

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: 1997 3954

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

**Inquest into the Death of: KATHLEEN GLADWYN DOWNES**

Delivered On: 27 March 2015

Delivered At: Coroners Court of Victoria  
65 Kavanagh Street, Southbank

Hearing Dates: 28 and 29 January 2015

Findings of: JUDGE IAN L GRAY, STATE CORONER

Representation: of Counsel, instructed by  
, appeared on behalf of

Police Coronial Support Unit: Sergeant D Dimsey, assisting the Coroner.

I, JUDGE IAN L GRAY, State Coroner, having investigated the death of KATHLEEN GLADWYN DOWNES

AND having held an inquest in relation to this death on 28 and 29 January 2015

at Melbourne

find that the identity of the deceased was KATHLEEN GLADWYN DOWNES

born on 29 January 1902

and the death occurred 31 December 1997

at Brunswick Lodge, 17 Loyola Avenue, Brunswick Victoria 3056

**from:**

I (a) INCISED INJURY TO THE NECK

**in the following circumstances:**

Background and Personal History

1. Kathleen Gladwyn Downes (nee Fraser) was born on 29 January 1902 in Fryerstown, near Castlemaine, Victoria. She later moved to Ascot Vale where she met her eventual husband, Mr Lionel Downes. They married on 15 October 1927 at Moonee Ponds.
2. They lived their lives together in their family home in Strathmore, where they raise their three children, Patricia, William and Geoffrey.
3. Mr Downes passed away in 1964, and Mrs Downes continued to reside alone in the family home. In 1988, she underwent surgery to replace faulty heart valves and as a result of the operation, she suffered a stroke. After Mrs Downes was released from hospital, she lived with her son William for several months.
4. On 4 February 1989, Mrs Downes moved into the Brunswick Lodge Aged Care Facility at the above address, where she occupied room number 1.
5. At the completion of her rehabilitation, Mrs Downes remained quite active until she was involved in a car accident in 1996. She suffered injuries to her legs and became reliant on the use of a walking frame. Later, she suffered another stroke, which left her speech impaired, but she remained reasonably active.

6. At the time of her death, Mrs Downes was 95 years old. She was described as having a wonderful nature, and was considered the matriarch of the Aged Care Facility. Her family and staff at the Lodge state that Mrs Downes had no known enemies.

#### Brunswick Lodge Aged Care Facility

7. Brunswick Lodge is situated at 17 Loyola Avenue, Brunswick, on the western side of the street opposite Pitt Street. It is a supported residential service for the elderly. At the time of Mrs Downes' death, the premises was leased by the co-managers, Ms Susan Clarke and Ms Claire Matthews who had been business partners in the premises since mid-1993. There were a further twelve people employed at the Facility on casual and full-time bases as cooks, personal care attendants and cleaners. There were 21 residents living at Brunswick Lodge at the time.
8. Brunswick Lodge is a cream brick 'L' shaped building with two wings. The two wings junction at the main section of the building, which consists of a reception and office area, a dining room, kitchen and common room/television area. There is an upstairs self-contained residential unit, which was inhabited at the time by Ms Clarke.
9. The northern wing consisted of nineteen resident rooms and the eastern wing consisted of six rooms. Each room contained a bedroom and ensuite.
10. Room 1 is situated at the eastern most end of the eastern wing and is the closest to Loyola Avenue. There is a fire escape door at the end of the eastern wing corridor, adjacent to the door of room 1. Access into the building via the fire escape door is only possible with a key. A key is not required to exit via this door.
11. All doors to the residents' rooms were not lockable. Some of the residents chose to sleep with their doors open, and some chose to sleep with their room or ensuite lights on.

#### Summary

12. On the evening of 30 December 1997, Ms Clarke, Ms Matthews and a friend, Ms Leanne Renfree were upstairs in Ms Clarke's residence. The Facility residents had all gone to bed by approximately 8.00pm, and those who could not go to bed themselves had been assisted by Ms Clarke or Ms Matthews.
13. During the evening, both Ms Clarke and Ms Matthews had checked that all external doors were locked and that the premises were secure.

14. At approximately 10.00pm, Ms Matthews left the premises via the front reception door and ensured that the door was locked.
15. At approximately 12.30am on the morning of Wednesday 31 December 1997, both Ms Clarke and Ms Renfree walked downstairs and Ms Renfree left the premises via the main office door. Ms Clarke checked several of the residents in the eastern wing including Mrs Downes in room 1, who was observed to be asleep in bed.
16. Ms Clarke then went to the northern wing and checked on several of the residents asleep in their rooms. After she had done some cleaning up, she returned upstairs to bed.
17. At approximately 3.00am, a resident, Ms Marjorie Morris, was lying in her bed in room 2 when she observed her door being opened slowly. She sat up and let out a yelp, and the door closed softly. Approximately five minutes later, she heard the venetian blinds on the fire exit door rattling.
18. At approximately 6.15am, the local newspaper delivery person, Ms Jayne Irvine, attended at Brunswick Lodge to deliver the morning paper. It was her usual practice to leave the papers on the ground near the fire escape door at the eastern end of the eastern wing. On this occasion, Ms Irvine noticed that the door was open, which was unusual. She placed the papers on the ground between the door and the doorframe but did not enter the premises.
19. At approximately 6.20am, Ms Matthews arrived back at Brunswick Lodge for work. She noticed that the newspapers had been left in a different position to where they were normally dropped. After entering the premises via the rear kitchen door, she put the kettle on the stove. She looked down the corridor of the eastern wing and noticed that the venetian blind on the fire escape door at the end of the corridor was hanging loosely. Ms Matthews went to investigate and found that the door was open.
20. Ms Matthews noticed that Mrs Downes' room door was ajar. She pushed it open further and found Mrs Downes on the floor with a pool of blood around her. Ms Matthews alerted Ms Clarke, and they contacted the police and ambulance.
21. Paramedics attended the Facility and examined Mrs Downes, and confirmed that she was deceased.

