IN THE CORONERS COURT

OF VICTORIA

AT MELBOURNE

Court Reference: COR 2017 6443

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

Findings of:	**AUDREY JAMIESON, CORONER**
Deceased:	**PHILLIP JAMES KING**
Date of birth:	**12 February 1965**
Date of death:	**22 December 2017**
Cause of death:	**Mixed Drug Toxicity**
Place of death:	**140 Malcolm Creek Parade, Craigieburn, Victoria 3064**

Pursuant to section 67(1) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances**:

1. Phillip James King was 52 years of age at the time of his death. He lived in Craigieburn with his wife Rosalie King. The couple had two children who were grown and no longer lived at the family home. Mr King raised seven children altogether.[1] He was employed as a forklift driver and storeman.

2. In 2008, Mr King was diagnosed with multiple sclerosis (**MS**). Consequently, he suffered severe neuropathic pain. Mr King's medical history also included: chronic neck and back pain; chronic obstructed airway disease; neurogenic bladder dysfunction; chronic left knee pain; chronic depression and anxiety.

3. On 22 December 2017 at approximately 8.30pm, Mrs King went into the bedroom and saw Mr King lying in their bed. His feet were dangling over the edge and he was making a snoring sound. During the early hours of the morning on 23 December 2017, Mrs King received a telephone call from their son Phillip King (**Phillip**). Phillip informed his mother that Mr King had not picked him up for work, as planned. Mrs King returned to the bedroom to check on her husband and found him in the same position, but he had ceased snoring and she believed that he had died. Emergency Services were contacted, and Ambulance Victoria paramedics confirmed that Mr King was deceased.

INVESTIGATIONS

Forensic pathology investigation

4. Dr Matthew Lynch, Forensic Pathologist at the Victorian Institute of Forensic Medicine (VIFM), performed an external examination upon the body of Phillip James King, reviewed a post mortem computed tomography (CT) scan and referred to the Victoria Police Report of Death, Form 83. Dr Lynch commented that the examination's findings were consistent with Mr King's known history of MS. The post mortem CT scanning revealed calcific coronary artery disease and that Mr King's left kidney had been removed at some point in the past.

[1] Statements of family members indicate that Mr King raised seven children, but it is not clear whether they were all his biological children nor whether these children were all grown.

5. Toxicological analysis of Mr King's post mortem blood detected the presence of fentanyl (~13 ng/mL),[2] tramadol (~0.1 mg/L),[3] diazepam (~0.5 mg/L)[4] and its metabolite nordiazepam (~0.6 mg/L), pregabalin (~30 mg/L),[5] sertraline (~0.2 mg/L)[6] and traces of paracetamol.[7] The toxicologist commented that the drugs detected are consistent with excessive and potentially fatal use and that the combination of drugs detected may cause death in the absence of other contributing factors.

6. Dr Lynch ascribed Mr King's medical cause of death to mixed drug toxicity.

Police investigation

7. Upon attending the Craigieburn premises after Mr King's death, Victoria Police officers observed Mr King lying on a bed with his feet touching the ground. There was an open can of alcohol and cigarettes on a nearby bedside table and the associate drawers contained prescription medication in Mr King's name.

8. Mr King's son Kelvin King (**Kelvin**) showed police officers a text message he had found on his father's mobile phone. It had been sent to Mr King's solicitor at approximately 7.05pm on 21 December 2017 and its contents amounted to a "suicide note". A further search of Mr King's mobile telephone revealed that he had also contacted his bank at 6.05pm that same day.

9. First Constable (**FC**) David Martin was the nominated Coroner's investigator.[8] At my direction, FC Martin investigated the circumstances surrounding Mr King's death, including the preparation of the coronial brief. The coronial brief contained, *inter alia*, statements made by Mrs King, Kelvin, Mr King's daughter-in-law Samantha Sanchez (**Samantha**) and Mr King's treating General Practitioner (**GP**) Dr Martin Miletich.

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[2] Fentanyl is a narcotic (opioid analgesic) used perioperatively and as an adjunct to surgical anaesthesia.

[3] Tramadol is a narcotic analgesic used for the treatment of moderate to severe pain.

