



# OFFICE OF THE STATE CORONER

## FINDINGS OF INQUEST

CITATION: **Inquest into the suspected death of Kathleen Mary O'Shea**

TITLE OF COURT: Coroners Court

JURISDICTION: Cairns

FILE NO(s): 2012/568

DELIVERED ON: 12 June 2014

DELIVERED AT: Cairns

HEARING DATE: 12 to 16 May 2014 and 11 June 2014

FINDINGS OF: Jane Bentley, Coroner

CATCHWORDS: **Missing person; disappearance**

### REPRESENTATION:

Counsel Assisting:

Ms Stephanie Williams

Lily Parmenter:

Not legally represented

Section 45 of the Coroners Act 2003 provides that when an inquest is held the coroner's written findings must be given to the family of the person who died, each of the persons or organisations granted leave to appear at the inquest and to officials with responsibility over any areas the subject of recommendations. These are my findings in relation to the suspected death of Kathleen Mary O'Shea. They will be distributed in accordance with the requirements of the Act and posted on the web site of the Office of the State Coroner.

## ***Introduction***

### ***The scope of the Coroner's inquiry and findings***

An inquest is not a trial between opposing parties but an inquiry into a death or suspected death. The scope of an inquest goes beyond merely establishing the medical cause of death.

The focus is on discovering what happened; not on ascribing guilt, attributing blame or apportioning liability. The purpose is to inform the family and the public of how the death occurred and, in appropriate cases, with a view to reducing the likelihood of similar deaths.

As a result, a coroner can make preventive recommendations concerning public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in future.

A coroner must not include in the findings or any comments or recommendations, statements that a person is or maybe guilty of an offence or is or maybe civilly liable.

Proceedings in a coroner's court are not bound by the rules of evidence. That does not mean that any and every piece of information however unreliable will be admitted into evidence and acted upon. However, it does give a coroner greater scope to receive information that may not be admissible in other proceedings and to have regard to its origin or source when determining what weight should be given to the information.

A coroner should apply the civil standard of proof, namely the balance of probabilities. However the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, then the clearer and more persuasive the evidence needs to be for a coroner to be sufficiently satisfied it has been proven.

If, from information obtained at an inquest or during the investigation, a coroner reasonably suspects a person has committed an offence, the coroner must give the information to the Director of Public Prosecutions in the case of an indictable offence and, in the case of any other offence, the relevant department. A coroner may also refer a matter to the Criminal Misconduct Commission or a relevant disciplinary body.

These findings and comments:

- confirm the death of the person, the identity of the missing person, whether she is deceased and, if so, the time, place and medical cause of her death, as far as can be ascertained; and,

- consider whether the actions or omissions of any third party contributed to her death.

## **Summary**

At the time of her disappearance Ms O'Shea resided in Melbourne but was visiting Queensland. She left Melbourne on 17 December 2005 and flew to Cairns with her daughter, Brigid O'Shea, then aged 11 years, to visit her son, Alan O'Shea, and his partner, Bryer Drago, in Ravenshoe and to be present for the birth of their child – her first grandchild.

Alan reported Ms O'Shea missing to police on 13 January 2006. He told police he last saw her on 29 December 2005.

Ms O'Shea had a return flight to Melbourne booked for 17 January 2006. She did not catch that flight.

Persons who knew Ms O'Shea believed that she would not have intentionally missed the birth of her grandchild or left her daughter, Brigid or gone so long without contacting her family.

## **Police investigation**

On 18 January 2006, an investigation into the disappearance of Ms O'Shea was commenced. The investigation was named Operation Echo Majestic. Local police and members of the Homicide Investigation Squad investigated Ms O'Shea's disappearance.

Police carried out 'proof of life' checks in relation to Ms O'Shea on Centrelink, financial institutions, Medicare, interstate police and the Registry of Births, Deaths and Marriages. There were no records of any movements or actions by Ms O'Shea after she withdrew money from the Post Office at Ravenshoe on 29 December 2005.

## **Ms O'Shea's background**

Ms O'Shea was born in Melbourne on 4 December 1961. She lived with her parents until she was 17 years of age when she gave birth to her first child, Alan, in Melbourne on 6 November 1978 and she moved in with Alan's father.

When Ms O'Shea was about 19 years old she and Alan moved to North Queensland. She met and formed a relationship with John Parmenter. There were four children of that relationship – Lily (born 15 November 1986), Danny (born 20 December 1989), Tim (born 9 December 1991) and Brigid (born on 15 May 1994).

