



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Meaghan Gardner
Hearing dates:	13,14,15 March 2017
Date of findings:	15 March 2017
Place of findings:	State Coroners Court, Glebe
Findings of:	Magistrate Teresa O’Sullivan, Deputy State Coroner
Catchwords:	CORONIAL LAW – Cause and manner of death
File number:	2015/329975
Representation:	Sergeant Durand Welsh, Sergeant Assisting

Findings:	<p>Identity of deceased: The deceased person was Meaghan Gardner</p> <p>Date of death: Ms Gardner died on 3 or 4 November 2015</p> <p>Place of death: She died at Unit 29, 90 Guernsey Avenue, Minto, NSW</p> <p>Manner of death: Ms Gardner died after ingesting multiple drugs when she was suffering from a serious respiratory condition</p> <p>Cause of death: 1 (a) The medical cause of the death was acute bronchopneumonia complicating (b) Multi-drug toxicity (alprazolam, opiates, benzodiazepines, hydrocodone, quetiapine and cannabinoids)</p>
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The Coroners Act 2009 (NSW) in s81 (1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the disappearance and suspected death of Meaghan GARDNER.

REASONS FOR DECISION

Introduction:

This inquest concerns the death of Meaghan Gardner who was found deceased in her home at 29/90 Guernsey Road, Minto, on the 9 November 2015.

The Inquest:

The coroner's role is to make findings as to the identity, date and place of death and the manner and cause of death.¹

Section 81 (1) of the Coroners Act 2009 (NSW) requires that when an inquest is held, the coroner must record in writing his or her findings. These are my brief findings in relation to the death of Meaghan Gardner.

The Evidence:

Background:

Meaghan GARDNER was born on 24 March 1971 and was aged 44 at the time police located her deceased on 9 November 2015. She resided at 29/90 Guernsey Road, Minto. She had resided there for 5 months prior to 9 November 2015. She has three children, Bryce, Alvin and Jade. Alvin and Jade attended the inquest. Also in attendance were Meaghan's mother, Carole, her father, Lou, her sister, Renay, and her Aunt, Kim.

Meaghan's family loved her and cared about her a great deal.

Last contact with Meaghan:

Meaghan's sister, Renay, would usually see Meaghan twice a week, either at Meaghan's premises, their mother's house or at the RSL. Renay last saw Meaghan on 24 October 2015 at Meaghan's residence. Renay recalls in her statement to

¹ Section 81 Coroners Act 2009 (NSW)

police that Meaghan seemed fine on this occasion, although Meaghan had stated she had a bad headache and that she hadn't slept well due to the heat.²

Meaghan's daughter, Jade, spoke to her mother several times a day. She last spoke to her mother on 3 November 2015 when Meaghan called her. Jade thought that her mother sounded like she was "on pills". She asked her mother who was there with her and when she suggested it was "the African guy", her mother responded, "Yeah but you don't have to know".³ When Jade tried to call her back the following day, Meaghan didn't answer her phone. This was at about 11:00 a.m. Jade stated that "I tried to call her repeatedly that day but she didn't pick up".⁴

Kristy GLYNN, who was in a relationship with Meaghan's brother Bryce, attended Meaghan's unit on 3 November 2015. She stated that she found Meaghan and Livy TABAN in the unit. She had called in a couple of times each week, and every time she called in, Livy was present.

Meaghan told her she wasn't feeling well and had the flu. Kristy gave evidence that Shayne MACE was calling Meaghan while she was there, trying to get Meaghan to go and buy drugs. Meaghan used Kristy's phone to call Shayne MACE because Meaghan had no credit. Kristy tried to talk Meaghan out of getting more drugs and told her that she'd already had enough.

Meaghan told Kristy that she and Livy had consumed two bottles of Xanax over the last few days. Kristy stated this in her statement and confirmed it in oral evidence. She referred to Livy as "completely out of it". Due to Livy's intoxication, she assisted him into Meaghan's bed before leaving.

She also stated Meaghan always had her keys around her neck.

Meaghan's daughter, Jade JONGA, said that Kristy GLYNN called her on Friday 6 November 2015. Kristy told Jade that she had walked Meaghan down the stairs to meet with Shayne MACE. Jade said the conversation was "a bit all over the place". Jade had difficulty making sense of Kristy GLYNN's version of events due to how Kristy was mixing up the order. In evidence, Kristy did not state she had taken Meaghan downstairs to meet Shayne, but this is unlikely to be a deliberate omission and is not a crucial fact.

