



## **FINDING OF INQUEST**

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup> and 18<sup>th</sup> days of October, the 22<sup>nd</sup>, 24<sup>th</sup> and 25<sup>th</sup> days of November, the 2<sup>nd</sup> day of December 2021 and the 22<sup>nd</sup> day of April 2022, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of John James Bentley.*

*The said Court finds that John James Bentley aged 80 years, late of 1 Sullivan Street, Somerton Park, South Australia died at Reynella in South Australia on a section of vacant land behind 3 Field Street on or about the 6<sup>th</sup> day of January 2017 as a result of dehydration and the effects of heat with contributing Alzheimer's dementia. The said Court finds that the circumstances of his death were as follows:*

### **1. Introduction and cause of death**

- 1.1. John James Bentley was 80 years of age when he died in January 2017. Mr Bentley suffered from Alzheimer's dementia. He had been an otherwise reasonably physically fit man for his age. He enjoyed walking.
- 1.2. Mr Bentley lived with his wife at Somerton Park. He attended a day respite service on Fridays. Sometime during the afternoon of Friday 6 January 2017 Mr Bentley left the respite facility without being detected by staff. He remained missing until the evening of Sunday 8 January when he was located deceased by police. He had died from dehydration and the effects of heat. The Friday was a day of extreme heat. The temperature was something of the order of 39°C. Similar temperatures prevailed the following day, the Saturday. Cooler conditions prevailed on the Sunday.

- 1.3. The facility from which Mr Bentley left undetected was situated at 126 Pimpala Road, Morphett Vale. The facility, operated by ECH, was known as the Southern Wellness Centre (SWC). It was being used as a daily respite facility for elderly individuals.
- 1.4. Mr Bentley was last seen at the premises in question at about 1:30pm when a movie was put on for the members of the respite program conducted at the facility. His absence was noticed for the first time at about 2:55pm. Police were notified that he was missing at 3:29pm. A search for Mr Bentley coordinated by SAPOL was commenced on the afternoon of his disappearance.
- 1.5. Unfortunately, the search for Mr Bentley which was carried out by members of SAPOL as well as by emergency services personnel was unsuccessful in finding him alive. At about 8:30pm on Sunday 8 January 2017 a police officer who was participating in the search on a trail motorbike was conducting a search of vacant land behind residential premises on Field Street in Reynella. This area of land was situated between houses on the northern side of Field Street and the Southern Expressway. When found, Mr Bentley was lying on the ground in grass in this vacant area. He was found in the vicinity of the rear fence of 3 Field Street. It is possible that Mr Bentley accessed that area through a vacant lot between two properties on the northern side of that street. Field Street is a typical suburban residential street. I would imagine that the vacant area behind the houses on the northern side of Field Street would be an area that would not necessarily be frequented. As noted, Mr Bentley's body was found by a police officer searching for Mr Bentley and not randomly by a member of the public.
- 1.6. The location where Mr Bentley's body was found was an open area and was not in any way sheltered. Mr Bentley had been deceased for some time.
- 1.7. It is not known precisely for how long Mr Bentley had been at that location. If he was observed going to that location, or had been observed in that location before his ultimate collapse, this was not reported by any person. It is also not known exactly for how long Mr Bentley had been deceased. I return to that specific issue in a moment.
- 1.8. There is no evidence that Mr Bentley travelled from the location at 126 Pimpala Road to the Field Street location other than on foot. The distance in a straight line from one location to the other is approximately 2 kilometres. The area consists of suburban streets with the odd reserve or park here and there. At some point along his journey Mr Bentley would have needed to cross Main South Road which in the Morphett Vale

/ Reynella region is a busy arterial road. He possibly also walked along States Road at Morphett Vale and crossed that road. Once having crossed Main South Road Mr Bentley would have walked along a number of suburban residential streets to arrive at the Field Street location. There is no evidence that Mr Bentley had any connection with any of the residents of, or premises in or around, Field Street or for that matter had a connection with any other place in this general area. If Mr Bentley was not walking aimlessly to this location I do not know for certain what his aim was. I suppose it is possible that he was trying to find his way home.

- 1.9. The location where Mr Bentley's body was found, for the most part, would have been out of sight from residential premises in Field Street including 3 Field Street which had a relatively high back fence separating the rear yard of that premises from the area where Mr Bentley's body was located. Similarly, it would not have been possible for Mr Bentley's body to have been seen from the nearby Southern Expressway.
- 1.10. It is hard to imagine that during whatever part of Mr Bentley's journey occurred in daylight hours he was not at some stage observed by members of the public in this reasonably built-up area. But of course he would not necessarily have been identified as a missing person unless, perhaps, people knew what to look out for. In apparent response to media attention given to his disappearance there were some reports of sightings but these were discounted as having been of Mr Bentley.
- 1.11. Mr Bentley's body was the subject of a post-mortem examination conducted by Dr Stephen Wills who is a forensic pathologist at Forensic Science South Australia. The post-mortem examination consisted of a full autopsy. Dr Wills' report was tendered to the inquest.<sup>1</sup> He also gave oral evidence in the inquest, the principal topic being whether a time of death could be ascribed for Mr Bentley.
- 1.12. In his post-mortem report Dr Wills refers to the fact that Mr Bentley was found lying on his back on the ground in a short grassy area. Also mentioned is the fact that when Mr Bentley was found, police officers had noted blistering of his skin and arms and that there was early decomposition. Dr Wills noted the distance over which Mr Bentley had travelled and the fact that the temperature on the Friday was as high as 39°C. Dr Wills opined that the effect of heat was a significant factor in Mr Bentley's death.

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<sup>1</sup> Exhibit C2a

- 1.13. Dr Wills' major pathological findings included skin slippage, drying and decompositional changes, predominantly to the anterior surface of the body. As well, there was post-mortem deterioration of internal organs. There were biochemical changes in keeping with dehydration and renal failure. There was also senile plaque seen with routine staining in the cerebral cortex which I understand is consistent with Alzheimer's dementia. Dr Wills has not reported any features of the post-mortem examination that would be consistent with physical trauma.
- 1.14. In his report Dr Wills cites the cause of death as dehydration and the effects of heat with contributing Alzheimer's dementia. Dr Wills states that the underlying Alzheimer's dementia may be regarded as an indirect contributory factor. I accept Dr Wills' opinions and find that the cause of death of Mr Bentley was dehydration and the effects of heat with contributing Alzheimer's dementia. In short, Mr Bentley died from exposure to the extreme conditions that prevailed during the period in which he was missing.
- 1.15. Dr Wills' report expresses the date of death as '*on or about 06/01/2017*'. That date is the date on which Mr Bentley left the facility at Pimpala Road without being detected. In his oral evidence Dr Wills was asked whether he could be any more specific about the time or date of death than what is stated in his report. Asked to elaborate on the date of death and whether that date was based in part on Dr Wills' observations during the post-mortem examination, Dr Wills said as follows:

'Only very loosely. The ability of pathologist to determine a time or a date of death is nothing like quite how it's portrayed in the media. There's really nothing that a pathologist can do that is better than observational evidence, so in this case because there's a reasonable post-mortem interval there's been changes of decomposition. It's really a very rough estimate probably no better than an educated guess, it's not really based upon firm science because there was no opportunity to test the body temperature which is probably the most reliable means of determining any time of death and even then that's not very reliable. We really then, it's a combination of the appearances of the body and the degree of decomposition, plus quite heavily the circumstances that we're relying on and the reason I said on or about was really because it's no more than an estimate, rather than a hard and fast pathological determination.'<sup>2</sup>

In his oral evidence Dr Wills added that given the temperature and the general circumstances surrounding Mr Bentley's death, he felt that in all probability Mr Bentley died closer to the point of last being seen on the Friday afternoon than the

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<sup>2</sup> Transcript, page 28

time at which he was found on the Sunday evening. Asked as to whether observations made during the autopsy were consistent with Mr Bentley having died on Friday 6 January 2017, which was the day he disappeared, Dr Wills said that this was possible, although he said it could have been later than that. Dr Wills said that it was also not impossible that Mr Bentley could have passed away on Sunday 8 January 2017, the evening on which Mr Bentley was located. However, Dr Wills said that Mr Bentley was a vulnerable individual who was out on a very hot day and given that the heat had lasted for a couple of days before things cooled down, he expected that Mr Bentley was likely to have succumbed sooner rather than later. Adding to that, Dr Wills said that Mr Bentley was unlikely to have developed that degree of decompositional change within the few hours prior to his being located.

- 1.16. In my view it would have been feasible for Mr Bentley to have arrived at the Field Street location on foot during what remained of 6 January 2017 following his disappearance. Of course, given the very high degree of likelihood that Mr Bentley was lost, it is possible that he meandered for a substantial period of time before he arrived at that location. On the other hand, given the random nature of the location at which Mr Bentley was found, it is conceivable that his journey on foot from Pimpala Road to Field Street was unwittingly taken by a fairly direct route in which case it would not necessarily have taken Mr Bentley that much time to arrive at that location. But it is difficult to imagine Mr Bentley wandering aimlessly in the heat during all of what was left of the Friday after he left the SWC and during all day Saturday and most of the Sunday before he arrived at the Field Street location. If he had been walking for that long his chances of being found would have been reasonably good. And there can be no suggestion other than that Mr Bentley died at the location where he was found. One matter that has exercised my mind is whether Mr Bentley may have survived for a period of time at the place where his body was ultimately located, and if so, whether he could have been revived if found before his death. It is not possible to say. It is possible that Mr Bentley collapsed and immediately died at the location at which he was found.
- 1.17. Taking all of the above into account I am inclined to agree with Dr Wills that Mr Bentley died closer to the time of his leaving the SWC on the Friday afternoon than to the time of the discovery of his body on the Sunday evening. In any event I am not certain that the distance over which Mr Bentley travelled is any reliable indicator of the time of his death. Having regard to Dr Wills' evidence I do not believe it is possible to

be precise about the date of Mr Bentley's death. I adopt Dr Wills' estimate as recorded in his report and find that Mr Bentley died on or about 6 January 2017.

1.18. Naturally, the time of Mr Bentley's death is relevant to the question as to whether his death could have been prevented, that is to say whether he could have been found alive during the search for him. That question of course is also dependent upon the nature of the search and its extent at various stages of the search, especially in its initial stages. Clearly, the earlier Mr Bentley died in the period between Friday afternoon and Sunday evening, the less likely his death could have been prevented. Conversely, the intensity of the search and the width of its geographical ambit in the early stages were relevant factors involved in the likelihood of Mr Bentley being located at an earlier point in time and therefore in the likelihood of his being located alive.

## 2. **Issues examined in the inquest**

2.1. There were a number of different issues investigated during the course of both the police investigation and this inquest. In my view it is not necessary for findings to be made in relation to each and every issue.

2.2. The principal issues include the following:

- The suitability of the SWC facility at 126 Pimpala Road, Morphett Vale as a respite venue for persons suffering from dementia;
- The adequacy or otherwise of the security arrangements in respect of the safety of the participants attending on 6 January 2017;
- The adequacy of scrutiny of the participants during the period of their attendance at the facility;
- The timeliness of the engagement of emergency services in the search for Mr Bentley;
- The adequacy and accuracy of information imparted by ECH staff to police regarding the circumstances of Mr Bentley's disappearance from the facility;
- The adequacy of the measures involved in the search for Mr Bentley;
- Whether Mr Bentley's death was preventable.

### **3. Background**

- 3.1. At the time with which this inquest is concerned, ECH operated the Southern Day Program (SDP) which was a Commonwealth funded social activity and respite care program run by ECH for people over the age of 65. The people who participated in this program were referred to as members of the program. Some, but not necessarily all, of the members suffered from dementia. Mr Bentley suffered from Alzheimer's disease to a significant degree. Mr Bentley attended the SDP in order to provide his wife with some respite. His wife, Mrs Sandra Bentley, has died since these events.
- 3.2. Mr Bentley had been engaged with the SDP since 2016. Mr Bentley attended on Fridays. The program was habitually held at the Cana Chapel situated in Happy Valley. I understood from the evidence that this facility had a fence and other safety features and was regarded as a more secure facility. However, it was discovered over the Christmas / New Year period of 2016 that the Cana Chapel facility had sustained suspected water damage and that this had given rise to an unacceptable odour. A decision was therefore made to relocate the program. It was decided to relocate the program to the SWC at 126 Pimpala Road, Morphett Vale, another facility operated by ECH but which was used in the main for physical activities. It possessed gymnasium and other equipment. The first day of the relocation of the program was Wednesday 4 January 2017. The program also took place at the SWC on 5 and 6 January 2017. Mr Bentley attended for the first and only time at that facility on Friday 6 January 2017. On that day approximately 15 members, who were all elderly individuals, attended the program. They were conveyed to the SWC on Pimpala Road by various means. Mr Bentley was transported by an ECH carer. On that day five ECH staff members were present at the SWC. Their task was to supervise and generally look after the members by providing them with and supervising their activities and serving them lunch. As mentioned earlier, the Friday was a very hot day and so the entire program for that day was conducted inside at the SWC. The program operated from 10am to 3pm. Carers and family members began arriving at the SWC sometime between 2:30pm and 3pm in order to transport the members home.
- 3.3. The people operating the facility on the day in question were known as activity assistants. They were employed by ECH. In the normal course of events there would have been a team leader for the activity assistants. However, that day a team leader was not available. Although an ECH program coordinator, Ms Kate Kenning, was

present at the facility, her role was not so much in the nature of a care provider but as a coordinator for the day's program. Ms Kenning spent most of her time in an office from which the activities of the members could not be seen.

