander is not seen in that footage.

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<sup>68</sup> T30, 26.08.2025.

<sup>69</sup> Exhibit 1, Volume 1A, Tab 58.

133. **Matthew Hill:** he was in Taylor Square with others skateboarding. He heard a loud ‘smack’ noise and saw a male in a white t-shirt laying on the ground (Evander). He did not witness Evander being struck or going to ground. Matthew Hill recorded some footage of the altercation within Taylor Square which he produced to police. His recording began after Evander went to ground (does not capture that event). Police spoke to other people Matthew Hill was with. Although some reported seeing a male lying on the ground none reported witnessing that male being struck or going to ground.<sup>70</sup>

134. **Mirko Loru:** he was sitting at one of the tables in the Oxford Hotel’s outdoor area and recorded footage of the brawl That recording began after Evander went to ground (it does not capture that event but does capture Byron Brown-Yeo, Brayden Holten, Joel Tutt and Rhamain Dyer walking away together towards Forbes Street). In his statement to police, he described the chaotic movements of the people involved in the physical fighting. At one point he saw a male laying on the ground (Evander) with others around the person trying to assist him. He did not witness the strike to Evander or him falling to the ground.<sup>71</sup>

135. **Oscar Jardine:** he was seated at a table in the Oxford Hotel’s outdoor area and recorded footage of the brawl. His recording began after Evander went to ground (it does not capture that event). In his statement to police, he said he saw a male lying on the ground (Evander) with others attempting to help that person. He did not report witnessing that male (Evander) being struck or going to ground.<sup>72</sup>

136. **James Mahoney:** he was with Oscar Jardine in the Oxford Hotel’s outdoor area and recorded footage of the brawl. That recording began after Evander went to ground (it does not capture that event). In his statement to police, he said he saw a male laying on the ground with another male crouching nearby trying to help him. He did not report witnessing that male (Evander) being struck or going to ground.<sup>73</sup>

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<sup>70</sup> Exhibit 1, Volume 1, Tab 8 at [116]-[120], and Tabs 59 to 60.

<sup>71</sup> Exhibit 1, Volume 1A, Tab 62.

<sup>72</sup> Exhibit 1, Volume 1A, Tab 63.

<sup>73</sup> Exhibit 1, Volume 1A, Tab 64.

137. **Daniel Barraclough:** he was also seated at a table in the Oxford Hotel's outdoor area and recorded footage of the brawl. That recording also began after Evander went to ground. He saw a male in a white shirt laying on the ground (Evander) with many males around him. He did not report witnessing that male being struck or going to ground.<sup>74</sup>

138. **Michael Willis:** he was also seated at a table in the Oxford Hotel's outdoor area. He saw the outside altercation unfold. At some point he noticed a male on the ground (Evander) with four or five other males around him and a security guard approaching. He did not report witnessing that male being struck or going to ground.<sup>75</sup>

139. **Angus White:** in a statement to police, he described walking along Thomson Street, Darlington around 12:35am when he saw two males walking down the street. Both males appeared stocky, under 25 years of age. One was wearing a white T-shirt and had longer dark hair. The other was possibly wearing a red shirt. He heard one of the males state "*You fucked him up, bro*" or "*you fucking dropped that cunt*" and the other replied, "*Yeah, I dropped him. I kneed the cunt so hard*". He was unsure which male made which statement. He later contacted police after reading about the events in the paper.<sup>76</sup>

140. Accepting Byron Brown-Yeo was not wearing a red shirt on the night, the description is otherwise consistent with that of Joel Tutt and Byron Brown-Yeo who were found by police to be walking on Thomson Street. Byron Brown-Yeo is captured in the footage striking multiple people including knocking Kelvin Le to the ground so it cannot be concluded they were referring to Evander.

## Summation

141. It is submitted by the representative for the family that central to the witness accounts is that the person who struck Evander was wearing a white shirt and came from behind Evander consistent with the CCTV that shows Keidan Donovan Phillips

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<sup>74</sup> Exhibit 1, Volume 1A, Tab 65.

<sup>75</sup> Exhibit 1, Volume 1A, Tab 67.

<sup>76</sup> Exhibit 1, Volume 1A, Tab 70.

moving behind Evander wearing a white T-shirt (albeit with a grey jumper tied around his shoulders).

142. Michael Mallouhi is the only person who gave evidence that the male that struck Evander was wearing a white shirt. Simon Jovanovic said that person who was struck (i.e. Evander) was wearing a white shirt. Ibrahim Mohammed, the taxi driver, said that he saw a stocky male strike but could not recall their clothing.

