

New South Wales

CORONER'S COURT
OF NEW SOUTH WALES

Inquest:	Inquest into the death of Benjamin Cleveland
Hearing dates:	6 to 8 October 2026
Date of Findings:	30 October 2026
Place of Findings:	Coroner's Court of New South Wales, Lidcombe
Findings of:	Judge Derek Lee, Deputy State Coroner
Catchwords:	CORONIAL LAW – death as a result of a New South Wales Police Force operation, critical incident, use of lethal force by police, discharge of firearm, deployment of taser, choice of primary appointment to deploy, use of police to commit self-harm, Tactical Options Model, mobile phone triangulation
File number:	2025/00002613
Representation:	Mr J Harris, Counsel Assisting, instructed by Ms R Campbell (Crown Solicitor's Office) Mr G Doherty for Leading Senior Constable G Ingram, Constable C Cutler, Constable M Hughes & Constable J McAnulty, instructed by McNally Jones Staff Lawyers Ms C Melis for the Commissioner of the New South Wales Police Force, instructed by the New South Wales Police Force Office of General Counsel

Findings:

Benjamin Cleveland died on 2 January 2025 at Manning Base Hospital, Taree NSW 2430.

The cause of Benjamin's death was multiple gunshot wounds.

After arming himself with a firearm, Benjamin travelled to Manning Base Hospital and was stopped by NSWPF officers in the carpark. Benjamin emerged from the vehicle he was in and pointed his firearm at several NSWPF officers, ignoring their directions to drop the firearm and instead instructing the NSWPF officers to discharge their firearms at him. After a taser was deployed at him, Benjamin discharged his firearm. NSWPF officers discharged their firearms causing lethal injuries to Benjamin.

Benjamin acted with an intention to cause the NSWPF officers to discharge their firearms at him and inflict his own death. In response to the immediate threat posed by Benjamin's actions, the use of lethal force by the NSWPF officers was appropriate in the circumstances and mostly consistent with NSWPF policy and training.

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1. Introduction

1.1 On the morning of 2 January 2025, Benjamin (who was known as Ben to family and friends) Cleveland armed himself with a firearm and told his former partner, Taliha Scott, that he intended to shoot himself. Emergency services were contacted and New South Wales Police Force (**NSWPF**) officers began looking for Ben. Meanwhile, Ben went into the street and discharged his firearm twice.

1.2 One of Ben's friends located him and picked him up in her car. Ben's friend persuaded him to go to hospital to seek help. They began driving to Manning Base Hospital (**MBH**) in Taree. Shortly after arriving in the hospital car park, a NSWPF vehicle stopped behind them with its lights and sirens activated.

1.3 Ben exited the vehicle he was in holding his firearm. The NSWPF officers also exited their vehicle and instructed Ben to drop his firearm. Ben did not do so and instead began yelling at the NSWPF officers to shoot him. Ben and the NSWPF officers exchanged gunfire and Ben was struck with multiple projectiles.

1.4 First aid was immediately provided to Ben and he was taken to the hospital's emergency department (**ED**). Ben went into cardiac arrest and resuscitation efforts were initiated. Despite continued efforts, Ben could not be revived and was later tragically pronounced life extinct.

2. Why was an inquest held?

2.1 Pursuant to the *Coroners Act 2009* (**the Act**) a Coroner has the responsibility to investigate all reportable deaths. This investigation is conducted primarily so that a Coroner can answer questions that they are required to answer pursuant to the Act, namely: the identity of the person who died, when and where they died, and the cause and the manner of that person's death.

2.2 Certain deaths are reportable to a Coroner. Some examples of reportable deaths are where the cause of a person's death is not due to natural causes, or where the cause or manner of a person's death may not immediately be known. In Ben's case, his death was reported because he died as a result of a NSWPF operation. In other words, the use of lethal force by NSWPF officers in discharging their firearms at Ben resulted in his death.

2.3 Section 23(1)(c) of the Act makes it mandatory for an inquest to be held in such circumstances. This is primarily because NSWPF officers are bestowed with unique powers not available to ordinary members of the community, in order to allow them to discharge their duties. The exercise of such powers, particularly in circumstances which result in the death of a member of the community, requires transparent and independent scrutiny. Doing so serves a number of purposes, including ensuring that such powers are exercised appropriately and responsibly, and to reassure the community that where lethal force is used, it is only used as a measure of last resort in appropriate circumstances.

2.4 In this context it should be recognised at the outset that the operation of the Act, and the coronial process in general, represents an intrusion by the coronial jurisdiction and inquest process into what

is usually one of the most traumatic events in the lives of family members who have lost a loved one. 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. Ben'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 Ben's life in a meaningful way.

3.2 Ben was born in Dubbo on 5 June 1998 to Kim Cleveland. Ben's father is not known. Ben had two brothers, Luke and Zachary, and a sister, Sarah. Ben was very protective of his sister.

3.3 In 2008, Ben went to visit Taliha Scott. She was the daughter of a woman who owned a property where Ben's family lived when he was a child. Ben and Taliha moved in together as friends at a property in Taree.

3.4 Sometime later, Ben and Taliha formed a relationship. They had two children together who were born in 2014 and 2015. Taliha had three children from other relationships and Ben was a father to them as if they were his own. In 2015, the family moved to a property in Taree.

3.5 Sadly, little else is known about Ben's upbringing and other aspects of his personal life. However, Ben should not be remembered by the events of 2 January 2025 and the events of that day certainly do not define him as a person.

3.6 It has understandably been challenging for Ben's family and loved ones to engage with the coronial process and to re-live distressing memories. They no doubt wish to remember the happier moments of Ben's life and cherish them. The tragic circumstances of Ben's death have profoundly affected his family and loved ones deeply and he continues to be missed.

4. Ben's social and medical history[1]

4.1 Ben had a traumatic upbringing. He experienced multiple foster care placements and was looked after by his grandparents and an uncle for periods of time. Ben started using illicit drugs (cannabis, methamphetamine, heroin and fentanyl) at a young age.

4.2 In around 2015, Ben was found in a car attempting self-harm using a hose connected to the car's exhaust system. He declined to attend hospital.

[1] This factual summary has been drawn from the helpful opening address of Counsel Assisting.

4.3 In January 2016, Ben was taken to hospital after he became hostile during an incident which required the attendance of NSWPF officers. He required sedation and restraint at hospital. Ben was later referred for assessment for opioid substitution therapy which he commenced in February 2016.

4.4 Ben had several previous interactions with the NSWPF and the criminal justice system. He had previously been convicted of criminal offences relating to drug possession and supply, and assault. Ben had also previously spent time in custody most recently from around December 2017 to October 2018.

4.5 Relevantly, in 2010 and 2013, the NSWPF received information that Ben was in possession of a firearm. In August 2014, Ben's DNA had reportedly been found on a loaded .22 revolver.

4.6 In May 2016, Ben presented to hospital again following an illicit drug overdose.

4.7 In September 2018, Ben engaged with the Manning Community Mental Health Team (**CMHT**). He had previously seen his general practitioner for mental health support and had been prescribed antidepressant medication. Ben initially remained engaged with the CMHT but by the end of 2018 this engagement had waned and he was discharged from the service.

4.8 In December 2020, Ben was taken to hospital following an intentional overdose of fentanyl. During this admission Ben was detained involuntarily before being discharged and referred back to the Manning CMHT.