- 3.4. During the course of the inquest the Court conducted a site inspection of the SWC at 126 Pimpala Road, Morphett Vale. Other evidence was given about the features of this building. The program was conducted for the most part in a large room that had gymnasium equipment and other furniture in it as well as a large television on the wall. Movement in and out of this main room was through six doors that all led to other parts of the building including to a toilet. A set of double doors led to a foyer that in turn had double doors that led to the exterior of the building. A number of copies of the floorplan of this building were tendered during the inquest and were marked by various witnesses. The large room in question is the largest room on the floorplan and is marked '*OCCUPATIONAL THERAPY*'. This was the area of the building in which most of the activities took place. I shall refer to this room as the 'main OT room'. There are other smaller rooms also marked as occupational therapy rooms (OT rooms). One of the doors of one of the smaller OT rooms had an external door to the outside. There was another external door that led off a hallway past another OT room which was that room occupied by the coordinator, Ms Kenning.
- 3.5. There was a great deal of evidence given during the course of the inquest about the state of the various doors that led to the exterior of the building. It is not necessary in these findings to go into the same level of detail. Suffice it to say there were exits from the building that, although they could be locked from the outside so as to prevent unauthorised entry to the building, could not be deadlocked from the inside. This meant that regardless of the fact that they may have been locked from the outside, a person could open the door from the inside and exit the building through one of these doors. It is clear that Mr Bentley must have left the building by one of these doors and did so unseen by any of the ECH staff members.
- 3.6. Mr and Mrs Bentley had two children, Andrew Bentley and Kristen Risby. Ms Risby made a statement dated 14 September 2021 that was tendered to the inquest.<sup>3</sup> Ms Risby's statement indicates that her parents lived in Somerton Park. In her statement Ms Risby describes her father's decline with Alzheimer's disease.

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<sup>3</sup> Exhibit C11

Mr Bentley's decline had been progressive over a number of years. Mrs Bentley had found it difficult to care for Mr Bentley. Ms Risby states that her mother's social interactions with friends and family were contracting because of her father's discomfort with unfamiliar settings and people. Ms Risby describes how the interaction with ECH was initiated. Her mother sought the services of ECH for respite purposes. Ultimately, ECH was engaged to provide respite care including through the day program. This involved Mr Bentley being collected from and returned to their home at Somerton Park. This would occur on Fridays.

- 3.7. Significantly, Ms Risby's statement asserts that her father had a tendency to wander and that he would become disoriented on occasions. He would forget to eat and drink and required prompting for him to do so. One of her father's regular activities had been to walk 200 metres down the road to buy the newspaper. However, her mother had become increasingly nervous about Mr Bentley doing this and at some point this activity ceased. Mrs Bentley was concerned that her husband would become disoriented and would not be able to find his way home. When Mr Bentley was in an unfamiliar environment he often became agitated and displayed discomfort, confusion and nervousness. Ms Risby asserts that ECH were aware of her father's illness and with his confusion and tendency to wander.
- 3.8. Also by way of background, Ms Risby stated that Mr Bentley was often confused and that this caused anxiety. On outings she observed her father being confused about where he was. He would stop and take in his surrounds and it appeared that he was looking for people or things that were familiar to him. He would glance at Ms Risby and not be able to connect with who she was. Mrs Bentley had been adamant that Ms Risby's own husband should not let Mr Bentley out of his sight when in his company. According to Ms Risby, her husband would also report that Mr Bentley would become confused about where he was or what he was doing. He would struggle to navigate traffic when crossing the road.
- 3.9. As indicated earlier, the day program normally operated out of a facility in Happy Valley. Ms Risby asserts that her mother was not advised that the day program would not be held at the Happy Valley location but at another location with which Mr Bentley was not familiar. Ms Risby's statement asserts '*if my Mum was aware that my Dad was going to a new location or an unfamiliar one, she would not have allowed this to occur*'. Her mother had told her this after Mr Bentley had died. This attitude was consistent with other decisions her mother made about Mr Bentley. That Mr Bentley

was unexpectedly taken to the premises at Morphett Vale for the program on 6 January 2017 was independently corroborated. The carer who transported Mr Bentley to and from the program did not know about the change of venue until she and Mr Bentley arrived at the Happy Valley facility and there saw a notice saying that the program was being conducted that day at the SWC on Pimpala Road. Taking into account all of the above, it is by no means surprising that Mrs Bentley would have been very unenthusiastic about allowing her husband to attend an unfamiliar location had she known about it.

- 3.10. I have accepted all of Ms Risby's evidence about Mr Bentley as encapsulated in her witness statement.
- 3.11. An ACAT<sup>4</sup> assessment dated 20 January 2016 detailed that Mr Bentley had wandered away when accompanying a carer to the shops. Mr Bentley only had carers from ECH. The records of ECH contained numerous references to his condition and his propensities. Various records of ECH concerning Mr Bentley were tendered to the inquest.<sup>5</sup> The fact that Mr Bentley suffered from Alzheimer's disease was well-documented, including the fact that his wife could not leave him at home by himself and for that reason she had requested in-home respite and social support.<sup>6</sup>
- 3.12. The ECH records included a service plan that had a general instruction to maintain visual contact with Mr Bentley. The service plan also suggested that Mr Bentley should be prompted to have his lunch and to have adequate fluid intake. Additionally, if Mr Bentley was to be taken on an outing, visual contact needed to be maintained as Mr Bentley tended to become easily distracted and enjoyed chatting to strangers.<sup>7</sup> There are other references to Mr Bentley needing to be prompted to eat.
- 3.13. There was also a resident care plan compiled for Mr Bentley.<sup>8</sup> This document indicated that Mr Bentley liked to chat, was very social and had good mobility. The document specifically stated as follows:

'Carer would like some respite as unable to leave John unattended for concern that he may wander off or invite strangers into the house.'<sup>9</sup>

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<sup>4</sup> Aged Care Assessment Team

<sup>5</sup> Exhibits C9 and C9a

<sup>6</sup> Exhibit C9, page 5

<sup>7</sup> Exhibit C9, page 49

<sup>8</sup> Exhibit C9, pages 92-94

<sup>9</sup> Exhibit C9, page 92

Additionally, the document referred to the fact that Mr Bentley was physically fit and mobile and would enjoy going on an outing to the local shops, to a café or for a walk. The document, which was a proforma document, required a description of any behaviour changes that the client displayed, for example wandering, disorientation/confusion, aggressive behaviour and delusions. As far as Mr Bentley was concerned the document recorded as follows:

'Can become verbally aggressive if frustrated  
Has wandered off or got disorientated on his way (sic) back from the shops.'

The document also stated that Mr Bentley enjoyed going for a walk.

#### **4. The suitability of the SWC facility at 126 Pimpala Road, Morphett Vale as a respite venue for persons suffering from dementia**

4.1. In my view this issue can be dealt with succinctly. Mr Tom Besanko of counsel appeared in the inquest on behalf of ECH and a number of its employees who gave evidence in the inquest. He also represented Dr David Panter who was the Chief Executive of ECH. In a written submission to the Court and in oral submissions, Mr Besanko acknowledged on behalf of ECH that there were failings by ECH that led to the events that occurred on 6 January 2017. ECH acknowledges the following:

- ECH should not have allowed Mr Bentley to leave the SWC in the circumstances that he did. ECH accepts responsibility for this. ECH is profoundly and sincerely apologetic to Mr Bentley's family for what occurred.
- ECH accepts that the Southern Day Program should not have been relocated to the SWC on 4 January 2017. ECH acknowledges that it was not an appropriate facility for the operation of that program. It acknowledges that the service instead ought to have been cancelled.
- ECH does not criticise the staff who made the decision to relocate the program to the SWC and submits that the staff who participated in that decision should not be criticised for that decision. I indicated during the course of this inquest that I did not intend to criticise either of those two individuals. The fact remains, however, that the acknowledgment that the program should not have been moved to the SWC is a correct acknowledgement.

- The root cause of Mr Bentley's death was ECH's failure to have a written policy that would have enabled staff to understand that relocation of services, such as the Southern Day Program, was not permitted.
- ECH accepts that the staff members who made the decision to relocate the service would not have been aware that it was the position of senior ECH management that the program should not be relocated. ECH acknowledges that there was a failure on ECH's part to have a written policy prohibiting relocation and that there was a failure to make staff members aware of that policy.
- ECH acknowledges that the staff who performed a risk assessment in relation to the SWC premises as a suitable relocated venue should not have been performing that task. Simply put, this is because ECH acknowledges that the venue should not have been changed in the first place.

4.2. I agree with all of those acknowledgements made by Mr Besanko on behalf of his client ECH. In my opinion the SWC was not a suitable facility as a respite venue for persons suffering from dementia. It is clear that the facility was simply not secure enough in that some doors of the building could not be deadlocked from the inside. This was a significant deficiency that gave rise to a safety issue that was foreseeable, particularly in relation to a member such as Mr Bentley who had a documented propensity to wander, a propensity that was known to ECH.

**5. The adequacy or otherwise of the security arrangements in respect of the safety of the participants attending on 6 January 2017**

5.1. I have already referred to a risk assessment conducted by ECH staff. The risk assessment was conducted by Ms Kate Kenning, a SDH co-ordinator, and Ms Moira Noonan, an ECH program manager and registered nurse. Any risk assessment should have taken into consideration the fact that the doors leading to the exterior of the premises could not be deadlocked from the inside and that this constituted a serious and probably prohibitive security challenge especially for persons suffering from dementia and who had a documented propensity to wander. To my mind a risk assessment that had identified those features would inevitably have given rise to a conclusion that the venue was unsuitable as a respite facility for dementia affected persons. In any event a proper risk assessment would also have taken into consideration the need for a greater

number of staff members to supervise 15 elderly individuals, some of whom suffered from dementia.

- 5.2. The only means of maintaining adequate security in respect of the safety of the members in a premises such as this would have been for a greater number of staff members to be on hand. Those staff members would have had a responsibility to conduct head counts on a regular basis. Individual members of the program would have been allocated to specific staff members for personal supervision. In the event, on 6 January 2017 there was no systematic allocation of the program members to members of ECH staff and head counts were not conducted. Rather, it was expected that staff members would have a general responsibility to keep an eye on the group as a whole. This was a classic case of a situation in which everyone's responsibility was no-one's responsibility.
- 5.3. A proper risk assessment would also have taken into consideration the individual known propensities of the program members, and in particular whether there were members who might be more inclined than others to leave the facility aimlessly. As well, specific permission should have been obtained from the member's usual carers allowing for the change of venue.
- 5.4. A proper risk assessment should have led to a conclusion that the SWC premises was not suitable for any person who presented as a risk for wandering. As indicated above, I agree with ECH's acknowledgment that the change of venue should not have occurred at all and that the persons who conducted the risk assessment should not have been put in a position where they were required to make such an assessment.
- 5.5. The SWC premises was an insecure facility for the care of persons suffering from dementia, even on a temporary basis.

**6. The adequacy of scrutiny of the participants during the period of their attendance at the facility**

- 6.1. The scrutiny of members was manifestly inadequate. It cannot be known precisely when Mr Bentley left the premises, but I have accepted the evidence of the five individual ECH staff members who were present at the facility that they had no recollection of seeing Mr Bentley beyond about 1:30pm and that he had remained unobserved from this time forward.

- 6.2. The evidence as to whether the individual activity assistants were fully aware of Mr Bentley's propensities, and in particular to wander was inconsistent and obviously patchy at best. Each of the assistant's should have known of those matters chapter and verse. The information was readily available in Mr Bentley's care plan. ECH should have ensured that staff knew of Mr Bentley's specific risks.
- 6.3. To my mind the failure to recollect Mr Bentley in the case of each of the staff members reflects a failure on their part individually and collectively as a group to maintain proper surveillance of the members. In my opinion this is explained by three failures. Firstly, as mentioned, I am not sure that the staff members had a perfect understanding of the risk that Mr Bentley presented. Secondly, no head counts were conducted during the course of the afternoon of Mr Bentley's disappearance. Head counts should have been conducted on a regular basis. Thirdly, the individual ECH staff members should have been assigned to maintain scrutiny of named individual members. This at least would have gone some way in ensuring that at any given time an ECH staff member could guarantee the presence of and account for the program participants to whom they were assigned for surveillance. Mr Bentley's absence from the facility was only noticed for the first time at approximately 2:55pm. He had not been seen since about 1:30pm. In my view this can only be explained by inadequate scrutiny conducted in a premises that was already insecure.

