



New South Wales

**CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the suspected death of missing person Habtom Ghilagaber

Hearing dates: 29 July 2025 to 1 August 2025

Date of Findings: 22 August 2025

Place of Findings: Coroner's Court of New South Wales, Lidcombe

Findings of: Magistrate Derek Lee, Deputy State Coroner

Catchwords: CORONIAL LAW – whether missing person now deceased, date and place of death, cause and manner of death, adequacy and timeliness of missing person investigation, key timeframes, *Commissioner's Instruction 39*, taking of witness statements, evidence gathering, verification of identity of missing person, P79B report of suspected death of missing person to Coroner, impact of missing person being a foreign national

File number: 2020/299793

Representation: Ms M O'Brien, Counsel Assisting, instructed by Ms Z Carter (Crown Solicitor's Office)

Ms K Burke for the Acting Commissioner of the New South Wales Force, instructed by Mr S Robinson (New South Wales Police Force Office of the General Counsel)

Findings:

Habtom Ghilagaber, who was reported to a missing person to the New South Wales Police Force on or about 25 September 1995, is now deceased.

Habtom died sometime on or after 5 September 1995.

The available evidence does not allow for any finding to be made as to the place of Habtom's death.

The available evidence and the absence of any postmortem examination does not allow for any finding to be made as to the cause of Habtom's death.

The available evidence and the absence of any postmortem examination does not allow for any finding to be made as to the manner of Habtom's death.

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1. Introduction

- 1.1 On 15 January 1993, Habtom Ghilagaber, a 27-year-old PhD student arrived in Australia from Eritrea to study mathematics at the University of New South Wales (**UNSW**). During 1993, Habtom lived near UNSW, socialised with local members of the Eritrean community and engaged with his studies. However, by mid-to-late 1994 Habtom began showing concerning changes in his behaviour culminating in his admission to hospital as an involuntary patient on 20 December 1994.
- 1.2 Following his discharge from hospital on 9 January 1995, Habtom showed signs of improvement. However, by June 1995, Habtom's previous erratic and unusual behaviour had returned. Habtom was last seen alive on 5 September 1995. On or about 25 September 1995, Habtom was reported as a missing person to the New South Wales Police Force (**NSWPF**).
- 1.3 Between 1995 and 2020, various steps were taken by the NSWPF to progress the missing person investigation. However, available records indicate that there were long periods of inactivity in the investigation, occasions when the investigation was closed or suspended and then reopened, and other occasions when certain investigative steps and tasks were either repeated or not completed.
- 1.4 Eventually, on 18 October 2020, the NSWPF reported Habtom's suspected death to the NSW Coroner. In the years since Habtom was reported missing, no evidence has been identified as to Habtom's whereabouts or whether he is still alive.

2. Why was an inquest held?

- 2.1 When the NSWPF suspect that a missing person has died a report is made to the Coroner using a form known as a P79B Report of Suspected Death to the Coroner (**P79B**). This form is similar to the P79A Report of Death to the Coroner (**P79A**) which is utilised when the death of a person is known. Following a P79B report, the Coroner must determine from the available evidence whether that person has in fact died.
- 2.2 If a Coroner forms the view that a missing person has died then the Coroner has an obligation to make findings in order to answer questions about the identity of the person who died, when and where they died, and what the cause and the manner of their death was. The manner of a person's death means the circumstances in which that person died. If the coroner is unable to answer these questions then an inquest must be held.¹
- 2.3 In Habtom's case, the missing person investigation conducted by the NSWPF has been unable to locate Habtom or any physical evidence as to his location since September 1995. As a result, it has not been possible to answer all of the questions that a Coroner is required to answer. Therefore, it is mandatory for an inquest to be held.

¹ *Coroners Act 2009*, section 27.

- 2.4 In addition, due to the significant passage of time between when Habtom was reported as a missing person and when a report was made to the Coroner that Habtom is suspected to be deceased, an inquest was required to examine the adequacy of the NSWPF missing person investigation.
- 2.5 In this context it should be recognised at the outset that the operation of the *Coroners Act 2009* (**the Act**), and the coronial process in general, represents an intrusion by the State into what is usually one of the most traumatic events in the lives of family members who have reported a loved one as missing. At such times, it is reasonably expected that families will wish to attempt to cope with the consequences of such a traumatic event in private. The sense of loss experienced by family members does not diminish significantly over time. Therefore, it should be acknowledged that both the coronial process and an inquest by their very nature unfortunately compel a family to re-live distressing memories and to do so in a public forum.

3. Habtom's life

- 3.1 Inquests and the coronial process are as much about life as they are about death. A coronial system exists because we, as a community, recognise the fragility of human life and value enormously the preciousness of it. Understanding the impact that the death of a person has had on those closest to that person only comes from knowing something of that person's life. It is hoped that what is set out briefly below acknowledges Habtom's life in a meaningful way.
- 3.2 Habtom was born in Eritrea² on 25 January 1965. He was the third of five children with an older sister, an older brother, Gebrenegus Ghilagaber, and two younger brothers. Habtom excelled at school in several diverse fields but particularly in quantitative and analytical areas like mathematics and physics. According to Habtom's high school classmates, his teachers rarely found any mistakes when marking Habtom's exam papers.
- 3.3 Gebrenegus describes Habtom as someone who was very interactive and friendly with his close friends but who was relatively shy outside this circle of friends.
- 3.4 Habtom completed Technical School in Asmara in June 1982, a Bachelor of Science in Mathematics from Addis Abba University in July 1986, and a Master of Mathematics from the same university in July 1990. As Habtom was one of the top students upon his graduation from his bachelor's degree, he was recruited as a graduate assistant at Asmara University in 1986. He remained working there until the end of 1992.
- 3.5 Gebrenegus says that what made Habtom unique was his skill as an artist. He was talented at both drawing and painting, and Gebrenegus described that Habtom could have taken up art as a profession.
- 3.6 The inquest into Habtom's suspected death was held almost 30 years from when he was reported as a missing person. The loss and uncertainty that Habtom's family have experienced during that lengthy period of time has not diminished. There is little doubt that the loss and grief that they have experienced, and continue to experience, is immeasurable. Habtom's separation from his family in

² Eritrea at the time was a constituent State of the Federation of Ethiopia and Eritrea before gaining *de facto* independence in 1991 and *de jure* independence in 1993 following an independence referendum

such sudden and unexpected circumstances cannot be described as anything other than devastating.

4. Background to Habtom being reported as a missing person³

- 4.1 In 1992, Habtom was awarded a scholarship from the former Australian International Development Assistance Bureau (now known as the Australian Agency for International Development (**AusAID**)) to study at UNSW for a PhD in mathematics. A similar scholarship was awarded to Kidane Belay, also from the University of Asmara.

Studies at UNSW

- 4.2 On 15 January 1993, Habtom arrived in Australia on a student visa. He commenced first semester studies at UNSW shortly after his arrival and lived in a unit in Kensington. Habtom's PhD supervisor was Dr Robert Womersley, a senior lecturer in mathematics.
- 4.3 During this period, Habtom appears to have socialised with members of the small Eritrean community in Sydney, some of whom were also studying at UNSW. However, Habtom was also reportedly shy with a tendency to keep to himself.

Observations of Habtom's physical and mental health

- 4.4 Habtom had no known history of any significant health conditions prior to his arrival, or during his time, in Australia.
- 4.5 However, between the period from late July 1994 to late November 1994, Habtom's friends noticed a change in behaviour when he began expressing paranoid and delusional thoughts and suicidal ideation. At around this time, Habtom appears to have commenced a relationship with a fellow Eritrean student at UNSW, Berhana Yikuno, who was reportedly already in a relationship and/or significantly older than Habtom. The subsequent breakdown of this relationship and/or Habtom's perception that members of the Eritrean community had become aware of the relationship coincided with observations of a deterioration in his mental health.
- 4.6 There is also some suggestion that on one occasion Habtom attended a social gathering where a comment was made (due to an apparent misunderstanding) by another member of the Eritrean community that Habtom was sympathetic to a group that was in opposition to the Eritrean government at the time. Habtom reportedly took this comment seriously and it this event also coincided with observations of his mental health decline.
- 4.7 On 29 November 1994, Ms Yikuno asked another Eritrean PhD student, Nicodemus Tedla, if he could stay with Habtom overnight to ensure that he did not harm himself. Mr Tedla subsequently went to Habtom's home at around 11:30pm that night.
- 4.8 At around 8:30am on 30 November 1994, NSWPF officers attended Habtom's home in response to an incident. Differing accounts regarding the incident suggest that during the previous evening

³ Much of this background has been drawn from the helpful opening submissions of Counsel Assisting.

Habtom had placed an electrical cord around his neck in an apparent self-harm attempt. When Mr Tedla intervened, a physical altercation occurred. It was also reported that Habtom may have attempted to place the electrical cord around Mr Tedla's neck before a neighbour intervened.