4.9 In January 2021, Ben expressed suicidal ideation and feelings of hopelessness during a phone call with Centrelink. Concerns were raised for Ben's welfare which necessitated the involvement of the NSWPF. However, Ben denied thoughts of self-harm and declined any assistance.

4.10 In around mid-2024, Taliha decided to end her relationship with Ben following an incident where Ben was involved in a car accident and later charged with criminal offences. At around this time, Taliha formed a relationship with another man.

4.11 Ben and Taliha continued living together. A short time after the above incident, Ben cut his wrist causing a laceration after he found out that Taliha had met up with her new partner. Ben was taken to hospital but declined treatment. It was around this time that Ben and Taliha received notice that they had to vacate the property where they were living in about five months. Ben became concerned about the prospect of having nowhere to live.

4.12 From December 2024, Taliha noticed a decline in Ben's mental health. He was reportedly lying in bed until the afternoon and taking pregabalin which he had obtained from a friend. During this period, Ben expressed an intention to live at a free camping site in a caravan that he had bought. Taliha indicated to Ben that he could still stay with her.

4.13 Over the Christmas and New Year's period, Ben took Taliha's daughters to see a movie while Taliha took the other children to South West Rocks. On New Year's Eve, Taliha went to stay with her new partner whilst Ben took the children out to watch the fireworks and something to eat.

4.14 On 1 January 2025, Taliha returned home and noticed that Ben's mood was low. By this time, Ben had been sleeping in his car.

5. The events of 2 January 2025

5.1 At around 8:00am on 2 January 2025, Taliha left home to attend an appointment at hospital. Before she left, she went out to Ben's car and asked him to look after the children.

5.2 After Taliha left, Ben sent her messages asking for money and saying, "*No matter how much you hate me I'll always care*".

5.3 At around 8:21am, Ben sent a text message to a friend, Aaron Stuart, asking if he could go to his house to watch TV. Ben left a short time later and drove to his friend's house in Summerville Street, Wingham (**Summerville Address**), leaving the children at home.

5.4 During the course of the morning, Taliha tried to call Ben but he did not answer. They later exchanged text messages regarding why Ben had left the children at home alone with Taliha telling Ben not to return home. In one message, Ben replied, "*Taliha I have no family. I have nothing except you and you hate me. What do I do with that?*". Taliha made arrangements for a friend to look after the children whilst Ben remained at the Summerville Address.

5.5 At around 11:40am, Ben sent a text message to a friend, Kathryn McIntyre. He told her that he had attempted self-harm the previous evening, that Taliha had told him not to return home, that he was at Wingham and needed someone to talk to. Ms McIntyre called Mr Stuart and said that she would check on him.

5.6 Ms McIntyre sent Ben a message asking if she should bring some lunch. Ben replied, "*Thanks darling. I've just found what I need. Just know I cared about everyone and you. I never wanted this but it's happening*".

5.7 At 12:11pm, Ben sent a text message to Mr Stuart saying, "*You are the maddest cunt I've ever met in my life. Just know I love you so much and your family*".

5.8 At around this time, Ben also spoke to Taliha on the phone. He told her he had found what he needed and that he had a gun and was going to shoot himself.

5.9 At around 12:18pm, Taliha called Triple Zero and told the operator, "*My ex-partner has threatened to go and kill himself he probably will. He's got a gun*". Taliha also indicated that she did not know Ben's location and asked the operator if Ben's number could be tracked. However, Taliha later indicated that Ben was at the Summerville Address and provided his phone number and details of his car.

5.10 At around 12:21pm, a broadcast was made over NSWPF radio (known as **VKG**) requesting NSWPF units to keep a lookout for Ben. A note was added to the NSWPF Computer Aided Dispatch (**CAD**) advising that Ben had a history of self-harm in the previous 12 months.

5.11 Constable Mackinley Hughes, Constable Joshua McAnulty and Probationary Constable Samuel Hodge were on duty and working together in a NSWPF vehicle with callsign Taree 15. They acknowledged the VKG broadcast and began making their way to Wingham.

5.12 Meanwhile, Ms McIntyre arrived at the Summervile Address where she saw Ben on the street. She tried to persuade Ben to get into her car. However, Ben showed her a firearm in the waistband of his shorts and told her that he was going to shoot himself. Ms McIntyre called her son, Brock Ryan, and told him what was happening.

5.13 At around 12:24pm, Mr Ryan called Triple Zero and reported that there was a man with a gun heading towards a nearby abattoir. It was also reported that Ben had a possible intellectual or cognitive disability and a description of Ms McIntyre's car, a blue Honda CRV (**CRV**), was also provided. The incident was broadcast over VKG and the CAD system.

5.14 Three further NSWPF units acknowledged the broadcast and began making their way to Wingham:

(a) Inspector Paul Quigg and Sergeant Anthony Kirk in Taree 14;

(b) Leading Senior Constable Ingram, Constable Chris Cutler, and Probationary Constable Riley Cribb in Manning 36; and

(c) Detectives Crameri and Gibson in Manning 103.

5.15 At 12:26pm, Ms McIntyre called Mr Stuart and he could hear Ben in the background. During the call, Ben discharged a firearm twice. Ms McIntyre later told the NSWPF that Ben had discharged the firearm towards a house and a passing motor vehicle in Rouse Street.

5.16 Ben continued walking from Rouse Street to Gloucester Road in the direction of the abattoir. Ms McIntyre followed him in her CRV. In Gloucester Road, Ms McIntyre pulled over, got out of the CRV, approached Ben and gave him a hug. Ben told her, "*I'm a gutless prick and I couldn't pull the trigger*".

5.17 Ms McIntyre offered to get Ben a beer and he agreed. They got into the CRV and Ms McIntyre drove to a nearby bottleshop. On the way, Ms McIntyre persuaded Ben to put the firearm down on a seat. Whilst en route, the CRV passed a NSWPF vehicle (likely Manning 103 or Taree 14) travelling in the opposite direction. Ms McIntyre flashed the lights of the CRV to attract the attention of the NSWPF vehicle.

5.18 At around 12:30pm, Mr Stuart called Taliha and told her that Ben was doing something stupid and had discharged a firearm in Wingham.

5.19 Immediately afterwards, Taliha called Triple Zero again and reported that Ben was discharging a firearm in the air near the abattoir. This information was broadcast over VKG and the CAD.

5.20 Ben and Ms McIntyre arrived at the bottleshop at around 12:37pm. Ms McIntyre purchased a six-pack of beer, four mixed spirits beverages and some food. Ben remained in the CRV and removed his shirt. When Ms McIntyre returned to the CRV, Ben complained of being in pain. Ms McIntyre persuaded Ben to go to the hospital. He agreed and they began making their way to hospital with Ben drinking some beer on the way.

5.21 At around this time, several NSWPF units arrived at the Summerville Address. The NSWPF officers discovered that Ben was not at that location and began patrolling the surrounding area, including the area near the abattoir, to look for him.

5.22 At 12:42pm, Inspector Quigg requested a triangulation of Ben's mobile phone to locate him. However, the mobile number used for the triangulation did not belong to Ben and was incorrect. The triangulation result identified a number associated with a handset in Melbourne which clearly did not belong to Ben.

5.23 At around 12:44pm, the CRV was travelling along Wingham Road towards Taree when it passed a NSWPF Highway Patrol vehicle driven by Senior Constable Nickolas Kelly. Senior Constable Kelly later checked the automatic number plate recognition system fitted to the vehicle and discovered that he had passed the CRV. This information was broadcast over VKG at around the time that Manning 103 arrived at the hospital.