7. **The timeliness of the engagement of emergency services in the search for Mr Bentley**

- 7.1. As seen above, Mr Bentley's absence from the facility was noticed for the first time at 2:55pm. Ms Kenning, the program co-ordinator, was the ECH staff member who called 000. In that call she told police communications that Mr Bentley had been noticed missing at 5 minutes to 3. I therefore discuss this issue on the basis that Mr Bentley's absence was noted at 2:55pm. It is not known exactly how long Mr Bentley had left the premises prior to that time.
- 7.2. I have accepted Ms Kenning's evidence that she first found out about Mr Bentley's absence at about 3:05pm. In the period between 2:55pm and 3:05pm, ECH staff had conducted a preliminary search for Mr Bentley. He could not be located. I think it is fair to say that after those ten minutes of unsuccessful searching it could have been

inferred that Mr Bentley had possibly departed the property; or at least staff could have acted on that basis given his documented propensity to wander.

- 7.3. Ms Kenning's call to police would not occur until 3:29pm. That time is confirmed by Telstra records.<sup>10</sup> There are other records that confirm that time. I did not understand there to be any real dispute that that was the time the call was made, notwithstanding Ms Kenning's apparent shock when she was confronted with that fact in the witness box.
- 7.4. The above timeline meant that Ms Kenning rang the police approximately 24 minutes after she had been told that Mr Bentley could not be found on the premises and approximately 34 minutes after Mr Bentley had been noticed missing.
- 7.5. A police SACAD communications entry is timed at 3:32pm. Police arrived at the facility at 3:45pm.
- 7.6. The issue ventilated in the inquest was whether there had been an undue delay in Ms Kenning telephoning at 3:29pm.
- 7.7. In any decision that needed to be made about whether or when to call the police, a number of matters needed to be quickly taken into consideration. Firstly, by the time Ms Kenning became aware of the fact that Mr Bentley could not be found, several minutes had passed since it was realised by others that he was absent. There had been an unsuccessful initial search, there was uncertainty about how long it had been since he had left the facility and Mr Bentley's known dementia and propensities to wander all meant, and not just in hindsight, that there was a real possibility that Mr Bentley might not be located safely without professional assistance. Another matter that needed to be taken into account was the fact of the heat which meant that locating Mr Bentley quickly was a matter of extreme priority. Then there was the fact that Mr Bentley was 80 years old albeit physically fit for his age. Then of course there was the fact of his dementia and the possibility that he might not fully appreciate the danger that the temperature presented to him. There was always the real possibility if not likelihood that Mr Bentley would soon become lost. There was therefore an unlikelihood that he would return to the facility of his own accord.

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<sup>10</sup> Exhibit C35

- 7.8. Taking all those matters into consideration, there was an inescapable conclusion available that professional help was required immediately.
- 7.9. In my view there is no room for criticism of the initial search by staff including a brief search by Ms Kenning when she learnt that Mr Bentley was missing. However, there was a need for such a search not to be unduly protracted given the circumstances that I have described above. In any event, there was no reason why the police should not have been called when it was discovered that Mr Bentley was absent and after the initial search of the premises. If Mr Bentley had been successfully located pending the arrival of police, then police could be informed accordingly. To put it in another way, there was no reason why police could not have been called while initial searches were still occurring.
- 7.10. In my opinion police should have been called once it was established that Mr Bentley was not on, or in the immediate surrounds of, the premises.
- 7.11. Instead, a number of phone conversations occurred between Ms Kenning and other members of the ECH staff about what to do. This delayed matters unnecessarily. Mr Besanko has accepted on behalf of ECH that ECH should have had a missing persons policy that applied specifically to this particular respite program. I agree. And such a policy should have been readily understood by staff.
- 7.12. In my view the delay in calling the police was longer than it should have been. I think this is accounted for by simple errors of judgment and a failure to take into account the conditions and the circumstances of Mr Bentley's disappearance.
- 7.13. It is not possible to determine what difference, if any, an approximate 30 minute delay made in respect of the chances of finding Mr Bentley. It will be remembered that Mr Bentley had not been seen since about 1:30pm. As will be seen, police would act on the erroneous assumption that he had last been seen at about 2:55pm. If he had left the premises not long after 1:30pm, the failure to realise that he could have been gone significantly earlier than 2:55pm was of more significance than a 30 minute delay in calling the police.
- 7.14. It is impossible to say that Mr Bentley's death could have been prevented if police had been called sooner.

8. **The adequacy and accuracy of information imparted by ECH staff to police regarding the circumstances of Mr Bentley's disappearance from the facility and the time at which he was last seen**

8.1. It is necessary to examine this issue in depth. This is so for two reasons. Firstly, police who are experienced in searches for missing persons have expressed the view that the time at which Mr Bentley was last seen at the facility was a fundamental element in the potential success or otherwise of the search for him. I do not believe there is any controversy about that. Secondly, however, counsel for the Commissioner of Police does not accept that any confusion as to the time at which Mr Bentley was last seen was contributed to by any act or omission on the part of police. There is controversy about that.

8.2. Ms Kate Kenning who was the program coordinator, rang triple zero at 3:29pm. Her call was audio recorded and a copy of the recording was tendered to the inquest. The call involved a short conversation in which Ms Kenning said the following;

'Um we run a dementia respite service and one of our members has gone missing. We noticed them missing about five minutes to three.'<sup>11</sup>

The operator asked Ms Kenning to confirm '*since about five to three?*' and Ms Kenning answered affirmatively. There then followed discussion about Mr Bentley, his age, what he was wearing, the fact that he had dementia but that he did not need any assistance in walking. Ms Kenning said that '*he walks fine*'. Ms Kenning added that due to Mr Bentley's dementia they were concerned as '*it's hot obviously*'. The operator told Ms Kenning that police would now be sent to 126 Pimpala Road, Morphett Vale.

8.3. It will be observed that Ms Kenning's language was reasonably precise in relation to the circumstances in which Mr Bentley was missing. She said that they *noticed* him missing at about five minutes to three, or 2:55pm. Properly understood, what Ms Kenning was saying was that Mr Bentley's unexpected and undesired absence from the dementia respite service was detected at 2:55pm. The information imparted by her did not explicitly state when Mr Bentley had last been seen at the dementia respite service. Nor did the fact that Mr Bentley was said to have been noticed missing at 2:55pm necessarily convey to the operator that this was when Mr Bentley had actually left the premises. I think it could and should have been inferred by the operator that

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<sup>11</sup> Exhibit C35

Mr Bentley had not been seen to actually leave the premises owing to the fact that he was reportedly noticed as being missing. Therefore, when he had last been seen at the premises was very much an open question in terms of the information imparted in this phone call. The operator did not ask Ms Kenning when Mr Bentley had last been seen at the facility. Nor did Ms Kenning volunteer any information along those lines.

- 8.4. As information would come to hand, Ms Kenning's assertion in the triple zero call that Mr Bentley was noticed missing at about 2:55pm was fairly accurate. There is no evidence that Mr Bentley was last seen either at or shortly before 2:55pm. Naturally, if Mr Bentley had been seen leaving or been seen attempting to leave the building by one of the carers, he would have been stopped by whoever saw him.
- 8.5. As will be seen in the course of this section of these findings there was in my view an unfortunate imprecision of language used when police arrived at the facility and conversed with Ms Kenning and possibly others about the topic of when it was that Mr Bentley had left the premises or could have left the premises. It is the Court's finding that Mr Bentley had not been seen or noticed on the premises since about 1:30pm. That was the approximate time at which the members all sat down to watch a movie on the television in the main OT room. All of the ECH staff who were present at the premises that afternoon were called to give evidence. Not one of them claims to have seen Mr Bentley at any stage after the approximate time the movie was started. I do not believe that Mr Bentley was observed to be on the premises after approximately 1:30pm that day.
- 8.6. However, as things would transpire, police that day and on the Saturday coordinated and conducted their searches on the basis that Mr Bentley had last been seen at the premises not long before or at 2:55pm. However, in my view the reality was that there was a possibility that Mr Bentley had left the premises at a time between 1:30pm and 2:55pm when he was noticed missing.
- 8.7. The discrepancy between 1:30pm and 2:55pm was important. Police would have approached the search for Mr Bentley differently if they had understood that Mr Bentley had last been seen at about 1:30pm. The search would have been conducted on the basis that Mr Bentley may have left the premises soon after he was last seen at 1:30pm. On that basis, the search for Mr Bentley would have been wider and his chances of being found would accordingly have been improved.

- 8.8. SACAD (CAD) is a police computerised communication device. It records police communications that can be displayed on a computer screen including within a police vehicle. For example, when information is received from a member of the public at police communications, the operator will enter information onto the CAD system. This information will be available to police in the field by using the onboard computer in their police vehicle.
- 8.9. There was a CAD entry made in relation to Ms Kenning's call on the afternoon of 6 January 2017. This CAD entry was timed at 3:32pm, about three minutes after her call. This communication was recorded and displayed on the CAD system in the following terms:

'DEMENTIA RESPITE SERVICE...ONE PERSON NOW MISSING SINCE 1455HRS...JOHN BENTLEY 11/10/36 (80YRS)...LAST SEEN WEARING BEIGE PANTS/CHECK SHIRT/WEARS GLASSES/DARK BROWN HAIR/WALKS FINE...HAS DEMENTIA... LIVED AT 1 SULLIVAN ST SOMERTON PARK SO WOULD BE UNFAMILIAR WITH AREA PATROL TO ATTEND AS CONCERN RE WELFARE IN HOT WEATHER.'<sup>12</sup>

Unfortunately, in my opinion the way this information was recorded, namely that Mr Bentley was *now missing since 1455*, was capable of conveying to the reader that Mr Bentley had left the premises at 2:55pm or had last been seen not long before 2:55pm. What Ms Kenning had said was that Mr Bentley had been *noticed missing* at about 2:55pm which left open the possibility that he had left the facility significantly earlier or had last been seen at the facility significantly earlier than 2:55pm.

- 8.10. A uniform police patrol manned by Senior Constables Luke Ormesher and Andrew Paterson arrived at the SWC premises at 126 Pimpala Road at approximately 3:45pm. The two officers were responding to the report of the missing person as per the CAD entry above. Those two officers were ultimately joined by Sergeant Garry Elliott. Sergeant Elliott also had access to the CAD entry.
- 8.11. At 3:52pm the following was entered onto the CAD system. I am uncertain as to whether this was as the result of the actions of Ormesher or Patterson. In any event it

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<sup>12</sup> Exhibit C14c

was entered onto the system only a matter of a few minutes after their arrival at the SWC. In that short period of time a conclusion seems to have been reached as follows:

'11 - IS DAYCARE FACILITY, 1455HRS LEFT, WAS DROPPED OFF TO A/A BY CARER FROM HIS HOME ADDRESS SOMERTON PARK AS PER TEXT. ' <sup>13</sup>

This piece of information is reflective of a belief on the part of the communicator that Mr Bentley had left the facility at 14:55 hours, an erroneous belief as things transpired.

- 8.12. As to the evidence about the time at which Mr Bentley was last seen on the afternoon in question, or was noticed missing from the facility, the five ECH staff members all gave oral evidence. There were also statements and/or written notes made closer to the time of these events that had been prepared by or on behalf of some of these witnesses and which were tendered to the inquest. These witnesses also gave evidence about what was, or may have been, conveyed to police about the time Mr Bentley was last seen at the facility.
- 8.13. Ms Melanie Tee was an ECH activity assistant. In her witness statement dated 8 October 2021<sup>14</sup> Ms Tee stated that around 1:30pm, immediately prior to the commencement of the movie, Mr Bentley and some other male members assisted in setting up rows of chairs facing the television in the main OT room.
- 8.14. In her oral evidence Ms Tee asserted that this was the last time that she could recall seeing Mr Bentley on the premises.<sup>15</sup> When carers or family members arrived at the facility sometime after 2:30pm to collect and transport the members to their homes, Mr Bentley's absence from the premises was discovered when Ms Way, Mr Bentley's carer and driver, asked about Mr Bentley's whereabouts. There was some evidence given in the inquest about alleged statements attributed to Ms Tee to the effect that Mr Bentley was in the toilet at that time. In my view all of that had amounted to no more than speculation as to where Mr Bentley may have been, but there is no evidence from any source that he was actually seen to go to the toilet at around the time the members' carers arrived at the facility to transport them. In any event Mr Bentley was not found in the toilet. He had left the premises at some point.