- 4.9 In any event, the attending NSWPF officers formed the opinion that Habtom was at risk of self-harm and took him to Prince Henry Hospital (**PHH**) where he was reviewed by a psychiatrist, Dr Huntsman. Habtom was provisionally diagnosed with schizophreniform psychosis and/or delusional disorder. He was discharged on medication and managed as an outpatient.

Involuntary admission to hospital

- 4.10 On 20 December 1994, Habtom attended an outpatient appointment with Dr Huntsman. It was noted that Habtom had ceased his medication one week earlier and appeared to remain delusional. Habtom was provisionally diagnosed with delusional disorder and admitted as an involuntary patient at PHH. Habtom was later transferred to the acute psychiatric unit at Prince of Wales Hospital (**POWH**) for further investigation. Habtom reportedly experienced suicidal ideation at the time and was assessed as a "*serious suicide risk*".
- 4.11 On 4 January 1995, Habtom was transferred to the general ward after showing improvement. During his admission, Habtom was assessed by Dr William Andrews, psychiatrist.
- 4.12 On 9 January 1995, Habtom was discharged from hospital with a diagnosis of major depression with psychotic features. It was noted that he reported being "*preoccupied with thoughts of bad things that he had done*", that after ceasing his medication "*he became more preoccupied with his perceived persecution*", that "*he believed that his reputation had been ruined*", and that he had "*suicidal ideation with intermittent suicidal impulses*".

Observations of Habtom prior to him being reported missing

- 4.13 Between January and June 1995, Habtom attended a number of outpatient appointments with Dr Andrews. During an appointment in June 1995, Habtom reported that he was well and planning to travel to Europe for a month. Dr Andrews noted that he would review Habtom upon his return but it appears that Habtom did not travel to Europe.
- 4.14 On 3 August 1995, Habtom told Dr Andrews that he had ceased taking his medication one week earlier because he was "*convinced he no longer needs them*". Dr Andrews told Habtom to return immediately if his symptoms resurfaced. However, Habtom told Dr Andrews that he was "*adamant God has cured him*", and that he would not be taking any more medication.
- 4.15 On 18 August 1995, Dr Womersley wrote to Gebrenegus advising him that Habtom had not been eating, was avoiding friends, and appeared to have lost confidence in his ability to do even simple mathematics. Habtom reportedly told Dr Womersley that God's voice was telling him what to do and that as a result, he had cut off his phone service, thrown away his computer and refused to go to dinner when invited by friends. At one stage, Habtom also told Dr Womersley that he wanted to be known as Peter Ghilagod, with the last name meaning "Servant of God".

- 4.16 At around this time, Dr Womersley and Dr Fred Orr, Head of Counselling Services at UNSW, attempted to have Habtom urgently assessed by the Bondi Junction Community Health Centre Crisis Team (**Crisis Team**). Several attempts were made to locate and contact Habtom without success.
- 4.17 Sometime in August 1995, Dr Womersley contacted Paul O'Donohue, a social worker employed by AusAID who had been assigned to support Habtom during his studies in Australia. Mr O'Donohue interviewed Habtom and formed the belief that Habtom's "*communication style was somewhat disordered*" or that he was in the early stages of a mental health disorder.
- 4.18 On 29 August 1995, Dr Womersley, Dr Orr and Mr O'Donohue decided to contact the NSWPF following the unsuccessful attempts of the Crisis Team to reach Habtom. Later that same day, Habtom contacted Mr O'Donohue and reported that he had been in Melbourne but would be returning to Sydney later that week.
- 4.19 On 1 September 1995, Habtom spoke to Mr O'Donohue at UNSW. Mr O'Donohue observed that Habtom was thought disordered, delusional and dishevelled in appearance. Mr O'Donohue contacted a mental health crisis team (at either Rozelle Hospital or POWH) and arrangements were made for Habtom to be psychiatrically assessed later that afternoon. According to Mr O'Donohue, Habtom was assessed as not being at risk of harm to himself or others and was not admitted as an involuntary patient.
- 4.20 On 5 September 1995, Habtom saw Dr Womersley regarding having a form signed to allow him after-hours access to areas of UNSW. Dr Womersley signed the form, which was in the name of Peter Ghilagod, and noted that Habtom was proceeding with his new identity.
- 4.21 During this period, other people also noted changes in Habtom's behaviour. Dr Belay observed Habtom to be expressing paranoid thoughts and attributed his behaviour to the fact that "*God had told him to*". Aklilu Gebremdhin, another prominent member of the Eritrean community in Sydney, noted that Habtom expressed belief that cameras on top of every power pole were monitoring him, and that Habtom had disposed of all his furniture because "*God told him to do it*".

Habtom travels to Melbourne

- 4.22 During August 1985, Habtom travelled to Melbourne for unknown reasons and without telling anyone. On 26 August 1995, Habtom was charged by Victoria Police with trespassing and resisting police/arrest offences after he refused to move on from a public place. It was noted that Habtom had been "*antagonistic*" with police and that he had been wandering the streets of Melbourne "*due to being under some sort of inner stress*".
- 4.23 On 27 August 1985, Habtom presented to the Royal Park Psychiatric Hospital in Melbourne as an involuntary patient. Habtom was noted to be dishevelled in appearance, inappropriately dressed and smiling at inappropriate times. On assessment, Habtom reported his belief that people could read his thoughts, that his office was bugged, and that he was receiving messages from God to travel to small cities. Habtom also reported that God wanted him to travel to Melbourne to study at

Swinburne University, and to live in parks without clothes, but that he could not do this and therefore could not please God.

4.24 On 28 August 1995, Habtom absconded from hospital and was subsequently reported as a missing person to Victoria Police. Available records indicate that Habtom was subsequently discharged from hospital on 30 August 1995.

Report of Habtom as a missing person to the NSWPF

4.25 It appears that on 25 September 1995, Mr O'Donohue reported Habtom as a missing person to the NSWPF. Constable Mathew Korff received the report and recorded a narrative of the report on the NSWPF Computerised Operational Policing System (COPS). It was noted that:

- (a) Habtom went missing sometime between 18 and 25 September 1995;
- (b) Habtom was last seen by Dr Womersley on 5 September 1995;
- (c) Habtom was last seen by Mr O'Donohue on or around 19 September 1995; and
- (d) Mr O'Donohue expressed concern that Habtom may suffer from a mental illness and may try to harm himself.

4.26 Mr O'Donohue also notified Gebrenegus that Habtom was missing resulting in Gebrenegus travelling to Australia from Sweden. Gebrenegus made a number of enquiries with the local Eritrean community and searched for his brother for a number of weeks without success.

Summary of steps taken in the missing person investigation

4.27 Set out below is a summary, drawn from available records, of the significant and most relevant steps taken in the missing person investigation. It is not intended to be a complete description of every investigative step taken.

4.28 In October 1995, the NSWPF added Habtom's details to the former Missing Persons Unit (MPU) Register.

4.29 On 1 November 1995, the NSWPF distributed a media release regarding Habtom which was published in the Salvation Army newsletter and the Southern Courier. The latter publication prompted a report of Habtom being seen in Waverley although the outcome of this report is unclear.

4.30 At the end of 1996, the NSWPF met with Gebrenegus. A request was made that Habtom be recorded as a missing person in other States. A number of signs of life checks were made with no evidence found that Habtom was still alive.

4.31 Available records indicate that the missing person investigation was reviewed at the 4 months milestone (on 23 February 1996) and again at the 12 months milestone (on 5 October 1996). However, the nature and outcome of these reviews is unknown.

- 4.32 In 1997, the NSWPF issued a further media release seeking information with no useful results obtained. At around this time, a “*report setting out the current state of inquiry*” was required to be submitted by the Officer-in-Charge (OIC) to the MPU. A half-page report was submitted by Constable Korff on 31 March 1998 which noted that:
- (a) Mr O’Donohue had been contacted and confirmed that he had not seen or heard from Habtom, and that to his knowledge Habtom was still missing; and
 - (b) Constable Korff had “*conducted numerous enquiries on COPS including name and location checks with a negative result*”.
- 4.33 Between 1998 and 1999, available NSWPF records indicate that few steps were taken to advance the missing person investigation.
- 4.34 In the 2000s, further steps taken in the missing person investigation included conducting checks to determine if there was any evidence of Habtom still being alive and arranging for Interpol to interview Gebrenegus. These steps did not identify any new or useful evidence.
- 4.35 In 2004, the NSWPF prepared to report Habtom’s suspected death to the Coroner. On 18 August 2004, it appears that the missing person investigation was allocated to Constable Joshua Yates. On 20 October 2004, Constable Yates met with Habtom’s younger brother, Mehari, who was in Australia at the time. Mehari provided a statement indicating that before Habtom was reported missing, he had regular contact with him by phone or mail but had no contact since that time. In or around 2005, NSWPF officers met with Mr O’Donohue and began taking a statement from him. Copies of Habtom’s medical records from POWH were also requested. In 2006, the NSWPF commenced work with Interpol to obtain a DNA sample from Gebrenegus, which was not obtained until early 2008.