5.24 At around 12:45pm, Mr Ryan called Triple Zero and told the operator the following:

> I just put in a report about a bloke with a gun. Er, my mother's actually picked the bloke up, and it's not even a gun. It was just a piece of plastic that looked like a gun […] So it's all good. He's, um, currently getting taken to the hospital.

5.25 This information was broadcast over VKG and the CAD.

5.26 Various NSWPF units began making their way to MBH. A warning was sent that Ben was on his way there. At 12:54pm, Manning 100, a NSWPF unit attended the ED and broadcast that Ben had not yet presented there.

5.27 Manning 36 heard this broadcast as they arrived at MBH. They decided to drive along the streets surrounding the hospital to check if Ben was in the area.

5.28 At 12:56pm, Leading Senior Constable Ingram saw the CRV entering the MBH carpark and activated the lights and sirens on Manning 36. The CRV stopped just beyond a height restriction bar inside the car park with Manning 36 stopping behind it.

5.29 Constable Cutler was driving Manning 36 and carrying a Taser. Leading Senior Constable Ingram was seated in the front passenger seat and was not wearing a ballistic vest. Probationary Constable Cribb was seated in the rear offside passenger seat. After coming to a stop, Constable Cutler broadcast that they had located the CRV.

5.30 Leading Senior Constable Ingram exited Manning 36 as Ben was in the process of getting out of the front passenger seat of the CRV. Leading Senior Constable Ingram saw that Ben was holding a firearm in his right hand and a bottle in his left hand. He shouted at Ben, "*Drop whatever is in your hands and lay down on the ground*" or "*Put your hands up*". Leading Senior Constable Ingram drew his firearm and moved to his left behind a concrete pillar. Whilst positioned there, he activated his Body Worn Video (**BWV**). As this was occurring, Ben was shouting, "*Fucking kill me, come on*".

5.31 Constable Cutler exited Manning 36 and stood behind the open driver's door. He drew and raised his firearm, shouting, "*Drop the gun*" repeatedly. Ben stood with his arms wide apart still with the firearm and a bottle in his hands. Meanwhile, Probationary Constable Cribb exited Manning 36 and moved to the near side rear of the vehicle.

5.32 Constable Cutler placed his firearm on the driver's seat and drew his taser. He shouted, "*Drop the gun or you'll be tased*". Constable Cutler leaned into the cabin of Manning 36 and made this broadcast:

> Manning 36. Signal 1. He's got a firearm pointing at us.

5.33 This was rebroadcast with an alert indicating that it was a Priority 1 incident.

5.34 At this time, Ben threw the bottle in his hand towards Manning 36. Constable Cutler discharged his taser through the gap between the driver's door and A-pillar with the probes striking Ben in the right side of the neck and torso. Ben was seen to seize up before falling onto the ground, landing on his right shoulder and rolling onto his back. He remained holding the firearm in his hand.

5.35 Whilst Ben was rolling on the ground, the sound of a non-NSWPF firearm was heard to discharge. Leading Senior Constable Ingram discharged his firearm. Both Leading Senior Constable Ingram and Constable Cutler continued to shout, "*Drop the gun*".

5.36 Constable Cutler advanced around the driver's door of Manning 36 towards Ben. As he did so, Ben regathered his firearm and pointed it towards Constable Cutler who retreated back behind Manning 36.

5.37 As these events unfolded, Taree 15 arrived on scene with its lights and sirens activated. All three NSWPF officers inside Taree 15 exited. Constable Hughes drew his firearm as he exited Taree 15 and attempted to discharge his firearm at Ben. Constable McAnulty also drew his firearm as he exited Taree 15. He took a position behind Leading Senior Constable Ingram and to the left. Constable McAnulty said he saw Leading Senior Constable Ingram move back as if he had been shot. Constable McAnulty discharged his firearm several times.

5.38 Ben was struck with multiple projectiles and sustained gunshot wounds to all of his limbs. His firearm was rendered safe and the NSWPF officers present applied a tourniquets in an attempt to stem Ben's bleeding. Emergency medical services were contacted and arrived on scene at around 1:03pm. An intensive care nurse who was present at the scene also assisted with providing care.

5.39 At 1:19pm, Ben was taken to the ED at MBH. He went into cardiac arrest moments later and resuscitation efforts were commenced. Despite these continued efforts, Ben could not be revived, resuscitation was ceased at 1:36pm and Ben was pronounced life extinct.

5.40 A ballistics examination later determined that a total of 19 rounds were discharged from NSWPF firearms. Six rounds were each discharged by Constable McAnulty and Constable Hughes and seven rounds were discharged by Leading Senior Constable Ingram. Up to three rounds were discharged from Ben's firearm which was found to be a .22 long rifle calibre Harrington & Richardson expert model. Further, an impact mark from a projectile was found on the south face of a concrete pillar next to where Leading Senior Constable Ingram was positioned.

6. The post-mortem examination

6.1 A post-mortem examination was performed by Dr Elsie Burger, forensic pathologist, on 7 January 2025 at Forensic Medicine Newcastle. The significant findings from the examination can be summarised as follows:

(a) an entrance wound on the right side of the abdominal wall causing lacerations of the liver with no exit wound;

(b) an entrance wound on the lateral aspect of the left hip causing lacerations of the small bowel and small bowel mesentery, with no exit wound;

(c) an entrance wound on the left lateral lower chest area perforating the left lobe of the liver, spleen, stomach and penetrating the liver, with no exit wound;

(d) an entrance wound on the posterior lateral aspect of the left hip with the wound track passing through subcutaneous tissues of the trunk, and an exit wound in the left lumbar area;

(e) an entrance wound on the back, to the left with no associated wound track and the projectile recovered from the skin wound;

(f) an entrance wound on the medial aspect of the left upper arm with the wound track passing through soft tissues of the left posterior axillae and the shoulder, and no exit wound;

(g) An entrance wound on the ulnar aspect of the right forearm with a large, tracking through the soft tissues of the right forearm and a lacerated exit wound on the anterior aspect of the right forearm;

(h) an entrance wound on the ulnar aspect of the right wrist, tracking through the soft tissues of the right forearm and an exit wound on the anterior aspect of the right forearm;

(i) an entrance wound on the anteromedial aspect of the right thigh, tracking through the right thigh with an exit wound on the anterior aspect of the right thigh;

(j) an entrance wound on the posteromedial aspect of the right thigh tracking through soft tissue with an exit wound on the anteromedial aspect of the right thigh;

(k) an entrance wound on the posterolateral aspect of the left thigh causing sacrum fracture with no exit wound;

(l) an entrance wound on the posterior aspect of the left thigh with a shored exit wound on the left side of the perineum, a re-entry wound on the right side of the perineum and no exit wound;

(m) an entrance wound on the posteromedial aspect of the right thigh with no exit wound;

(n) an entrance wound on the posteromedial aspect of the right thigh with no exit wound;

(o) pseudo-tattooing wounds on the posterior aspect of the right thigh;

(p) a large lacerated entrance wound on the anterolateral aspect of the right lower leg with no exit wound;

(q) an entrance wound on the anterior aspect of the right lower leg with no exit wound;

(r) a cluster of lacerated wounds on the anterior aspect of the right lower leg with no exit wound;

(s) a small entrance wound on the medial aspect of the left thigh with no exit wound;

(t) a large gaping lacerated entrance wound on the radial aspect of the left forearm tracking through subcutaneous soft tissues of the left forearm with an exit wound on the anterior aspect of the left forearm;

(u) widespread areas of apparent pseudo-tattooing on the right upper arm, right side of the trunk and left lower leg;

(v) a Taser probe with a short piece of wire present on the left side of the neck with a similar injury noted on the left side of the anterior chest wall;

(w) bilateral abnormal free air in the chest cavities and free blood in the chest;

(x) extensive air in the heart and thoracic central vessels considered to be consistent with air embolism;

(y) Toxicological analysis of preserved blood identified buprenorphine and morphine together with concentrations of pregabalin (in a potentially toxic concentration), diazepam, cannabinoids, paracetamol, and alcohol (in a relatively low concentration).