Relevant to the cause of death, Jade stated that Meaghan had frequently been treated at hospital for pneumonia and breathing problems.

² Exhibit 1, Tab 5

³ Exhibit 1, Tab 16

⁴ Exhibit 1, Tab 16

Shayne MACE, a friend of Meaghan's for approximately 18 years, gave evidence that he had travelled by car with Meaghan on 3 November 2015 for the purpose of Meaghan procuring prescription medication from a doctor. Shayne said that he used to get Xanax from Meaghan and that Meaghan was good at "doctor shopping".

Shayne's mother, Kathy MACE, was the driver. Shayne could not identify the location where she drove them. Senior Constable HEWES spoke with Kathy MACE on 17 February 2017. Kathy refused to make a statement, but told Senior Constable HEWES the doctor's practice was in Leppington.⁵

According to Shayne, when they arrived the doctor's practice was closed. Shayne MACE believes that he and Meaghan returned to Meaghan's residence around midday. He did not enter her residence upon their return.

Shayne stated that Meaghan had looked like "she was on something" and her behaviour was out of character. She had "an attitude" and was being "rude". He stated that in particular she was rude to Kathy MACE, and this was unusual. Livy also looked like he was on something, but he looked a lot better than Meaghan.

Shayne said that Livy used to "hang around Meaghan's place a lot". He said they were "pretty close". Shayne said Livy "practically lived at her house".

Carole Page, Meaghan's mother, gave evidence that she called Meaghan's phone repeatedly on 3 November 2015, and on one of those calls in the evening (exact time unknown), Shayne MACE answered. Shayne MACE denied ever answering Meaghan's phone on that date or on any date.

Renay attempted to contact Meaghan on 7 November 2015 at 8:30 a.m. but her phone was switched off. According to Renay, Meaghan never switches her phone off.

On 7 November 2015, Renay reported Meaghan missing to police. On the same date, Renay attended Meaghan's residence with Meaghan's son Alvin NARAYAN and mother, Carole PAGE. Renay noticed that the deceased's bathroom window was open and that her screen door was unlocked. Renay thought these two access points being unlocked was unusual, as the deceased never left the screen door unlocked, even when home, and would not have left the window unlocked.

While they were at Meaghan's unit complex, Alvin spoke with Livy TABAN. Alvin recalls Livy showing him a text message that Livy claimed was from Meaghan. Livy had claimed the message stated she would be away for a week.⁶ In evidence, Alvin

⁵ Exhibit 1, Tab 13

⁶ Exhibit 1, Tab 15

confirmed that the message he saw was in Livy's outbox, suggesting it was a message sent from Livy's phone rather than received on the phone. He stated that when he tried to get a closer look at the message, Livy removed the phone from sight.

Alvin recalls Meaghan's front screen door being unlocked on 7 November 2015. However, the wooden interior door was locked, and Alvin could not enter the premises or raise anyone within the premises.

Meaghan is discovered:

On 9 November 2015, Renay arranged to meet police at Meaghan's residence. At around 9:30 p.m. police attended 29/90 Guernsey Road, Minto, and used a locksmith to gain entry.

The unit is a Department of Housing unit and comprises one bedroom with a combined en suite/laundry, a lounge room with attached balcony, and a kitchen. Meaghan was located in the lounge room. She was naked on the floor on her back near a semi-circular lounge. A cushion was under her head and another cushion was half under her right buttock. There was a white stand fan face down at the top of the brown pillow under her head.

A small side table was knocked over. The table was located about a metre inside the front door. Crime scene photographs depict this table as close to the bedroom door. A speaker system was lying in disarray on the floor near the table. The speaker system was playing music softly when police entered. A white cord, which appears to be for the television aerial, extends from the wall on the right side of Meaghan's bedroom (if you face the bedroom doorway from outside), loops around a leg of the knocked over side table, and then extends across the bedroom entryway before disappearing behind the television. The television is situated near the lounge, close to where Meaghan was lying.