### Crime Scene Examination

22. Brunswick Lodge and the surrounding area was examined by members of the Crime Scene Section, Victorian Forensic Science Centre in conjunction with members of the Homicide Squad.
23. It appeared that the offender entered Brunswick Lodge through the wind-out style kitchen window on the western side of the building. The chain section of the winding mechanism had been cut, and traces of red paint and yellow paper were located on the edge of the brick windowsill (this is consistent with a pair of bolt cutters being used to cut the winder chain). Dark coloured cotton fibres were located on the cut chain link of the window. The flyscreen of the window had been cut in a reverse 'L' shape. Two milk crates had been moved under the window and were stacked on top of each other.
24. Mrs Downes was observed to be lying in her room on the floor on her right hand side, in the foetal position. Her left leg was raised and on the bed. The contents of her handbag had been emptied on her bed. A drawer had also been removed, place on the bed and searched. Several items in the room appeared to have bloodstained glove prints on them. A blood smear was located on the doorframe of Mrs Downes' room and a bloodied glove print was located on the venetian blinds of the fire escape door.
25. On the northern side of the east wing is a neighbouring private residential property at 19 Loyola Avenue. The driveway is situated on the southern side of the property and there is a locked gate across the driveway. On the railing of the paling fence separating number 19 from 17 Loyola Avenue, police located scuffmarks on either side of the driveway gate. At two other locations along the southern fence of 19 Loyola Avenue, scuffmarks were located on the railings. On a bale of hay leaning against the fence, there appeared to be an impression on top of the bale, consistent with a person standing on it. The various markings on the fence and bale of hay aligned with different bedroom windows on the eastern wing of Brunswick Lodge.
26. An extensive search of the scene and the neighbouring properties and streets failed to locate any weapon that might have been used to kill Mrs Downes. There were no identifiable fingerprints located at the scene.

### Purpose of a Coronial Investigation

27. This finding is based on the totality of the material the product of the coronial investigation of Mrs Downes' death. That is, the brief of evidence compiled by the Coroner's Investigator Sergeant Michael Daly, the statements, reports and testimony of those witnesses who testified at inquest and any documents tendered through them, and the final submissions. All of this material, together with the inquest transcript, will remain on the coronial file. In writing this finding, I do not purport to summarise all the material and evidence, but will refer to it only in such detail as is warranted by its forensic significance and in the interests of narrative clarity.
28. It is important to stress that coroners are not empowered to determine the civil or criminal liability arising from the investigation of a reportable death, and are specifically prohibited from including in a finding or comment any statement that a person is, or may be guilty of an offence.<sup>1</sup> However, a coroner may include a statement relating to a notification to the Director of Public Prosecutions if the coroner believes an indictable may have been committed in connection with the death.<sup>2</sup>

### Findings as to uncontentious matters

29. In relation to Mrs Downes' death, most of the matters I am required to ascertain, if possible, were uncontentious from the outset. Her identity and the date and place of death were not at issue. I find, as a matter of formality, that Kathleen Gladwyn Downes, born on 29 January 1902, aged 95, died at Brunswick Lodge, 17 Loyola Avenue, Brunswick, Victoria 3056, on 31 December 1997.
30. Nor was the medical cause of death contentious. On 31 December 1997, an autopsy of Mrs Downes' body and post mortem CT scanning (PMCT) were performed by Senior Pathologist Dr Shelley Robertson at the Victorian Institute of Forensic Medicine, which revealed the cause of her death to be *I (a) incised injury to the neck*.<sup>3</sup> The post mortem examination revealed that Mrs Downes had received three stab wounds to the right side of the neck, and deep laceration extending across the throat. There was bruising to the back of the head, the back of the left hand and to the left and right lower legs. There was an abrasion to her right eyebrow.

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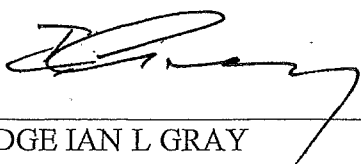
<sup>1</sup> Section 69 *Coroners Act 2008* (Vic).

<sup>2</sup> Section 49(1) *Coroners Act 2008*.

<sup>3</sup> Report of Dr Robertson dated 14 July 1998.

Inquest

Signature:



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JUDGE IAN L GRAY  
STATE CORONER  
Date: **27 March 2015**