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<sup>13</sup> Exhibit C14c

<sup>14</sup> Exhibit C21

<sup>15</sup> Transcript, pages 261, 266 and 274

- 8.15. As to what if anything Ms Tee may have told the police on their arrival, she said in her evidence that she could not recall any discussions with police, but that police were speaking to the ECH managers. In cross-examination Ms Tee said that she could not recall having discussions with other staff members regarding the time at which Mr Bentley had last been seen. In particular, she said that she could not recall speaking with Ms Kenning about when she recalled last seeing Mr Bentley that afternoon. I accepted Ms Tee's evidence that she had not seen Mr Bentley since the setting up of the chairs at about 1:30pm and that she did not say anything to anyone, including the police, to the contrary.
- 8.16. Ms Emily Williams was another activity assistant that afternoon. Ms Williams made a statement dated 28 September 2021.<sup>16</sup> In that statement she said that at approximately 1:30pm following lunch the chairs were set up for the members to watch the movie. She stated that she recalled seeing Mr Bentley sit down to watch the movie.
- 8.17. In her oral evidence Ms Williams said that she recalled seeing Mr Bentley sit down to watch the movie at 1:30pm and could not recall seeing him engaged in watching the film.<sup>17</sup> She said that she recalled telling Ms Kenning that Mr Bentley was missing. At one point she went and searched for Mr Bentley in her car. The police were on the premises when she returned.
- 8.18. Ms Williams told the Court that she did not speak to any of the police. Ms Williams said in evidence that she did not recall anybody asking her that afternoon when it was that she had last seen Mr Bentley, although she was unsure as to whether she would have remembered that if she had in fact been asked. There is no other evidence of Ms Williams saying to any person, be it the police or otherwise, that Mr Bentley had been seen any later than 1:30pm. Ms Williams' statement suggests that Mr Bentley's absence from the premises was realised when the members' carers started arriving to collect them at approximately 2:40pm. I accept Ms Williams' evidence that her last recollection of Mr Bentley is seeing him sit down to watch the movie which would have been at approximately 1:30pm. I accept her evidence that she does not recall saying anything to any other person about the time she last saw Mr Bentley.

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<sup>16</sup> Exhibit C22

<sup>17</sup> Transcript, page 348

- 8.19. Ms Amy Ewens was another activity assistant that afternoon. Ms Ewens also provided a statement. The statement is dated 30 September 2021.<sup>18</sup> Ms Ewens handed out ice-creams following the lunch that was provided to the members. This occurred not long before the movie was started. In her witness statement she asserted that the movie was put on at approximately 1pm.<sup>19</sup> Thereafter she could not recall seeing Mr Bentley during the movie which was switched off at around 3pm when carers started arriving to collect their members.
- 8.20. In her oral evidence Ms Ewens said that her last recollection of seeing Mr Bentley was when he approached her in the main OT room because she had the ice-creams. This was at the end of lunch time.<sup>20</sup> Ms Ewens believed that this occurred just out of the main OT room and it occurred before the movie started.
- 8.21. Ms Ewens stated in her evidence that after Mr Bentley's disappearance there had been some discussion between staff about the last time Mr Bentley had been seen. Her recollection of the discussion was that she had not seen him since giving him an ice-cream just after lunch. Asked as to what others had said about that topic she said *'He was at the movie, maybe. That's all I can remember'*.<sup>21</sup> In her oral evidence Ms Ewens also stated that she had searched in her car for Mr Bentley and that when she returned there was an event in which some staff members sat around a table with a police officer and other staff including Ms Kenning. She said that she recalled that there was discussion about the last time that Mr Bentley had been seen.<sup>22</sup> Ms Ewens thought it was possible that she had spoken to the police about when Mr Bentley went missing and that she had advised police that Mr Bentley had not been seen since 2:55pm.<sup>23</sup> She agreed under cross-examination that it was possible that she had told police that Mr Bentley was last seen *'about an hour ago'*, but that she had no recollection of having done so. The cross-examination in which these answers were given was conducted by counsel for the Commissioner of Police, Ms Gavranich. The questions were put generally in terms of whether it was 'possible' that Ms Ewens had said various things to the police. To my mind having observed Ms Ewens and having read and re-read the transcript of her cross-examination, Ms Ewens' acknowledgements

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<sup>18</sup> Exhibit C23

<sup>19</sup> Exhibit C23, paragraph 34

<sup>20</sup> Transcript, page 381

<sup>21</sup> Transcript, page 395

<sup>22</sup> Transcript, page 395

<sup>23</sup> Transcript, page 399

that something was possible amounted to simple acknowledgements that she had no recollection of what she was being asked to concede as a possibility, but that she could not in her own mind discount the possibility. None of this elevated her concessions of possibility to fact. In re-examination by Ms Roper of counsel assisting, Ms Ewens was asked whether she had seen Mr Bentley about an hour before police arrived at the facility. To this she said that if she said this she was probably referring to the ice-cream incident. We know that this occurred significantly before the arrival of police and as early as 1:30pm. Ms Ewens was asked in re-examination to reconstruct the time at which she had last seen Mr Bentley on the assumption that if police had arrived at 3:45pm it would mean that she had possibly seen him at 2:45pm. When this reconstruction was put to Ms Ewens she said that she did not think that it was correct. She said in re-examination that she probably could have said to the police that she had seen him at 2:45pm or 2:55pm, but she said:

'If I said it was an hour ago I'm assuming I was in some panic and probably just said an hour ago as an approximate and obviously that was not helpful.'<sup>24</sup>

The fact of the matter is that Ms Ewens has no actual recollection, and had no recollection on the day of these events, of seeing Mr Bentley at any time after she gave him an ice-cream. Ms Ewens' assertions that she had last seen Mr Bentley at 1pm or 1:30pm, or at any rate when the ice-creams were handed out after lunch, were not the subject of serious challenge. I do not believe that Ms Ewens saw Mr Bentley at any time after she gave him an ice-cream at about 1:30pm. I regard it as highly unlikely that Ms Ewen's told police that she had seen Mr Bentley at or about 2:55pm.

- 8.22. Ms Christine Rampling was another activity assistant on duty at the facility that afternoon. Ms Rampling had given a witness statement to police on 11 January 2017 which was a few days after Mr Bentley's body had been discovered.<sup>25</sup> Ms Rampling had also prepared a handwritten document on the evening of Mr Bentley's disappearance. These notes were exhibited to an affidavit of Ms Rampling that I will refer to in a moment.<sup>26</sup> Ms Rampling had also made very brief handwritten notes that she had prepared at the request of Ms Moira Noonan who was one of the ECH senior staff. These notes were also made on the evening of Mr Bentley's disappearance. Ms Rampling provided those notes to Mrs Noonan before

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<sup>24</sup> Transcript, page 399

<sup>25</sup> Exhibit CR3 to the affidavit of Christine Rampling, Exhibit C26

<sup>26</sup> Exhibit CR1 to the affidavit of Christine Rampling, Exhibit C26

leaving the SWC that evening.<sup>27</sup> The very short note states that she had last seen Mr Bentley at the beginning of the DVD when she saw his side profile from the other end of the row of seats. When carers arrived to pick up the members, Ms Rampling had gone to see Kate Kenning for some change of venue notices for the following week. The note suggests that she did not know/notice Mr Bentley's presence or lack of that at that point.

- 8.23. The more fulsome handwritten document that Ms Rampling prepared later than evening, and which is attached to her affidavit, asserts that the DVD commenced at approximately 1:30pm and that Mr Bentley was seated in the second row of seats. She saw his side profile. In that document she describes Ms Kenning entering the main OT room at approximately 2:40pm. At one point a female member requested to go to the toilet and Ms Kenning showed her where the toilet was. At approximately 2:45pm or 2:50pm carers began to arrive to transport their members home. At one point Ms Rampling went into Ms Kenning's room and then returned to the main OT room where at 2:55pm she turned off the DVD and explained to the members that the movie was about to become sad, to which many of the members responded that they did not wish to watch the end of it. Another female member indicated that she wanted to go to the toilet which was occupied. Ms Tee said that she thought that Mr Bentley was in the toilet at that point, but I have found, as indicated earlier, that Ms Tee did not know that Mr Bentley was in the toilet, but that if anything had been said about that it was mere speculation arising from the fact that he could not immediately be seen. In any event Mr Bentley was not in the toilet. Ms Rampling began a search of the building for Mr Bentley. She then told Ms Kenning that Mr Bentley was missing. This handwritten document does not suggest that Ms Rampling saw Mr Bentley any later than when the DVD had begun screening at approximately 1:30pm, although it can be interpreted as being open ended as to when she had last actually had eyes on him. Nevertheless, when Ms Rampling gave her statement to the police on 11 January 2017 she stated explicitly that she last saw Mr Bentley at about 1:30pm on the day in question. At that time he was seated in the main OT room and was watching a DVD with other members. She said that the DVD commenced at about 1:30pm. She then went on to say in her statement that at about 3pm she noticed that Mr Bentley was no longer in the hall area. With the assistance of other staff members they checked the entire SWC complex and

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<sup>27</sup> Exhibit C9a, pages 14-15

came to the realisation that Mr Bentley was missing. She then advised Ms Kenning of that circumstance.

- 8.24. Ms Rampling's affidavit<sup>28</sup> does not explicitly state at what time she last saw Mr Bentley on 6 January 2017, but she adopts her handwritten notes as an account of what happened that day and exhibits the statement that she made to police on 11 January 2017 and does so without suggesting in the affidavit that anything in that statement was incorrect.
- 8.25. Ms Rampling gave oral evidence in the inquest at some length. In her evidence-in chief she confirmed that the DVD began playing at approximately 1:30pm<sup>29</sup> and that she had a memory of seeing Mr Bentley at that time.<sup>30</sup> When carers started arriving she left the main OT room to go to Ms Kenning's office and then returned to the main hall. She said that she could not say that she saw Mr Bentley at the time that she got up from her seat.<sup>31</sup> She also asserted that she had no recollection of Mr Bentley responding when she addressed the group to ask whether they wanted to watch the end of the movie. She did not notice whether or not anyone was missing at that stage. In questioning by me I gained an impression that Ms Rampling was evasive about if and when she had seen Mr Bentley during the playing of the movie and in relation to what she had said about that to the police. I asked Ms Rampling whether she had last seen Mr Bentley at 1:30pm or whether that was her last recollection of having seen him, to which she said that that was so, but that he would have had to have been there. When asked again as to whether her last recollection was seeing him at the beginning of the movie, she said '*that's what I have written, yes*'.<sup>32</sup> She was then asked:

- 'Q. You don't have any recollection of seeing him after the beginning of the movie.
- A. I would have had to have because we keep checking and looking and seeing how people are going and they're reaction and anybody needing any help. We just scan the room a lot.
- Q. So when the police arrived, was it at that stage that your last recollection of having seen Mr Bentley was at 1.30 when the movie started.
- A. Yes.'<sup>33</sup>

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<sup>28</sup> Exhibit C26

<sup>29</sup> Transcript, page 522

<sup>30</sup> Transcript, pages 524-525

<sup>31</sup> Transcript, page 528

<sup>32</sup> Transcript, page 536

<sup>33</sup> Transcript, page 536

In any event I have no hesitation in finding that when Ms Rampling told police on 11 January 2017 that she had last seen Mr Bentley at about 1:30pm she was telling the truth. I do not believe that Ms Rampling saw Mr Bentley after 1:30pm.

8.26. As to Ms Rampling's evidence about what was said to the police about the time at which Mr Bentley was last seen, Ms Rampling told the Court that a police officer spoke to the group after she returned to the facility having searched for Mr Bentley. The time was about 5pm. She said that the officer did not ask any questions of her, but asked the members of the group as to when Mr Bentley had last been seen. She said the following in evidence:

'A. Yes, yes. As I said, I'd seen him at approximately 1.30, and all the members were present during the movie. We assumed that he left when the carers came in and there was people moving and the doors opened and shut, so we said to the police it was 3 o'clock.

Q. When he'd last been seen.

A. Yes.

Q. Who said that in particular to the police.

A. Don't know.

Q. Had anybody actually seen him at or around 3 p.m.

A. I don't know, I can't speak for the others.

Q. Did anyone of them say that they'd seen him at around about 3 p.m.

A. No.'<sup>34</sup>

It will be noted that within that passage of examination Ms Rampling contradicted herself saying, at first, that they had said to the police it was 3pm when Mr Bentley had last been seen, but then denying that anyone of them had said they had last seen Mr Bentley at around 3pm. I found it difficult to reconcile that contradiction. Then, in cross-examination when asked again whether police had asked when Mr Bentley had last been seen, she answered affirmatively and also answered affirmatively to the suggestion that someone had relayed to police that Mr Bentley had last been seen at 3pm. She agreed that this had been based on an assumption of staff that Mr Bentley had gone missing at around the time the carers arrived.<sup>35</sup> Ms Rampling insisted that she could not recall who it was that had said this to the police. Moreover, in closer questioning by me Ms Rampling acknowledged that she did not recall other staff

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<sup>34</sup> Transcript, pages 535-536

<sup>35</sup> Transcript, page 544

members saying that they had seen Mr Bentley around 3pm, or at around the time carers had come to collect the members.<sup>36</sup> The following questioning ensued:

Q. - is that correct. Did anybody actually say that to the police, that 'We think he's gone around about that time'.

A. Yes.

Q. But did anybody actually say to the police 'I saw him at around that time'.

A. I don't know.

Q. You have no recollection of that.

A. No. I can only recall what I did.

Q. And you have no recollection of anybody saying, whether it be to the police or anyone else, that they had seen Mr Bentley at around about 3 o'clock, or around about the time when carers came to collect people.