Identification of Thomas Ghilagaber

- 4.36 In May 2010, the NSWPF identified a person named Thomas Ghilagaber who was suspected of being Habtom. According to COPS records, the Registry of Births, Deaths and Marriages advised on 18 May 2010 that Habtom had changed his name to Thomas Ghilagaber on 2 October 2001. Records also indicated that Thomas was living at an address in Blacktown.
- 4.37 The NSWPF arranged to interview Thomas at Blacktown Police Station. Despite Thomas denying that he was Habtom, a Senior Constable at Blacktown formed the view that he was indeed Habtom, noting similarities in appearance between Thomas and a 15 year old photo of Habtom provided by Sergeant Diane Montgomery, who had been appointed as the OIC of the investigation in early 2008. It was also noted that Thomas was quite reluctant to provide police with information about himself. By late May 2010, an incident was created indicating that Habtom had been located and identified.
- 4.38 In 2011, NSWPF officers spoke to Mr Gebremdhin who knew both Habtom and Thomas, and who confirmed they were not the same person. Despite this, it appears that a view persisted that Thomas was in fact Habtom. In April 2015, a DNA sample was taken from Thomas in order to exclude him as Habtom. The relevant COPS entry records that “*poi is believed to be the mp*”. Despite this, analysis

of the DNA sample did not occur until 2020. Similarly, it was not until April 2020 that a Facial Examination Summary prepared by the NSWPF Facial concluded that photos of Habtom and Thomas were not of the same person.

Report of Habtom's suspected death to the Coroner

4.39 In 2020, further checks were made with the Department of Home Affairs, Australian Border Force, UNSW, various financial institutions, Services Australia, and various interstate agencies including transport authorities, corrective services and Registries of births deaths and marriages. None of these checks revealed any evidence that Habtom was still alive.

4.40 On 18 October 2020, Detective Lisa Imisides submitted a P79B to the Coroner's Court of NSW. The report noted that Habtom had not been seen since 1995, had had no contact with his family since that time, and that records indicated that he had not departed Australia using his own name. The P79B also recorded Habtom's suspected date of death as 25 September 1995.

5. What issues did the inquest consider?

5.1 Prior to the commencement of the inquest a list of issues was circulated amongst the sufficiently interested parties, identifying the scope of the inquest and the issues to be considered. That list identified the following issues for consideration:

- (1) Whether Habtom is deceased and, if so, the likely location and date of his death, and the likely manner and cause of his death.
- (2) If there is insufficient evidence to find that Habtom is deceased, whether his whereabouts can be ascertained
- (3) The adequacy of NSWPF investigations into the report of Habtom as a missing person, including in relation to:
 - (a) what occurred in the critical period after Habtom was reported missing;
 - (b) why there have been an apparent lack of steps taken over the course of the investigation and why certain steps weren't taken until time had passed (for example, why there was a lack of contact with the senior next of kin and why there was a long period before statements were taken);
 - (c) the standard operating procedures at the time Habtom was reported missing and whether the investigation into Habtom being reported missing was conducted consistent with those procedures;
 - (d) whether any inadequacies or systemic deficiencies in those standard operating procedures have been subsequently addressed; and

(e) whether the NSWPF investigation was impacted by the fact that Habtom was a foreign national.

5.2 For convenience, some of the issues have been dealt with together below due to areas of overlap.

6. Is Habtom now deceased?

5.1 The first finding that a Coroner must make following an inquest into the suspected death of a missing person is whether that person is now deceased. A finding that a person is deceased is a finding of great significance and gravity for the family members of that person. The finding invariably places an additional emotional burden on families and has important legal and administrative consequences. Such a finding is made on the balance of probabilities, but there must be clear, cogent and exact evidence that a missing person has died before it can be made.⁴

5.2 In considering the question of whether Habtom is now deceased, regard must be had to both the results, and absence of results, from the NSWPF investigation, together with other information relevant to the circumstances in which Habtom went missing.

5.3 Since September 1995, investigating police have on several occasions and most recently in 2020, conducted a number of documentary and electronic searches which are commonly known as “signs of life checks”. These checks involve enquiries being made with financial institutions, government organisations, and law enforcement agencies to identify whether there are any records indicating that a missing person has had some interaction with these organisations and institutions, thereby indicating that they are alive. The checks are performed with the assumption that for most people in the community such interactions are an ordinary occurrence of everyday life.

5.4 In summary, the results of these signs of life checks establish the following:

- (a) Enquiries with transport authorities and agencies responsible for delivering government payments and services to individuals, such as Services Australia, have not identified any records indicating any interaction with Habtom;
- (b) Enquiries with various major financial institutions have not identified any accounts held in Habtom’s name;
- (c) Enquiries have been made with interstate law enforcement agencies, and with the Registries of Births, Deaths and Marriages in NSW and other States which have confirmed that there are no records in relation to Habtom;
- (d) Enquiries with UNSW revealed that Habtom’s postgraduate student file was destroyed in 2011, and that no UNSW Counselling and Psychological Services records exist in relation to Habtom;
- (e) Enquiries with members of the Eritrean community in Sydney, and with Habtom’s friends and associates at the time that he was reported missing, have not identified any information as to Habtom’s current whereabouts or any evidence that he is still alive;

⁴ *Briginshaw v Briginshaw* (1938) 60 CLR 336.

- (f) Enquiries with the Department of Home Affairs establishes that Habtom's student visa is now expired, that his immigration status was changed to an unlawful non-citizen on 29 February 1997, and that there are no records indicating that Habtom has departed Australia using travel documents in his own name;
- (g) Enquiries with a number of major hospitals have not identified any records indicating that Habtom has been admitted as an inpatient or received any treatment; and
- (h) DNA and facial comparison testing completed in 2020 has successfully excluded Thomas Ghilagaber as being Habtom.

5.5 One matter which requires further consideration is Habtom's expressed desire in 1995 to be referred to as Peter Ghilagod. Mr Gebremdhin explained that that the last name means "Servant of God", which is consistent with Habtom's remarks during this period that he was doing what God wanted him to do. On 4 September 1995, Dr Womersley sent an email to Gebrenegus explaining that Habtom did not attend a scheduled meeting with himself and Mr O'Donohue that morning, and that he "*appears to be set on his new identity and is not willing to get professional help*".

5.6 Habtom's desire to be known as Peter Ghilagod culminated in him requesting a UNSW after-hours access card in that name from Dr Womersley on 5 September 2025. Dr Womersley gave evidence that he authorised the issuing of the card to Habtom to avoid causing him further distress.

5.7 Habtom's assumption of the name Peter Ghilagod raises the question of whether Habtom may have assumed this (or another) identity after September 1995 and still be alive today, thereby avoiding detection by the types of signs of life checks described above. This question was raised with various witnesses:

- (a) Gebrenegus gave evidence that whilst he was unsure whether Habtom ever changed his name officially, he was aware that Habtom had asked people around him to refer to him as Peter Ghilagod. In evidence, Gebrenegus acknowledged that whilst it is possible that Habtom had changed his identity he expressed doubt that Habtom had done so;

- (b) Mr O'Donohue similarly expressed doubt that Habtom would have been able to change his identity and "*go missing voluntarily*";

- (c) Mr Gebremdhin likewise gave evidence that he considered Habtom would not have had the capacity to change his identity. He noted that Habtom was a "*reserved person*" and that there were only 40 to 50 people in the local Eritrean community that Habtom associated with and that he did not know many people. This meant that it was unlikely Habtom had a sufficient support network to assume a new identity and live undetected.