Shortly after Lily was born, the family moved to Melbourne and lived there for about five years before returning to live in Millaa Millaa.

In about 1997 Ms O'Shea and Mr Parmenter separated. Ms O'Shea and her children went to live with Ruth Welch in Millaa Millaa and then rented a house in Millaa Millaa for about six months. Ms O'Shea, Lily, Daniel and Tim then returned to Melbourne where they lived with Ms O'Shea's mother, Joan O'Shea. Alan stayed in Queensland with Mr Parmenter.

Tim O'Shea returned to Queensland to live with his brother Alan in about mid 2005. At that time Alan was living with Bryer Drago in Millaa Millaa.

At the time of Ms O'Shea's disappearance she was living in Melbourne with her mother, Joan O'Shea, and her children, Lily, Daniel and Brigid.

Ms O'Shea had a close friendship with the ex-husband of her sister, John McKenzie. She did housework for him and he would give her money to help out with raising her children. Mr McKenzie purchased Ms O'Shea's return ticket from Melbourne to Cairns so that she could visit Alan and Tim and see the birth of her grandchild.

### **Last known movements of Ms O'Shea**

John McKenzie drove Ms O'Shea and Brigid to the airport on the morning of 17 December 2005. Alan O'Shea picked them up from the airport and drove them to his place at Ravenshoe.

Alan and Bryer were living in a shed on a 240 acre property, belonging to Ms O'Shea's friend, Loma Canuto, at 1153 Wooroora Road, Ravenshoe. Tim O'Shea was living with Alan and Bryer, having moved there from Melbourne some months before. Ms Canuto lived in a shed at the front of the property.

Ms O'Shea and Brigid stayed in a tent on the property, near Alan's shed. Ms O'Shea spent most of her time with Ms Canuto, at her shed, and stayed there most nights.

Ms O'Shea spoke to her son, Daniel, on 22 December 2005, and told him she was sorry that she hadn't phoned him for his birthday on 20 December 2005. She told him she was having a good time and all was well.

A friend of Ms O'Shea, Prem Chi'lan Welch, saw Ms O'Shea in town in Mareeba on 23 December 2005 and he gave her Deborah Gifford's address. He also saw Ms Canuto and Tim in town that day.

Ms O'Shea and Tim arrived at Ms Gifford's unit unexpectedly on 23 December 2005 and Ms Canuto picked them up from there that afternoon. Ms Canuto then drove them back to Ravenshoe.

On 28 December Ms O'Shea went to the residence of Naomi Canuto (daughter of Loma Canuto) at 57 Tully Falls Road, Ravenshoe.

Ms O'Shea last spoke to her mother, Joan, on the afternoon of 28 December 2005. Ms O'Shea said that she was calling from a friend's phone. She sounded very happy and said she was having a really good time.

Ms O'Shea last spoke to her daughter, Lily, on the phone on 28 December 2005. She said she was in Atherton doing some shopping.

At about 10.30am on 29 December 2005 Ms O'Shea told Naomi Canuto that she was going to walk into town. She said Alan was going to pick her up. Alan turned up at Naomi's house at about 11am. Naomi told him that Ms O'Shea had gone into town and he then left.

Bank records indicate that an amount of \$200 was withdrawn from Ms O'Shea's bank account at the Ravenshoe post office on 29 December 2005.

Alan told police that he picked Ms O'Shea up in Ravenshoe and then drove her to Atherton. She told him she was going to the pub to play pool and then to visit Ms Gifford at Mareeba.

Bryer Drago gave birth to a baby girl on 9 January 2006. Ms O'Shea had not returned to the property at that time.

Lily phoned Alan on 11 January 2006 to talk about the birth of his baby. He told her that Ms O'Shea was staying with 'Deb' [Debra Gifford] for a couple of days and that he dropped her in Atherton on the Thursday before New Year.

On 11 January Ms Canuto went to Ms Gifford's house to pick up Ms O'Shea and bring her home. She was told that she hadn't arrived and hadn't been there since 23 December 2005.

On 12 January 2006 Lily phoned Alan again and when she was told that Ms O'Shea had not come home she rang all the hospitals in the Atherton area. She spoke to Alan again and they agreed that if Ms O'Shea was not located by 13 January 2006 Alan would report her missing to the police.