6.2 In the post-mortem examination report dated 17 March 2025 Dr Burger opined that the cause of Ben's death was multiple gunshot wounds.

7. What issues did the inquest consider?

7.1 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) What was Ben's state of mind at the time of the incident?

(2) Did Ben intend to provoke police to shoot him, with an intention to end his life?

(3) Were reasonable and appropriate efforts made to locate Ben, following reports made by 000 that he had a firearm and intended to shoot himself?

(4) Was the use of force reasonable in the circumstances, and consistent with NSW Police Force policy?

(5) Was any alternative approach to confronting Ben reasonably available to police, and what possible consequences were there?

7.2 Sergeant Christopher Hart, a Operational Safety Instructor with the NSWPF Operational Safety Training and Governance, provided a statement commenting on the actions of the directly involved NSWPF officers on 2 January 2025.

8. What was Ben's state of mind at the time of the incident?

8.1 It is evident from Ben's social history that from at least mid-2024 onwards he was struggling with several issues that were adversely affecting his well-being. His relationship with Taliha had ended and he was facing the prospect of homelessness.

8.2 Several people close to Ben also made observations of his demeanour and behaviour in the period immediately leading up to, and on, 2 January 2025:

(a) During late 2024, Ben's sister, Sarah, and Ben exchanged messages over Snapchat almost every day. According to Sarah, Ben "*would mostly respond saying that he was sad and depressed*". In December 2024, Sarah continued communicating with Ben and she described his behaviour as "*much the same*" and that "*he was still sad and feeling low*".

(b) In a statement to the NSWPF, Taliha described her observations of Ben on 1 January 2025:

> Ben seemed down and he wasn't really talking to me, he just sat on the lounge with a blanket wrapped around him.

Taliha also stated that later on 1 January 2025, a friend came over to her house and attempted to engage with Ben "*but he was watching a movie and not really listening*".

(c) At around 9:00am on 2 January 2025, Mr Stuart's daughter, Sara Zoanetti, woke and saw Ben inside the Summerville Address. Ms Zoanetti spoke to Ben for about 15 minutes and noticed

that "*he looked really tired, as if he was about to go to sleep*" and that "*his eyes were heavy as if he just wanted to have his eyes closed*".

(d) Jae Pollock was staying with his girlfriend, Ms Zoanetti, at the Summerville Address on 2 January 2025. At around 10:40am, Mr Pollock went to the kitchen and saw Ben sweeping the floor which he considered to be odd. When Mr Pollock asked then what was going on, Ben replied, "*Nothing. Just chilling*". Mr Pollock's observations of Ben that morning led him to believe that Ben "*was feeling a bit down and sad*".

(e) In her statement to the NSWPF, Ms McIntyre stated that when she approached a bend near the entrance to the abattoir car park, Ben said to her, "*I'm a gutless prick and I couldn't pull the trigger*". Ms McIntyre also described the conversation that she had with Ben whilst driving to MBH:

> On the way, Ben and I talked a lot. Ben spoke about his physical pain. I don't know what he was talking about. I do note that he had a bad ankle. Ben was telling me he can't take things anymore and that I didn't understand.

8.3 Dr Pieternel van Nieuwenhuijzen, a forensic pharmacologist attached to the NSWPF Pharmacology Services Unit considered some of the material contained in the coronial brief of evidence and, most relevantly, the toxicology results from the post-mortem examination. In a report prepared to assist the coronial investigation, Dr van Nieuwenhuijzen expressed the following opinions:

(a) it is not possible to determine Ben's blood alcohol level at the time of his death but it is possible that he was "*somewhat affected by alcohol*" at the time;

(b) it is possible that Ben was "*somewhat affected*" by diazepam and nordiazepam at the time of his death;

(c) as Ben had not been prescribed morphine and if no morphine was administered on the morning of 2 January 2025, it is likely that Ben administered heroin;

(d) if Ben had administered heroin, the buprenorphine in his system meant that he would not have experienced the euphoria associated with heroin use;

(e) given the high level of pregabalin detected, Ben would have been affected by it at the time of his death; and

(f) all of the drugs detected in Ben's system were depressant drugs "*and together they would have affected him to some extent*" and "*could have contributed to his 'tired presentation'*", and his cognitive ability "*may have been somewhat impaired*".

8.4 **Conclusions:** In the period leading up to January 2025, Ben experienced a breakdown in his relationship and an expectation that he would soon have no place to live. These matters appear to adversely affect his mental well-being as he was observed to exhibit low mood. On 1 January 2025, Ben was observed to be at times withdrawn, distant and not engaging with those around him.

8.5 On 2 January 2025, Ben was observed to appear sad, down, and depressed. He expressed suicidal ideation to both Taliha and Ms McIntyre, and this was repeated when Ben was confronted by NSWPF officers at MBH. The expert pharmacological evidence indicates that Ben was likely affected by depressant medication that was in his system and that his cognitive ability "*may have been somewhat impaired*".

8.6 Taken together, the above matters indicate that on 2 January 2025, Ben was experiencing low mood to the point where he was genuinely contemplating self-harm. The evidence establishes that Ben had taken preparatory steps in obtaining a firearm and discharging it in public in furtherance of his contemplations. It is also likely that Ben's judgment was affected by the various substances that were in his system at the time of the incident.

9. Did Ben intend to provoke police to shoot him with an intention to end his life?

9.1 In his statement to the NSWPF, Brock Ryan describes a conversation that he had with Ben shortly after 12:37pm on 2 January 2025 when his mother was in the bottle shop:

> Mum then handed the phone to Ben as she was going into the Cellarbrations at Wingham. Benny and I were chatting for a little bit, I can't remember everything exactly, but I said something like, "Benny think of your kids." Benny said, "I love my kids. I would do anything for my kids. But I don't have the balls to pull the trigger for myself I want the cops to do it." I felt lost for words at this point. I felt worried for him.

9.2 During their journey to MBH, Ms McIntyre states that she had this conversation with Ben after he had referred to being unable to "*take things any more*":

> I continued to talk to Ben about his kids. I was trying to change the subject. I was trying to encourage Ben to go to the hospital to seek help. He eventually agreed. Ben asked me to drop him off at the hospital. I said I would stay with him. Ben said once the hospital found out that he had tried to kill himself again , he would be taken out the back into a room and then I wouldn't be able to come. I reassured Ben that I would stay with him as long as they would let me stay with him.

9.3 Leading Senior Constable Ingram gave this evidence of his observations of Ben upon exiting Manning 36:

> Immediately on getting out of the car, he just started shouting, "Shoot me, shoot me".