5.8 Another matter which requires consideration is the evidence indicating that Habtom's physical and mental well-being had deteriorated significantly up to the point when he was reported as missing:

- (a) Dr Womersley gave evidence that the first indication of a problem was when Habtom was hospitalised shortly before Christmas 1994. Prior to this, Dr Womersley had noticed that Habtom’s mathematical effort had gone backwards. Dr Womersley explained that this was unexpected for a student two years into their PhD. Dr Womersley also gave evidence that he observed that Habtom appeared gaunt and seemed to take less care regarding his appearance.
- (b) Dr Womersley noted that Habtom did improve in the first part of 1995 after leaving hospital. However, he later deteriorated, becoming erratic in attending scheduled meetings and often missing meetings entirely.
- (c) On 18 August 1995, Dr Womersley sent an email to Gebrenegus (copying in Dr Orr) expressing concerns about Habtom’s health, noting that he had not been eating and was avoiding his friends. Dr Womersley also referred to Habtom saying that he was hearing God’s voice in his head which was telling him what he should do. Dr Womersley expressed concern “*at what [Habtom] might do if ‘God’s voice’ told him to*”.
- (d) Later on 18 August 1995, Dr Orr sent an email to Dr Womersley advising that he had spoken to Mr O’Donohue who considered that Habtom required urgent assessment “*to ensure that his present mental state does not render him or others at risk*”.
- (e) Mr O’Donohue gave evidence that he described his first impression of Habtom as “*quirky*”. At their next meeting, Mr O’Donohue noted that Habtom was referring to himself as Peter Ghilagod. Mr O’Donohue also gave evidence that he considered that this represented a grandiose delusion and that it indicated psychosis to him. Mr O’Donohue explained that he became concerned about Habtom’s ability to function in the community let alone progress his PhD
- (f) Mr O’Donohue gave evidence that by late August 1995, he was concerned about Habtom’s safety because he lived alone and had some friends but was not well supported. Mr O’Donohue considered that assessment, and even involuntary detention, by the Crisis Team was warranted.
- (g) Gebrenegus gave evidence that if Habtom had not been taking his medication and not eating, then it is likely that he was deteriorating physically and mentally and that he “*may collapse*”. Gebrenegus also gave evidence that whilst he considered that there was no evidence to prove or disprove whether Habtom is in fact deceased, he expressed less optimism about finding Habtom alive.

5.9 A consideration of all of the available evidence referred to above establishes the following:

- (a) Despite repeated physical, documentary and electronic searches since September 1995, no evidence has been identified indicating that Habtom is still alive. These searches have included signs of life checks which have not produced any evidence that Habtom is still alive.
- (b) In the month before he was reported missing Habtom was not eating, raising concerns about his physical well-being. In addition, Habtom was exhibiting delusional and paranoid behaviour, and was resistant to seeking medical assistance. These matters made Gebrenegus, Dr Womersley, Dr

Orr and Mr O'Donohue all concerned about Habtom's general welfare and what might happen to him in the absence of intervention.

- (c) Given his vulnerability, if Habtom had experienced an episode of misadventure, it is unlikely that he would have been able to recover from it without medical and other assistance.
- (d) By August 1995, Habtom had become socially withdrawn from his already limited support networks.
- (e) There is no evidence that Habtom has contacted, or sought to make any contact with, any person known to him in Australia or overseas since September 1995.
- (f) By all accounts, Habtom maintained a good relationship with his siblings. There is no plausible explanation why Habtom would not maintain contact with his family members since September 1995.
- (g) There is no evidence that Habtom had the capacity to assume a different identity or the means to maintain a different identity and support himself for almost 30 years.
- (h) There is no record of Habtom departing Australia using travel documents in his name.

6.10 Conclusions: Having regard to the matters set out above, the conclusion that must sadly be reached, on the balance of probabilities, is that Habtom is now deceased.

7. When and where did Habtom die?

- 7.1 Having concluded that Habtom is now deceased, the questions that now arise, as part of the functions of the coronial jurisdiction, is whether the available evidence allows for any finding to be made as to where and when Habtom died, and the cause and manner of his death.
- 7.2 There appears to be some confusion regarding when Habtom was last seen alive:
 - (a) Dr Womersley gave evidence that the last time he saw Habtom was on 5 September 1995 at UNSW.
 - (b) However, the COPS record of the missing person report made by Mr O'Donohue states that Habtom went missing sometime between 18 and 25 September 1995. The reason for these dates is unclear. Mr O'Donohue gave evidence that he could not recall what he told the NSWPF when reporting that Habtom was missing or the dates during which Habtom had gone missing.
 - (c) The P79B for Habtom records that Habtom was last seen alive on 19 September 1995 by Mr O'Donohue. Again, Mr O'Donohue gave evidence that he could not recall when he last saw Habtom alive.

- (d) The P79B for Habtom also records at section 2.1(a) that the approximate date and time of Habtom's death was 25 September 1995. Again, the P79B for Habtom does not disclose how that date was arrived at.

7.3 **Conclusions:** Having regard to the above, the only reliable evidence is that Habtom was last seen alive by Dr Womersley on 5 September 1995. The evidence therefore only allows for a conclusion to be reached that Habtom died on or sometime after 5 September 1995.

7.4 It is evident that Dr Womersley last saw Habtom at UNSW on 5 September 1995 but there is no evidence where Habtom went afterwards. As Habtom's remains have not been found, there is no evidence as to where he died. Therefore, the available evidence does not allow for any conclusion to be reached as to Habtom's place of death.

8. What was the cause and manner of Habtom's death?

8.1 The cause of Habtom's death remains unclear on the available evidence. Habtom was not known to have any significant underlying medical condition(s) which might have suddenly caused his death. Similarly, it is possible that after Habtom went missing he may have experienced some misadventure resulting in an injury or condition which caused his death. However, these are really matters of speculation.

8.2 **Conclusions:** As Habtom has not been found, no post-mortem examination to determine a precise cause of death has been performed. The available evidence therefore does not allow for any conclusion to be reached as to the cause of Habtom's death.

8.3 The manner of Habtom's death requires further consideration due to a number of possibilities being raised on the available evidence.

8.4 Habtom's apparent self-harm attempt in November 1994 and his subsequent admission to hospital in December 1994 in the context of expressions of suicidal ideation and being considered a "*serious suicide risk*" obviously raises the question as to whether Habtom intentionally caused his own death. The evidence regarding this issue can be summarised as follows:

(a) Gebrenegus gave evidence that his observation of Habtom was that for the most of 1994 he was "*happy and enjoying life in Australia*". However, by the time of his visit in early 1995, Gebrenegus gave evidence that there were "*clear indications*" that Habtom was "*not well*". Gebrenegus went on to give evidence that during his three-month stay in Australia, he observed that Habtom's condition "*improved a lot*" but that paranoia from his perspective was still a feature of his thoughts. Gebrenegus gave evidence that Habtom appeared to be well when he was taking his medication.

(b) Mr O'Donohue reported that although he did not consider Habtom to be at risk of suicide or a danger to others, Habtom required admission as an involuntary patient due to his non-compliance with his medication.

- (c) Dr Womersley gave evidence that Habtom had never given any indication to him that he was contemplating self-harm.
- (d) Mr O'Donohue gave evidence that Habtom never expressed any suicidal thoughts to him, and that whilst he could not recall specifically asking Habtom a question about whether he had contemplated self-harm, he had never heard of Habtom engaging in any self-harming behaviour or attempting self-harm.
- (e) Dr Belay gave evidence that at no stage did he feel that Habtom was a danger to himself or to others. He gave evidence that Habtom was not a violent person and that the main concern was that Habtom was not looking after himself.

8.5 Dr Andrews described Habtom's presentation in late 1994 as unusual because it was uncommon to see a 29-year-old male of African descent studying postgraduate mathematics to present with paranoid psychosis and suicidal ideation. Dr Andrews considered that at the time Habtom was acutely unwell. However, during his admission, Habtom's symptoms improved to the point where he was no longer severely delusional and had not expressed suicidal ideation.

8.6 Dr Andrews gave evidence that Habtom only exhibited suicidal ideation when first admitted and that this "*went away quickly and never came back*". Dr Andrews also gave evidence that the symptoms which reappeared when Habtom stopped taking his medication was his paranoia about other people. Dr Andrews explained that he remained concerned about the likelihood that Habtom would become unwell again if he ceased taking his medication, noting that the likelihood of relapse in the circumstances was very high.

8.7 From the above it can be seen that apart from the incident in November 1994, there is no evidence that Habtom had attempted self-harm or exhibited any self-harming behaviour. Relevantly, there is no evidence that Habtom had expressed any suicidal ideation proximate to the time that he was reported as missing. In the circumstances, there is insufficient reliable and cogent evidence to reach a conclusion that the manner of Habtom's death was intentionally self-inflicted.

8.8 One final matter arises from Mr O'Donohue's evidence. Mr O'Donohue gave evidence that he had concerns regarding Habtom's safety, noting that Habtom had been openly communicating delusions to other people and he was aware that at the time there were "*gangs of young men assaulting males at night*" around UNSW. Mr O'Donohue expressed the view that he was concerned about Habtom because he was "*a gentle type of fellow*" who was not well and vulnerable, and "*less able to set boundaries*".

8.9 Whilst there is no evidence to suggest that Mr O'Donohue's concerns were unfounded, there is equally no evidence to suggest that Habtom was at risk of harm from another person or persons at around the time when he was reported as missing. Therefore, the evidence does not allow for any conclusion to be reached that there was any third party involvement in Habtom's death. Certainly, the NSWPF investigation has not at any stage regarded the circumstances of Habtom going missing as suspicious.