Alan reported Ms O'Shea missing to the police on 13 January 2006.

## **Statements and Interviews**

### **Alan Corky O'Shea**

Alan O'Shea attended the Atherton police station on 13 January 2006 and reported his mother missing. He attended again on 18 January 2006 and provided further information in regard to his mother's disappearance.

He told police that Ms O'Shea had a lot of friends in Cairns but declined to give police any of those persons' names.

He told police that he picked Ms O'Shea up from Ravenshoe on the morning of 29 December 2005 and drove her to the Ravenshoe pub where she purchased a six pack of Coopers Stout beer. He then drove her to Atherton and dropped her off just outside of town and last saw her walking along a street near the hospital towards Atherton. He said that she must have been to the bank prior to him picking her up at Ravenshoe as she gave him \$50 for fuel.

Alan told police that he drove into Atherton, heading towards the hospital, and went down the street that has a 'milko' on the corner [most probably Jack Street] and dropped Ms O'Shea off about halfway down that street as she said she wanted to walk into town from there so that she could finish drinking the beer she had with her. He said she had bought a six pack of Coopers beer from the bottom pub in Ravenshoe – she was drinking a stubby of it when she got out of the car and she left the rest in the car.

Alan said that Ms O'Shea was going to see her friend, Deb [Gifford], in Mareeba but she said she only wanted a lift to Atherton and she would get the rest of the way herself. Alan didn't think this was unusual as Ms O'Shea told him she would go to the pub and have a game of pool. He thought she meant that she would go to the pub in Atherton.

Alan told police that he and Ms O'Shea had not been arguing and that they were 'as thick as thieves'. He said that Ms O'Shea had a history of using illicit drugs, had been on the methadone program and had some ecstasy tablets with her when she arrived from Melbourne. He said that after she disappeared he found some used syringes in the tent in which she had been sleeping on the property. He put them in an empty bottle and put it in a hollow tree out in the bush.

Alan told police that Ms O'Shea had about \$500 cash when she arrived in Cairns that she had been given by her friend, John McKenzie. He said that Ms O'Shea only had one bank account, a Commonwealth bank account, and the parenting payment had been her only source of income for years.

Alan, Bryer, their baby, Tim and Brigid left Ravenshoe in February 2006. Alan and Bryer eventually settled in Melbourne.

The investigating officer travelled to Melbourne to obtain a statement from Alan. Alan told him that he would not provide a statement unless his solicitor was present. The officer stated that they could go to his solicitor's office – Alan refused and walked away.

### **Lily Parmenter**

Lily provided a comprehensive statement to police. She last saw her mother on the evening of 16 December 2005 when they met at her grandmother's house and exchanged Christmas presents before Ms O'Shea and Brigid left for Queensland.

Lily last spoke to her mother on 28 December 2005. Ms O'Shea sounded happy and said she was in Atherton doing some shopping. When Lily became aware that Ms O'Shea had not been seen for some time she encouraged Alan to report her missing. She immediately began making her own enquiries with friends, hospitals, doctors, hotels, etc in the area.

On 20 January 2006, Lily travelled to Atherton to speak to police and assist in the search for her mother.

### **John Conway McKenzie**

John McKenzie married Ms O'Shea's sister, Colleen, in 1983. Colleen died in September 1988. Ms O'Shea returned to live in Melbourne around that time and formed a close relationship with Mr McKenzie. From 2003 to 2005 Ms O'Shea would visit Mr McKenzie about twice per week. She did his washing, gardening, ironing and cleaning and he gave her money to help her buy things for her children.

In about July 2005 Mr McKenzie paid for Ms O'Shea to fly to Cairns to visit Alan and Tim. When she returned she told him that Bryer was pregnant and asked him to pay for flights for her to return in December 2005 for the birth of the child. He agreed to do so. He paid for and booked flights for her and Brigid and drove them to the airport on 17 December 2005.

Mr McKenzie told police that he phoned a couple of days later and spoke to Alan who confirmed that Ms O'Shea had arrived and said that she was visiting Ms Canuto. Mr McKenzie called again on 23 December 2005 to remind her to call her son Daniel as it was his birthday on 20 December 2005 and she had missed it. He spoke to Alan who said he would pass the message on to her.

A couple of days later Mr McKenzie received a letter from Ms O'Shea in which she stated that she was having a good time, she was visiting friends and thanked him for sending her to Queensland. She apologised for not calling him or Danny and said that she couldn't as there was no phone reception where she was staying.