[4] Diazepam is a sedative/hypnotic drug of the benzodiazepines class.

[5] Pregabalin, an analog of the inhibitory neurotransmitter gamma-aminobutyric acid is used clinically as an analgesic, anticonvulsant and anxiolytic agent.

[6] Sertraline is an anti-depressant drug for use in cases of major depression.

[7] Paracetamol is an analgesic drug available in many proprietary products, either by itself, or in combination with other drugs such as codeine and propoxyphene.

[8] A Coroner's Investigator is a police officer nominated by the Chief Commissioner of Police or any other person nominated by the Coroner to assist the coroner with his/her investigation into a reportable death. The Coroner's Investigator receives directions from a Coroner and carries out the role subject to those directions.

10. During the investigation, police learned that Mr King had a history of suicidality. In 1994, he attempted to jump from a second story window following an argument with his wife. Approximately 15 years ago, Mr King was diagnosed with MS. In 2014, Mr King intentionally drove his vehicle off a bridge after another argument. Mr King sustained significant injuries in the ensuing crash and underwent surgery to repair cruciate ligament tears. He also suffered joint degeneration. Mrs King commented that the compounded pain from these injuries contributed to his ongoing depression and low mood.

11. Mr King's family commented that he had felt pressure associated with financial strain and his diminishing capacity to provide for his family over a prolonged period. Mrs King said that her husband would apologise for being a "bad husband" in birthday and anniversary cards. She was unsure what he meant precisely, but believed he felt that he could not provide enough money for his family. She stated that, during the weeks before his death, Mr King became more secretive, reclusive and argumentative. She said that she was constantly worried that he would attempt suicide during a depressed phase.[9]

12. Kelvin stated that he was very close to his father. He said that his father had always worked extremely hard for his children and that no task was beyond him. Mrs King stated that she attempted to persuade Mr King to relent on tasks like mowing the lawn, but he insisted on doing them. In addition, Mr King would work six or seven days a week. However, this often-left him completely exhausted. Kelvin said that his father would gamble on poker machines about once per week. He had also lent Mr King money (up $1000) on occasion. Kelvin believed that his father had a problem with gambling and that his mother was not aware of this issue.

13. Kelvin said that he did not know the exact medication that Mr King was prescribed or consumed, but he knew that his father self-medicated and took more drugs than advised. '*He wouldn't just take the amount prescribed for him; he would take what he thought he needed*'.[10] Kelvin said that his father was addicted to his medication. He believed that his father's treating medical practitioners continued to prescribe medication, despite knowing that Mr King was consuming more than the prescribed dosages.

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[9] Coronial Brief, *Signed Statement of Rosalie King* dated 30 January 2018, p 7.

[10] Coronial Brief, *Signed Statement of Kelvin King* dated 2 February 2018, p 9.

14. Mrs King stated that her husband was unusually happy during the weeks leading up to his death. Approximately two weeks prior to his death, Mr King attended a barbeque for his daughter-in-law Samantha's birthday party. Samantha also stated that Mr King was remarkably happy and socialised with his family in an unusual manner on that day; '*he would often come over and fall asleep pretty quickly because he was so tired and run down from his MS condition.*'[11]

15. On 19 December 2017, Mr King contacted Samantha to inform her that he would not be able to pick up his sons from work that weekend as he believed he would be in hospital. Samantha enquired why he would be in hospital, but Mr King simply replied '*(n)o reason. I just will be.*'[12]

16. On 21 December 2017 at approximately 11.40am, Mr King telephoned Samantha and said that he was unable to pick his sons up at midday. She said that he sounded drowsy and believed that he had taken too much of his medication. At approximately 1.00pm, Samantha went to Mr King and Mrs King's home. She was informed by Mrs King that they had an argument and that Mr King was in the bedroom. Samantha entered their bedroom and saw Mr King who began to cry. During their ensuing conversation, he said, '*I can't do it anymore, and I'm tired and sick of everything*'.[13]

17. At approximately 2.00pm, Mr King contacted Kelvin by telephone. He told Kelvin that he was not going to '*be there for Christmas*'.[14] When Kelvin asked his father why he would not be there, Mr King replied '*I just won't be there. Have a good Chrissie.*'[15] He hung up the phone. At approximately 7.00pm, Mr King texted his solicitor a message which read as a "suicide note" and a final letter to his family.