8.10 **Conclusions:** Whilst there is no reliable evidence that Habtom intentionally caused his own death or died in suspicious circumstances, these possibilities cannot be entirely excluded on the available evidence. Similarly, it is possible that Habtom may have experienced a sudden and unexpected medical event (and therefore died of natural causes) or experienced some misadventure resulting in his death. Having regard to all of the above, the available evidence does not allow for any conclusion to be reached regarding the manner of Habtom's death.

9. NSWPF policy framework for missing person investigations

- 9.1 Before going on to consider issues relating to the adequacy of the NSWPF investigation into the report of Habtom as a missing person it would be helpful to describe generally the policy framework which existed at the relevant time and currently.
- 9.2 In his statement, Detective Chief Inspector Glen Browne, the former manager of the NSWPF Missing Persons Registry (**MPR**), explained that from 1977 NSWPF officers were guided by a set of 'Commissioners Instructions', which were a "*large hardcopy set of books addressing how police should respond to incidents*". In 2005, these Instructions were replaced with the NSWPF Handbook (**Handbook**).
- 9.3 Commissioner's Instruction 39 (**Instruction 39**), valid as at 1 November 1994, was the only policy document which guided NSWPF missing person investigations at the relevant time in 1995. It is notable for its brevity, being eight pages in length. In summary, Instruction 39 deals with the taking of missing person reports, placing warnings on COPS in certain circumstances, obtaining a recent photograph of the missing person and obtaining authority to allow for media releases.
- 9.4 Relevantly, Instruction 39.07 provided the following:

Continuing Inquiries

You are responsible for conducting inquiries.

If you require assistance contact the Missing Persons Unit which will regularly follow up all reports until the persons are located. Supply the results of follow up inquiries to the Missing Persons Unit by report.

- 9.5 In his statement, Detective Chief Inspector Browne identified a number of limitations with Instruction 39 provided noting that it provided no guidance regarding the following matters:
- (a) the collection of fingerprints, or medical or dental records from a missing person, except for obtaining dental charts for identified human remains
 - (b) supervision or review of missing person investigations either at a local level or by the MPU; and
 - (c) when a long-term missing person matter should be referred to the Coroner.
- 9.6 Despite this, when the Handbook was introduced in 1995 it also made no specific mention of supervision of missing person investigations. It was not until 2016, when the current version of the

Handbook was released, that it contained a specific chapter regarding missing persons. However, it did not describe responsibility for any ongoing supervision of the missing person investigation. Notably, versions of the Handbook between 2011 and 2016 did refer to a need to report long-term missing person cases to the Coroner when it was suspected that a missing person may be deceased, or at the expiry of 12 months from the date that the person was reported missing.

- 9.7 It was not until the former MPU was dissolved and the current MPR commenced operation on 1 July 2019 that missing person investigations substantially changed. As Detective Chief Inspector Browne explained, *“the decision to house the MPR with [State Crime Command] signalled a clear intention that the new units would be much more ‘investigation’ focused as opposed to the previous Missing Person Unit”*.
- 9.8 In addition, the MPR created an entirely new policy framework in the form of the Missing Persons, Unidentified Bodies & Human Remains Standard Operating Procedures (**MPUBHR SOP**) which came into effect on 1 January 2020. Detective Chief Inspector Browne explained that the new MPUBHR SOP is *“intended as a ‘one-stop’ guide for all police who engage in missing persons, unidentified bodies and human remains investigations”* and contains *“individual chapters to guide police with their individual responsibilities”* and sets out *“processes to be followed for specific functions”*.

10. What occurred in the critical period after Habtom was reported missing?

- 10.1 Section 7.0 of the 2025 MPUBHR SOP provides for key timeframes in a missing person investigation. Relevantly, Section 7.0 notes the following:

The first 24 to 72 hours of a missing person investigation are usually the most critical, particularly so for missing persons in the high-risk category; during this period, continuity and intensity in the investigation are important.

- 10.2 Whilst it is not possible to compare the actions of NSWPF officers in 1995 against a 2025 Standard Operating Procedure, the 2025 MPUBHR SOP usefully highlights features of the initial stages of a missing person investigation which would appear to be fundamentals of police practice. That is, that the collection of evidence relevant to any investigation is typically time-sensitive meaning that the sooner that evidence is collected the better. This mitigates against challenges that may be associated with lost, degraded or contaminated evidence.
- 10.3 The COPS event record in September 1995 relating to the report of Habtom as a missing person is itself unclear. On its face the record indicates that the event was created by Constable Korff on 25 September 1995. However, the record also indicates that the date that the event was reported was on 15 September 1995. It would appear that this earlier date is incorrect given that the event narrative refers to Mr O’Donohue reporting that Habtom went missing sometime between 18 September 1995 and 25 September 1995.
- 10.4 Detective Senior Constable Marcus Witts, the current OIC of the missing person investigation, gave evidence that, even after speaking to Constable Korff, he could not explain the discrepancy between the dates on the COPS event and could not confirm whether the reference to 15 September 1995 is likely to be an administrative error. Detective Senior Constable Witts theorised that an incident may

have been created on 15 September 1995 with no details recorded followed by completion of the event narrative on 25 September 1995.

10.5 Ultimately, the COPS event record itself does not clearly identify when Habtom was reported as a missing person. As noted above already, Mr O'Donohue gave evidence that he has no recollection of the date when he reported Habtom as a missing person. This is obviously critical information since there is a 10 day gap between the two dates recorded on the COPS event which is relevant to the timeliness of the missing person investigation.

10.6 Apart from the above, the COPS record indicates that the next event created regarding the investigation occurred on 23 October 2000, some five years after the report of Habtom as a missing person. Detective Senior Constable Witt gave evidence that when he reviewed the COPS record he became concerned with the absence of information, expecting there to be significantly more narratives on COPS outlining steps taken in the investigation. However, Detective Senior Constable Witts also gave evidence that it was not until he obtained and reviewed the running sheets for the investigation that it became apparent that investigative steps had been taken but not recorded on COPS.

10.7 Evidence contained in sources other than the COPS records indicates that:

(a) Habtom's details were entered into the MPU Register and on COPS, in accordance with Instruction 39.02;

(b) Due to fears for Habtom's safety, a warning was placed on COPS, in accordance with Instruction 39.02;

(c) An authority for a media release was completed with Mr O'Donohue on 19 October 1995 in accordance with Instruction 39.04;

(d) A 14-day review occurred on either 19 or 23 October 1995, although the available records do not describe the nature and extent of this review;

(e) By at least 26 October 1995 a photo of Habtom had been obtained and was attached to a report submitted to the MPU, in accordance with Instruction 39.04;

(f) A media release was issued on 1 November 1995, in accordance with Instruction 39.05; and

(g) A 4-month review occurred on 23 February 1996, although the available records again do not describe the nature and extent of this review.

10.8 Examination of the available records indicates that there was compliance with the limited guidance provided by Instruction 39 in the initial stages of the missing person investigation up to November 1995 when the media release was issued. However, in the four-month period between September 1995 and February 1996 it is difficult to discern exactly what precise investigative steps were taken beyond those set out above.

10.9 Counsel for the Acting Commissioner submitted that in any missing person investigation, information regarding the missing person's last known location and who they were seen by is the most critical information which "*assists the commencement of an investigation*". In this regard, Counsel for the Acting Commissioner submitted that the COPS record of the missing person report made in relation to Habtom did not contain "*enough information for police to commence an immediate investigation*".

10.10 Counsel for the Acting Commissioner also submitted that the guidance provided by Instruction 39 was limited, and that any assessment of the conduct of NSWPF officers during the course of the investigation should not be done with the benefit of hindsight. Rather, it was submitted, any such assessment ought to be performed from the position of those involved in the investigation at the time from 1995 to 2020.

10.11 The COPS narrative relating to the report of Habtom as a missing person is reproduced in full below:

between tuesday 18/09/1995 and monday 25/09/1995 mr habtom gelagaber had been missing from his home and university according to his social worker, mr paul o'donohue. mr gelagaber is an african student currently studying mathematics at the university of new south wales on an australian government scholarship. mr gelagaber was last seen by a colleague at the university. mr o'donohue had concerns for his welfare on thursday 20/09/95 when he attended the poi address and study office. mr o'donohue is also concerned that the poi may suffer from a mental illness and may try to harm himself. mr donohue also states that this is the second time that the poi has gone missing. The poi in august, 1995 went missing from his home and went to melbourne without notifying his social worker. the poi returned after two weeks and a worse off condition than when he left. mr o'donohue states his condition is more serious at the present time. mr o'donohue has arranged for the poi brother from sweden to come to Australia to escort the poi back to his home country of eritrea. brother should arrive in the country within the next week. the poi was reported missing by his social worker- paul o'donohue as the poi has no family in this country. his brother is a resident of sweden. the poi brother has been notified by mr o'donohue. no photograph of the poi is available. [original formatting]

10.12 It has already been acknowledged that there was compliance with the provisions of Instruction 39 in the period immediately and shortly after Habtom was reported missing, and that this document is notable for its brevity. This is particularly so when compared against the considerably more comprehensive 2025 MPUBHR SOP. However, the limitations of Instruction 39, particularly when assessed against contemporary standards, should not be taken as a reason for a NSWPF officer to simply passively receive information relevant to a missing person investigation. Nor should such limitations unnecessarily constrain the duties of a NSWPF officer to perform what might be considered fundamental police work relevant to any investigation, not only a missing person investigation.