On 16 January 2006 Mr McKenzie was in Switzerland when he received a phone call from his son who asked him if he had heard from Ms O'Shea as she had gone missing. Mr McKenzie returned to Australia on 22 January 2006.

Mr McKenzie believed that Ms O'Shea used cannabis and, on the odd occasion, amphetamine. He was not aware that she used heroin.

### **Loma Juanita Canuto**

Ms Canuto gave a statement to police on 18 January 2006. She told police that she had been best friends with Ms O'Shea since Alan was about four years old when she first met her in Cairns. Ms Canuto stated that she lives at 1153 Wooroora Road, Ravenshoe a couple of days per week and for the remainder of the time, with her mother at Mareeba.

Alan contacted her in late 2005 and asked if he, Tim and Bryer could live on her property. She agreed and he built a shack there in which they lived.

Ms Canuto told police that she spent time with Ms O'Shea in July 2005 when she visited Ravenshoe.

She saw Ms O'Shea again in December 2005 when she arrived for the birth of her grandchild. Ms O'Shea stayed at Ms Canuto's a couple of nights and stayed with Alan a couple of nights. Ms Canuto took Ms O'Shea to Mareeba once or twice and one night they stayed at Ms Canuto's mother's place.

Ms Canuto said that on 24 December 2005 [actually 23 December 2005] Ms Canuto picked up Ms O'Shea, Tim and Brigid at Ms Gifford's residence at Mareeba. She drove them to Ravenshoe and then drove back to her mother's house at Mareeba. Ms Canuto told police that was the last time she saw Ms O'Shea.

Ms Canuto told police that after Christmas she found out that Ms O'Shea was missing. She told Alan not to worry as Ms O'Shea was at Ms Gifford's house and she would go and get her. Ms Canuto told police that she said this as she had forgotten that she had picked Ms O'Shea up from there on 24 December 2005.

About a week later Ms Canuto was in Mareeba and went to Ms Gifford's house to find Ms O'Shea. Ms Gifford said that she wasn't there and that Ms Canuto had picked her up on 24 December 2005. Ms Canuto said that she then recalled that she had and realised that she didn't know where Ms O'Shea was.

### **James Richard Kennedy**

In January 2006 Mr Kennedy was employed as an attendant at the Atherton Hotel Bottle Shop. He believes that Ms O'Shea came into the bottle shop on Thursday 29 December 2005 and purchased beer for which she paid cash.

### **Deborah Gifford**

Ms Gifford told police that she first met Ms O'Shea in 1997, through her sister, Ruth Gifford (also known as Ruth Welch), when they were all living in Millaa Millaa. Ruth has a son, Chi'lan Welch, who went to school with Alan O'Shea.

In December 2005 Mr Welch was living with Ms Gifford.

Ms O'Shea and Tim turned up to Ms Gifford's house at about 2pm on 23 December 2005. Ms O'Shea was very excited about the pending birth of her grandchild. She said that Brigid had come up with her but she was with Tim that afternoon. She said that she was in Mareeba as Tim had a dentist appointment and that Loma Canuto was going to pick her up. Ms O'Shea said she would be back on 6 January 2006 as that was the date of Tim's next appointment.

Ms Canuto arrived at about 3pm and Ms O'Shea, Tim and Ms Canuto left in Ms Canuto's car. That was the last time Ms Gifford saw Ms O'Shea.

Ms Gifford told police that Ms O'Shea did not turn up on 6 January 2006. On 11 or 12 January 2006 Ms Gifford was at home with Mr Welch. At about 8pm Ms Canuto attended and said she was there to collect Ms O'Shea. Ms Gifford said that she had not seen Ms O'Shea since Ms Canuto picked her up on 23 December 2005. Ms Canuto then said that she had forgotten about picking her up.

### **Prem Chi'lan Welch**

In December 2005 Mr Welch was residing with his aunt, Ms Gifford.

Mr Welch told police that he knew Ms O'Shea well. He attended school with Alan for a number of years. He went to live in Melbourne in 2001 and resided with Ms O'Shea and her family for about six months.

On 23 December 2005 Mr Welch ran into Ms O'Shea at the shops in Mareeba. He asked her for Alan's phone number. She told him she wanted to visit Ms Gifford and he gave her the address. Mr Welch told police that he also saw Loma Canuto and Tim O'Shea in town that day.