18. At approximately 8.30pm, Mrs King entered her bedroom and saw her husband lying on their bed, with his legs over the lip of the mattress and his feet touching the ground. She

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[11] Coronial Brief, *Signed Statement of Samantha Sanchez*, dated 5 April 2018, p 15 and 16.

[12] Ibid p 15.

[13] Ibid.

[14] Above n 10, p 10.

[15] Ibid.

said that he was breathing and making a '*weird snoring sound*'.[16] Mrs King decided to let him sleep.

19. On 22 December 2017 during the early hours of the morning, Mrs King awoke to a call from her son, Phillip. He informed her that Mr King had not come to pick him up for work, as planned. Mrs King re-entered the bedroom and saw that her husband was in the same position she had left him in and that he was not breathing.

20. At approximately 3.00am, Phillip woke his wife Samantha and told her that his father was dead – they drove immediately to Mr King and Mrs King's home. Kelvin and his wife arrived shortly thereafter; he said that his wife contacted emergency services as everyone else had been too hysterical to do so earlier.

Medical Care & Treatment

21. Mr King had a complex clinical history and was under the care of multiple medical practitioners to treat his MS, chronic pain and other conditions.

22. Mr King's regular treating GP was Dr Miletich at Epping Healthcare. Mr King consulted him once per fortnight, on average. Dr Miletich stated that Mr King's primary physical concerns were pain and dysfunction, particularly in his right knee. Dr Miletich also stated that Mr King suffered longstanding depression – principally related to chronic pain and diminishing physical capacity. He said that Mr King was prescribed Zoloft (**sertraline**) to treat his depression but did not engage formal counselling or psychological treatment. Dr Miletich stated that Mr King felt financial pressures, and that this had concerned his patient for approximately four years. He said that Mr King pushed himself to the limits of his physical capacity, primarily driven by a desire to maintain his workload. Dr Miletich stated that Mr King's used analgesics to endure long hours of hard physical work.

23. Mr King periodically consulted GP Dr Mohan Chitgopeker at Epping Healthcare. Dr Chitgopeker stated that Mr King mainly consulted him for repeat prescriptions when his usual treating GP (Dr Miletich) was unavailable. Dr Chitgopeker prescribed Mr King

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[16] Above n 9, p 7.

diazepam and duloxetine for '*anxiety and depression*'.[17] He said that he had prescribed Mr King the following medications for chronic pain:

a. Durogesic (fentanyl) patches 75mcg;

b. Lyrica (pregabalin) 75mg;

c. Oxynorm (oxycodone)[18] 10mg;

d. Mobic (meloxicam)[19] 7.5mg;

e. Tramadol[20] 50mg, and

f. Panadol Osteo.

24. Mr King engaged with consultant neurologist Dr Olga Skibina at Alfred Health for treatment of his MS. Mr King consulted Dr Skibina between February 2011 and November 2017. She stated that Mr King suffered severe neuropathic pain and depression, the former worsening the latter. In the absence of Dr Skibina, another consultant neurologist at Alfred Health, Dr Cassie Nesbitt, reviewed Mr King.

25. On 9 February 2017, Mr King was admitted to the Alfred Health Neurology Unit. He was admitted in order to reduce his opioid use, while managing his pain using lignocaine infusions. The initial treatment plan was to admit Mr King for one week. However, Mr King reported that he did not like being connected to the intravenous medication and that the cardiac monitoring reduced his physical freedom. He indicated that he did not experience any acute improvement in his symptoms. On 13 February 2019, Mr King self-ceased the infusions. The Inpatient Neurology Team arranged for ongoing follow-up at the Alfred Health MS Clinic and wrote to his GP to facilitate outpatient management.

26. On 8 March 2017, Mr King consulted Dr Nesbitt. He reported improved pain scores, but his medications were the same as they were prior to his stay in the Neurology Unit.

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[17] *Unsigned Statement of Dr Mohan Chitgopeker*, dated 16 November 2018, p 1 of 2.

[18] Oxycodone is an opioid medication used for the treatment of moderate to severe pain.

