

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2001 2112

**FINDING INTO DEATH WITH INQUEST<sup>1</sup>**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

**Inquest into the Death of: MICHAEL JOHN LOWRY**

Hearing date:	26 November 2007
Appearances:	Senior Constable Rachel Field, Assisting the Coroner Mr Con Myonas on behalf of Vicki Wyhoon
Findings of:	AUDREY JAMIESON, CORONER
Delivered at:	Coroners Court of Victoria Level 11, 222 Exhibition Street Melbourne 3000
Delivered on:	8 February 2013

---

<sup>1</sup> The finding does not purport to refer to all aspects of the evidence obtained in the course of my investigation. The material relied upon included statements and documents tendered in evidence together with the transcript of proceedings and submissions of legal representatives/counsel.

I. AUDREY JAMIESON, Coroner having investigated the death of MICHAEL JOHN LOWRY

AND having held an inquest in relation to this death on 26 November 2007

at the Latrobe Valley Coroners Court

find that the identity of the deceased was MICHAEL JOHN LOWRY

born on 8 January 1949

and the death occurred on 14 July 2001

at Alfred Hospital, Commercial Road, Prahran, Victoria, 3181

from:

1 (a) GUNSHOT INJURY TO HEAD

in the following summary of circumstances:

1. On 18 January 2001, Michael John Lowry received a single gunshot wound to the left side of his head. The shooting occurred on the second floor of the Korumburra Hotel at 81 Commercial Street, Korumburra. He was treated at the Korumburra Hospital and transferred by air ambulance to the Alfred Hospital the following day.
2. On 14 July 2001, Mr Lowry died as a consequence of the gunshot wound.
3. The death of Mr Lowry constitutes a *reportable*<sup>2</sup> death as defined by Section 3 *Coroners Act 1985* (the old Act) as it then was.
4. An inquest was held in accordance with Section 17(1)<sup>3</sup> of the old Act. Section 17(3)<sup>4</sup> was not applicable as no person has been tried in relation to the killing of Mr Lowry.

---

<sup>2</sup>"reportable death" means a death-

(a) where the body is in Victoria; or

(b) that occurred in Victoria; or

(c) the cause of which occurred in Victoria; or

(d) of a person who ordinarily resided in Victoria at the time of death-  
being a death-

(e) that appears to have been unexpected, unnatural or violent or to have resulted, directly or indirectly,  
from accident or injury; or...

<sup>3</sup> s.17. Jurisdiction of coroner to hold inquest into a death

(1) A coroner who has jurisdiction to investigate a death must hold an inquest if the body is in Victoria or it appears to the coroner that the death, or the cause of death, occurred in Victoria and-

(a) the coroner suspects homicide; or....

## BACKGROUND CIRCUMSTANCES

5. Michael John Lowry was 52 years of age at the time of his death. He was the licensee of the Korumburra Hotel at 81 Commercial Street, Korumburra and resided at the hotel with his wife, Nunta Lowry<sup>5</sup>, and her two children, Eddie Inthong aged 6½ years and Hayden aged approximately 3 years. Mr Lowry was a prominent local identity and was campaigning to enter parliament as an independent member.

### The Korumburra Hotel

6. The Korumburra Hotel is a two-storey brick premise. On 18 January 2001 the hotel consisted of a public bar, a gaming room and a lounge room on the ground floor. Access to these areas was gained by two doors located in Commercial Street and a further door off Radovick Street. There was also access to the public bar via a door at the rear of the hotel. A bottle shop also operated from the rear of the hotel which fronted on to Little Commercial Street. A car park for the hotel and surrounding businesses was also located in this area.
7. The second storey of the hotel consisted of offices, bathrooms, storage rooms and a residential area used by Mr Lowry and his family. Access to the second floor was gained via a staircase which was situated between the public bar and the lounge room. Access was also available to the second floor via external stairs at the rear of the hotel.