A. No.'<sup>37</sup>

8.27. In cross-examination by Ms Veale, Ms Rampling suggested that she could not recall whether the police had used words in terms of when Mr Bentley had last been seen, or when Mr Bentley had gone missing.<sup>38</sup>

8.28. I found Ms Rampling to be a somewhat complicated witness. In the event I accepted her evidence which can be distilled into an acknowledgement that the last time that she saw Mr Bentley was 1:30pm. This is in accordance with the three other activity assistants who were present in the main OT room at all material times. I will deal with the evidence of Ms Kenning separately given that she was not in the main OT room for the most part. However, in relation to those witnesses who had firsthand knowledge of Mr Bentley's presence or otherwise, the evidence is all one way and that is that Mr Bentley was not seen by any one of those four staff members after approximately 1:30pm. There is therefore an unlikelihood that any one of those four persons would have told police that they had seen Mr Bentley at or about 2:55pm if the specific question had been put to them, '*when did you last see Mr Bentley?*'. All that said, I have carefully considered the perhaps unspoken possibility that the activity assistants, or some of them, in communicating with police had an interest in creating an impression that Mr Bentley may have only recently left the building because an admission that

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<sup>36</sup> Transcript, page 550

<sup>37</sup> Transcript, pages 550-551

<sup>38</sup> Transcript, page 557

Mr Bentley had possibly left the building under their noses at a significantly earlier time would have conveyed greater culpability on their part.

8.29. I turn now to the evidence of Ms Kenning, the program coordinator at the facility. Ms Kenning made a number of witness statements.<sup>39</sup> Those statements are dated 30 December 2021, 8 October 2021 and 18 November 2021.

8.30. Ms Kenning worked in one of the smaller OT rooms. According to her witness statements Ms Kenning first became aware that Mr Bentley could not be found at 3:05pm when Ms Rampling approached her and told her that they could not find Mr Bentley. In all of her witness statements Ms Kenning suggests that her immediate assumption was that Mr Bentley had only just gone missing because she believed the only opportunity that Mr Bentley would have had to leave the SWC was at the time the first carer had arrived and had been let into the facility. As a result of making this assumption Ms Kenning did not believe that Mr Bentley would be far away. In her third statement she also said that she assumed that he must have only just gone missing, perhaps because she did not see it as possible that his absence would have gone unnoticed for that long. Therefore, her first instinct was to try and find him thinking that he could not have gone far at that point. Nowhere in her witness statements does Ms Kenning assert that any of the staff members told her that Mr Bentley had recently been seen. Nor does Ms Kenning assert in her statements that she made any investigation at that point about when it was that Mr Bentley had last been seen.

8.31. In her third witness statement Ms Kenning states that having been told at around 3:05pm that Mr Bentley could not be found, she believes that she assumed that he had been '*noticed missing*' at 2:55pm because that is the time that, she assumed, carers had starting arriving and that this was shortly before she was told Mr Bentley was missing.<sup>40</sup> A handwritten note attached to Ms Kenning's third statement was made by Ms Kenning in anticipation of having to call Mr Bentley's wife that afternoon.<sup>41</sup> The note stated as follows:

'John was at a different centre today and we think he has walked out just before 3pm. We have called the police who are looking for him now.'

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<sup>39</sup> Exhibits C27, C27a and C27b

<sup>40</sup> Exhibit C27b, paragraph 49

<sup>41</sup> Annexure KK13 to Exhibit C27b

Ms Kenning asserts in her third statement that the reference to '*we think he has walked out just before 3pm*' was the assumption that she was operating on at the time, namely that he had been noticed missing at 2:55pm and she could not understand how Mr Bentley could have left without any of the staff noticing him.

- 8.32. In her third statement Ms Kenning asserts that the police did not ask her when Mr Bentley was last seen and that if the police had asked her that she would have said that she did not know because that was the case.<sup>42</sup> The only information that she had was from Ms Rampling who said that they could not find Mr Bentley. In the same statement she says that she does not recall if the officer asked her how long '*John had been missing for?*'.<sup>43</sup>
- 8.33. It will be remembered that in her telephone call to the police Ms Kenning said that they noticed Mr Bentley missing at about 2:55pm. This assertion sits very comfortably with what Ms Kenning has said in her witness statements about her beliefs at the time, that is to say that all she knew was that Mr Bentley's absence had been detected at about 2:55pm. The terms of her call are consistent with a lack of knowledge on Ms Kenning's part at that point as to when Mr Bentley had actually last been seen.
- 8.34. In Ms Kenning's oral evidence she reiterated that she had '*kind of assumed*' that Mr Bentley had left shortly before Ms Rampling told her that he was missing.<sup>44</sup> In cross-examination by Ms Gavranich for the Commissioner of Police she reiterated that she had made an assumption based on the time the carers had arrived. There was some cross-examination by Ms Gavranich about what Ms Kenning had been asked by the police and what she had said about Mr Bentley's going missing. She said that she could not recall being asked when it was that staff had last seen Mr Bentley.<sup>45</sup> She stated that if she had been asked that question, she would have said that she did not know because that in fact was the case.<sup>46</sup> Ms Gavranich asked her about a number of possibilities surrounding what she had been asked by police and what she had said including whether it was possible that she had said to the police that Mr Bentley had walked out of the door just before 3pm. To this Ms Kenning said that she did not know if she said that to the police, but asserted that what she would have said was that they had assumed he

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<sup>42</sup> Exhibit C27b, paragraph 56

<sup>43</sup> Exhibit C27b, paragraph 57

<sup>44</sup> Transcript, page 607

<sup>45</sup> Transcript, page 613

<sup>46</sup> Transcript, page 613

had gone missing from around 3pm because that is when the carers arrived and there had been movement in the room as a result.

- 8.35. When Ms Gavranich again attempted to question Ms Kenning about whether it was possible that a police officer had specifically asked when Mr Bentley was last seen, Ms Kenning said '*everything is possible I suppose, isn't it?*'.<sup>47</sup> Ms Kenning herself said that she had not seen Mr Bentley since 1pm when she finished her own lunch and went back to the office.
- 8.36. I accepted Ms Kenning's evidence that at about 3:05pm she was informed that Mr Bentley was no longer on the premises, or at least could not be located. I also accept her evidence that she made an assumption that Mr Bentley had only recently left the premises. This assumption was probably the result of not investigating or establishing through her staff members as to when Mr Bentley had last been seen. She assumed that staff would have seen Mr Bentley if he had left during the course of the afternoon. She also assumed that Mr Bentley's opportunity to leave undetected was afforded by the arrival of carers. Accordingly, I have accepted Ms Kenning's evidence that she did not know when Mr Bentley had last been seen on the premises and by whom. As to what Ms Kenning was asked by the police and did or did not say to them, I will deal with after discussing the evidence of the police officers who were present on that afternoon.
- 8.37. Before discussing the evidence of the officers, it is as well to record that it is my finding that in fact Mr Bentley had not been seen or noticed on the premises after approximately 1:30pm. It is also my finding that it is not possible to determine exactly when it was between approximately 1:30pm and approximately 2:55pm when he was noticed missing that Mr Bentley actually left the premises. I think it is accepted, and I find in any event, that the search for Mr Bentley should have been conducted on the basis of when Mr Bentley had last been seen as distinct from when he had been noticed missing or on guesses as to when he had actually left the premises. The search should have been conducted on the basis of when Mr Bentley was last seen at 1:30pm. This is so irrespective of when it was that Mr Bentley had actually left the premises. That fact of itself was quite uncertain and could not be reconstructed given the obvious point that Mr Bentley was not seen leaving the premises.

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<sup>47</sup> Transcript, page 616

8.38. I have referred to Sergeant Garry Elliott elsewhere in these findings. Sergeant Elliott compiled a witness statement dated 12 February 2017. His statement asserts that at 3:32pm he received information via police radio that an 80 year old male person suffering from dementia had walked out of a facility and had not been seen for some 30 plus minutes. If that was the information that he received at 3:32pm it did not strictly accord with the CAD entry of precisely that time because the CAD entry simply said that Mr Bentley was missing since 2:55pm, not that he had not been seen for 30 plus minutes. However, Sergeant Elliott appears to have derived the unfortunate but understandable interpretation from the CAD entry that 2:55pm was the time when Mr Bentley had last been seen. Sergeant Elliott's statement suggests that when he arrived at the facility he liaised with Ms Kenning. Then his statement goes on to assert '*it was believed he had been missing for around 30 minutes*'. His statement does not assert who believed that and on what basis it was believed. The statement goes on to say that at about 3pm a staff member Christine Rampling '*noticed that Mr Bentley was missing*'.

8.39. In his oral evidence Sergeant Elliott told the Court at the time of his arrival Senior Constables Ormesher and Patterson were already present. It appears from records that Sergeant Elliott arrived sometime after 3:45pm and before 4:15pm. Sergeant Elliott became the forward commander in respect of the search for Mr Bentley. Sergeant Elliott spoke to the two officers who were already present and then spoke to Ms Kenning who told him about the members sitting down to watch a movie at about 1:30pm. However, Sergeant Elliott says that the only time it was mentioned as to when Mr Bentley may have left the premises was 2:55pm. He said:

'The only time it was mentioned was at 2.55, so they believe they believe (sic) that's when he went missing, but there was no full clarity on that exact time.'<sup>48</sup>

He said that he asked Ms Kenning to get a statement from the staff and to 'push back a little bit' to see if she could pinpoint the exact time Mr Bentley went missing. In her evidence Ms Kenning did not acknowledge that she was asked to do that. Ms Roper, counsel assisting, questioned Sergeant Elliott about the language that was used in his enquiries about when it was that Mr Bentley had gone missing. During the course of this examination it became evident that when the phrase 'went missing' was used he understood it to mean that it was the time when Mr Bentley was last seen. Asked by

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<sup>48</sup> Transcript, page 50 lines 26-28

Ms Roper as to whether he distinguished between the time a person went missing and the time they were last seen, Sergeant Elliott suggested that the concepts were 'generally not too far apart', but that generally one would go by the last time the person was seen even though they 'could have gone before that or perhaps even after that'. Asked by me as to what in Sergeant Elliott's mind was the event to which the time of 2:55pm related, he said that it was when a staff member actually realised that Mr Bentley was missing. Sergeant Elliott acknowledged the fact that Mr Bentley being noticed as missing at 2:55pm would not necessarily signify that was when he had left the premises. He acknowledged that the most important piece of information would be the time at which he was last seen.<sup>49</sup>

- 8.40. There was some puzzling evidence from Sergeant Elliott that involved a belief on his part that 1:30pm was a time at which Mr Bentley's carer had dropped him at the facility. This was not the case on anyone's version of events. But he also asserted that the only significance that he gleaned in respect of the time of 1:30pm was when the film had started. It was only during the days following that there had been a realisation that Mr Bentley had last been seen at 1:30pm.
- 8.41. On questioning by me Sergeant Elliott insisted that on the Friday they were told that the last time Mr Bentley was seen was at 2:55pm.<sup>50</sup> Indeed, the information that he provided to the STAR group who would coordinate the search was that Mr Bentley had been last seen at 2:55pm.
- 8.42. Sergeant Elliott was recalled to the witness box following evidence given by the ECH staff members including Ms Kenning and Dr Panter, the Chief Executive of ECH. Dr Panter had testified that on the Friday evening he had spoken to Sergeant Elliott and had told Elliott that Mr Bentley had last been seen at 1:30pm. I deal with that allegation in a moment.
- 8.43. During Sergeant Elliott's recalled evidence there was a considerable debate about what he had understood as far as the terms 'missing' and 'last seen' were concerned. During his recalled evidence Sergeant Elliott suggested that the belief on the part of the police that Mr Bentley had last been seen at 2:55pm had come from Ms Kenning. Sergeant Elliott asserted that he was '*pretty sure*' that Ms Kenning was the person who had told

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<sup>49</sup> Transcript, page 55

<sup>50</sup> Transcript, page 61

him that Mr Bentley had last been seen at 2:55pm.<sup>51</sup> If it had not been her it must have been somebody else.<sup>52</sup>

8.44. However, there still remained an issue as to what, if anything, had precisely been said between Sergeant Elliott, or whoever it was, about when Mr Bentley had last been seen or had gone missing. In cross-examination by Mr Besanko of counsel for ECH Sergeant Elliott suggested that the distinction between asking when a person was last seen and when a person was noticed to be missing was a pedantic one and that the concepts were very similar.<sup>53</sup> He was asked:

Q. Is it your evidence that there isn't necessarily a distinction between the time when someone was last seen and the time that they were noticed to be missing.

A. Probably trying hard how to split it. To me it's the same thing. What's the distinction? Do you have a time that you've been given versus a time that you're following up with and how you want to word it, it's still 1455.

Q. So you didn't appreciate at the time any distinction between when Mr Bentley was last seen and when it was appreciated by ECH staff that he was missing.