A receipt located by Renay within the unit shows a purchase from Woolworths Minto on the 3 November 2015 at 4:31 p.m. The receipt is for two bottles of soft drink and 2 litres of milk.

A neighbour, who stated to Senior Constable HEWES she did not want to be involved, said the last time she had seen Meaghan was on the 5 November 2015 outside the unit. The detail provided was minimal due to the neighbour's desire to end the conversation with police. Senior Constable HEWES subsequently attended the premises on multiple occasions to speak with this neighbour, but no person answered the door.

In oral evidence, Senior Constable HEWES' stated her opinion that the 5 November 2015 date this witness provided was not reliable. She based her opinion on the witness's demeanour and reluctance to engage in conversation.

Meaghan's unit:

In her statement, Renay GARDNER expressed a number of concerns relating to the condition of Meaghan's unit when she later entered it on 23 November 2015. Her description of what was unusual includes, but is not limited to, the following: there was no clothing in the wardrobe; there was only one pair of shoes (the others were missing); the curtains in the bedroom were missing and had been replaced by a sheet; there were no sheets in the cupboard for her bed; there were no towels or tea towels in the cupboard; all her dresses, tops, tights, and other clothing were missing, as was all her underwear. Renay also states that she couldn't locate Meaghan's black pouch bag, any cleaning products or any plastic containers or bowls in her cupboards. An asthma machine was also missing.

Renay states she re-attended the premises on 9 December 2015 and that food items that were there on her prior visit were now missing. She also says that the asthma machine was now in the cupboard, but hadn't been there previously. She located four pairs of underwear on this occasion, but only one individual purple sock. She found the black dress she believed was missing, as well as the black pouch bag, but she states those items had not been in the unit on her last visit. Her DVD collection and a television were also missing.

Both Carole and Renay also believe that there is at least one house key to the unit missing.

Carole and Alvin gave evidence that Meaghan never slept in the bedroom. She only made the bed up for the benefit of others to sleep in. Alvin stated that she slept on the lounge because of her schizophrenia and a belief that people would break into her unit. She felt safer on the lounge.

According to Renay GARDNER, Meaghan was taking a large quantity of medication for depression. Within the police brief of evidence, several witnesses state a belief that Meaghan was abusing prescription medication. She was also known to be a heavy smoker and cannabis user.

She had previously been treated by Dr Sa-Corderio at Odyssey House for psychosis and schizophrenia.

Senior Constable RAMAGE was the scene of crime officer who examined the scene. She took a number of photographs contained within the brief of evidence and examined the scene.

She could not say whether the cushions beneath Meaghan had been placed there by another person. In her opinion, however, the cushions had likely not been placed under Meaghan by another person. She believed an item on the floor outside the bedroom doorway was a pillow case. She stated that an item on the lounge was a “top”.

Her view was that Meaghan GARDNER was relatively tidy. This supports Renay GARDNER’s opinion that someone gained access to the unit after Meaghan’s death and ransacked and took items from the property.

Livy Taban:

Meaghan’s neighbour Livy TABAN did not comply with his subpoena to attend Glebe Coroner’s Court on 13 March 2017 to give evidence in the inquest into the death of Megan GARDNER. A warrant was subsequently issued for his arrest on 14 March 2017. On 15 March 2017, he was arrested on that warrant and brought before Glebe Coroner’s Court to give evidence.

He had previously provided a statement to police, but Senior Constable HEWES had expressed the opinion that he had not been very forthcoming in that statement and would not elaborate on certain points when questioned further.⁷

Livy TABAN gave evidence that he was in Meaghan’s unit on 3 November 2015. He stated in evidence that he was drug affected on the morning of 3 November 2015 and for the entirety of the week. He attributed this to Meaghan placing drugs in his coffee. He denied taking pills with Meaghan or the use of any illicit or prescription substances other than marijuana on 3 November 2015.

Livy TABAN recalls being present during the car trip that Shayne MACE recounted, but claims they were going to get marijuana.

Livy gave evidence that on 3 November 2015 he had fallen asleep on the couch as a result of the drugs he thought Meaghan had placed in his coffee. He woke up at an unknown time during the night. He was unable to exit the unit as the front door was locked. He entered the bedroom as he wished to use her house keys to exit the front door.