---

#### <sup>4</sup> s. 17. Jurisdiction of coroner to hold inquest into a death

(3) Despite sub-section (1) if, in relation to the investigation of a death, a coroner is satisfied that-

(a) one or more persons have been charged before a court with-

(i) the murder, manslaughter, defensive homicide, infanticide or child destruction  
of the deceased; or...

(b) a presentment has been made before a court of one or more persons for an offence referred to  
in paragraph (a)-

and one or more of those persons has been found guilty of the offence or acquitted or found not guilty  
of the offence the coroner may-

(c) determine not to hold an inquest; or

(d) adjourn the holding of an inquest which has already commenced; or

(e) if an inquest has been adjourned, determine not to recommence the holding of the inquest.

<sup>5</sup> Some of the Court's documentation depicts Mrs Lowry's name as "Nunta Dangcumcoon"

## SURROUNDING CIRCUMSTANCES

8. On Thursday 18 January 2001 at approximately 11.35pm, Mr Lowry was using a toilet on the second floor of the hotel which was situated at the southern end of the hotel, approximately 20 metres south of the internal staircase. Eddie Inthong walked from the residential area towards the toilet at about the same time. As Eddie Inthong walked past the door of an office on the eastern side of the passageway, immediately after the staircase, he noticed a female at the desk in the office. Mr Lowry appeared from the toilet as the female was speaking to Eddie Inthong, asking him where his father was. Mr Lowry told Eddie Inthong to move away and after doing so, an altercation occurred between the female and Mr Lowry. Eddie Inthong remained present during this altercation.
9. During the altercation Mr Lowry was shot to the left side of his head. The female fled from the scene, past the internal stairs, towards the residential area, leaving behind a red Coca-Cola baseball cap. In hearing the gunshot Mrs Lowry stepped from her room in the residential area in to the passageway. At this time the female ran past Mrs Lowry, turned and looked at her and continued to run towards the rear of the premises before escaping via a rear door which led to the external stairs.
10. Mrs Lowry went to the aid of her husband and on seeing him injured, ran downstairs to the gaming area where she told the Manager, Joanne Avent, that her husband had been injured. At this time there were two patrons in the gaming room who recalled hearing a loud bang prior to Mrs Lowry appearing in the gaming room. One of the patrons, Kelvin Gasparo, went upstairs to assist.
11. Police and ambulance officers attended a short time later. Mr Lowry was conveyed to the Korumburra Hospital and later transferred by air ambulance to the Alfred Hospital. Over the following months his condition fluctuated. The severity of his injury prevented Mr Lowry from being able to communicate or perform normal daily activities during his treatment phase. He died from complications of his initial injury on 14 July 2001.

## JURISDICTION

12. At the time of Mr Lowry's death and the hearing of the evidence at the inquest, the *Coroners Act 1985* (the old Act) applied. From 1 November 2009, the *Coroners Act 2008* (the new Act) has applied to the finalisation of investigations into deaths that occurred prior to the commencement of the new Act.<sup>6</sup>
13. In the preamble to the new Act, the role of the coronial system in Victoria is stated to involve the independent investigation of deaths for the purpose of finding the causes of those deaths and to contribute to the reduction of the number of preventable deaths and the promotion of public health and safety and the administration of justice. Reference to preventable deaths and public health and safety are referred to in other sections of the new Act.<sup>7</sup>
14. Section 67 of the new Act describes the ambit of the coroners' findings in relation to a death investigation. A Coroner is required to find, if possible, the identity of the deceased, the cause of death and, in some cases, the circumstances in which the death occurred.<sup>8</sup> The 'cause of death' generally relates to the *medical cause of death* and the 'circumstances' relates to the *context* in which the death occurred.
15. A Coroner may also comment on any matter connected with the death, including matters relating to public health and safety and the administration of justice.<sup>9</sup> A Coroner may also report to the Attorney-General and may make recommendations to any Minister, public statutory authority or entity, on any matter connected with a death which the Coroner has investigated including recommendations relating to public health and safety or the administration of justice.<sup>10</sup>

---

<sup>6</sup> Section 119 and Schedule 1 – *Coroners Act 2008*

<sup>7</sup> See for example, sections 67(3) & 72 (1) & (2)

<sup>8</sup> Section 67(1)

<sup>9</sup> Section 67(3)

<sup>10</sup> Section 72(1) & (2)

## INVESTIGATION

### Identity

16. The identification of Michael John Lowry was confirmed by fingerprint analysis undertaken by Victoria Forensic Science Centre.

