



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2024 004843

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Judge John Cain, State Coroner
Deceased:	Robert Lisle Nelson
Date of birth:	24 September 1957
Date of death:	10 October 2023
Cause of death:	1(a) Aspiration Pneumonia 2 Multiple Sclerosis
Place of death:	Wantirna Health Palliative Care Unit, Eastern Health, 251 Mountain Hwy, Wantirna VIC 3152
Keywords:	Specialist Disability Accommodation resident, supported independent living, disability support, reportable deaths, natural causes

INTRODUCTION

1. On 10 October 2023, Robert Lisle Nelson (**Mr Nelson**) was 66 years old when he died at Wantirna Health Palliative Care Unit, Eastern Health from aspiration pneumonia in the setting of multiple sclerosis (**MS**).
2. At the time of his death, Mr Nelson was a National Disability Insurance Scheme (**NDIS**) participant. He received funding to reside in a Specialist Disability Accommodation (**SDA**) enrolled dwelling¹ provided by MS Plus. He had been diagnosed with MS twenty-nine (29) years prior to his passing.
3. Mr Nelson at the time of his passing had two children, Lisa and Matthew, and three brothers, Gary, Steven and Warren. Due to his diagnosis of MS, he lived at Watsonia in long-term accommodation provided by MS Plus. He enjoyed going to the footy, to the local pub for a meal and enjoyed the opportunity to visit his family where possible. He also enjoyed the cinema, visiting the library as well as getting out into the fresh air, sun and nature.

THE CORONIAL INVESTIGATION

4. Mr Nelson's death fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**) as he was a 'person placed in custody or care' within the meaning of the Act, as a person receiving funding for Supported Independent Living (**SIL**) and residing in an SDA enrolled dwelling immediately prior to his death. This category of death is reportable to ensure independent scrutiny of the circumstances leading to death given the vulnerability of this cohort and the level of power and control exercised by those who care for them. The coroner is required to investigate the death, and publish their findings, even if the death has occurred as a result of natural causes.
5. 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

¹ SDA enrolled dwelling is defined under the *Residential Tenancies Act 1997* (Vic). The definition, as applicable at the time of Mr Nelson's death, is a permanent dwelling that provides long-term accommodation for one or more SDA residents, that is enrolled as an SDA dwelling under relevant NDIS (Specialist Disability Accommodation) Rules in force at the relevant time. An SDA resident means a person who is an NDIS participant funded to reside in an SDA enrolled dwelling, or who receives continuity of supports under the Commonwealth Continuity of Support Program in respect of specialist disability services for older people (from 1 July 2021, the Disability Support for Older Australians program). The definition of SDA resident was amended on 1 July 2024 pursuant to the *Disability and Social Services Regulation Amendment Act 2023* to extend to include persons who are residing, or propose to reside, in an SDA dwelling under an SDA residency agreement or residential rental agreement.

purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

6. 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.
7. This finding draws on the totality of the coronial investigation into the death of Robert Lisle Nelson, including information from the National Disability Insurance Agency (**NDIA**) and the NDIS Quality and Safeguards Commission, as well as a Medical Certificate Cause of Death (**MCCD**) completed by a medical practitioner at Wantirna Health Palliative Care Unit, Eastern Health. Whilst I have reviewed all the material, I 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.²

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

Circumstances in which the death occurred

8. Mr Nelson had been diagnosed with MS twenty-nine (29) years prior to his passing. Due to the end stage progression of MS, he had been receiving palliative care at his SIL accommodation since January 2023 and had been connected with Banksia Community Palliative Care.
9. In early October 2023, Mr Nelson's condition deteriorated, and on 4 October 2023 he was transferred to the Austin Hospital, assessed as requiring hospice, and returned briefly to his Watsonia accommodation awaiting a hospice bed to become available. On 6 October 2023 he was transferred to the Wantirna Health Palliative Care Unit, Eastern Health and passed away four days later on 10 October 2023.

² 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.

Identity of the deceased

10. On 10 October 2023, Robert Lisle Nelson, born 24 September 1957, was identified by Medical Practitioner Dr Victoria Cann via medical records review and visual identification.
11. Identity is not in dispute and requires no further investigation.

Medical cause of death

12. On 10 October 2023, Medical Practitioner Dr Victoria Cann reviewed Mr Nelson's complete medical history, conducted an examination on the body and completed a MCCD. Dr Cann provided an opinion that the medical cause of death was aspiration pneumonia in the setting of multiple sclerosis.
13. On 18 August 2024, a Medical Liaison Nurse (MLN) at the Victorian Institute of Forensic Medicine, reviewed the MCCD at my direction and confirmed that the cause of death was due to natural causes.
14. I accept Dr Cann's opinion and am satisfied that the death was due to natural causes.

FINDINGS AND CONCLUSION

15. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was Robert Lisle Nelson, born 24 September 1957;
 - b) the death occurred on 10 October 2023 at Wantirna Health Palliative Care Unit, Eastern Health, Wantirna in Victoria from aspiration pneumonia in the setting of multiple sclerosis;
 - c) the death occurred in the circumstances described above.
16. The available evidence does not support a finding that there was any want of clinical management or care on the part of the SIL provider, or clinical staff at Wantirna Health Palliative Care Unit, Eastern Health that caused or contributed to Mr Nelson's death.

17. Having considered all the available evidence, I find that Mr Nelson's death was from natural causes and that no further investigation is required. As such, I have exercised my discretion under section 52(3A) of the Act not to hold an inquest into his death and to finalise the investigation of Mr Nelson's death in chambers.
18. I convey my sincere condolences to Mr Nelson's family, friends and carers for their loss, and acknowledge the distress caused by the delay in the reporting and investigation of Mr Nelson's death.
19. Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.
20. I direct that a copy of this finding be provided to the following:
 - a) Lisa Steen, Senior Next of Kin
 - b) MS Plus
 - c) Wantirna Health Palliative Care Unit, Eastern Health

Signature:



Date : 5 December 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.