A. I see that as the same time.

Q. And that time is 2.55 p.m.

A. Yes.

Q. Is it the case that you didn't draw any relevant distinction between those two different questions when speaking with ECH staff on 6 January 2017.

A. I just remember speaking to Kenning and just being clarifying about the time of going missing. And again it was the time that she gave me was the 1455 and that's when I said, encouraged her to take statements from her staff because in the future they would all need to put a statement in, and that would be for their management as well. They needed to follow and try and see if they could push back and find an exact time somebody actually saw him and at that stage that's just what we believed because of the 1455 no-one could tell us any different at that time.'<sup>54</sup>

That evidence gave me no confidence that on 6 January 2017 Sergeant Elliott had asked anyone specifically what time Mr Bentley had last been seen or was told in terms when he had last been seen. There is a strong possibility that Sergeant Elliott conflated the differing concepts of 'last seen', 'noticed missing' and 'gone missing' and that all he simply established was that Mr Bentley was first noticed not to be on the premises at

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<sup>51</sup> Transcript, page 884

<sup>52</sup> Transcript, page 884

<sup>53</sup> Transcript, page 891

<sup>54</sup> Transcript, page 892

2:55pm. I do not believe that Ms Kenning or anyone else told Sergeant Elliott in terms that Mr Bentley had last been seen at or about 2:55pm.

- 8.45. However, I do not believe that Sergeant Elliott was told by Dr Panter at any stage on the Friday night that Mr Bentley had last been seen by anyone at 1:30pm. I accept Sergeant Elliott's evidence that he was not told this by Dr Panter. I do so because later that night when Sergeant Elliott handed over to the next shift, he compiled an email timed at 12:28am that was sent to a number of senior police officers and which stated in part, '*Attended day care facility at 126 Pimpala Road, MORPHETT VALE and last seen at about 1455 hrs*'.<sup>55</sup> This email was undoubtedly sent at a time after Sergeant Elliott had conversed with Dr Panter. If Dr Panter had told Sergeant Elliott that Mr Bentley had last been seen at 1:30pm, Sergeant Elliott would not have written in an important handover email that he was last seen at 1455 hours. This document is also informative because it crystalises what Sergeant Elliott did in fact believe about when Mr Bentley had last been seen. However, I do not believe that Sergeant Elliott was ever told in terms that Mr Bentley was last seen at about 1455 hours. The fact of the matter was that Mr Bentley had not last been seen at about that time. To my mind, Sergeant Elliott's belief was a construct based on imprecise language used to determine when Mr Bentley had last been seen.
- 8.46. I have also referred to Senior Constables Ormesher and Patterson. Constable Ormesher gave oral evidence at the inquest. Constable Patterson compiled a witness statement on 19 October 2021. Constable Ormesher made statements at around the same time. Unfortunately neither officer made any note of what was said to them on 6 January 2017 and who said it.
- 8.47. I will deal firstly with Constable Patterson's statement of three pages. Senior Constables Patterson and Ormesher arrived at the facility at 3:45pm. Patterson made a note to the effect that at 3:50pm he spoke to a Kate who no doubt is Kate Kenning. The note does not record what was discussed. In his statement Constable Patterson asserts that he has no recollection of his conversation with Ms Kenning or with any other staff. It was Constable Patterson who on 11 January 2017 took the statement from Ms Rampling. Patterson asserts in his statement that Rampling advised him that she had been the last ECH staff member to have seen Mr Bentley at about 1:30pm on the Friday. In fact,

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<sup>55</sup> Exhibit C39

Ms Rampling's statement does not say that she was the last ECH staff member to have seen Mr Bentley at about 1:30pm. As seen, her statement simply says that she last saw him at about 1:30pm. Her statement says nothing about her being the last person to see him. In his statement Constable Patterson says that if he had been aware that Mr Bentley had left the facility earlier than initially thought he may have considered a slightly wider search area. I will come to the search area later in these findings. However, Constable Patterson does not identify in his statement what his initial thoughts had been about when it was that Mr Bentley had left the facility. I think it can be inferred that if he had any belief at all about that issue he too probably thought that Mr Bentley had left the facility at or around 2:55pm. What such a belief could have been based on is not clear from his statement because he says he has no recollection of speaking with Ms Kenning or any other staff member.

- 8.48. Senior Constable Ormesher made a witness statement for the first time on 14 and 15 October 2021. By that time the issue ventilated thus far in this inquest, being the time at which Mr Bentley was last seen, was a live one. Also tendered were Senior Constable Ormesher's handwritten notes made on 6 January 2016.<sup>56</sup>
- 8.49. It will be remembered that these officers also had access to the CAD entry. Senior Constable Ormesher's handwritten notes relating to events of 6 January 2016 do not say anything about whom at the facility was spoken to or at what time Mr Bentley was last seen or noticed missing.
- 8.50. However, Senior Constable Ormesher's statement does deal with those issues. In that statement Senior Constable Ormesher describes having spoken to unnamed persons at the facility whom he refers to as Person 1 and Person 2. His statement asserts that as a matter of priority he asked Person 1 the time of '*when BENTLEY went missing, where he went missing from*'. That person then took him to see another staff member whom he refers to as Person 2. This person was located in an office at the rear of the building at that time. It appears from Senior Constable Ormesher's statement that Person 2 was a person who was said to have been with Mr Bentley for the day. Senior Constable Ormesher then goes on to state that a staff member stated to him that Mr Bentley '*must have gone missing from the facility at about 2:55pm*'. The statement goes on to say that this was based on the last known time that he was seen by staff. He states that

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<sup>56</sup> Exhibit C32 and C32 (notes)

'staff' referred to Mr Bentley as being last seen '*about an hour ago*'. Senior Constable Ormesher then goes on to say, '*I specifically confirmed with them that this would have been 2:55pm as per their initial report to police*'. When Senior Constable Ormesher was taken to see Person 2, his statement goes on to say:

'A staff member stated to me that the site was a day care facility where BENTLEY had been dropped off by his carer earlier in the day. They advised me that he must have gone missing from the facility at about 2.55 pm. This was based on the last known time that he was seen by staff. Staff referred to BENTLEY as being last seen 'about an hour ago'. I specifically confirmed with them that this would have been 2.55pm as per their initial report to police. I specifically relayed this information via the police radio at 3.52 pm. I cannot recall the particular person that provided the time however I recall the question specifically being referred to a person that 'would know' as they had been with BENTLEY.'<sup>57</sup>

8.51. I must say that even before Senior Constable Ormesher entered the witness box I was troubled by the language used in his statement to describe what was asked and what was said between him and others at the facility. Given the importance of the issue as to when Mr Bentley had last been seen at the facility, or when he had possibly left it, and the importance of what had been said to Senior Constable Ormesher, I was unimpressed by the loose language used in Ormesher's statement. The same imprecision of language appears in Senior Constable Ormesher's statement as had appeared in the oral evidence of Sergeant Elliott. I refer here to Senior Constable Ormesher narrating in his statement that when he arrived at the premises, as a matter of priority he asked '*the time of when BENTLEY went missing*' when the obvious and appropriate questions that needed to be asked were, '*when was Mr Bentley last seen*' and '*when was Mr Bentley noticed to be absent from the premises*'. They were the two critical times that needed to be established in plain terms.

8.52. I now turn to Senior Constable Ormesher's oral evidence. In his evidence-in-chief Senior Constable Ormesher stated that a missing person investigation involved three main things that he would want to know. They were the most recent description of the person, their physical and mental capabilities and the time they were last seen and by whom. He also said that he would want to speak to the person of most relevance and that person is the person who has most recently seen the missing person. One can hardly

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<sup>57</sup> Exhibit C32, paragraph 10

disagree with all of that. But I was not convinced that Senior Constable Ormesher had put that into practice after he arrived at the SWC.

- 8.53. Senior Constable Ormesher could not identify or say anything about Person 1 or Person 2 as referred to in his statement. He did not take the names of any person he spoke to, but he believed that he had spoken to the person who had called the police in the first instance. That person of course was Ms Kate Kenning. As to who the person was who gave him the information reproduced above from his statement, he believed that this had been Person 1. He also said that the best answer he was getting from that person was that Mr Bentley was last seen about an hour ago.<sup>58</sup> Constable Ormesher said that 2:55pm was the last time that Mr Bentley was seen.<sup>59</sup>
- 8.54. Senior Constable Ormesher spoke of the CAD entry timed at 3:52pm. This CAD record, he said, was based on information provided over the radio after obtaining the 'key pieces of information'.<sup>60</sup> Thus the CAD entry is actually made by the Comms operator. It will be remembered that it was recorded that '14:55 HRS LEFT'. Asked about that in his examination-in-chief, Senior Constable Ormesher said that what he had meant by that was that this was the last point at which Mr Bentley had been seen and so that was the time that police would work off as to when the missing person had left.
- 8.55. In cross-examination by Mr Besanko of counsel for ECH, Senior Constable Ormesher insisted that one of the first questions asked in any exercise such as this was when the last time the missing person had been seen. He agreed that there was a distinction between asking when a person was last seen and asking when a person was noticed to be missing. He acknowledged that they were two different questions.<sup>61</sup> He said he appreciated that distinction in January of 2017. Notwithstanding what was contained in his statement in which he asserted that he asked of Person 1 the time when Mr Bentley went missing, he had in reality asked when Mr Bentley was last seen.<sup>62</sup>

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<sup>58</sup> Transcript, page 822

<sup>59</sup> Transcript, page 822

<sup>60</sup> Transcript, page 822

<sup>61</sup> Transcript, page 831

<sup>62</sup> Transcript, page 835

Asked by Mr Besanko as to why he said in his statement that he asked Person 1 the time when Mr Bentley went missing, Senior Constable Ormesher said:

'I guess in that regard I was talking in a general sense because I don't have a direct quotation of what I said. It's not like I've got written down I said, she said, or I said, he said. So that's me more talking in a broad sense. Yeah, that's why essentially.'<sup>63</sup>

Asked by Mr Besanko whether it was possible that he had asked Person 1 what time did Mr Bentley go missing, Senior Constable Ormesher denied that he had asked that.

8.56. Senior Constable Ormesher acknowledged that the issue that his witness statement was meant to address was the question of when Mr Bentley had last been seen. Given that he was asked to clarify that issue, he agreed that precision of his own language was of central importance in his statement.<sup>64</sup> He acknowledged that in his statement he could have recorded that he had asked the question in terms of when Mr Bentley was last seen as distinct from when he went missing.<sup>65</sup> So when asked the obvious question as to why he did not use that language in his statement, the following exchange took place:

'A. So I guess on that initial attendance of speaking to that first person, there was I guess a bit of - they weren't overly sure about the information they were providing and that wasn't clear to me if that was because they didn't know or if they didn't want to answer that question, so that's why I was referred to someone else for that answer. And a bit later in my statement I do go on to clarify, I think it's in para.10 -

Q. Yes, I can see what's in para.10.

A. I'm just checking. Yeah, so this was based on the last no time that he had been seen by staff. So I recall probing about that because the first person was unsure and the first person specifically referred me to the person that had been with Mr Bentley most recently, and that was why I had that conversation and obtained that time from the second person rather than the first.

Q. Well what did you ask the second person.

A. The time of when Mr Bentley was last seen.

Q. And what was the answer.

A. 2.55. And that's why we went from the first person - we didn't take that as our, I guess, definitive answer because like I said, there seemed to be an apprehension and that wasn't clear why. And like I said, I recall them referring me to someone that would - I remember this term 'This person will know because they were the last person that was with Mr Bentley', and that's why we specifically got that time and I

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<sup>63</sup> Transcript, page 836

<sup>64</sup> Transcript, page 837

<sup>65</sup> Transcript, page 837

specifically relayed that to other police via the radio because of that, I guess, that person was - that was who we were referred to.'<sup>66</sup>

8.57. Senior Constable Ormesher said that he had even established that Mr Bentley was actually still in the facility in the communal room at 2:55pm. Later in his evidence, Senior Constable Ormesher said that a person had specifically relayed the time of 2:55pm as distinct from someone having said that it had been about an hour ago from 3:55pm. He said:

'Yes. So those were two separate things. Someone, a staff member said, it was about an hour ago and then I was taken to someone that could confirm because 'about an hour ago', it doesn't give me very much, it's not good enough information for what I need. So I was taken to someone that could give me a time and that time was 2.55.'<sup>67</sup>

There is no evidence as to the identify of that person and none of this is recorded in any notebook entry of either Senior Constable Ormesher or Senior Constable Patterson.