9.4 Leading Senior Constable Ingram gave evidence that he repeatedly told Ben to drop his firearm but that Ben remained holding the firearm and the barrel of the firearm was "*moving from side to side, like he was moving quite erratically and the barrel was moving very fast*". Leading Senior Constable Ingram described Ben as pacing backwards and forwards, whilst continuing to say, "*Shoot me*".

9.5 Constable Cutler gave evidence that after he repeatedly told Ben to drop the firearm, Ben was yelling, "*Go on, shoot me*", and, "*Go on cock sucker, just fucking shoot me*".

9.6 Constable Cutler gave evidence of the following interaction that he had when he approached Ben after Ben's firearm had been rendered safe and he was receiving first aid:

> I remember him apologising and him saying that he wanted to die.

9.7 **Conclusions:** After he met with Ms McIntyre, Ben told her son, Mr Ryan, that he could not "pull the trigger" himself and that he wanted "the cops to do it". By this time, Ben had already obtained a firearm from the Summerville Address. This suggests that Ben had formulated an intention to end his life by provoking a NSWPF officer to shoot him without any specific plan as to how this was to occur. Indeed, shortly after his conversation with Mr Ryan, Ben agreed with Ms McIntyre's suggestion to attend MBH to seek assistance. This suggests that any intention which Ben had at that point in time was not accompanied by any definitive plan.

9.8 However, at the point that Ben arrived at MBH with Manning 36 stopped behind the CRV, the evidence suggests that Ben had formed an intention to provoke the NSWPF officers present to shoot him. Ben's actions in exiting the CRV, pointing his firearm in the direction of the NSWPF officers, repeatedly shouting, "*Shoot me*", and refusing to drop his firearm despite repeated instructions from the NSWPF officers to do so are consistent with such an intention. Further, Ben's expression to Constable Cutler following the incident that he "*wanted to die*" provides further confirmation of Ben's intentions after he arrived at MBH.

10. Were reasonable and appropriate efforts made to locate Ben?

10.1 As noted above already, once a Triple Zero call was first made by Taliha the incident was broadcast on the CAD and VKG. Several NSWPF units responded promptly and commenced travelling to Ben's last known location. Although it was later reported by Mr Ryan that Ben did not have firearm and instead had a piece of plastic, the NSWPF still treated the matter as a high risk incident. Inspector Quigg gave this evidence:

> It made no difference to me. I was treating it as the highest, highest level. To me it was still a high risk incident until proven otherwise, and I relayed that information on to the car crews. It made no difference to me until we could confirm it was a piece of plastic, it wasn't a firearm but from the - all the information we've got up to this point, it was certainly - a firearm was involved. Witnesses saw the firearm being shot in the air at Wingham. So that - we were going a hundred mile an hour to locate [Ben] to secure that firearm.

10.2 Inspector Quigg also gave this evidence regarding the purpose of the triangulation and the NSWPF response if Ben could be located:

> Well, the actual plan was to put in place was to control the movement of [Ben]. As I said earlier when I - in my evidence, that if you don't control a [person of interest], allow a person to become mobile, whether on foot or vehicle, it makes it extremely hard and increases the risk to both the police and the community. So the number one - why the triangulation was vitally important was to locate where [Ben] was going. He may have not been heading towards the hospital, so we needed to narrow down a perimeter so that we could basically lock him in and secure him so that we - so then we can use a tactical model of contain and negotiate. So that was the number one priority to me.

10.3 During her first Triple Zero call, Taliha provided Ben's mobile number. However, this number was not used when the triangulation was performed. Instead, the number that was used was a different one which had taken from the NSWPF Central Names Index database and which had been recorded previously. This has the consequence of the triangulation producing an incorrect result as to Ben's location. Inspector Quig gave evidence that he did not know how the incorrect number came to be used for the triangulation,.

10.4 **Conclusions:** The Triple Zero call initially made by Taliha on 2 January 2025 was appropriately designated an urgent job. Taree 15 was the first NSWPF unit to promptly acknowledge the job. Other NSWPF units also responded promptly and began proceeding to Wingham to locate Ben. This represented the appropriate first step in response to a high risk incident. In other words, there was a need to first locate Ben so that a contain and negotiate strategy could be executed.

10.5 Appropriate subsequent enquiries were made at the Summerville Address and in the vicinity of the abattoir. Although it appears that Ms McIntyre attempted to signal to Taree 15 that Ben was in the CRV with her, this was misinterpreted. However, this misinterpretation was reasonable given that the information provided to the NSWPF was that Ben was on foot with a firearm and not travelling in a vehicle.

10.6 Once further information was provided that Ben was travelling to Taree Mental Health at MBH, appropriate efforts were made by NSWPF units to attend that location to find Ben. At the time that this was occurring, an appropriate attempt was made to perform a triangulation to locate Ben's mobile phone. However, although Taliha provided Ben's correct mobile number, an incorrect mobile number taken from existing NSWPF records was used which in turn produced an incorrect triangulation result. It is unclear from the available evidence why Ben's correct mobile number was not used. Provision of this correct mobile number provided an opportunity to the NSWPF to use triangulation to identify Ben's location. However, even if an accurate triangulation result had been achieved, it is unlikely whether Ben would have been located any earlier given that he arrived at MBH at around the time that the incorrect triangulation result was returned. It is equally unlikely that if an accurate triangulation result had been achieved that this would have made a material difference to the eventual outcome.

10.7 Overall, the available evidence indicates that it is unlikely that Ben's location could have been identified prior to his arrival at MBH. Even if he had been located earlier, the NSWPF response would still have been to employ a contain and negotiate strategy, ideally at a location that was not public. Although Ben was located in a public car park within what would be expected to be a busy hospital precinct, there is no evidence to suggest that the timing of when the NSWPF were able to locate and stop Ben unnecessarily placed members of the public at risk.

11. Was the use of force reasonable in the circumstances, and consistent with NSW Police Force policy?

11.1 This issue has been considered below in relation to each of the directly involved NSWPF officers.

Policy and training framework

11.2 The power for NSWPF officers to use force, including lethal force, is provided for by section 230 of the Law Enforcement (Powers and Responsibilities) Act 2002. It states:

> **230 Use of force generally by police officers**
>
> It is lawful for a police officer exercising a function under this Act or any other Act or law in relation to an individual or a thing, and anyone helping the police officer, to use such force as is reasonably necessary to exercise the function.

11.3 The NSWPF Tactical Options and Use of Force Manual (**TOU Manual**) explains that the NSWPF first adopted a tactical options model in 1998, and goes on to provide:

> The current model allows for the fact that each operational situation or circumstance is unique and variable. It provides you with ten tactical options when use of force is needed to resolve a situation which poses a threat to your safety or the safety of others. It is designed to be easily understood and easily implemented.
>
> This model also includes the risk assessment process you need to use to ensure that chosen force options and tactics are appropriate to a given circumstance.
>
> The model:
> - is non-linear, allowing you to choose force options or tactical concepts based on the unique elements present at the time
> - allows you to transition between options as required
> - is based on a process of risk assessment whereby you assess and reassess a given circumstance to meet ongoing potential or actual threats
> - allows for rapid escalation and/or de-escalation in dynamic and changing situations
> - allows for the cohesive use of multiple options to minimise injury to all involved.