He told police that he did not see Ms O'Shea after he saw her in town on 23 December 2005.

### **Naomi Canuto**

Ms Canuto told police that Ms O'Shea turned up at her house in Ravenshoe on 28 December 2005 and ended up staying the night. She said that she wanted to stay as Loma Canuto was in Mareeba and she was lonely.

On the morning of 29 December 2005 Ms O'Shea told Ms Canuto Alan was going to pick her up but at about 10.30am she decided to leave and walk into town. She said she was going to get some Coopers Stout.

Alan arrived at Ms Canuto's house at about 11am and Ms Canuto told him that Ms O'Shea had walked into town. He left to go and find her.

On the morning of 29 December 2005 Ms O'Shea and Ms Canuto had a conversation about going to Cairns to celebrate New Years Eve but they made no definite plans.

### **Mr A**

A witness, identified for the purposes of these findings as Mr A, gave police a statement in December 2013. He has known Alan since 2001 and lived with Alan, Brigid, Tim, Daniel, Piers McKenzie, Prem Welch and Ms O'Shea at 1 Terry Street,



Balwyn in 2002 for about seven or eight months. Mr A stated that, during this period he used amphetamines and cannabis with Ms O'Shea, Alan and Piers. He said that they also used heroin but he did not.

In 2007 Mr A met up with Alan at a friend's place in Mooroolbark. Alan said that Ms O'Shea was missing. They exchanged phone numbers.

About three weeks later Mr A saw Alan again at the same house. He was buying drugs from them. Mr A later visited Alan at his house. Tim and Brigid were living there with him. About a week later Mr A moved into that house.

Mr A told police that about three weeks after he moved in he, Alan and Tim were talking about Ms O'Shea. Alan had been drinking. He said to Mr A, 'You know I killed Mum, don't you?'

Mr A thought that Alan was trying to scare him. He didn't believe that he had killed Ms O'Shea.

A few days later he came across Alan and Tim talking in the back yard. He heard Tim say, 'We can just dig it up.'

He asked what they were talking about and Alan said that he had buried ten pounds of 'pot' in Queensland. He then said something about it being so long ago that it would have decomposed.

About two weeks later they were drinking in the back yard around a fire and the police attended due to a fight. Alan told Mr A that he was worried he was going to get caught for killing Ms O'Shea.

Mr A told police that he has suffered from mental illnesses due to drug use but that he was not using drugs when he gave the statement and that his memory of his conversations with Alan in relation to Ms O'Shea were very clear.

### **Bryer Drago**

Ms Drago went to school with Piers McKenzie and through him met Ms O'Shea and her children. In June 2001 she began a relationship with Alan O'Shea. In April 2002 she and Alan left Melbourne and moved to the Atherton Tablelands where they lived until shortly after Ms O'Shea's disappearance and the birth of their child in January 2006.

Ms Drago told police that although Brigid was with her and Alan most of the time they visited, Ms O'Shea spent a lot of the time with Loma Canuto, about half a kilometre away but on the same property.

She said that on 29 December 2005 Ms O'Shea wanted to go to Mareeba to visit a friend. As Ms Drago was in the last days of her pregnancy Alan didn't want to be away too long but agreed to drive Ms O'Shea to Atherton. Ms Drago said that she stayed home with Brigid and Tim.

When the child was born on 9 January 2006 Ms O'Shea had not returned home but they didn't think this was unusual. Several days after the birth Alan drove to the airport to collect Ms Drago's family who came to visit them.

About a week after the birth Alan began to express concern for his mother and to call around looking for her. When he realised that she didn't arrive at her friend's house in Mareeba he reported her missing to the police.

About 8 or 10 days after the birth, police came to the property and arrested Alan for possession of cannabis. The Department of Child Safety took custody of the baby.

Ms Drago re-gained custody of the child about five days later but only on the basis that she not return to live at the property. She flew to Bundaberg to live with her grandmother. A few weeks later Alan, Tim and Brigid also went to live in Bundaberg. About three weeks later the police came and took Brigid to Melbourne to live with her grandmother, Joan O'Shea. Alan, Tim and Ms Drago moved to Melbourne in early 2007. Alan and Ms Drago separated in September 2007.

## **Mr B**

In late 2007, a person, identified for the purpose of these findings as Mr B, pleaded guilty to an ex officio indictment containing five counts of rape, five counts of sexual assault, one count of assault with intent to rape, one count of assault occasioning bodily harm whilst armed, one count of deprivation of liberty and three counts in relation to cannabis.