### Medical investigation

17. Dr Shelley Robertson, Forensic Pathologist at the Victorian Institute of Forensic Medicine performed an autopsy on the body of Mr Lowry and reported there to be no significant disease and that he died as a direct result of complications following the gunshot injury. At autopsy, a deformed metallic fragment was removed from the brain tissue in which it had become firmly embedded. Dr Robertson attributed the cause of Mr Lowry's death to a gunshot injury to the head.

### Police investigation

18. Detective Senior Constable Brett Williamson of the Armed Offenders Squad had the carriage of the police investigation because initially police thought that Mr Lowry's death had occurred in the context of an armed robbery or aggravated burglary. These possible offences became less apparent when Mrs Lowry confirmed that although there was cash within the office where the offender had been observed, no cash was in fact missing.<sup>11</sup>
19. Mrs Vicki Wyhoon became the main suspect to the shooting of Mr Lowry. Mrs Wyhoon lived in Korumburra and the investigation identified that she had a history of hostility and violence towards Mr Lowry dating back to 1994. Mr Lowry took out an interim intervention order against Mrs Wyhoon in March 1998 and obtained a full intervention order against her in April 1998. Mrs Wyhoon breached the intervention order several times including on 1 January 2000 when she assaulted Mr Lowry by striking him on the back of the head. Mrs Wyhoon was a client of South Gippsland Community Mental Health Services (SGCMHS). On 4 April 2000 she committed an armed robbery at the offices of SGMHS where she stole and later destroyed her medical file.

---

<sup>11</sup> Transcript (T) @ p 47

20. Eddie Inthong underwent a VATE interview and stated that he was present when his father and a female were arguing and that he saw this female moments before the shooting. Eddie Inthong stated that he saw this female run towards his father and began hitting him and then he heard a spraying type noise.
21. Mrs Lowry stated that she was 90-95% sure that the person she saw running away from the hotel after the shooting was Mrs Wyhoon.
22. On 2 August 2001, in his second statement to police, Mrs Wyhoon's husband, Len Wyhoon raised doubts about his wife's movements on 18 January 2001. On 14 September 2001, Mr Wyhoon made a third statement, which raised additional concern to police about Mrs Wyhoon's involvement in the shooting.
23. During the police investigation, warrants under the Telecommunications (Interception) Act 1979 (Cth) and the Surveillance Devices Act 1999 (Vic) were obtained to enable police to monitor and record Mrs Wyhoon's telephone conversations. In a number of conversations Mrs Wyhoon made reference to the shooting of Mr Lowry particularly in conversations with her friend, Tracey Hartigan. Ms Hartigan was formally interviewed but she and other witnesses were excluded as persons of interest through their statements and enquiries made by the police about their whereabouts at the time of the shooting.<sup>12</sup>
24. Mrs Wyhoon was charged with the murder of Mr Lowry. At the committal hearing Mr Wyhoon gave evidence. He has since become estranged from his wife. Mrs Wyhoon was committed to stand trial in the Supreme Court of Victoria however, on 16 November 2002, before His Honour Smith J. the Office of Public Prosecutions (OPP) entered a *nolle prosequi*.

## INQUEST

25. The following witnesses provided *viva voce* evidence at the inquest:
  1. Sergeant Brett WILLIAMSON – Investigating Officer.
  2. Kylie ZAPPA (aka BYRNES) – Psychiatric Nurse.
  3. Brian NANKERVIS – retired Detective Sergeant, Korumburra CIU
  4. Nunta LOWRY – wife of the deceased.