8.58. I had little confidence in Senior Constable Ormesher's assertions that he had put to the appropriate person that Mr Bentley had last been seen at 2:55pm or had asked a question in those terms. I do not believe that any person told him in terms that Mr Bentley had last been seen at or about 2:55pm or alternatively had given an affirmative answer to a question put to them in those terms. I say this for a number of reasons. The most likely candidate to have provided information to Ormesher and Patterson was Ms Kenning. This is the person whom Patterson recorded as the person who was approached on their arrival. She simply did not know the last time Mr Bentley had been seen. I have accepted her evidence that if she had been asked that question by an officer she would have said that she did not know. If Kenning had introduced those officers to a person who did have firsthand knowledge that Mr Bentley had last been seen at or about 2:55pm it is remarkable that neither officer made a note about that fact or of the name of the person who imparted that information. No other person has claimed that Mr Bentley was last seen at or about 2:55pm. If he had been seen at or around that time I see no reason why that would not readily be recalled or why that information would mischievously or otherwise have been kept from this Court. It is unlikely that any person told Senior Constable Ormesher that they had last seen Mr Bentley at or about 2:55pm if a precise question had been asked in those terms. Senior Constable Ormesher made no notebook entry about the time last seen. It is possible that he was influenced

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<sup>66</sup> Transcript, pages 837-838

<sup>67</sup> Transcript, pages 876-877

by the original CAD entry that suggested that Mr Bentley had been missing since 14:55hrs and interpreted that as the time Mr Bentley was last seen when this was not the case. If Senior Constable Ormesher did begin his investigation by asking a person the time at which Mr Bentley was last seen, it is not mentioned clearly in his witness statement when clarity of language was called for. The same imprecision of language is evident in that statement, namely that the assertion that he asked the time of when Mr Bentley went missing.

- 8.59. Evidence was given by both Sergeant Elliott and Senior Constable Ormesher to the effect that on the Sunday of that weekend they discovered that Mr Bentley had in fact last been seen at 1:30pm. Unsurprisingly this information disappointed both officers. During the inquest evidence was given on an issue that proved to be something of a distraction. This evidence was that during the course of the weekend it was revealed that at approximately 1:45pm on the Friday the main double external doors of the building may have been left unlocked after one or more staff members had gone outside to check a key hole and how it worked. The suggestion was that this had provided Mr Bentley with the opportunity to leave the building and that it was possibly at this time that he had left. To my mind this was of no relevance because even if the door was left unlocked either temporarily or constantly, it would only have been left unlocked from the outside. Given that it was not deadlocked on the inside, the fact that it was or was not locked from the outside could have made no difference as to whether or not a person inside the building could have left through that door.
- 8.60. At some point over the weekend there was a revelation that Mr Bentley had last been seen at a time significantly earlier than first thought, a revelation that was greeted with dismay by SAPOL officers experienced in searches for missing persons. This issue clearly should have been clarified as a matter of priority on the Friday afternoon.
- 8.61. I find that Mr Bentley was last seen to be on the SWC premises at about 1:30pm. He was noticed for the first time not to be on the premises at about 2:55pm. No person saw him leave the premises. Mr Bentley exited the premises unobserved and by unknown means of egress sometime between about 1:30pm and about 2:55pm. It is not possible to determine at what time in that period he left the premises. I find that no staff member of ECH told any police officer in terms that Mr Bentley had last been seen at or about 2:55pm. The time at which Mr Bentley was last seen was never established with precision at any time on the Friday of his disappearance. That time

should have been established by precise questioning of the staff members who had been present at the facility during the course of that afternoon. Police would act on the basis that Mr Bentley had last been seen, or had left the building, at about 2:55pm. More precise inquiry would have dictated action on the basis that he had last been seen on the premises at about 1:30pm.

## **9. The adequacy of the measures involved in the search for Mr Bentley**

- 9.1. On the afternoon of Mr Bentley's disappearance SAPOL STAR group became involved in the matter. Officer TC2 of the SAPOL STAR group is a sergeant of police who is a qualified field search controller with SAPOL. At about 4pm on 6 January 2017 he was on duty when he was notified of the missing person, Mr Bentley. At that time he contacted Senior Constable Ormesher to whom I have already referred. In a field search controller proforma questionnaire Sergeant TC2 recorded that Mr Bentley had been '*missing since 14:55hrs*'.<sup>68</sup> He recorded that the source of this information was Kate Kenning. Sergeant TC2 did not have any direct conversation with Ms Kenning. In his witness statement<sup>69</sup> Sergeant TC2 describes the methodology involved in setting up a search for a missing person. I do not need to go into the details of that. A media release had already been undertaken as well as taxi, bus, train and tram notifications. It was evident to Sergeant TC2 that Senior Constable Ormesher had only just arrived on the scene when Sergeant TC2 was notified of the missing person. Sergeant TC2 remained at the Netley Police Station while conducting his duties in respect of the search for Mr Bentley.
- 9.2. In his statement Sergeant TC2 makes it plain that on the basis of the timeframe that he was given, namely that Mr Bentley had been missing since 2:55pm and that the time was now 4pm, and using a formula known as the Naismith Rule, he deduced that at approximately 5 kilometres per hour the maximum Mr Bentley could have travelled in the hour since 2:55pm was 5 kilometres from the last known point, which of course was the SWC. The search was therefore based on that timeframe.
- 9.3. Other measures described by Sergeant TC2 in his statement included the deployment of the police helicopter which at one point had to be called away due to a Medivac request. The helicopter had been able to complete two search areas. During the course

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<sup>68</sup> Exhibit C13a

<sup>69</sup> Exhibit C13

of the inquest it was said that in these circumstances helicopters have their limitations due to the fact that during daylight hours in a built up area it is very difficult to distinguish the missing person from other persons in the area.

- 9.4. It is apparent from the statement of Sergeant TC2 that police operated on the erroneous basis that Mr Bentley had left the SWC at or about 2:55pm.
- 9.5. Sergeant TC2 did not have any further involvement in the search after he handed over to the incoming STAR field search controller.
- 9.6. The incoming controller was Brevet Sergeant PR also of the STAR Group. Brevet Sergeant PR is also a field search coordinator. He commenced duties that Friday afternoon at 6pm. He was made aware of the missing person task and was given a handover briefing from Sergeant TC2. Brevet Sergeant PR made two witness statements dated 20 September 2021 and 5 October 2021.<sup>70</sup> He also gave oral evidence in the inquest.
- 9.7. Brevet Sergeant PR's briefing consisted of details that had been provided to Sergeant Elliott as well as the document that had been compiled by Sergeant TC2. He also had a printout of the Police Communications CAD log. He contacted Sergeant Elliott. In his statement Brevet Sergeant PR describes the ambit of the search to date and also after his involvement commenced. This included the use of STAR Group members as well as SES search members. Both of Brevet Sergeant PR's statements deal with the issue concerning the ambit of the search based on the belief as to when Mr Bentley had last been seen. It is evident from Brevet Sergeant PR's material that he also was acting on the basis that Mr Bentley had last been seen at around 2:55pm or had left the premises at that time.
- 9.8. It is as well to set out what is contained in Brevet Sergeant PR's statements on this subject. It was as follows:

'The correct information regarding actual time/location of when a missing person(s) is last seen and where is vital for the Field Search Coordinator. This information will be used to devise not only the search area (Theoretical, Statistical, Subjective and Deductive method), but the allocation of search resources (persons, aircraft, helicopter, motorcycles, vehicles, investigational members) and also the investigation/intelligence gathering aspect. In the case of BENTLEY, the difference in actual time missing to the reported/stated time missing would have caused myself to advise ELLIOT to move the

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<sup>70</sup> Exhibits C18 and C18a

roving/mobile police search patrols out further from the LKP, as now using the 'Naismiths Rule' regarding how far a missing person could travel, the search area would have been expanded out. If the correct timings had been provided to TC, he too would have expanded his initial search area. (refer to Appendix A)

Furthermore, if the correct timing had been provided, an important part of the initial search phase is to obtain information/intelligence regarding a missing person's movements or direction of travel. As such when requests for operators of public transport/taxis (drivers) for information regarding any sightings of a missing person, 'actual missing time' is extremely important so as to identify drivers of certain bus routes/taxis at certain times, as significant loss of investigational intelligence could occur if the public transport vehicle operators cannot be identified or unchecked. Also, when checking any CCTV from surrounding businesses or private properties, the correct time is essential for police to identify how far back they need to check the recorded vision.

In the case of BENTLEY, the 'actual time last seen' would not have influenced my advice to ELLIOT regarding the initial areas that I had identified and that were required to be searched by police and other resources on foot. These areas known as reflex tasks and were in and around 126 Pimpala Road. However, any information provided to police regarding BENTLEY's movement/direction of travel/last known point and time, would have changed my advice regarding the size of the search area, and therefore the requirements of searchers to pay their attention to a broader area.<sup>71</sup>

#### 9.9. In Brevet Sergeant PR's second statement he said the following:

'Had I known that BENTLEY had last been seen at about 1.30pm, then I would have adjusted my search radius accordingly, and again by using the four search strategies and now factoring in fatigue, would have expanded my search radius out to 2.0km boundary.

As such I would have provided the police forward commander ELLIOT with advice to have roving patrols/portable search assets continue out to the 2.0km radius from the last known point, instead of concentrating within the 1.0km search boundary.

A part of any initial search is collecting information, whether this is an urban or rural search. In relation to urban searches, there are many ways to obtain information which may indicate a direction of travel, updated last known point and distance covered. Some of these ways are using CCTV, social media, canvassing local businesses and bus/taxis fares, just to name a few.

In this case, the actual last time seen being 1.5hrs earlier than reported would may (sic) have caused police to search back further when requesting local businesses to check their CCTV records. Also when metro buses were queried regarding if any driver had seen BENTLEY, the correct time frame may have allowed for all the drivers who had driven past 126 Pimpala Road to be identified and questioned.

By being able to ascertain this search information, it may have identified a direction of travel or at least a new 'last known place', along with time frame. This information would have allowed myself to adjust the search area of highest probability (radius), allowed for

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<sup>71</sup> Exhibit C18

the appropriate re-allocation of search resources, and also the identification of new search areas within this area highest probability.'<sup>72</sup>

- 9.10. Brevet Sergeant PR's statement also deals with the question of the use of the helicopter and acknowledges that it is a limited aerial observation platform in built-up residential areas, the difficulty being distinguishing the missing person from other persons in the search area. The helicopter in this case had concentrated its aerial visual search within what was believed to have been the area of highest probability, which was a radius of 1 kilometre from the SWC which in turn had been based upon a reported missing time of 1 hour. His statement goes on to say that had the correct time being reported, he would have advised the Police Forward Commander who was Sergeant Elliott and the helicopter to increase its search area further out towards the radius of 2 kilometres. However, the observation has to be made that this helicopter search area would have been virtually on the cusp of where Mr Bentley was ultimately located. Whether the helicopter that afternoon would have seen Mr Bentley at the location where he was ultimately found on the Sunday can only be the subject of speculation. It is not certain that Mr Bentley was present at that location in daylight hours on the Friday or even in the evening.
- 9.11. Regarding the question as to whether the correct time would have made a difference in terms of the success of the search or not, Brevet Sergeant PR's statement is as follows:
- 'Had the correct last time seen been reported to police, and the correct search area of highest probability been identified, the probability of locating BENTLEY earlier would have increased, but as to how much sooner and whether or not BENTLEY would have been located alive is speculative.'<sup>73</sup>
- 9.12. In his oral evidence Brevet Sergeant PR confirmed those matters as set out in his statements. He confirmed that he had acted on the basis of a last seen time of 2:55pm which was the basis upon which Sergeant Elliott had acted in the first instance and also as acted upon by Sergeant TC2.
- 9.13. Brevet Sergeant PR explained in his oral evidence that there were two aspects of the search that were affected by the misunderstanding as to when Mr Bentley was last seen. The first of course is the radius over which the search was conducted. The second affect would be more indirect in that if it had been understood that Mr Bentley may have left

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<sup>72</sup> Exhibit C18a

<sup>73</sup> Exhibit C18a

the premises as early as 1:30pm, then enquiries would normally have been made of activity that may have occurred and may have been recorded between 1:30pm and 3pm. As things stood, the enquiries were in the first instance limited to observations possibly made after 3pm. He gave examples of the type of enquiries that would be pushed back to say 1:30pm including asking bus drivers and taxis to check their CCTV footage in that one and a half hour hiatus. Another example would be a wider examination of the CCTV footage that could have been in the possession of service stations who have cameras pointed out onto the street. Brevet Sergeant PR explained that if he had expanded the search on the basis of information that Mr Bentley had last been seen at 1:30pm, he would have requested more resources through the Forward Commander.

- 9.14. The realisation that Mr Bentley had last been seen at 1:30pm on the Friday did not come to police until Sunday. In fact it did not come to Brevet Sergeant PR until the Monday when he returned to work after having the weekend off. Asked as to what his reaction was when he learnt that there had been that one and a half hour hiatus, he said it was one of dismay. He said as follows:

'Dismay. I would have liked to have had the information at the time. I thought, given it's a very high metro area, someone would have seen him or we would have been able to search at least a little bit further out and conduct probably more intensive - well not intensive but try and get more information as to - from that one and a-half hours that we missed. That could have - I thought it may have allowed us to actually get - been able to go out to certain areas and view certain CT from at that time or ask bus drivers certain questions leading up to the 3 o'clock instead of using 3 o'clock as our start point. That may have just given us more information.'<sup>74</sup>

- 9.15. One matter worthy of note is that Brevet Sergeant PR drew a clear and correct distinction between the last time a missing person is seen, that is to say the last confirmed sighting, and the time when it is appreciated that the person is missing. He agreed that they are not the same thing. Brevet Sergeant PR agreed that the language that needs to be used when an officer has to establish the time a person was last seen was simply the question, '*when did you last see the missing person*', or '*when was the missing person last seen*'.<sup>75</sup> I agree with those observations.