[19] Meloxicam is a nonsteroidal anti-inflammatory drug which is used to treat pain.

[20] Tramadol is an opioid medication used to treat moderate to moderately severe pain.

Dr Nesbitt advised Mr King that the improved pain score may be a delayed clinical response to the lignocaine infusions.

27. On 2 August 2017, Dr Nesbitt held a second and final consultation with Mr King. During this appointment, Mr King complained of worsening lower limb pain which was radicular in nature. Mr King was prescribed the following medication at that time:

    a. Oxynorm 10mg daily;

    b. Tramadol 150mg daily;

    c. Valium (diazepam) 10mg daily;

    d. Lyrica 225mg daily, and

    e. Panadol Osteo.

28. Dr Nesbitt stated that these medications had been regularly prescribed by Mr King's treating team, (Dr Miletich and Dr Skibina), and that tramadol had been added recently due to a sudden increase in pain. Dr Nesbitt stated that she cautioned Mr King about the effects of opiates on chronic pain and that she:

    ...elected to increase his Lyrica to 300mg twice daily, with the plan that this would help his pain and enable him to cut down the amount of Tramadol he was using (with the aim of eventually ceasing to use it).[21]

29. Dr Nesbitt said that Mr King had been on this dose in the past, had tolerated the higher dose and had experienced good pain relief: according to his medical record and his own re-call. Dr Nesbitt stated that Mr King was averse to repeating infusion pain therapies at this stage with a preference not to have inpatient hospital treatment if this could be avoided. She noted that the lignocaine infusions appeared only to have a short-term effect on his pain levels. Dr Nesbitt also arranged for follow-up of Magnetic Resonance Imaging (**MRI**) which had been conducted to assess whether there was any additional pathology that could be adding to Mr King's pain.

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[21] *Signed Statement of Dr Cassie Nesbitt*, dated 3 April 2019, page 2 of 3.

30. In November 2017, during his final consultation with Dr Skibina, Mr King revealed that he occasionally took a higher dose of pregabalin than recommended. Dr Skibina stated that she cautioned Mr King against misusing his medication and proposed treating him with carbamazepine[22] as an alternative to pregabalin. However, as he never returned for a review appointment, Dr Skibina was unsure whether he commenced that medication and whether it was effective.

Pharmaceutical Benefit Scheme (**PBS**) *Search*

31. In light of the evidence uncovered by the investigation thus far, I requested a PBS Search of Mr King's prescription and dispensing history. I was particularly concerned about:

    a. the number of drugs required to address Mr King's pain levels;

    b. the varying efficacy of Mr King's chronic pain medication;

    c. Mr King's admission to misusing pregabalin, and

    d. the number of drugs identified in Mr King's post mortem toxicology.

32. I note that a PBS Search cannot identify off-label nor private scripts. However, the results of the PBS were multitudinous and revealing. I have concentrated my review on those drugs which were identified in Mr King's post mortem toxicology: fentanyl, tramadol, diazepam, pregabalin and sertraline.

Fentanyl

33. In the six months leading up to Mr King's death, fentanyl was dispensed on:

    a. 17 November 2017, script from Dr Mohan Chitgopeker at Epping Healthcare, and

    b. 23 November 2017, script from Dr Martin Miletich at Epping Healthcare.

34. On each occasion five patches were dispensed. I am informed that one patch of Fentanyl lasts three days. Therefore, it is difficult to comprehend why a second script for five patches was prescribed only six days after the first. The Court did not receive medical

[22] Carbamazepine is an anticonvulsant medication which decreases nerve impulses that cause seizures and nerve pain. It may also be used to treat some mental health disorders.

records from Epping Healthcare. Dr Chitgopeker stated that Dr Miletich was the usual treating practitioner, and that his involvement in Mr King's care was principally to provide repeat prescriptions of his regular medication. However, at the time of Dr Chitgopeker's final review, Dr Miletich had not prescribed fentanyl to Mr King since 21 January 2017. Dr Miletich does not mention fentanyl in his statement at all and does not list it as a regular medication.

Tramadol

35. Dr Miletich prescribed tramadol to Mr King on:

    a. 12 April 2017 with two repeats;

    b. 30 May 2017 with two repeats, and

    c. 17 July 2017 with two repeats.