11.4 The TOU Manual identifies ten tactical options including communication, OC spray, firearm and conducted electrical weapon (**CEW**) or taser. The Use of Conducted Electrical Weapons (Taser) Procedures relevantly provide:

> The Taser may be discharged at the discretion of the Taser User after proper assessment of the situation and the environment to:
> - Protect human life
> - Protect yourself or others where violent confrontation or violent resistance is occurring or imminent
> - Protect an officer(s) in danger of being overpowered or to protect themselves or another person from the risk of actual bodily harm

[…]

When considering the discharge of a Taser, officers should consider all tactical options available to them in the Tactical Options Model. Before removing the Taser from the holster, officers **will** assess if the deployment of a Taser is the most appropriate option in the circumstances. [original emphasis]

11.5 The TOU Manual refers to the NSWPF Handbook which provides:

> The decision to use your firearm rests with you. You are accountable for your actions. If you kill or injure a person when such action is not reasonable you could face serious criminal charges and or civil action.
>
> You are only justified in discharging your firearm when there is an immediate risk to your life, or the life of someone else, or there is an immediate risk of serious injury to you or someone else and there is no other way of preventing the risk.

Constable Cutler

11.6 Constable Cutler gave evidence that upon exiting Manning 36 he initially drew his firearm as he "*thought that [he] would be in a position to have to use it*". He gave evidence that he was "*doubtful*" that the VKG broadcast about the firearm being piece of plastic was genuine and that when he saw the firearm in Ben's hand he "k*new it was real*".

11.7 Constable Cutler also gave evidence that as he moved around the driver's door Ben was standing with his arms extended out to his side with his palms facing upwards. However, Constable Cutler gave evidence that when Ben's attention was drawn to him, Ben raised his firearm in Constable Cutler's direction. Constable Cutler gave evidence that *"fearing that [he] was going to get shot and killed, [he] then went behind the driver's door […] to seek cover*". Constable Cutler gave evidence that in that moment "*[he] thought [he] was going to die*".

11.8 Constable Cutler then gave this evidence regarding his decision making process in relation to his appointments:

> At that point I knew that the situation was serious. We've now met the - I have - personally I met the justification to discharge my firearm to prevent the - well there was an imminent risk to life and at that time I thought I didn't join the police force to kill somebody. I joined the police force to protect the community, protect the lives of the community and to protect the people around me and my colleagues. My mindset at that point was I was willing to risk my life to save his and put Ben's interest above my own. So I thought I'm going to try a less lethal approach.

11.9 Constable Cutler gave evidence that he did not want to "*use two appointments at once in [his] hand*" and that he could not re-holster his firearm without standing up from his crouched position and exposing himself "*to that threat of the firearm of Ben*". Constable Cutler placed his firearm on the driver's seat with the barrel facing away from him. Constable Cutler gave evidence that "*in the heat of the moment, that was a conscious decision that [he] made at that time with, with everything that*

was presented to [him at that time". Constable Cutler gave evidence that he knew he was in a public place and that "*the firearm was not going to be left there*".

11.10 Constable Cutler gave evidence that he then stood upright, pointed his taser towards Ben and shouted, "*Drop the gun or you'll be tased*". Constable Cutler gave evidence that he remembered hearing the words, "*I ain't dropping the gun*".

11.11 Constable Cutler gave evidence that after making the broadcast, "*Manning 36. Signal 1. He's got a firearm pointing at us*", he saw the opportunity to re-holster his firearm and stood up. Constable Cutler gave this evidence as to what he did next:

> After making the radio broadcast, re-holstering my firearm, I've stood up outside the vehicle between the A-pillar and my open door. I've already shouted the command, I wasn't going to shout the command again. Ben was still pointing the firearm and waving it around, and yeah, I discharged - pressed the trigger on the taser and discharged my probes, the probes in the direction of Ben.

11.12 Constable Cutler went on to give this evidence as to his reasoning for doing so:

> My thought process at the time was if I was to achieve successful NMI, that would potentially lock his muscles up and his body. I didn't have the time to fixate my vision on his finger to see if the finger was on the trigger. I knew that from the information that we'd been provided that Ben had already discharged the firearm, so there was a high probability that rounds were in the chamber, and whilst I saw the momentary decision of Ben start to move his arm in the direction of Ingram, fearing Ingram was going to be targeted, that was my decision making process.
>
> But I was also then doubtful that the, the probes would be successful and if the probes were unsuccessful, I would have then done the appropriate taser to firearm transition and transitioned. So that was my thought process at the time.

11.13 In his report, Sergeant Hart explained that the *"NSWPF does not conduct training which promotes the use of a [taser] as the primary appointment to deploy in response to a person who poses an immediate risk to life or serious injury to another*". This is because "*its effectiveness at achieving neuromuscular incapacitation is not sufficiently reliable that it can be depended on in such a situation*". However, Sergeant Hart noted that given the "*relative positioning and focus*" of Ben, the taser was "*a viable and valid tool in this circumstance*". Sergeant Hart therefore explained that Constable Cutler's decision to discharge his taser was "*clearly within the bounds*" of NSWPF policy and essentially depended on "*what level of risk [Constable Cutler was] willing to take*".

11.14 Sergeant Hart gave evidence that in a training scenario involving multiple NSWPF officers with their firearms drawn, if a NSWPF officer decided to draw a Taser it would be a "*debrief point*". Sergeant Hart explained that following the training scenario an attempt would be made to understand what the thought pattern of the relevant officer was in order to determine whether they could "*formulate a concise critical thinking model*" as to their choice of appointment. As to Constable Cutler's decision-making process, Sergeant Hart gave this evidence:

> He seemed very much aware of what he was perceiving and constantly problem-solving and that was just a clear decision that he made.

11.15 **Conclusions:** Constable Cutler made the decision to draw his taser to "*try a less lethal approach*" to preserve Ben's life. NSWPF training does not promote the use of a taser as the primary appointment to deploy in response to a person who poses an immediate risk of causing serious or lethal harm. However, the expert evidence establishes that Constable Cutler's decision to use the taser was consistent with NSWPF policy and justified because it was a clear decision made by Constable Cutler which demonstrated critical thinking and constant problem-solving.

11.16 Constable Cutler appropriately recognised that his decision to temporarily place his firearm on the driver's seat of Manning 36 created a degree of risk. The expert evidence established that this was a poor choice but that the decision was made whilst Constable Cutler was under stress and in the heat of the moment. Further, it is recognised that at the time Constable Cutler had difficulty with re-holstering his firearm without standing up and exposing himself to Ben's potential line of fire.

Leading Senior Constable Ingram

11.17 Leading Senior Constable Ingram gave evidence that after initially seeing Ben point his firearm at Constable Cutler, he saw Constable Cutler deploy his taser. Leading Senior Constable Ingram gave evidence that he saw Ben "*go down*" and that he "*stepped in towards Ben*" planning to secure his firearm. However, Leading Senior Constable Ingram gave evidence that the taser only had "*partial effect*" and that he saw Ben again point his firearm in the direction of Constable Cutler. Leading Senior Constable Ingram gave evidence that he believed Constable Cutler's life was in "*direct danger*", that he had to "*stop the threat*" and therefore discharged his firearm. Leading Senior Constable Ingram gave this evidence as to his reason for discharging his firearm:

> The reason was the firearm was pointed at [Constable Cutler]. He'd, he'd shot - is alleged to have shot rounds earlier and I, I thought [Constable Cutler]'s life was in danger and I wasn't going to, yeah, allow it to happen.