10.13 Indeed, Instruction 39.07 provides that an OIC is responsible for "*conducting inquiries*". The breadth of this expression can reasonably be taken to include gathering information which may not be readily apparent or provided upon a report being made that a person is missing, such as when and where the person was last seen alive and by whom. In Habtom's case, it is evident from the COPS narrative reproduced above that Mr O'Donohue provided information regarding where Habtom was

last seen, and specific details regarding the name of his university, the course of his study, and the fact that he was an overseas scholarship student.

10.14 The available records do not indicate whether any follow-up questions were asked about the information provided in order to identify the starting point described by Counsel for the Acting Commissioner so that an investigation may commence. However, what is clear is that if such information was obtained it was not recorded in the COPS narrative.

10.15 **Conclusions:** Although Instruction 39 provided limited guidance regarding the steps to be taken in the period immediately and shortly after Habtom was reported as a missing person, this guidance was complied with and actioned. Notwithstanding, Instruction 39 should not be taken to have completely defined and limited the duties of a NSWPF officer in responding to the report of a missing person in 1995. In Habtom's case, the available records suggest that sufficient information was provided to allow for the performance of what can reasonably be considered fundamental police work to gather further information that may assist the investigation. Notwithstanding, the available records do not demonstrate that such steps were taken until much later in the investigation.

11. Apparent lack of investigative steps performed in a timely manner

11.1 Close examination of the available records reveals several aspects of the investigation into Habtom being reported as missing which suggest that certain investigative steps were either not performed or were not performed in a timely manner. Other aspects of the investigation raise questions about administrative and procedural matters. Each of these matters are considered in more detail below.

Taking of statements

11.2 The available records indicate that statements were not taken from persons who possessed information relevant to the investigation until a significant time after the report of Habtom being missing was made. For example:

- (a) A statement from Mr O'Donohue, who made the missing person report, was only commenced on or about 22 July 2005 but not completed and signed until about 23 May 2006;
- (b) A statement from Dr Womersley, who appears to be the last person who saw Habtom alive, was not taken until 13 November 2020;
- (c) Statements from Mr Gebremdhin and Dr Belay, who were familiar with Habtom's interactions with other persons from the local Eritrean community, were not taken until 30 November 2020 and 14 January 2021, respectively; and
- (d) No formal NSWPF statement has ever been taken from Gebrenegus or any of Habtom's relatives apart from a statement taken from Mehari Ghilagaber (Habtom's brother) on 20 October 2004.

11.1 Dr Womersley gave evidence that when he was contacted by the NSWPF regarding the making of a statement this came as a surprise to him because he had "*not heard anything for some time*". Dr Womersley gave evidence that he had not been contacted by any NSWPF officer since around the

time in 1995 when Habtom was reported missing. Despite this contact, which is not documented in any available record, no statement was taken from Dr Womersley at the time. Further, Dr Womersley gave evidence that after being contacted he encountered difficulties in searching computer systems for email correspondence from 1995 in the period leading up to Habtom going missing.

11.2 Mr O'Donohue similarly gave evidence that he was not asked to make any statement to a NSWPF officer prior to 1995, despite having a "*series of contacts with police*" after reporting Habtom as missing. Relevantly, Mr O'Donohue disagreed with a COPS record suggesting that he had been contacted in August 2004 and refused to provide a statement. Mr O'Donohue gave evidence that he had no memory of such an occurrence and that he would not have declined to provide a statement if asked.

11.3 It is acknowledged that Instruction 39 makes no explicit mention at all of the taking of statements from any person as part of a missing person investigation. Instead, Instruction 39.07 simply provides that (presumably) the OIC is "*responsible for conducting inquiries*". However, no further instruction is provided regarding the nature of any such enquiries.

11.4 For comparison purposes Annexure A of the 2025 MPUBHR SOP deals with the initial response phase of a missing person investigation and provides the following:

Obtain a full statement from the person reporting as well as details of any key persons, including the last person to see the missing person.

If a statement isn't appropriate, collect information to help guide future statements if need be.

11.5 The term "*initial response*" is not defined in the 2025 MPUBHR SOP although it is first referred to in Section 9.1 which deals with the responsibilities of the NSWPF officer who receives a missing person report.

11.6 Detective Senior Constable Witts expressed the view in evidence that if Thomas had been eliminated as being Habtom, it is most likely that statements would have been taken at an earlier opportunity. Detective Senior Constable Witts acknowledge that based on the available records, there is no clear indication regarding what determinations were made regarding the taking of statements by the relevant OIC at the time. However, the evidence establishes that Thomas was not eliminated as being Habtom until 2020.

11.7 Similarly, Dr Belay gave evidence that prior to 2021 when his statement was made, he could not recall any NSWPF officer speaking to him regarding the circumstances of Habtom going missing.

11.8 In his statement, Detective Inspector Paul Fenwick, the current Manager of the MPR, explained that, overall, a statement taken from a witness as part of a missing person investigation ought to be taken "*as early as possible*", however, "*other priorities may take preference [to the taking of statements] like searching for the missing person*". Detective Inspector Fenwick gave evidence that the usual priority is focusing on obtaining enough details so that a statement can be taken at a "*later stage*". When asked whether such a delay could affect the quality of a witness' evidence, Detective Inspector Fenwick gave evidence that it would not if "*good notes*" were taken.

11.9 Detective Inspector Fenwick gave evidence that he was unaware of any statement being taken from Gebrenegus, and aware that the majority of statements were taken in 2020 and 2021. Detective Inspector Fenwick gave evidence that by today's standards he did not consider these timeframes to be acceptable but that he was unaware of any relevant NSWPF guidelines "*back then*". Detective Inspector Fenwick noted that Instruction 39 did not stipulate any timeframe regarding the taking of statements.

11.10 **Conclusions:** It is accepted that Instruction 39 did not explicitly provide for the taking of statements from witnesses in relation to the report of a person being missing. However, it would not be unreasonable to consider that the taking of such statements falls within the scope of "*conducting inquiries*" as provided for by Instruction 39.07. Notwithstanding, there is no indication in the available records that any such inquiries were conducted in the period immediately or shortly after Habtom was reported missing that may have assisted with the taking of a witness statement.

11.11 Further, in Habtom's case it is evident that attempts were not made to take Mr O'Donohue's statement until 2005, and to take the balance of the relevant statements until 2020. There is also no evidence that searches being conducted for Habtom had any bearing upon the inability to take such statements at a much earlier time. Similarly, there is no evidence that any "*good notes*" of the kind described by Detective Inspector Fenwick were made at the relevant time that might have assisted with the subsequent taking of a witness statement. Even if such notes had been taken, it is difficult to accept that the quality of such notes could have reasonably overcome degradation of a witness' memory when being asked to provide a statement some 10 or 25 years after an event. However, it is not possible to define any impact that the delay in the taking of witness statements may have had on the investigation into Habtom being reported missing.

Mistaken identity

11.12 The MPU Running Sheet suggests that the NSWPF first became aware of Thomas on 7 June 1996 as a result of a newspaper publication the previous day which referred to "*Endemeski Ghilaghbre [sic] (aka Thomas Ghilagaber)*". The relevant MPU Running Sheet entry noted that "*Endemeski Ghilaghbre [sic] has no knowledge of associates or past history of Mr Ghilagaber*".

11.13 The next reference to Thomas in the COPS record occurred on 18 May 2010 when Sergeant Montgomery recorded the following entry:

On Tuesday the 18th May, 2010, an iAsk from the NSW Births, Deaths and Marriages was received. It appears that on the 2nd October, 2001 the Missing Person HABTOM GHILAGHER changed his name to Thomas Ghilagaber.

11.14 It was further noted that Thomas was residing at an address in Blacktown. It is unclear on the available evidence, how the communication from the Registry of Births, Deaths and Marriages came to be received and how the conclusion was reached that Habtom had changed his name to Thomas.

11.15 In any event, it appears that arrangements are made for Thomas to attend Blacktown police station on 19 May 2010. At this time, Thomas denied that he was Habtom. Despite this denial, on 28 May

2010, Inspector Mary Nesbitt, the Manager of the MPU, recorded a COPS event indicating that Habtom had been located and identified.