36. The pattern of dispensing indicates that Mr King had the prescriptions for some time prior to presenting them for dispensing. Mr King's last dispensed tramadol was on 17 December 2017, on a script written 12 April 2017.

Diazepam

37. During the six-month period prior to his death, Mr King was dispensed diazepam on:

    a. 1 August 2017, 50 tablets on script from Dr Chitgopeker dated 1 August 2017;

    b. 16 August 2017, 50 tablets on script from Dr Chitgopeker dated 16 August 2017;

    c. 31 August 2017, 50 tablets on script from Dr Miletich dated 30 August 2017;

    d. 18 September 2017, 50 tablets on script from Dr Miletich dated 18 September 2017;

    e. 6 October 2017, 50 tablets on script from Dr Chitgopeker dated 5 October 2017;

    f. 11 October 2017, 50 tablets on script from Dr Miletich dated 11 October 2017;

    g. 30 October 2017, 50 tablets on script from Dr Miletich dated 30 October 2017;

h. 12 November 2017, 50 tablets on script from Dr Vivian Ouraha[23] dated 11 November 2017;

i. 16 November 2017, 50 tablets on script from Dr Miletich dated 15 November 2017;

j. 26 November 2017, 50 tablets on script from Dr Miletich dated 23 November 2017, and

k. 21 December 2017, 50 tablets on script from Dr Miletich dated 20 December 2017.

38. This amounts to a total of 550 tablets in 180 days, or approximately three tablets each day, precisely the dosage described in Dr Miletich's statement to the Court.

Pregabalin

39. During the six-month period prior to his death, Mr King was prescribed pregabalin:

a. On 14 September 2017, Dr Grace Davies (presumably of Alfred Health) provided a script for pregabalin 56 tablets with no repeats. It was dispensed on 15 September 2017;

b. On 30 August 2017, Dr Miletich provided a script for pregabalin 56 tablets with five repeats. Only one script was dispensed, on 14 December 2017;

c. On 2 August 2018, Dr Nesbitt provided a script for pregabalin 56 tablets with five repeats. The script and five repeats were all dispensed between 4 August 2017 and 17 December 2017, and

d. On 30 May 2017, Dr Miletich provided a script for pregabalin 56 tablets with five repeats. The script and all five repeats were dispensed; four of the scripts were dispensed during the six-month period of interest, including a script on 3 November 2017.

40. This totals 672 tablets of pregabalin in 180 days dispensed to Mr King. According to Dr Miletich's statement, Mr King's pregabalin dose was 2 tablets daily of 150mg

[23] Dr Ouraha also worked at Epping Healthcare.

pregabalin and 1 tablet daily of 75mg. Clearly, Mr King was accessing more pregabalin than therapeutically indicated by his treating doctor. This appears to be facilitated, at least in part, by there being at least two different clinics involved in prescribing the pregabalin.

Sertraline

41. Sertraline was prescribed as follows in the six months prior to Mr King's death:

    a. On 9 September 2017, Dr Miletich prescribed 30 tablets with five repeats and later that day only 30 tablets were dispensed;

    b. On 14 September 2017, Dr Grace Davies (again, presumably from Alfred Health) prescribed 30 tablets with no repeats. The prescription was dispensed the following day, and

    c. On 15 November 2017, Dr Miletich prescribed 30 tablets with five repeats. On 16 November 2017, 30 tablets were dispensed.

COMMENTS

Pursuant to section 67(3) of the *Coroners Act 2008* (Vic), I make the following comments connected with the death:

1. Mr King had a complex medical history and was suffering from a range of medical conditions, including mental ill health. In such a case, drug misuse and drug dependence may be masked by the clinical rationale for their use; Mr King suffered chronic pain for which opioids were prescribed, but it is unclear whether he truly required oxycodone, fentanyl, tramadol, pregabalin and possibly sertraline to treat his pain effectively. Additionally, Mr King may have required diazepam to treat his mental ill health, but it is questionable whether he required three tablets each day for six months.