143. Michael Mallouhi described the male in the white shirt that struck Evander as skinny build with blonde hair and a light-coloured moustache. This description does not match Keidan Donovan Phillips' appearance. Keidan Donovan Phillips is a solid build with dark brown hair and dark brown close crop facial hair.

144. Another person who witnessed the strike, Angus Clark, said that the guy who came from behind Evander and struck him dipped his head down and swung his right arm at Evander hitting him in the head. He said this male appeared indigenous in appearance and "fat, a bit shorter than" Evander and he was wearing a black tank top with a black short sleeve shirt. This description does not match Keidan Donovan Phillips who is tall and was not wearing a black shirt. This description best fits Byron Brown Yeo who was also in the group. Ibrahim Mohammed also described the man who hit Evander as stocky which also fits Byron Brown Yeo's description.

145. Byron Brown-Yeo did not give evidence in this inquest, the account he gave to police on the evening could not be tested and there may be a self-serving aspect to his account.

146. In his statement to police, he said he was "rushed" by four people, and he swung "at them" in self-defence, stating "*just started swinging because there were 4 of them... I got down [gestures hands over head] ...[then I] started swinging*".<sup>77</sup>

147. It is clear from the footage that Byron Brown was in close proximity to Evander. He had run up from behind and jumped the fence into the group. He is close to the centre of the group when Evander begins falling. Of significance is that Byron Brown-Yeo,

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<sup>77</sup>

Exhibit 2, Tab 27.

stated that he “*got down*” and “*started swinging*”. The implication of his statement is that he didn’t necessarily see where his punches landed or against whom. Dr McIntosh believed the blow to Evander may have stemmed from a round-arm swing. If Byron Brown-Yeo was throwing punches while facing into the group near Evander, there is the possibility that one of his blows may have struck Evander.

148. While there is evidence from several of the eyewitness to the strike that the person came from behind or from Evander’s right side there is no consistent description of the person who they saw strike Evander.

### **THE SIGNIFICANCE OF THE PHONE CALL BY KEIDAN DONOVAN PHILLIPS SISTER TO CORRECTIVE SERVICES**

149. On 9 April 2022, Corrective Services Officer James Smith, who was based at the Surry Hills Court Cells Complex, made a record of a phone call relating to Keidan Donovan Phillips who was in custody. The officer recorded that he received a call from Keidan Donovan Phillips’ sister who stated that her brother had severe mental health issues and she believed him to be at a high risk of self-harm particularly because the person he assaulted had now passed away and the charges of affray would likely be upgraded with a significant time in custody if found guilty of murdering someone.

150. This record suggests that the caller had knowledge that Keidan Donovan Phillips was responsible or might be responsible for Evander’s injuries.

151. The reference to the victim having passed away is not accurate. Evander was in a critical condition at St Vincent’s Hospital on life support until 11 April 2022.

152. Inquiries revealed that the call was made to Surry Hills Police Station (02 9265 4144), from a mobile phone number ending #144, at 8:11pm (108 second call).<sup>78</sup> This call was received after Keidan Donovan Phillips had been refused bail.<sup>79</sup> This phone number subscribed to Keidan Donovan Phillips’ mother.

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<sup>78</sup> Exhibit 1, Volume 1, Tab 10A.

<sup>79</sup> Exhibit 1, Volume 2, Tab 113: record shows Keidan Donovan Phillips being bail refused at 5:18pm.

153. Ms. Phillips confirmed she attended Surry Hills Police Station during the daytime on 9 April 2022. She said that she recalled being told that there had been a fight between two groups and *“one of the boys was in a critical way in hospital”*. Asked if she spoke to her son about what had happened when she saw him, Ms. Phillips said *“[h]e said there was just a big fight”* and did not provide her any more detail.<sup>80</sup>
154. Ms. Phillips left soon after, Ms. Phillips said she tried to ring her mum but said she did not call any of her daughters.<sup>81</sup>
155. On her return home she said she spoke to her daughter Jaylee. She expects she told Jaylee that Keidan Donovan Phillips had been refused bail. Ms. Phillips agreed her son suffered depression and anxiety but denied she was worried about his mental health or thought he might harm himself.<sup>82</sup>
156. Ms. Phillips, when shown the record of the call at 8:11pm from her phone, she stated *“I don’t recall calling them”*. Ms. Phillips confirmed her daughter Jaylee was home with her that night.
157. Asked if she could explain the call made from her phone to Surry Hills police station at 8:11pm, Ms. Phillips said *“Yeah, I can’t explain that”*.<sup>83</sup>
158. Jaylee Phillips, in her evidence, said she spoke to her mother on 9 April 2022 about her brother’s arrest for an affray charge. This conversation took place at her (Jaylee Phillips home. She believed her mother was staying there. She denied knowing, on this date, that Evander was admitted to hospital with critical injuries.
159. Jaylee Phillips knew her bother to have difficulties with depression and anxiety. She was concerned about his wellbeing when she learnt he was in custody. She denied being worried that her brother might be at risk of self-harm in those circumstances.