Meaghan was in the bedroom in bed, wearing a white bra and white underpants. Livy’s observations of Meaghan suggest Meaghan was suffering breathing difficulties. He used the word “screaming” to describe the sounds she was making. He also said she was “making noises” and attempted to replicate those noises in the witness box. The subsequent sounds are more accurately described as groans than

⁷ Exhibit 1, Tab 13

screams.

During the period when she was making noises, Meaghan's eyes were sometimes open. She did not acknowledge or respond when Livy tried to verbally get her attention. He said, "Hey, Meaghan, are you all right?"

He described her behaviour as follows: "She was just crying: 'Urrrr, urrrr.'" He said he did not touch Meaghan. He said she made sounds "like she didn't go yet".

When asked what he meant when he said she was screaming, he said, "She'd been hurt, I think, too much," and also, "She can't see, she just look up." He also confirmed a second time in his oral evidence that it sounded like she'd been hurt.

When asked how her breathing was, he said that he didn't know. His description of her, however, would suggest she was having difficulty breathing.

Livy gave evidence that he took Meaghan's keys from a bedside table, unlocked the front door and left. Several witnesses stated Meaghan only ever kept her keys on a lanyard around her neck. Livy denied the keys were around her neck at the time he took them. He was unsure where exactly he had left the keys, but was adamant he had left them somewhere inside Meaghan's premises.

When asked why he did not call 000, especially in light of his knowledge that Meaghan had consumed a large quantity of drugs, he replied: "Cause that's not my business. I'm not involved in that. I don't know what's wrong with her. She lives in her own house. I live in mine."

He was asked, "Were you worried the police would think you were taking pills with Meaghan?"

He responded, "No, I'm not worried because I didn't do it, I didn't take it."

At another point during this line of questioning about why he did not call 000, he said: "I been drugged up. I have no memory."

He also stated: "I don't call police. They don't help me at all."

When asked specifically about calling the ambulance, he said: "Ambulance or police, that's not my business."

He also said that the thought to call 000 didn't come into his head, and that when he had called police for other matters, they had not assisted him due to his criminal record.

After he left on the night of 3 November 2015, Livy returned to 29/90 Guernsey Road on the morning of 4 November 2015 to check on Meaghan. She did not answer the door. He stated in oral evidence that he heard a woman he did not know say: "Come later."

This is contrary to his statement to police, where he states that Meaghan called out, "Who is it?" In his statement he says that she said she would open the door but then never did so. Clearly both these versions cannot be correct.

While it is conceivable that one version is correct, it is likely both versions are false. Given Meaghan's state when Livy left the premises on 3 November 2015, it seems unlikely she would have been capable of answering. Secondly, if Livy returned the keys to the inside of the unit as he claims he did, no one else had a means to gain entry and Meaghan was not in a condition to open the door. It seems unlikely another person would have gained entry in the intervening period and called out, "Come later."

Both versions distance Livy TABAN from two scenarios that leave him open to criticism: Firstly, that he was present when Meaghan died; secondly, that he was involved in the misappropriation of Meaghan's belongings after her death. During the course of the inquest, Livy's evidence about his drug taking and text messaging was unreliable, suggesting the two versions describing his attendance on 4 November 2015 are fabrications designed to limit his involvement.

If these versions are fabrications, this does not mean that he was involved directly in Meaghan's death or that he was directly responsible for taking items from the unit. It does mean, though, that all his evidence must be treated with caution, particularly where there is no objective corroborating evidence.

Regarding the reliability of his evidence, his explanation that he was drug affected as a result of a substance Meaghan placed in his coffee lacks credibility. In evidence he stated that Meaghan had put drugs in his coffee twice within a one-and-a-half week period. Even if one accepts that his coffee was dosed on one occasion, it is not credible that he would attend her residence again within a short period and allow himself to be dosed a second time. He denied any pill taking behaviour, conceding only that he smoked marijuana in Meaghan's company.

His description of the effects of these two drug-laced coffees also lacks credibility. He stated that when Meaghan had dosed his coffee, it had left him drug affected for the entire week.