2. I note Kelvin King's concern that his father's medical practitioners continued to prescribed medication to him when allegedly aware that Mr King had a drug dependency. The PBS Search identified that Mr King did not have his drugs dispensed immediately following prescribing, but at times held onto scripts for some time. This indicates that he was using his medication drugs as he wished, and not necessarily as

directed. The PBS Search also identified that Mr King was prescribed 30 days' supply of fentanyl within a six-day period. The general clinical picture is that Mr King's treating medical practitioners prescribed without any clear neglect; however, a more coordinated approach to prescribing would have provided Mr King's treating medical practitioners with richer insight into issues associated with his drug use.

3. Ultimately, Mr King's death was the result of an intentional overdose; he deliberately took more medication than clinically recommended with the intent of ending his life. Therefore, I consider it appropriate to make my findings on the available evidence. It is a matter for the Australian Health Practitioner Regulation Agency (**AHPRA**) to determine whether they should review the prescribing practices of Mr King's medical practitioners.

4. Mr King's intentional overdose is emblematic of the need for a Real Time Prescription Monitoring (**RTPM**) system that covers all prescribed drugs. The Victorian RTPM system does not cover pregabalin or sertraline, but both were relevant in Mr King's death. A pertinent recommendation will follow.

5. On the night of his death, Mr King's wife believed that her husband was asleep but making an unusual snoring sound. However, it is likely that Mr King was in overdose, unconscious and dying.

6. In the International Journal of Drug Policy article *Pharmaceutical Opioid Overdose Deaths and the Presence of Witnesses*,[24] the authors identified and examined a series of coronial matters involving fatal overdoses that included pharmaceutical opioids. The overdoses occurred in Victoria between 2011 and 2013. The matters selected each had witnesses present at or after the fatal overdose. Additionally, witnesses had noticed signs consistent with overdose while the deceased person was still alive:

> *Importantly, in over 20% of these deaths, there was evidence that a witness saw signs consistent with overdose, most commonly abnormal breathing and/or unarousable sleep. In the majority of witnessed cases, the witness was a partner or acquaintance of the deceased.*[25]

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[24] Rowan Ogeil, Jeremy Dwyer, Lyndal Bugeja, Cherie Heilbronn, Dan Lubman, Belinda Lloyd, (2018) 'Pharmaceutical Opioid Overdose Deaths and the Presence of Witnesses', 55 *International Journal of Drug Policy* 55 – 18.

[25] Ibid.

7. The authors concluded that opioid users and their family/friends ought to be trained in: recognition of overdose, calling an ambulance, and administering naloxone in response to an overdose.[26] I agree with the contention. Sadly, Mr King's death exemplifies the imperative of implementing targeted education for those prescribed opioids and for their families. A pertinent recommendation will follow.

RECOMMENDATIONS

Pursuant to section 72(2) of the *Coroners Act 2008* (Vic), I make the following recommendations:

1. With the aim of promoting public health and safety and preventing like deaths, I recommend that the Department of Health and Human Services review the rationale for excluding pregabalin from the Real Time Prescription Monitoring scheme.

2. With the aim of promoting public health and safety and preventing like deaths, I recommend that the Department of Health and Human Services consult with the Royal Australian College of General Practitioners and other relevant bodies to consider how targeted education on overdose risk, overdose recognition and response can be provided to families and partners of people prescribed strong opioids.

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[26] Above n 24.

FINDINGS

The investigation has identified that Mr King had a complex medical history which included depression, suicidality and chronic pain. The investigation has also identified that Mr King ingested various medications which were prescribed to him, predominantly to treat chronic pain. Finally, Mr King wrote a text message to his solicitor which read as a "suicide note".

I accept and adopt the cause of death ascribed by Dr Matthew Lynch, and I find that the cause of Phillip James King's death was mixed drug toxicity, in circumstances where I find that he intended to end his own life.

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

I direct that a copy of this finding be provided to the following:
Mrs Rosalie King
Dr Martin Miletich
Dr Mohan Chitgopeker
Dr Olga Skibina
Dr Cassie Nesbitt
The Australian Health Practitioner Regulation Agency
The Department of Health and Human Services
The Royal Australian College of General Practitioners
First Constable David Martin

Signature:

AUDREY JAMIESON
CORONER
Date: **7 October 2019**