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<sup>80</sup> T86-87, 27.08.2025.

<sup>81</sup> T88, 27.08.2025.

<sup>82</sup> T89, 27.08.2025.

<sup>83</sup> T92, 27.08.2025.

She denied ever speaking with police on 9 April 2022 or calling to speak to anyone at the police station.<sup>84</sup>

160. Jaylee Phillips maintained she did not call that evening to Surry Hills Police Station or about her brother's wellbeing. She denied she would have used her mother's phone, stating that she had "*my own phone*".<sup>85</sup>

161. Jaylee Phillips confirmed that her other sister (who was in Queensland) was not at home that evening. She could not explain the record of the call received from her mother's mobile phone, nor did she know of anyone else at the house who might have made that call.<sup>86</sup> She had no recollection of her mother calling police that evening either and denied calling her sister (Tallara Reynolds) in Queensland.<sup>87</sup>

162. Tallara Reynolds confirmed she was Keidan Donovan Phillips' sister. As Tallara Reynolds' evidence is that she was not in Sydney on 9 April 2022 she could not have made the call from her mother's phone to Surry Hills Police Station, as that call was made from Ms. Phillips' mobile phone, who had visited her son at the police station earlier that day.<sup>88</sup>

163. Other than Ms. Phillips herself, the only other person who was with Ms. Phillips that evening who could have used Ms. Phillips' mobile phone to call the station, was Jaylee Phillips.

164. On the available evidence I am satisfied that Jaylee Phillips did make the 8:11pm call on 9 April 2022 and I do not accept her denial of having done so.

165. In relation to what was said in that call, a file note of the conversation was not taken contemporaneously by Constable James Smith. Jaylee Phillips denies saying to anyone at any time that Keidan Donovan Phillips disclosed that he was responsible for the assault resulting in a person passing away. There is no other evidence that Keidan

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<sup>84</sup> T97-98, 27.08.2025.

<sup>85</sup> T98, 27.08.2025.

<sup>86</sup> T99, 27.08.2025.

<sup>87</sup> T99-100, 27.08.2025.

<sup>88</sup> T101-104, 27.08.2025.

Donovan Phillips made any admission and furthermore Evander had not passed away at the point of the telephone call. Accordingly, this evidence carries little weight in relation to considering whether a known person can be found to have delivered the fatal blow to Evander.

## **THE SIGNIFICANCE OF THE ACTIONS OF KEIDAN DONOVAN PHILLIPS AFTER EVANDER FELL**

166. Other evidence to be borne in mind in relation to Keidan Donovan Phillips, and the likelihood he struck Evander is that when the fight started Keidan Donovan Phillips quickly moved into the huddle and after Evander fell, he quickly left the scene and went back to the Underground Bar while everyone else kept fighting. As he entered the bar, he can be seen on CCTV footage holding his hand out in a manner and looking at it in a way that might suggest he had just struck someone.

167. These actions can be viewed as suspicious. However, not necessarily or only suspicious of the fact he struck Evander. The footage depicts him in some sort of exchange with Chok Seedam after Evander fell and before he returned to the bar. He may have hurt his hand in that exchange and accordingly I can place little weight on his post offence conduct.

## **CONCLUSION**

168. Despite a large number of witnesses, few saw or sufficiently describe the man who struck Evander. The witnesses accounts vary significantly.

169. Michael Mallouhi, who was part of the group of friends with Evander states that he saw a man in a white t-shirt “king hit” Evander. He describes the man as tall, six feet and one or two inches, with blonde hair, a light-coloured moustache, and a skinny face. He also describes the man as appearing to be Australian. Michael Mallouhi describes the strike as a hit to the right side of Evander’s head as he was turning around to the direction from which the man was running. Michael Mallouhi also states that he later saw a man who was shirtless with a white t-shirt wrapped around his head and thought this was the man who hit Evander. Michael Mallouhi states that

the man ran down an alley with Byron Brown-Yeo after the altercation. Brown-Yeo was later seen by police with Joel Tutt.