The circumstances of the offences were that at 1am on 2 June 2007 the victim (a 31 year old female) was walking along the Palmerston Highway near the Millaa Millaa turnoff. B offered her a lift which she accepted. He then convinced her to go to his home and said that after he had some tea he would take her to her destination.

When she attempted to leave the house B struck her twice on the head with a piece of timber and dragged her back inside the house where he forced her onto a bed and removed her clothes. He then tied her hands to the bed head with a rope, sexually assaulted her, forced her to perform oral sex whilst slapping her face repeatedly. He bit her numerous times and urinated on her. He forced her to perform oral sex numerous times.

He told her she was not going anywhere and again forced her to perform sexual acts.

He went to sleep and when he awoke took her to another room where he whipped her repeatedly and anally raped her with an object. He told her he was going to keep her and that if she did as he told her she would be fine.

By this time it was dawn. B went to another room and the victim managed to free her hands and escape from the house. B ran after her but she managed to reach a neighbouring house and the occupants took her in and phoned the police.

The victim suffered swelling and lacerations to her head, bite marks on her chest, multiple abrasions and bruises on her arms, knees and buttocks and an injury to her perianal region. At one stage B told the victim to remove one of her earrings. He took it off her and put it somewhere.

B's actions were described by the sentencing judge as 'a shocking and horrible and prolonged series of violent and degrading acts'. The victim had been in fear that she would be killed.

B was sentenced, after appeal, to 12 years imprisonment.

## **The inquest**

A pre-inquest directions hearing was held on 27 March 2014 and the inquest listed to commence on 12 May 2014. Lily sought and was granted leave to appear. No other persons sought leave to appear.

Material gathered during the police investigation and the coronial investigation was tendered as evidence at the commencement of the inquest. A total of 41 exhibits were tendered at the commencement of the inquest including witness statements and documents.

Seventeen witnesses were called to give evidence:

- Tim O'Shea
- Alan O'Shea
- Brett Devine
- Lily Parmenter
- James Kennedy
- Debra Gifford
- Prem Chi-Lan Welch
- Grant Laurence
- Loma Canuto
- Naomi Canuto
- John McKenzie
- John Parmenter
- Daniel O'Shea
- Brigid O'Shea
- Bryer Drago
- Mr A
- Mr B

## ***The Evidence***

Most of the witnesses gave evidence that was consistent with the information they had provided to police. Few witnesses were able to add anything further.

### **Brett Devine**

Senior Sergeant Brett Devine gave evidence that he became responsible for the investigation into Ms O'Shea's disappearance some time after her disappearance. He concluded that her last confirmed movement was the withdrawal of money at the post office in Ravenshoe on 29 December 2005.

### **Lily Parmenter**

Lily gave evidence consistent with that information provided in her statement. She stated that on 9 January 2006 she phoned Alan to speak to him about the birth of his child. She asked him about Ms O'Shea and how she was reacting to the birth of her grandchild. Alan said that she was at Debbie's. It was then that she found out that Ms O'Shea had not been seen by the family since 29 December 2005. She said that she asked Alan for Loma Canuto's phone number so that she could ring her and ask about Ms O'Shea's whereabouts. Alan told her he did not have it. She then phoned about four or five people until she obtained Loma's number and phoned her. Loma told Lily that Ms O'Shea was in Mareeba.

Lily said that prior to 9 January 2006, although she had spoken to Alan over the phone, she had not known that Ms O'Shea was missing.

Ms Parmenter recalled that Ms O'Shea went to visit Alan, Tim and Bryer in mid 2005. It was when she came back from that trip that she told Lily that Bryer was pregnant.

Ms O'Shea had sent Tim to live with Alan in 2005 as he had been hanging out with a bad crowd and she was worried that he was going to get into trouble.

### **James Kennedy**

Mr Kennedy gave evidence that he attended the same school as Alan O'Shea and he saw Ms O'Shea over the years and knew her to be Alan's mother. He stated that he recognised her when she came into the bottle shop and he believed that to have occurred on the afternoon/evening of 29 December 2005. He said that he then saw the poster which was put up when she went missing and he recalled that he had seen her.

Mr Kennedy said in evidence that his recollection was that Ms O'Shea came into the bottle shop with two men. He thought that one of them might have had a black beard and worn a flannelette shirt. He could not recall the other man's appearance.