11.18 Leading Senior Constable Ingram gave evidence that he then moved towards Ben to attempt to secure his firearm. Leading Senior Constable Ingram gave this evidence as to what occurred next:

> He was laying down. I think the gun was - I can't recall if it was on him or in front of him, but as I stepped in, he picked it up again, and this time pointed it directly at me. So this time I thought, "I'm in trouble here" and I discharged my firearm for the second time.

11.19 Leading Senior Constable Ingram gave this evidence as to his reason for doing so:

> I thought my life was in danger this time. Like, you know, I've - he's pointed it at [Constable Cutler], I've shot, he's now pointed it at me, I've heard another shot that I know wasn't a police firearm, so at this time, I'm convinced he's shooting rounds at us as well. And yeah, he left me with no other choice.

11.20 In his statement, Sergeant Hart expressed the opinion that Leading Senior Constable Ingram's decision to discharge his firearm was in accordance with both NSWPF training and policy given that:

(a) Ben had pointed his firearm in the direction of NSWPF officers and discharged it;

(b) Leading Senior Constable Ingram had formed the view that his life and the life of Constable Cutler was in immediate danger;

(c) Leading Senior Constable Ingram did not see any other way to prevent the risk.

11.21 Sergeant Hart gave evidence that Ben pointing his firearm in the direction of Constable Cutler met the justification for Leading Senior Constable Ingram to discharge his firearm. This is because:

> So the fact that [Ben] was pointing the firearm at Constable Cutler, in my opinion, posed a significant risk to his life, at the very least serious injury. I believe that risk was imminent and that there was no alternative option to the police to reduce or remove that risk.

11.22 **Conclusions:** The expert evidence establishes that on the two occasions that Leading Senior Constable Ingram discharged his firearm he legitimately perceived that the life of Constable Cutler and his own life, respectively, to be in immediate danger due to the threat posed by Ben in pointing his firearm at them. No alternative option was available to Leading Senior Constable Ingram to reduce or eliminate this threat other than by the discharge of his firearm. The use of lethal force by Leading Senior Constable Ingram was therefore appropriate in the circumstances and consistent with NSWPF training and policy.

Constable Hughes

11.23 Constable Hughes gave evidence that as he arrived he saw Ben on the ground holding a revolver with a long barrel and believed at that stage that Ben and the NSWPF officers already on scene had exchanged gunfire. Constable Hughes gave evidence that he "*immediately jumped out of the car and started running towards police*" and drew his firearm whilst running. Constable Hughes also gave evidence that he attempted to "*get into a firing line with [Leading Senior Constable Ingram]*" meaning to position himself so that the other NSWPF officers on scene were not in his line of fire.

11.24 Constable Hughes gave evidence that he took up a position next to a pillar with Leading Senior Constable Ingram on his left and that he told Ben once or twice, "*Don't touch the gun*". Constable Hughes gave evidence that Ben picked up his firearm, "*held it in two hands in a firing position*" whilst "*in a somewhat upright position*". Constable Hughes gave this evidence as to his thinking at the time:

> I thought he was going to shoot me because, because when he's already shot it in the air and when I arrived on scene, I could hear other gunshots and now he's pointing the firearm at me and I - yeah, I was of the belief he was going to shoot me.

11.25 Constable Hughes gave evidence that he pointed his firearm in Ben's direction and discharged it until Ben "*was no longer holding that firearm and the threat was no longer there*".

11.26 Sergeant Hart expressed the opinion that Constable Hughes also discharged his firearm in accordance with NSWPF training and policy given that at the time Ben's actions "*were posing a clear*

and immediate risk of death or serious injury to Leading Senior Constable Ingram, Constable Cutler and Probationary Constable Cribb".

11.27 Sergeant Hart gave evidence that NSWPF officers are trained that whilst a single projectile may be lethal, the only way to guarantee that a risk is reduced as quickly as possible "*is to fire multiple rounds as quickly as we are able to do so*" so that a risk is no longer present. Sergeant Hart went on to explain:

> The decision process to fire a round, it's not made for each and every round that is fired, so the decision-making process in training is not to fire one round, assess whether that round was effective, then fire another round, then assess if that was effective. They conduct a simultaneous assessment whilst firing, so essentially, we have a decision to start firing and a decision to stop firing. I think the rounds that were fired in the period of time they were fired were in line with our training and in line with that policy, keeping in mind the difficulties in actually operating a firearm accurately.

11.28 **Conclusions:** The expert evidence establishes that Constable Hughes was justified in discharging his firearm because he was confronted by Ben's actions which posed a clear and immediate risk of death or serious injury to other NSWPF officers at the scene. Constable Hughes's use of lethal force was therefore appropriate in the circumstances and consistent with NSWPF policy and training.

Constable McAnulty

11.29 Constable McAnulty gave evidence that when he arrived on the scene he saw Ben *"laying down on his back with his legs angled towards Leading Senior Constable Ingram and [him]self*" with a firearm in his right hand. Constable McAnulty also gave evidence that as he exited his vehicle he saw Ben initially holding his firearm in one hand "*as he was leaning up*" and then then put his second-hand on the firearm to control it and pointed it "*right towards [him]*". Constable McAnulty gave this evidence as to his thinking at the time:

> At that point, I knew that it was, the firearm's on me. It's now me verse him. And I've immediately thought that there's only one option here, which is when I began drawing my firearm.

11.30 Constable McAnulty gave evidence that as he was "*lining [up his] firearm*" towards Ben, it appeared that Ben "*was doing the same with [him]*" and at that point he "*fired multiple shots*". Constable McAnulty gave this evidence as to his reason for discharging his firearm:

> Because I was fearful that he was about to fire on me which could have potentially killed me or and as well as he could have fired at Senior Constable Ingram.

11.31 Constable McAnulty gave evidence that when he discharged his firearm, he was approximately eight metres away from Ben and that Leading Senior Constable Ingram was approximately four metres away in his "*10 o'clock position*" and in his field of vision. Constable McAnulty gave evidence that when he discharged his firearm he had a "*clear target*", that he "*felt there was no way of obstructing that in coming into contact with [Leading Senior Constable Ingram]*", and that he did not feel that there was any danger to [Leading Senior Constable Ingram]. Constable McAnulty explained his reasoning in this way:

> Yeah, I was aware of where Ingram was located and at that point when I had the firearm position onto Ben I knew that it was against what we're trained in, a policy of having Ingram in that line of - he wasn't directly in my line of sight but yeah, I was confident enough with my position and I didn't have any - there was no reason for me to move just 'cause of the timing, the split seconds and the threat. Yeah, I was confident in taking that shot. I would - if I had any doubts then I wouldn't have taken that shot and I would have just taken that risk of attempting to take cover.

11.32 In his statement, Sergeant Hart expressed the opinion that all shots fired by Constable McAnulty were in accordance with NSWPF policy but that "*the position in which he was standing whilst firing gives rise to concern due to the risk to Leading Senior Constable Ingram and Constable Hughes*". However, Sergeant Hart went on to explain that after reviewing the incident, he was of the opinion that "*the involved officers could not have deployed or utilised any other tactical options in the circumstances*".

11.33 Sergeant Hart gave evidence that given Constable McAnulty perceived there to be a threat to his life or the lives of one of his colleagues that he was justified in discharging his firearm. As to Constable McAnulty's position when he discharged his firearm, Sergeant Hart gave this evidence:

> Ultimately I think however there was quite a significant risk that [Constable McAnulty] was - he may have, in that circumstance, have struck another officer. Whether that risk outweighs the risk posed by [Ben] to those police, I can't specifically speak to and ultimately that's a decision for the individual officers because that's what they have to do every day is balance risk. They have to balance the risk of themselves being injured, the risk of others being injured, and ultimately that's their decision.