He also agreed that he accompanied Meaghan with Shayne MACE, but claimed this was to buy marijuana. Shayne MACE gave evidence that the purpose of this journey was to obtain prescription medication. Shayne MACE was forthright in stating that he

intended to purchase medicine from Meaghan, and he gave evidence that they had a dispute over money and the illicit purchase of medication. Certainly, Livy TABAN willingly accompanied Shayne MACE and Meaghan on a journey where the sole purpose of the journey was to acquire prescription drugs for illicit use.

In his oral evidence, Livy stated that he was not worried about the police thinking that he had taken pills, because he had not taken pills. However, there is evidence from Kristy GLYNN that Meaghan told her that Livy had taken Xanax. There is evidence from Shayne MACE that the purpose of the car trip that Livy claimed was for obtaining marijuana was in fact for obtaining prescription medications. The story Livy tells about his coffee being drugged is inconsistent with other witness versions and inconsistent with his own behaviour in attending Meaghan's unit after he has already allegedly been drugged once by her.

Additionally, at one point in his evidence he says: "To be honest, at that time when I'm on pills, I can't concentrate." Although he maintained that his coffee had been drugged, he chose to use the term "pills" to describe the cause of his intoxication. It would seem that Livy TABAN had knowingly and willingly ingested pills around 3 November 2015. It would also seem that he was reluctant to disclose this.

In his evidence, Livy TABAN also stated that he had known Meaghan for a week-and-a-half. To the contrary, he states in his statement to police that he had met Meaghan one month after she moved into the complex. Senior Constable HEWES stated Meaghan had lived at the complex for approximately 5 months.⁸

Livy TABAN undoubtedly had known Meaghan for longer than the week-and-a-half period he stated in sworn evidence, and this time period he gave in evidence was an attempt to distance himself from her.

Livy conceded that he had spoken with Alvin on 7 November 2015. Livy said he could not remember saying to Alvin that Meaghan was in Newcastle but that he had probably said that. Livy said that he had received a message on his phone to that effect. When shown a photograph of the message in question, he claimed that message was from Meaghan. However, the message is addressed to Kay and appears to have been sent from Livy's phone.

Meaghan's sister Renay also said that the spelling of Meaghan's name in that message is wrong, suggesting Meaghan did not send it. The number attached to the message is also not stored on Livy's phone under Meaghan's name. Other messages that do appear to be from Meaghan are listed under the name "Megan".

⁸ Exhibit 1, Tab 4

Although Livy's doubtful explanation for the Newcastle message reduces his credibility, it is difficult to draw further adverse inferences. Although Renay says that Meaghan would never have misspelled her own name, using someone else's phone was not out of character for Meaghan. Kristy GLYNN's evidence is that Meaghan's phone was out of credit on 3 November 2015, and Meaghan borrowed a phone on this date in order to contact Shayne MACE.

While Livy's credibility is questionable, implicit in his statement to police is an opinion that Meaghan GARDNER died on the night of 3 November 2015. In Livy's statement to police, he said: "The night Meaghan passed away I was at her house having coffee with her." Senior Constable HEWES took that statement, and she was adamant in her oral evidence that she had not prompted or lead Livy to that conclusion about the date of death. The date had come solely from Livy's recollection.

While Livy could not entirely account in his evidence for why he knew that was the date of her death, his description of her state and his subsequent attendance at her unit the next morning to check on her welfare suggest that he knew she was in a grave condition at the time he exited the premises on 3 November 2015.

He also did not have what he perceived as a good relationship with the police. The possibility of police involvement and Livy's reluctance to have his name associated with illicit drug or pill taking would have been motives for him not to call 000.

Josh Powe-Hawkins:

Josh Powe-Hawkins was also known to Meaghan GARDNER. Senior Constable Mitchell BURROWS states that he attended 7/90 Guernsey Ave, Minto, on 6 January 2016 to speak with the occupants about an unrelated matter. Present were both Livy TABAN and Josh POWE-HAWKINS. Snr Cst BURROWS recalls that the occupants were arguing and that Powe-Hawkins yelled out to Livy TABAN words similar to: "I'll tell them about what happened with Meaghan. I'll tell them everything."

Josh POWE-HAWKINS was subpoenaed to give evidence but did not attend. Constable BURROWS gave evidence as to the service of the subpoena, which occurred on 8 February 2015. Senior Constable HEWES gave evidence that POWE-HAWKINS spoke to police on 14 March 2015 for an unrelated matter, and during that meeting he had told police he had no intention of attending court in answer to the subpoena.