- 9.16. Brevet Sergeant PR also explained how the search would have been expanded with more accurate knowledge as to time last seen. This involved the concept of reflex searching which is identifying areas within the search radius with a higher probability

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<sup>74</sup> Transcript, page 131

<sup>75</sup> Transcript, page 154

of strike rate as it were, such as fast food places, service stations, supermarkets and shopping centres where Mr Bentley may have gone to seek respite from the heat. Obviously within a 2 kilometre radius rather than a 1 kilometre radius there were many more places where someone might be found. As well, there are more main roads such that a greater number of patrols could be asked to drive up and down those roads instead of congregating in a smaller area.

- 9.17. Also in his oral evidence Brevet Sergeant PR was asked as to whether on the Friday if the radius had been expanded it was possible that police may have preceded along Field Street at Reynella. Brevet Sergeant PR made the correct observation that Field Street was on the very edge of the 2 kilometre radius. However, the search would have incorporated the main roads in and around that area and anywhere where a person could be walking. Clearly the search would not have involved police driving along every single side street. In addition he agreed with the obvious point that if on the Friday evening Mr Bentley had been in the location at which he died, a person would have actually had to get out of their vehicle and search that location. The inherent unlikelihood of that occurring it would need to be taken into consideration.
- 9.18. I accepted Brevet Sergeant PR's evidence. He was an impressive and candid witness. In particular I accepted his evidence that had the correct last time seen been reported to police, and as a consequence the correct search of the area of highest probability had been identified, the probability of locating Mr Bentley earlier would have been enhanced. However, I also accepted his evidence as to how much sooner that may have occurred, and whether or not Mr Bentley would have been located alive, is speculative. In my opinion it is not certain that if the search area had been expanded in the ways identified by Brevet Sergeant PR that Mr Bentley would have been located alive.
- 9.19. The search for Mr Bentley can only be criticised on the basis that the time at which Mr Bentley was last seen was not satisfactorily established. Otherwise, there is nothing to suggest that it was other than a thorough search. However, during the course of the inquest two issues about the search were identified as matters that may have been approached differently. They involved the topics of the use of motorbikes on the Friday and the use of commercial radio stations to broadcast the fact of a missing person on the Friday afternoon.

- 9.20. Dealing with the question of motorbikes, it will be remembered that this was the means by which Mr Bentley was eventually located on the Sunday night. He was located at about 8:30pm which would have been on the verge of darkness. The off-road capability of the bike played a significant role in Mr Bentley being found. The question that exercised my mind was whether trail bikes could usefully have been deployed on the Friday afternoon. The evidence was that the police personnel who were qualified to ride trail bikes would have been involved in operation Nomad which is an operation conducted by police on days of extreme heat that is designed to identify or deter fire bugs. There may have been other reasons for the non-availability of those personnel. I think it is fair to say that in the suburban streets a trail bike may not have been any more effective in the search than a police patrol car. However, a trail bike would have been most effective in the very terrain in which Mr Bentley was ultimately located. That area was readily accessible to a trail bike through the vacant lot between the two houses on Field Street. There were other access points to this vacant terrain. This again begs the question as to whether or not Mr Bentley was at that location at any time on the Friday before darkness set in. That is a question that in my view can never be answered. The same applies to the Saturday and the Sunday, although the likelihood that Mr Bentley was at the location where he was ultimately found on the Saturday or the Sunday was much greater than on the Friday. Having asked the various witnesses about the use of trail bikes including Brevet Sergeant PR, I am not certain whether it really occurred to anyone to use them on the Friday or Saturday. The evidence seemed reasonably clear, however, that bikes are not all that readily deployable at short notice having regard to their availability and the availability of the personnel required to operate them. They were deployed on the Sunday ultimately.
- 9.21. The other matter concerned the extent of media releases on the Friday afternoon. There is no evidence that the media releases of the Friday afternoon involved a request to radio stations to broadcast the fact of a missing person in the Morphett Vale / Reynella area. It is well known that the Morphett Vale / Reynella area in the vicinity of South Road is a very busy area with much mobile traffic. At ground level an 80 year old man apparently walking aimlessly on a very hot day may have attracted attention if it was understood by a motoring public listening to their radios that such a person was missing and at large and in danger due to dementia.

- 9.22. At 10:18am on the Saturday it was recorded in SAPOL logs that the SAPOL media section were contacted in an attempt to have a media release elevated to the radio but that the request was '*declined by SAPOL media*'.<sup>76</sup>
- 9.23. There are a number of entries in the police logs concerning media attention to Mr Bentley's disappearance. There is an entry timed at 11:13am on the Saturday to the effect that a media release had been completed the previous afternoon at about 5:15pm. The release was placed on the SAPOL webpage, Facebook and Twitter. It also indicates that ABC radio were broadcasting the details of the missing person and his description.<sup>77</sup>
- 9.24. Another entry timed at 3:38pm on the Saturday records a Superintendent Clark wanting news stations to be notified and that channels 9 and 7 may run the news about the missing person on their broadcasts that night. It is apparent that channel 9 ran something on their news broadcast because it prompted an entry in SAPOL records about a man who believed he had seen Mr Bentley that day and had not thought about it until he had seen the news on channel 9.
- 9.25. I invited counsel for the Commissioner of Police, Ms Gavranich, to furnish the Court with an explanation as to why radio broadcast was not requested on the Friday or if it was requested why it was that radio broadcasts did not occur.
- 9.26. Tendered to the Court was the statement of Chief Inspector Colin James Cunningham of SAPOL.<sup>78</sup> Chief Inspector Cunningham is the current officer in charge of the media and marketing section of SAPOL. In his statement Chief Inspector Cunningham describes various media releases and in particular the postings to SAPOL Facebook and Twitter sites as well as to the front page of the general SAPOL internet site. He emphasises that when a media release is published the media outlet can use the information as they deem appropriate. He points out that there is nothing that compels media outlets to publish SAPOL releases regarding missing persons. Although there is an ongoing memorandum of understanding whereby ABC radio and 5AA will publish emergency warnings during bushfires or other significant major disasters, there is no obligation or public undertaking for any media outlet to publish outside of that.

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<sup>76</sup> Exhibit C14b, page 2

<sup>77</sup> Exhibit C14b, page 1

<sup>78</sup> Exhibit C37

Chief Inspector Cunningham indicates that there is a growing trend in public engagement for news services to be carried on online platforms across all major media organisations. As to the log entry that radio was declined, Chief Inspector Cunningham says that he was informed that this was later overturned and some radio was aired regarding Mr Bentley's disappearance. At 10:18am on 8 January 2017 another request from investigators was made to the SAPOL media unit in another attempt to influence media outlets to elevate the story of Mr Bentley on radio. The ABC Adelaide and 5AA were contacted as well as the Advertiser and were asked to elevate awareness.

- 9.27. It is difficult to understand why if radio coverage was considered appropriate on the Saturday and the Sunday it was not just as appropriate if not more so on the Friday afternoon which for myriad reasons including the heat was the critical period. There was a case for concluding on the Friday that if police did not find him that day the chances of finding him alive and unharmed in the conditions that had prevailed on the Friday, and would again prevail on the Saturday, were not good. If Mr Bentley was to be seen and recognised by the general public as a person in danger, radio coverage on the Friday afternoon was probably the best media strategy in achieving that outcome.
- 9.28. From the bar table Ms Gavranich who appeared for the Commissioner of Police told me that on her instructions the most likely explanation for lack of radio broadcasting on the Friday was that as the request for radio broadcasting would have been made at prime time. It would have been a matter for the broadcaster as to when the issue of Mr Bentley's disappearance would be broadcast. However, it was suggested that later, when not in prime time, the request may have been accepted. Ms Gavranich informed me that it was most likely that the broadcaster and not SAPOL itself made the request to decline to broadcast on radio at that earlier point in time. Having been informed of that from the bar table, I invited Ms Gavranich to verify it if possible. I had no further communication in relation to that issue.
- 9.29. The question remains unanswered in my mind and that is why was it not considered appropriate for radio stations to be asked to broadcast Mr Bentley's disappearance on Friday afternoon when the chances of finding him alive and unharmed were at their greatest.

## 10. **Was Mr Bentley's death preventable?**

10.1. In my opinion Mr Bentley's death would have been preventable in the following circumstances:

- If the Southern Day Program had not been relocated to the SWC;
- If proper consultation had occurred between those persons responsible for the relocation of the program and senior management within ECH;
- If Mrs Bentley had been notified in advance of 6 January 2017, or even on the morning of that particular day, that Mr Bentley was to be taken to a facility with which he was not familiar. In those circumstances it is my view it is highly likely that Mrs Bentley would not have allowed her husband to be taken to that facility;
- If proper and adequate scrutiny on the program members had been maintained by ECH staff of, and in particular on Mr Bentley who had a documented propensity to wander. Such scrutiny should have involved regular head counts as well as the assignment of identified individual program members to particular staff members.

10.2. Beyond those matters it is not possible to determine with certainty whether Mr Bentley's death could have been prevented in other ways.

10.3. In particular, it is not possible to determine whether Mr Bentley's death would have been preventable if:

- The police had been called at a time earlier than approximately 34 minutes after Mr Bentley was noticed to be missing;
- If the SAPOL CAD entry of 3:32pm had used the precise language that had been used by Ms Kenning in her phone call, namely that Mr Bentley had been *noticed* missing at five minutes to three;
- If the fact that Mr Bentley had last been seen at about 1:30pm had been adequately investigated, established and understood by the police officers who had first arrived on the scene;
- If the search area had been expanded in the first instance to a radius of 2 kilometres from the SWC;
- If motorbikes had been deployed in the search on the Friday afternoon;

- If radio coverage of Mr Bentley's disappearance in the Morphett Vale / Reynella area had been set up on the Friday afternoon.

## **11. Recommendations**

- 11.1. Pursuant to Section 25(2) of the Coroners Act 2003 I am empowered to make recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest.
- 11.2. Following this incident, ECH engaged Dr Peter Hibbert who is an expert in health care practices and incident response management to conduct an independent investigation into the circumstances of Mr Bentley's death. Dr Hibbert ultimately produced a root cause analysis report dated 23 March 2017. Dr Hibbert identified a number of inadequacies and shortcomings in ECH practices. Those findings are closely aligned with the findings of this Court. The root cause analysis conducted by Dr Hibbert made a number of recommendations that are set out in the statement of Dr David Panter who was the Chief Executive of ECH. In Dr Panter's statement and in his oral evidence he outlined a number of changes to ECH systems that have been implemented since the root cause analysis was conducted. I do not need to set out all of those in detail. It occurs to me that many of the measures that have been since implemented by ECH would render a repeat of what happened in relation to Mr Bentley less likely. As indicated earlier in these findings ECH have candidly acknowledged that there were indeed a number of serious shortcomings in their processes.
- 11.3. Having regard to the impressive candour displayed by ECH in the course of this inquest, and its evident willingness to learn from the mistakes identified from the circumstances of Mr Bentley's death, it is not necessary for this Court to make any specific recommendation in relation to the practices of ECH. I would suggest, however, that one of the key lessons learnt from this experience is that carers and activity assistants need to have detailed knowledge of the behaviours and propensities of elderly people in their care. In my opinion there was a definite shortcoming exhibited in this regard. The fact is that all people are different and in any cohort of elderly individuals there may be some whose intellectual capacity is not diminished at one end of the spectrum and at the other there may well be a serious intellectual or cognitive impairment. It is important that carers and activity assistants are fully aware, not only of the fact that

they are looking after people in general who may have a cognitive impairment, but also have full awareness of the behaviours and propensities of the individual members of a group. The other matter that possibly needs attention is the question of head counts and specialling of individual program members. If proper regard had been paid to the known behaviours and risks involved with Mr Bentley, it would probably have been appropriate for a carer to have been specifically assigned to his care.

- 11.4. As far as police involvement in this matter was concerned, the only topic for possible recommendation relates to the question of the precision of investigation into the last time a missing person was seen. To my mind there was imprecision in that aspect of the investigation in this case. Accordingly, I recommend to the Commissioner of Police that he cause Police General Orders to have included in them, a direction to police officers who are participating in the investigation of the disappearance of a missing person that they must at the first available opportunity and with precise, clear and unambiguous language, establish the time at which a person was last seen and establish the identity of the person who was the last to see the missing person.

*Key Words: Disappearance; Missing Person; Police*

*In witness whereof the said Coroner has hereunto set and subscribed his hand and*

*Seal the 22<sup>nd</sup> day of April, 2022*

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*Deputy State Coroner*