11.34 Sergeant Hart ultimately gave evidence that he could not be critical of the decision made by Constable McAnulty in "*that split-second, in that moment, perceiving what he perceived*" and that he did not think Constable McAnulty's actions were "*outside of the bounds of policy*" even though it was "*not something we would encourage or set up or train them to do*". Sergeant Hart went on to explain:

> I do feel like he was still making an effort to analyse the information, come up with his decision which was to draw his firearm and ultimately employ it, and then go through essentially what would be that STOPAR critical decision-making process.

11.35 **Conclusions:** The expert evidence also establishes that Constable McAnulty was justified in discharging his firearm given that his life and the lives of other NSWPF officers at the scene were at risk due to the threat posed by Ben and that there was no other way to reduce or eliminate that risk. The use of lethal force by Constable McAnulty was therefore appropriate in the circumstances.

11.36 However, it was not entirely consistent with NSWPF policy and training as Constable McAnulty discharged his firearm when Leading Senior Constable Ingram was positioned within his field of view and at risk of being struck by the rounds discharged by Constable McAnulty. However, the expert evidence indicates that Constable McAnulty's decision was made in a "split second" and that even in that limited time he demonstrated critical decision-making in coming to the view that Leading Senior Constable Ingram was in no danger from the discharge of his firearm.

12. Was any alternative approach to confronting Ben reasonably available to police, and what possible consequences were there?

12.1 Sergeant Hart gave evidence that the NSWPF as an organisation has been aware "for a long time" of the potential for persons to seek to "*use police to commit self-harm*". When asked how NSWPF officers are taught to respond to this type of incident, Sergeant Hart gave this evidence:

> There was a - I wouldn't say a training package, but there was some scenario training that was run 2020, 2022 timeframe that encompassed a scenario of which that was, whilst not the core objective or outcome of that scenario, that concept was certainly a significant portion of that scenario. It's ultimately a concept that the organisation's aware of, but it's something we try to give the officers the presence of mind to understand that concept, but ultimately it doesn't necessarily change the way in which officers have to respond to the actions of an individual.
>
> So whilst it's something that we promote officers to be aware of, ultimately they have to respond to whatever the individual is doing, and it may be the case that they have a certain motive for their action, but ultimately we have to respond to the action.

12.2 Sergeant Hart went on to give evidence that situations involving persons seeking to "*use police to commit self-harm*" are dynamic and too situation specific to allow for useful guidance to be provided to NSWPF officers. Sergeant Hart explained that in Ben's case, even if the involved NSWPF officers at MBH were aware well ahead of time that Ben was intending to use them to commit self-harm, this did not negate the risk Ben's actions posed to them and potentially to members of the community. Sergeant Hart gave evidence that ultimately, the attending NSWPF officers needed to respond to the threat that Ben presented and "*remove that risk of imminent harm to life as soon as possible*".

12.3 As to any training that might be implemented in relation to this type of situation which may confront a NSWPF officer, Sergeant Hart gave this evidence:

> [I]n an ideal world we would be able to have a training package that could give police other options in certain circumstances where it's a clear case that someone is attempting to use police to commit self-harm, ultimately as I said we're still responding to what they're doing, and I don't think it would be pertinent for us to, as an organisation, to implement training which might cause police to second guess themselves or to delay a decision or undermine their choice to use a certain appointment because they have in the back of their mind this thought that, well why - you know what is this individual doing this or why is this individual doing it?
>
> Whilst I think it's important they have an understanding of the concept and especially in sort of the approach phase to a job or the pre-planning phase, responding to a job to something they can turn

their mind to, ultimately at the time dealing with that individual, I think it's very difficult for us to amend any of our options based on that knowledge.

12.4 **Conclusions:** As has already been noted above, the NSWPF officers who attended the carpark at MBH on 2 January 2025 were confronted with Ben, armed with a firearm in a public location, refusing to drop or surrender the firearm and instead pointing in the direction of the NSWPF officers. The evidence establishes that this represented an immediate threat to the lives of the NSWPF officers present which could not be reduced or eliminated except by the use of lethal force.

12.5 Irrespective of Ben's motivations and intentions for his actions, the attending NSWPF officers were required to respond appropriately to Ben's actions to remove any risk to life. Whilst this included any risk to Ben's life, it also included any risk to the lives of the NSWPF officers present. Further, even if Ben intended no harm to the NSWPF officers and only intended harm to himself, this is not something which the NSWPF officers could have reasonably discerned. Further, the NSWPF officers had to respond to Ben's actions and not their belief of his ultimate intentions.

12.6 The NSWPF has organisational awareness of situations where a person may seek to use a NSWPF officer to commit self-harm by inciting or provoking the use of lethal force by a NSWPF officer. The evidence in this inquest indicates that such scenarios are too dynamic and situation specific for there to be prescriptive training provided to NSWPF officers in how to respond. Further, the evidence also suggests that such training may have the effect of causing a NSWPF officer to hesitate or feel constrained in responding to a situation that carries a risk of serious harm.

12.7 Notwithstanding, the events considered by this inquest represents one more occasion where a person has used the NSWPF to commit self-harm. It is hoped that continued organisation review of such matters by the NSWPF may identify some learning that can be used to guide the NSWPF response so as to minimise the risk of harm to all persons, both police and non-police, in such situations.

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

13.1 I acknowledge and express my gratitude to Mr Jake Harris, Counsel Assisting and his instructing solicitor, Ms Rebecca Campbell. I am grateful for all of their tremendous assistance. The Assisting Team has worked tirelessly to ensure that a comprehensive investigation has been conducted in a manner that has been most sensitive to Ben's family.

13.2 I also thank Detective Superintendent Gorman, and her team of NSWPF investigators, for their thoroughness in conducting a critical incident investigation in a professional and independent manner, and for compiling the initial comprehensive brief of evidence.

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

Identity

The person who died was Benjamin Cleveland.

Date of death

Benjamin died on 2 January 2025.

Place of death

Benjamin died at Manning Base Hospital, Taree NSW 2430.

Cause of death

The cause of Benjamin's death was multiple gunshot wounds.

Manner of death

After arming himself with a firearm, Benjamin travelled to Manning Base Hospital and was stopped by NSWPF officers in the carpark. Benjamin emerged from the vehicle he was in and pointed his firearm at several NSWPF officers, ignoring their directions to drop the firearm and instead instructing the NSWPF officers to discharge their firearms at him. After a taser was deployed at him, Benjamin discharged his firearm. NSWPF officers discharged their firearms causing lethal injuries to Benjamin.

Benjamin acted with an intention to cause the NSWPF officers to discharge their firearms at him and inflict his own death. In response to the immediate threat posed by Benjamin's actions, the use of lethal force by the NSWPF officers was appropriate in the circumstances and mostly consistent with NSWPF policy and training.

14. Epilogue

14.1 On behalf of the Coroner's Court of New South Wales and the Assisting Team, I offer my deepest sympathies, and most sincere and respectful condolences, to Ben's family, loved ones and friends for their most painful and tragic loss.

14.2 I close this inquest.



Judge Derek Lee
Deputy State Coroner
30 October 2026
Coroner's Court of New South Wales