POWE-HAWKINS gave a statement to police on 16 September 2016. In that statement he made no reference to the conversation with Senior Constable BURROWS. Senior Constable HEWES stated that she believed Josh POWE-HAWKINS was avoiding answering her questions when she took that statement.

Livy said in oral evidence that he had spoken to Josh after police had notified Livy of Meaghan's death. He told Josh, "This woman took too many pills. She suicided. No one killed her."

The Autopsy:

Dr Schwartz conducted the autopsy. She found the direct cause of death as "Acute Bronchopneumonia Complicating" with an antecedent cause of "Multi-Drug Toxicity (Alprazolam, opiates, benzodiazepines, hydrocodone, quetiapine, and cannabinoids).

Meaghan GARDNER also had vaginal bleeding that the pathologist appears to have adequately accounted for and does not appear suspicious in nature.

The deceased had several abrasions on her extremities that the pathologist believed were the result of recent falls.

Identity:

Meaghan GARDNER's identity was confirmed via fingerprints. To formalise this, a statement from Garry SARKISSIAN from Fingerprint Operations is contained within the police brief of evidence.

Date of death:

Meaghan was located by police on 9 November 2015, but may have been dead for some period before this. Dr SCHWARTZ states in the autopsy report that "there were decompositional changes suggestive of a post-mortem interval of up to 10 days in duration."

Only one witness claims to have seen Meaghan alive or spoken with Meaghan after the night of 3 November 2015 when Livy TABAN says Meaghan was on the bed and "making noises". This witness did not make a statement and Senior Constable HEWES held an opinion that this witness was not reliable in relation to having seen Meaghan on the 5 November 2015.

Several members of Meaghan's family tried multiple times to reach her via phone, with the last contact being on 3 November 2015.

Livy TABAN's evidence suggests Meaghan was suffering severe breathing difficulties on the night of the 3 November 2015 or the early morning of the 4 November 2015. She was non-responsive to his verbal questions at this time.

On the balance of probabilities, Meaghan GARDNER died on 3 November 2015 or 4 November 2015.

Place of death:

The place of Meaghan's death was 29/90 Guernsey Road, Minto. Several witnesses can place her at the premises in the days leading up to her family losing contact, and there is no suggestion she was moved back to the premises after dying elsewhere.

Cause of death:

According to the post-mortem report, the direct cause of death was "Acute Bronchopneumonia Complicating" with an antecedent cause of "Multi-Drug Toxicity (Alprazolam, opiates, benzodiazepines, hydrocodone, quetiapine, and cannabinoids).

Manner of Death:

On the night of the 3 November 2015, Meaghan GARDNER was under the influence of multiple drugs at her home address at 29/90 Guernsey Road, Minto. Also present was her neighbour, Livy Taban.

During the night she suffered breathing difficulties caused by a combination of acute bronchopneumonia and multi-drug toxicity. Livy Taban observed her but did not call emergency services. He retrieved her house key and let himself out of her unit. At some point during the night or early the next morning, Meaghan Gardner passed away from the acute bronchopneumonia and multi-drug toxicity.

Livy's evidence was that she was dressed in a bra and underpants when he left and that she was in the bedroom. Her presence naked in the living room cannot be accounted for on the evidence, but it is possible she managed to exit the bedroom before falling or lying down on the living room floor. The knocked over table and the cords across the bedroom entrance suggest this may have occurred.

What can conclusively be said is that *she died after ingesting multiple drugs when she was suffering from a serious respiratory condition*

Findings required by s81(1)

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

Identity of deceased:

The deceased person was Meaghan Gardner

Date of death:

Ms Gardner died on 3 or 4 November 2015

Place of death:

She died at Unit 29, 90 Guernsey Avenue, Minto, NSW

Manner of death:

Ms Gardner died after ingesting multiple drugs when she was suffering from a serious respiratory condition

Cause of death:

1 (a) The medical cause of the death was acute bronchopneumonia complicating
(b) Multi-drug toxicity (alprazolam, opiates, benzodiazepines, hydrocodone, quetiapine and cannabinoids)

I close this inquest.

Magistrate Teresa O'Sullivan
Deputy State Coroner

Date 15 March 2017