11.16 On 22 September 2010, Sergeant Montgomery recorded this entry on COPS:

It is in the opinion of the author that the missing person Habtom Ghilagaber has changed his name to Thomas Ghilagaber for reasons only known to himself. During the initial phone call between police and Ghilagaber, he indicated to police that he was in fact Habtom Ghilagaber and that he did change his name to his current name being Thomas Ghilagaber. Upon presenting himself to Blacktown Police Station, Ghilagaber indicated that he was not the missing person Habtom Ghilagaber anymore. The reasons for his change of heart are only known to himself. I am of the opinion as are the Blacktown Police, that Thomas Ghilagaber was Habtom Ghilagaber. That this person is the same person who was reported missing 15 years ago from the University of New South Wales.

11.17 It appears that the opinion expressed by Sergeant Montgomery persisted until 29 March 2011, when a COPS entry recorded that NSWPF officers spoke to Thomas at his home in Blacktown where he denied that he was Habtom but explained that they shared the same surname which was not uncommon in Eritrea. Thomas identified Mr Gebremdhin as a member of the local Eritrean community who knew both him and Habtom.

11.18 NSWPF officers subsequently spoke to Mr Gebremdhin who confirmed that he knew both Habtom and Thomas and that they were not the same person. NSWPF officers showed Mr Gebremdhin a photo of Habtom and he confirmed that was not Thomas. Although Mr Gebremdhin provided police with Gebrenegus' contact details two days later, no contact was made with Gebrenegus.

11.19 On 16 April 2015, a buccal swab was obtained from Thomas. Again, the circumstances in which this swab came to be obtained is unclear on the available evidence. This swab was later taken to the Forensic & Analytical Science Service (**FASS**) on 27 April 2015.

11.20 On 3 April 2020, a COPS entry noted that it appeared that the swab had never been compared against a sample taken from Gebrenegus. A request was subsequently made for the samples to be compared. On 28 April 2020, FASS advised the NSWPF that the comparison of the samples taken from Thomas and Gebrenegus indicated that Thomas is not Habtom.

11.21 In the intervening period, the NSWPF performed a facial examination of photographs of both Thomas and Habtom. On 6 April 2020, the examination also confirmed that Thomas is not Habtom.

11.22 Detective Senior Constable Witts gave evidence that he could not identify any indication from the available records why the DNA comparison and facial examination did not occur any sooner than 2020. Detective Senior Constable Witts also gave evidence that the time taken to verify whether Thomas was in fact Habtom "*definitely had an impact*" on the missing person investigation although he was unable to indicate the extent of this delay or whether any specific investigative work was caused or delayed as a result. Notwithstanding, Detective Senior Constable Witts gave evidence that this did result in the delayed referral of the case to the Coroner.

11.23 Detective Inspector Fenwick gave evidence that where a person is not suspected to have committed a criminal offence, the NSWPF only has limited powers to compel a person to verify their identity. In such cases, the NSWPF largely relies upon a person to verify their identity voluntarily. In evidence, Detective Inspector Fenwick was asked what occurs in a situation where a person of interest denies being a missing person and a third party similarly states that the person of interest is not a missing person. Detective Inspector Fenwick gave evidence that in Habtom's case it was his understanding that Thomas had initially "*declared himself to be the missing person*" and that the NSWPF sought to confirm whether this was the case via comparison of DNA profiles. Despite these apparently irreconcilable pieces of information, Gebrenegus gave evidence that the NSWPF never contacted him to enquire whether Thomas was in fact his brother.

11.24 **Conclusions:** The available records do not adequately explain how or why the belief that Thomas was Habtom persisted for such an extended period of time. In 2010, according to the COPS record, information was initially provided by Thomas that he was Habtom. However, this indication was apparently later retracted. Given that the information was not independently verified at the time, for example by a person who knew both Thomas and Habtom, it is difficult to understand why the information reportedly initially provided by Thomas was accepted over his apparent later retraction. It was not until 2011 when independent verification was obtained from Mr Gebremdhin. Despite this, significant time was spent obtaining forensic verification regarding this issue which took until 2020 to be resolved.

11.25 The evidence establishes that the time and resources expended resolving this issue resulted in the delay in referring Habtom's case to the Coroner. The evidence also establishes that resolution of this issue impacted the missing person investigation although the nature and extent of this impact cannot be quantified.

Changes made to the status of the investigation

11.26 On 3 February 1999, a Long-Term Missing Person Statewide Trend Analysis form was completed. A checkbox was checked indicating that an inquest was not required. The comments appear to read:

Male person is African and (illegible) informed that POI was returning to Africa with his brother.
Male person returned to Africa with his brother.

11.27 On 28 January 2008, Sergeant Montgomery entered the following narrative on COPS:

Upon advice received at the time [Constable Yates] was told to add an incident for a deceased person.

[...]

At this time it appears that the MP has never been located. Hence an incident for a deceased person should never have been added.

11.28 Despite the above, the reference to Habtom being deceased was not removed from COPS until 27 December 2009 following a request made by the MPU to the COPS Data Management section. At that time, it was indicated that Habtom had not been located and was still missing.

- 11.29 Subsequently, as already noted above, on 28 May 2010, it was recorded that Habtom had been located and identified due to the mistaken belief that Thomas was in fact Habtom.
- 11.30 On 19 December 2011, the MPU advised that the incident recording Habtom as having been located needed to be removed from COPS and outstanding items (mitochondrial and nuclear DNA, dental and medical records, the brief of evidence and identification forms) needed to be obtained.
- 11.31 Despite this no action was taken. Between March 2012 and November 2012 attempts were made to locate the case file from 2005 without success.
- 11.32 On 29 March 2013, Senior Constable Duane Hodges submitted a request that the matter be “*suspended and disseminated to the MPU for any further investigation*” on the basis that the “*OIC cannot formulate any further lines of enquiry into this matter without the previous case file or new information becoming available*”. On 27 July 2013, Senior Constable Hodges recorded the following administrative action on COPS: “*Suspend Case*”.
- 11.33 On 8 April 2015, the following administrative action was recorded on COPS: “*Reopen Case*”. However, less than a month later on 4 May 2015, for reasons unknown, the case was again suspended. The case appears to have remained in this state until 3 April 2020 when, again for reasons unknown, it was reopened.
- 11.34 Sections 13.2 and 13.3 of the 2025 MPUBHR SOP deal with the responsibilities of Supervisors of a missing person investigation and Missing Persons Coordinators and relevantly provide:

Note: Ensure that Missing Person Events/Cases are never ‘Rejected’, ‘Suspended’ or marked ‘No further Investigation’, whilst a person reported missing fits the [NSWPF] definition of a missing person. If a determination is made there are no longer any concerns for the safety and welfare of the missing person, clear evidence must be recorded as to who made that decision and what evidence was relied upon to come to that determination.

11.35 **Conclusions:** The available records provide little clarity as to why the status of the missing person investigation was changed at different times, seemingly without any identifiable basis. At different points in the investigation timeline, Habtom was recorded as having returned to Africa with his brother, recorded as identified and located, and recorded as being deceased. Further, at other different points in the timeline, the investigation was both suspended and then reopened on more than one occasion.

11.36 The impact of these status changes on the investigation as a whole cannot be measured. However, it would not be difficult to accept that these changes created uncertainty about the need for, and urgency of, further investigation. Equally, it would also not be difficult to accept that such uncertainty adversely affected the timeliness of the investigation.

Report of suspected death to Coroner

11.37 On 23 August 2004, Constable Yates recorded that he had spoken to the MPU who had directed him to the Coroners Support Unit. It appears that Constable Yates was advised:

- (a) to prepare a P79A;
- (b) that he would be required to prepare a brief of evidence; and
- (c) that an “*inquest will most likely follow*”.

11.38 Constable Yates subsequently recorded this entry: “*P79A form has been created with information available*”.

11.39 Despite the above, no P79A was submitted to the Coroner’s Court. Instead, it appears that Constable Yates performed further limited investigation, requesting copies of Habtom’s medical records from POWH on 14 September 2005 and obtaining a statement from Mr O’Donohue on 23 May 2006. Shortly after obtaining this statement, Constable Yates recorded this COPS entry for reasons unknown:

Police have exhausted all avenues of investigation at this point. With the limited amount of information available and no further leads at [sic] the current OIC of the investigation is seeking to suspend the case until further information becomes available.

11.40 On 23 June 2006, Constable Yates suspended the case on COPS.

11.41 On 28 July 2008, Superintendent Paul Simpkins recorded this entry on COPS: “*Reopen case*”. On 17 September 2008, Sergeant Montgomery recorded the following entry:

It is a possibility that [sic] missing person took his own life but has never been located. I believe that DNA sample could be taken from a NOK in the instance [sic] that skeletal remains are ever located. This DNA could then be used for comparison. At this point I am of the opinion that a P79a could be completed.

11.42 Despite this entry, no P79A was completed at that time. Instead, on 9 June 2009, Detective Sergeant A Shaw from Eastern Beaches Local Area Command submitted a briefing to the Area Commander regarding a number of long-term missing person cases and appeared to request that a P79B be submitted for Habtom’s case. No P79B was submitted at that time.