---

<sup>12</sup> Transcript (T) @ p39

5. Joanne STEWART (formerly AVENT) – Gaming Room Manager at hotel and present on the night.
6. Leonard WYHOON – husband of Mrs Wyhoon and now estranged.
26. Ms Deanne Van Breemen, Psychiatric Nurse of Mrs Wyhoon was excused at the committal hearing due to ill health and was excused on the same grounds from giving evidence at the inquest.
27. Mr Mylonas made an application to excuse Mrs Wyhoon from giving evidence on the grounds of self-incrimination. A witness is entitled to invoke this privilege if there are reasonable grounds for the witness' belief that they may be in peril of incriminating herself/himself as to the commission of an indictable offence if an answer to a question(s) is given. In *R. v. The Coroner: ex parte Alexander [1982] VR 731*, Justice Gray ruled that the privilege against self-incrimination applies to proceedings in the Coroners Court.<sup>13</sup>
28. I formed the view that the objection to give evidence was *bona fide* and had substance. The old Act did not empower a Coroner to provide statutory protection to a witness at risk of self-incrimination as is now available under the new Act.<sup>14</sup> The consequences of the absence of such a statutory protection was that the fact finding role of the coronial process was often diminished by the need to excuse a witness outright who might otherwise have contributed to the process. In this investigation, Mrs Wyhoon's objection was upheld and she was excused from giving evidence.
29. Sergeant Brett Williamson provided a summary of the police investigation including some of the difficulties encountered particularly as there was no forensic evidence located at the scene nor an identification of 100% certainty. He also confirmed that since the *nolle prosequi* no new evidence had come to light and no other suspects had been identified.<sup>15</sup> Mrs Whyoon remains the only person of interest.
30. The remaining witnesses confirmed the statements they had made for the criminal proceedings and gave evidence of their individual knowledge of the behaviours of Mrs Wyhoon and in particular, her behaviour towards Mr Lowry. The reason or reasons for her hostility towards

---

<sup>13</sup> Justice Gray followed madden CJ in *Re O'Callaghan (1899) 24 VLR 957*

<sup>14</sup> Section 57 *Coroners Act 2008*

<sup>15</sup> T @ p36



Mr Lowry were believed to have stemmed from him banning her from his hotel,<sup>16</sup> and him reporting her to police for the breaking of a shop window.<sup>17</sup> Mrs Wyhoon also alleged Mr Lowry raped her.

## FINDINGS

31. The police investigation identified Vicki Wyhoon as the only suspect to the shooting and ultimate killing of Michael Lowry. However, the evidence was circumstantial which I assume influenced the OPP in its decision not to proceed with the prosecution. I am cognisant of the course of the criminal prosecution and of the evidence of Ms Wyhoon's history of harassment and hostility towards Mr Lowry but also of her long history of mental and behavioural ill health and as such, I am unable to find on the evidence, to the requisite standard, the identity of the person who fired the gunshot at Michael Lowry on 18 January 2001.
32. I accept and adopt the medical cause of death as identified by Dr Robertson and find that Michael John Lowry died from a gunshot injury to the head inflicted by another person in non accidental circumstances. The identity of the person that caused his death thus remains open.

Pursuant to section 73(1) of the **Coroners Act 2008**, I order that this Finding be published on the internet.

I direct that a copy of this finding be provided to the following:

Mrs Nunta Lowry

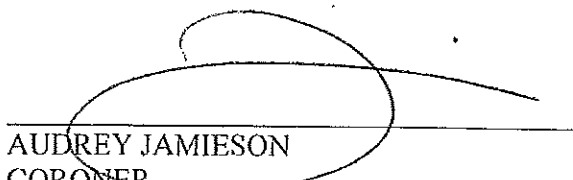
Mr Bob Lowry

Sergeant Brett Williamson – Investigating Officer

Mr David Reynolds (former Detective Senior Constable)

Susan Ruffou & Associates

Signature:

  
AUDREY JAMIESON  
CORONER  
Date: 8 February 2013



<sup>16</sup> T @ p 100 (Leonard Wyhoon)

<sup>17</sup> T @ p 95 (Joanne Stewart)