Ms O'Shea bought a six pack of either VB or Coopers Stout beer and he had a normal conversation with her which would have taken about two to two and a half minutes. She then left with the two men.

Mr Kennedy was in no doubt that the person he saw was Ms O'Shea.

### **Deborah Gifford**

Ms Gifford gave evidence consistent with her statement to police. She was an open, credible and honest witness who provided as much information as she could. Ms Gifford was shown a photograph of Mr B. She said that she didn't know him but his face was familiar to her and it was possible that she had seen him in the pub at Millaa Millaa or whilst working on a farm.

### **Brigid O'Shea**

Brigid gave evidence that she recalls seeing her mother in the car with Alan on the day she disappeared.

### **Mr A**

Mr A's evidence at the inquest was consistent with his statement. He stated that he had decided to provide the information to police after he saw Lily's Facebook page on her mother's disappearance as he thought that it was the right thing to do.

Mr A admitted that he had suffered from mental illnesses but said that he is on medication, under a treatment team and stable currently. He said that he has experienced delusions in the past but that afterwards he knows he has been delusional and he is in no doubt that the conversations with Alan occurred as he recalls.

Mr A was an impressive witness who answered with candour and honesty. I believe that the conversations he referred to did in fact occur, however, I cannot be certain of their meaning. It is possible, especially considering the evidence of Tim O'Shea, that Alan feels responsible for his mother's death. That could have caused his initial

outburst when he stated that he killed his mother. Mr A's initial reaction was that he didn't believe the statement. The other conversations are ambiguous. It is consistent with other evidence that Alan was concerned that the police thought he was involved in his mother's death. It is possible that this was the reason for his concern that he would be arrested rather than any guilt on his part.

### **Tim O'Shea**

Tim gave evidence in regard to his excellent relationship with his mother.

Tim didn't see anything to indicate that Ms O'Shea had drugs in her possession in December 2005.

Tim stated that Ms O'Shea spent a lot of time at Loma's place during her visit in December 2005. He last saw her around New Year's Eve and she was at Loma's and told him that she was going to spend New Year's Eve with Deb and Ruth and invited him to go with her. He declined. He then saw her in Alan's car as they drove away.

Tim said that Alan returned to the camp after about an hour.

Tim said that Alan was angry after he was spoken to by police about Ms O'Shea's disappearance as he thought that the police suspected that he was involved.

Tim said, 'Out of everyone, Alan loved Mum the most.'

### **Mr B**

Mr B gave evidence that he left Western Australia and came to live in Millaa Millaa in August 2000. He came to Queensland alone and rode a motorcycle which he kept until 2001.

He said that he lived in a house on the Palmerston Highway for a few months and then moved to Millaa Millaa. He worked spasmodically during his time there including fruit picking at Tolga, casual farm work, some fencing work, casual painting at the school and at some dairies.

Mr B said that he frequently drank at the Millaa Millaa pub and played pool there in a pool competition. He also went to other pubs to play pool – he recalls playing pool at Mareeba on one occasion and at Atherton once or twice per year. He said he very seldom drank at the Atherton pub.

Mr B said he also went to Atherton to buy groceries and to submit his Centrelink form. He submitted his form once per month and he thinks that he did it on a Thursday. Mr B said that he sometimes got a lift from a friend to Atherton and he sometimes borrowed a car from a friend.

Mr B said that in 2005 he had an ANZ bank account and there was a debit card linked to that account which he would use to make purchases.

Mr B said that he knew Alan as he had met him on one occasion when he went with a friend to Alan's house in Millaa Millaa to get some timber.

### **Alan O'Shea**

Mr O'Shea was served with a summons to attend the inquest but failed to appear. On 12 May 2014 I issued a warrant for his arrest. As at 16 May 2014 when all

witnesses had been called Mr O'Shea had not been located and had not appeared. I adjourned the inquest for mention on 11 June 2014 to give him an opportunity to contact my office and/or give evidence.

As of the date these findings were delivered, Mr O'Shea had not contacted my office and had not been arrested on the warrant. It is clear that Mr O'Shea does not wish to take part in this inquest. It became evident during the inquest that Alan was very angry about the early stages of the police investigation. He believed that police were treating him as a suspect and that this resulted in his baby being removed by the Department of Child Safety. It may be for these reasons that Alan has refused to cooperate with police (since the interview) and refused to participate in the inquest.