11.43 On 2 October 2009, Sergeant Montgomery recorded a COPS entry indicating that a request for advice had been sent to the Coroners Support Unit regarding the course of action required so that a P79B could be completed. However, it appears that the matter was not progressed further.

11.44 On 9 February 2010, Sergeant Montgomery contacted the MPU seeking guidance regarding whether a P79B could be completed. The MPU advised Sergeant Montgomery that if she believed that Habtom was deceased a P79B should be completed and submitted, Habtom’s dental records should be obtained from UNSW, and final signs of life checks should be conducted with financial institutions and unidentified human remains. Again, no P79B was submitted at this time.

11.45 On 2 September 2013, after the case had apparently been suspended on COPS, it appears that the MPU advised Senior Constable Hodges that a P79B was required as Habtom had been missing for more than 12 months. Again, no P79B was submitted at this time.

11.46 On 22 May 2020, enquiries were made with the Coroner's Court regarding whether a P79B had previously been submitted. Advice was later provided on 16 June 2020 that no P79B had ever been submitted.

11.47 On 18 October 2020, Plain Clothes Senior Constable Lisa Imisides submitted a P79B to the Coroner's Court.

11.48 Detective Inspector Fenwick gave evidence that he was unaware of the reason(s) for the delay in submitting the P79B. He hypothesised that a number of factors could have contributed to the delay, namely changes in the OIC, the involvement of Interpol in the gathering of samples for DNA comparison purposes, and the mistaken belief that Thomas was Habtom. When asked whether he would call the delay in this case unusual, Detective Inspector Fenwick gave evidence that he could not "*judge people*" without knowing the precise circumstances at the time. Detective Inspector Fenwick described NSWPF offices at the relevant time being guided by "*a few sheets in Instruction 39*" compared to the "*technology*" that is available today.

11.49 Section 9.2.2 of the 2025 MPUBHR SOP provides that at the nine-month milestone of the report of a missing person, "*consideration should be given as to whether or not a P79B can be submitted to the Coroner, if a decision has not already been made in that regard*". Section 9.2.2 further provides:

The P79B/Coronial Brief of Evidence should be submitted by the OIC to The Coroner by 12 months, however, it is expected that a P79B/Coronial Brief of Evidence will be submitted as soon as there is reasonable suspicion that the missing person is deceased. This is also the case if all inquiries that can be made to determine whether the person is living or not have been exhausted.

11.50 **Conclusions:** Much like the repeated changes in the status of the missing person investigation, it is not entirely clear why several opportunities to submit either a P79A or P79B over an almost 30 year period were not taken. As noted above, the mistaken identification of Thomas as Habtom contributed to this delay. However, it is evident that despite attempts to resolve this issue advice was provided by both the MPU and support staff at the Coroner's Court that a P79B should be submitted.

11.51 The delay in not submitting a P79B consequently resulted in the matter not proceeding to an inquest at an earlier time. Every missing person investigation seeks to provide as much certainty as possible to the relatives of a missing person. The additional time taken for an inquest to be held in this case has only likely served to create further unnecessary and regrettable uncertainty for Habtom's family.

11.52 It is evident that the provisions of the 2025 MPUBHR SOP which have been referred to above now provide clearer guidance to NSWPF officers investigating the report of a missing person. These provisions also adequately address the particular features that have been identified in Habtom's case which likely impacted aspects of the investigation. Accordingly, it is neither necessary nor desirable for any recommendation to be made pursuant to section 82 of the *Coroner's Act 2009* (the Act).

12. Was the NSWPF investigation impacted by Habtom being a foreign national?

- 12.1 It is evident that the NSWPF maintained only limited contact with Gebrenegus during the course of the missing person investigation. It is likely that Gebrenegus residing overseas contributed in some way to this degree of contact. However, apart from a period in December 1996 when Gebrenegus had arrived in Australia from Sweden and was spoken to by NSWPF officers, the available records do not show that Gebrenegus was provided with updates regarding the progress of the investigation.
- 12.2 Gebrenegus gave evidence that he could not recall whether the NSWPF kept him updated regarding the progress of the missing person investigation and described there being "*total silence over many years*". However, Gebrenegus acknowledged that during the period from 2011 to 2014 he had a significant workload and "*may not have responded to emails promptly at that time*". Notwithstanding, Gebrenegus gave evidence that although he may have responded to messages "*a bit late*", he did not consider that he would have left any email unanswered. Overall, Gebrenegus gave evidence that he was frustrated with both the nature and irregularity of communication from the NSWPF.
- 12.3 Instead, much of the contact, or attempted contact, with Gebrenegus was performed via Interpol and was focused on obtaining a buccal sample from him so that a DNA profile could be obtained. Although the available records indicate that a sample was taken from Gebrenegus in 1998, they also indicate that attempts were made between 2006 and 2009, and between 2013 and 2015, to obtain a further sample from Gebrenegus. This process commenced in September 2006 but was not apparently completed until 2008 or 2009.
- 12.4 In addition, the fact that Habtom was a foreign national may have contributed to erroneous assumptions that were made regarding his whereabouts. As noted above, in February 1999, Habtom was recorded as having returned to Africa with his brother. The available records provide no indication as to what gave rise to this belief at the time. This appears to have stalled the investigation as the available records show little activity in the investigation between February 1999 and June 2003 when the MPU sought information from the Department of Immigration (as it then was) regarding whether Habtom had in fact departed Australia.
- 12.5 During the course of his evidence, Gebrenegus queried whether Habtom's status as an overseas student contributed in some way to the progress of the missing person investigation. Whilst it is not possible to quantify this, it may have been the case that the absence of any relatives of Habtom's in Australia meant that there was no one to advocate on his behalf locally to ensure that the missing person investigation progressed effectively and in a timely manner.

12.6 **Conclusions:** Habtom's status as a foreign national most likely had some bearing on the conduct of the missing person investigation. First, as Gebrenegus was located overseas, face-to-face communication was not possible and differences in time zones no doubt had a bearing on the immediacy of communication. Second, it appears that updates regarding significant steps or milestones in the missing person investigation were not communicated to Gebrenegus, although he has fairly acknowledged that workload commitments may have prevented him from promptly responding to any communication that might have occurred regarding these matters. Third, the available records show that the majority of the communication was focused on gathering forensic evidence and not other evidence that might have assisted the investigation, such as excluding Thomas as Habtom. Finally, an assumption may have been made that because Habtom was a foreign national the fact that he had gone missing might have been explained by his departure from Australia. To the extent that any of these matters had some bearing on the conduct of the investigation, it is not possible to define how the investigation might have been impacted, adversely or otherwise.

13. Findings pursuant to section 81(1) of the Act

13.1 Before turning to the findings that I am required to make, I would like to acknowledge, the efforts of Ms Meg O'Brien, Counsel Assisting, and her instructing solicitor, Ms Zoe Carter of the Crown Solicitor's Office, and express my gratitude to them both. The Assisting Team has ensured that a thorough investigation has been conducted and provided enormous assistance throughout the coronial investigation and inquest. I am extremely grateful for their meticulous approach, and for the compassion that they have shown during all stages of the coronial process.

13.2 I also acknowledge the assistance of Detective Senior Constable Witts in compiling the brief of evidence, and his endeavours in advancing the coronial investigation.

13.3 I find that Habtom Ghilagaber, who was reported as a missing person to the NSWPF on or about 25 September 1995, is now deceased.

13.4 The findings that I make under section 81(1) of the Act are:

Identity

The person who died is Habtom Ghilagaber.

Date of death

Habtom died sometime on or after 5 September 1995.

Place of death

The available evidence does not allow for any finding to be made as to the place of Habtom's death.

Cause of death

The available evidence and the absence of any postmortem examination does not allow for any finding to be made as to the cause of Habtom's death.

Manner of death

The available evidence and the absence of any postmortem examination does not allow for any finding to be made as to the manner of Habtom's death.

14. Epilogue

14.1 On behalf of the Coroner's Court of New South Wales I extend my most sincere and respectful condolences to Habtom's family and in particular to his brother, Gebrenegus, and his other siblings, loved ones, and friends.

14.2 The unbearable anguish, uncertainty and loss that a family experiences after a loved one is reported missing is immeasurable. This is particularly so in Habtom's case where such anguish, uncertainty and loss has likely been magnified by the significant time that has passed between when Habtom was reported missing and the report of his suspected death to the Coroner.

14.3 It is hoped that one day further information can be provided to Habtom's family to hopefully allow them to find some measure of solace from such a tragic event.

14.4 I close this inquest.

A handwritten signature in black ink, appearing to read 'Derek Lee', with a stylized flourish at the end.

Magistrate Derek Lee

Deputy State Coroner

22 August 2025

Coroners Court of New South Wales