IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2022 006220

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

Findings of:	Coroner Paul Lawrie
Deceased:	Timothy Michael Funder
Date of birth:	13 March 1948
Date of death:	29 October 2022
Cause of death:	1(a) Small bowel obstruction due to extensive intra-abdominal adhesions <u>Contributing factors</u> 2(a) Coronary artery atherosclerosis, pulmonary emphysema
Place of death:	Glenhuntly Terrace Special Accommodation, 164 Grange Road, Carnegie, Victoria, 3163
Keywords	In care; natural causes

INTRODUCTION

1. On 29 October 2022, Timothy Michael Funder was 74 years old when he passed away at his supported residential facility, Glenhuntly Terrace. At the time of his death, he shared a room with another resident.

THE CORONIAL INVESTIGATION

2. Mr Funder's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury. The death of a person in care is a mandatory report to the Coroner, even if the death appears to have been from natural causes. Mr Funder was a "person placed in custody or care" within the meaning of section 4 of the Act, as he was "a prescribed class of person"[1] due to his status as an "SDA[2] resident residing in an SDA enrolled dwelling".

3. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

4. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.

5. First Constable (FC) Martin Watkins acted as the Coroner's Investigator for the investigation of Mr Funder's death. F/C Watkins conducted inquiries on my behalf, including taking witness statements, and submitted a coronial brief of evidence.

6. This finding draws on the totality of the coronial investigation into the death of Mr Funder including evidence contained in the coronial brief. Whilst I have reviewed all the material, I

[1] *Coroners Act 2008* – section 4(2)(j)(i)
[2] Specialist Disability Accommodation

will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.[3]

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Background

7. Mr Funder was diagnosed with schizophrenia as a young man. His medical history also included chronic obstructive pulmonary disease, impaired hearing, epilepsy, hiatus hernia, melanosis coli, trochanteric bursitis, right gluteus maximus tear and a small bowel obstruction in 2007 with surgical resection. He was a heavy smoker but did not drink alcohol.

8. Dr George Camilleri was Mr Funder's long-time psychiatrist. Dr Camilleri reported that Mr Funder and was compliant with medications and monthly blood tests. His mental state in the years prior to his death was largely stable, with his most recent relapse occurring in 2018.

9. Mr Funder was prescribed several medications including clozapine, sodium valproate, pantoprazole, Ultibro Breezhaler (indacaterol/glycopyrronium), venlafaxine, Coloxyl with Senna, Panadol osteo, quetiapine, Movicol, Normalcol Plus and Ventolin.

Circumstances in which the death occurred

10. At about 1.30am on 29 October 2022, Mr Funder pressed the alarm button in his room and a staff member, Karen Tuka, attended. Mr Funder stated that he had vomited next to the bed, had stomach cramps, and felt bloated. Ms Tuka then called the proprietor of the facility, Tammy Neale.

11. Ms Neale asked Ms Tuka whether Mr Funder had any pain and whether he was sweaty or clammy. Ms Tuka asked Mr Funder if he wanted some Panadol, and Mr Funder replied that the pain was "not that bad". Mr Funder did not appear sweaty or clammy. Ms Tuka told Mr Funder to use the alarm again if he felt worse or vomited again. Mr Funder agreed to do so.

[3] Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

12. At about 5.20am, Mr Funder's roommate pressed the alarm button and Ms Tuka responded. She found Mr Funder unresponsive on the floor near the bathroom door, with vomitus on his face and chest. Ms Tuka was unable to locate a pulse, so she called 000 and notified Ms Neale.

13. Ambulance Victoria paramedics arrived at 5.30am. They confirmed that Mr Funder was deceased and did not attempt resuscitation. Victoria Police also attended. They examined the scene as part of a wider investigation and confirmed there were no suspicious circumstances or signs of third-party involvement in connection with Mr Funder's death.

Identity of the deceased

14. On 29 October 2022, Timothy Michael Funder, born 13 March 1948, was visually identified by the proprietor of Glenhuntly Terrace, Tammy Neale.

15. Identity is not in dispute and requires no further investigation.

Medical cause of death

16. Forensic Pathologist, Dr Joanna Glengarry, from the Victorian Institute of Forensic Medicine (**VIFM**), conducted an autopsy on 2 November 2022 and provided a written report of her findings dated 10 February 2023.

17. The post-mortem examination revealed findings consistent with a small bowel obstruction, in a man with known adhesions within the abdomen, which is a well-recognised cause of a bowel obstruction. Dr Glengarry commented that the symptoms experienced by Mr Funder prior to his death were entirely in keeping with a bowel obstruction.

18. The trachea and bronchi were clear of aspirated gastrointestinal contents and the lung histology showed only minimal aspirated material, insufficient to cause death. There was no evidence of chronic aspiration or aspiration pneumonia.

19. Underlying natural disease of the lungs in the form of pulmonary emphysema and ischaemic heart disease was evident. The coronary arteries were severely narrowed at multiple sites secondary to atherosclerosis. Dr Glengarry noted that disease of the heart and lungs can reduce a person's ability to respond to the concurrent physiological "stress" of severe disease.

20. Toxicological analysis of post-mortem samples identified the presence of venlafaxine and its metabolite, clozapine, and paracetamol. Ethanol (alcohol) was not detected.

21. Venlafaxine was detected at a level associated with toxicity but not necessarily death. Venlafaxine toxicity may cause nausea, vomiting, dizziness, nervousness, anxiety, agitation, tremor, or blurred vision. However, interpretation of the post-mortem concentration requires caution as the measured level may be artefactually elevated by post-mortem phenomena such as redistribution. In addition, the metabolism of venlafaxine may be subject to variation through individual genetic variation (polymorphism).

22. In light of circumstances that do not suggest medication toxicity and a compelling natural cause of death being evident, medication toxicity was not suggested as the cause of death (or a contributing feature).

23. Dr Glengarry provided an opinion that the medical cause of death was "1 (a) Small bowel obstruction due to extensive intra-abdominal adhesions with contributing factors of 2 Coronary artery atherosclerosis, pulmonary emphysema."

24. I accept Dr Glengarry's opinion.

FAMILY CONCERNS AND FURTHER INVESTIGATIONS

25. Mr Funder's brother, Dr John Funder, asked for further investigations into the possibility that Mr Funder inhaled and aspirated vomitus the second time he awoke.

26. Dr Glengarry noted that Mr Funder's trachea and bronchi were clear of aspirated gastrointestinal contents and his lung histology showed minimal aspirated material, which was insufficient to cause death. There was no evidence of chronic aspiration nor of aspiration pneumonia. I am satisfied that aspiration of gastrointestinal contents was not a contributing factor in Mr Funder's cause of death.

FINDINGS AND CONCLUSION

27. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:

    a) the identity of the deceased was Timothy Michael Funder, born 13 March 1948;

    b) the death occurred on 29 October 2022 at Glenhuntly Terrace Special Accommodation, 164 Grange Road, Carnegie, Victoria, 3163, from small bowel obstruction due to extensive intra-abdominal adhesions with contributing factors of coronary artery atherosclerosis and pulmonary emphysema.

c) the death occurred in the circumstances described above.

28. Having considered all the circumstances, I am satisfied that Mr Funder's death was due to natural causes.

I convey my sincere condolences to Mr Funder's family for their loss.

Pursuant to section 73(1) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

Susan Funder, Senior Next of Kin

Dr John Funder

First Constable Martin Watkins, Victoria Police, Coroner's Investigator

Signature:

Coroner Paul Lawrie

Date : 18 April 2024

NOTE: Under section 83 of the ***Coroners Act 2008*** ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.