170. Angus Clark, who was also part of the group with Evander, states that he saw a man approach Evander from behind and punch him as he was turning around. He describes this man as being of Indigenous appearance, fat and shorter than Evander. Angus Clark states that the man was wearing a black tank top with a short black sleeve shirt over it.

171. Natheer Raffie, who was another member of the group with Evander states that he saw Evander fall to the ground and, although he does not venture a description of the person who hit Evander, states that he does not think it was Byron Brown-Yeo who Raffie had fought with.

172. Simon Jovanovic and Carlos De La Paz were working as security guards at a different venue across the road, the Stonewall Hotel. Simon Jovanovic describes seeing a man hit Evander from his right side but does not recall what the man was wearing or what he looked like. Carlos De La Paz recalls seeing a shirtless man right near to Evander when he fell to the ground but cannot say if it was that man who struck Evander.

173. Ibrahim Mohammed, who was driving a taxi on Oxford Street at the time, saw the blow to Evander. He describes the perpetrator as a man of stocky build. But he could not see the man's face and cannot remember what he was wearing.

174. The fatal blow cannot be seen clearly in the footage obtained of the altercation. Dr McIntosh, the biomechanical expert, considered the footage of the incident from a biomechanical perspective. He couldn't see clearly to know whether any of the hand movements in the footage contacted Evander.

175. There was a close huddle of males in a tight group when Evander fell. Evander, Kelvin Le, Marvin Lay, Chok Seedam, Nathan Jamou, Harrison Keomoungkhoun, and Natheer Raffie. Byron Brown-Yeo and Keidan Donovan Phillips were also in the huddle. They

were the only two from the opposing group. Rhamain Dyer, Bradyen Holten and Joel Tutt were not part of the huddle when Evander went to ground.

176. Despite being right there most of the people who were in and near to the huddle did not witness the blow to Evander. None of the people who did witness the blow have the same description or clear description of the person who delivered the blow.

177. This is reflective of how quick and frenzied the altercation was.

178. It appears from the taxi footage that as Evander enters the group, he jumped with his leg out at someone. Evander is facing Taylor Square / Darlinghurst Supreme Court when he enters the group and soon after he turns and is facing back towards the road.

179. At the point at which Evander would have been struck, Byron Brown-Yeo and Keidan Donovan Phillips were each within striking distance of Evander. If Evander was intentionally struck it is likely it was by one of those two. The other males in the huddle were Evander's friends and would have had no reason to intentionally done so.

180. However, based on a review of the footage, there are arm movements by the other males in the huddle. It cannot be made out what the arm movements are, whether they are reaching out to grab, push or pull away or punches. The possibility of a punch from anyone in the tight frenzied huddle inadvertently striking Evander cannot be excluded.

181. The footage, the eyewitness accounts, the circumstantial evidence of the phone call to corrective services and the post offence conduct together or separately does not amount to evidence that could establish the required standard for a finding that any known person struck Evander.

## **CONCLUDING REMARKS**

182. Evander's death is a tragedy. I offer my heartfelt condolences and sympathy to Evander's family and thank them for participating in this inquest, when it has been so difficult and sad.

183. I thank counsel assisting, Mr Chris McGorey and his instructing solicitor, Ms Sarah Tait for the work they put into assisting me in this inquest. I would also like to acknowledge the work of Detective Sergeant Rohan Light and his team who conducted a thorough police investigation in this matter.

**SECTION 81 CORONERS ACT (2009) FINDINGS:**

**Identity**

The person who died was Mr. Evander Bronson Tuala

**Date of death**

Mr. Tuala died on 9 April 2022

**Place of death**

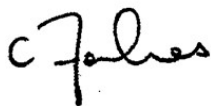
Mr. Tuala died at St Vincent's Hospital NSW

**Cause of death**

The cause of Mr. Tuala's death was blunt force head injury

**Manner of death**

Mr. Tuala's death occurred after he was hit and then fell during an affray outside the Oxford Hotel near Taylor Square in Darlinghurst. The evidence does not allow me to find who hit Mr. Tuala in the affray before he fell.



Magistrate Carmel Forbes

Deputy State Coroner

Coroners Court of NSW, Lidcombe

12 March 2026