As Alan was one of the last persons to see Ms O'Shea and considering that he may have been able to give evidence as to whether he knew Mr B and the circumstances of their meeting/s, it is very unfortunate that he has chosen not to participate in the proceedings. His evidence may have been very relevant.

On 11 June 2014 I recalled the warrant and excused Alan O'Shea from appearing on the summons.

### **Findings required by s. 45**

I find that Kathleen Mary O'Shea is deceased. I am required to find, as far as is possible, the medical cause of death, who the deceased person was and when, where and how she came by her death. As a result of considering all of the material contained in the exhibits, I am able to make the following findings.

<b>Identity of the deceased</b>	Kathleen Mary O'Shea
<b>How she died</b>	Undetermined
<b>Place of death</b>	I find that Ms O'Shea died in the area of the Far North Queensland Tablelands
<b>Date of death</b>	Ms O'Shea died on or soon after 29 December 2005.
<b>Cause of death</b>	Undetermined

### **Comments and recommendations**

Section 46 of the *Coroners Act 2003* provides that a coroner may comment on anything connected with a death that relates to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.

#### **Comments**

All who knew Ms O'Shea described her as a happy, fun-loving and likeable person and, above all, a loving and devoted mother who would do anything for her children. She was much loved by her friends and her family. All were adamant that she would not leave her children for any substantial period without letting them know where she was.

Most of the witnesses stated they had known Ms O'Shea to hitch hike and they wouldn't be surprised if she had hitch hiked in December 2005 if she needed transport.

Ms O'Shea was a person who liked to drink Stout beer although she rarely drank to excess. She led what could be described as an alternate lifestyle. She wore eccentric clothing, she smoked marijuana and was known to have used amphetamine and heroin at times.

Some of the witnesses stated that they believed John McKenzie was somehow involved in the disappearance of Ms O'Shea. There is no evidence whatsoever to support that view.

There are five possible explanations for Ms O'Shea's disappearance – firstly, that she intentionally disappeared and does not want to be found, secondly, that she committed suicide, thirdly that she died from natural causes, fourthly that she died from a drug overdose and an unknown person disposed of her body, and finally, that another person caused her death and disposed of her body.

There is no reason to believe that Ms O'Shea intentionally disappeared. It is clear from the evidence heard at this inquest that she would not have left her children, on whom she doted. She had never left them for any period of time when they didn't know of her whereabouts. She has not been seen in Queensland or Melbourne and there is no record of any activity by her since 29 December 2005.

There is also no evidence that Ms O'Shea committed suicide. She was not depressed or unhappy. She was enjoying a holiday with some of her children in Ravenshoe, visiting friends and very much looking forward to the birth of her first grandchild. Most significantly, had she committed suicide it is likely that her body would have been located.

Ms O'Shea was not suffering from any illnesses to the knowledge of family or friends. If she died of natural causes it is again reasonable to assume that her body would have been found.

Ms O'Shea was known to be a user of illicit substances including cannabis, amphetamine and heroin. Shortly before her death she was, according to Alan O'Shea, in possession of ten ecstasy tablets. Alan O'Shea told police that after his mother disappeared he found a number of used syringes in the tent in which she had been sleeping on his property.

I have considered the possibility that Ms O'Shea went to Mareeba as planned and there died from an accidental drug overdose and that an unknown person or persons disposed of her body, perhaps to ensure that they would not come to the attention of police. However, this is not a likely scenario.

Alan O'Shea drove Ms O'Shea to Atherton on 29 December 2005. He dropped her at a street there and she told him that she was going to the Atherton Hotel to play pool and from there she would go to Mareeba to visit friends. Alan O'Shea then returned home.

I am satisfied that Ms O'Shea was last seen by the bottle shop attendant in the bottle shop of the Atherton Hotel that evening. She left there in the company of two men.

There is no evidence that Ms O'Shea was seen anywhere after she left the Atherton Hotel and it is to be expected that, had she travelled elsewhere after being at the Hotel, sightings of her would have been reported.

I find that Ms O'Shea is deceased and she died soon after 29 December 2005 in the area of the Tablelands in Far North Queensland. The cause of her death cannot be determined but it is most likely that an unknown person or persons with whom she came into contact either at the Atherton Hotel or soon after she left there, caused her death and disposed of her body.

I close the inquest.

Jane Bentley  
Coroner  
Cairns  
12 June 2014