



MAGISTRATES COURT of TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Peter Donald Balsley

Find, pursuant to Section 28(1) of the Coroners Act 1995, that

- a) The identity of the deceased is Peter Donald Balsley.
- b) Mr Balsley was born on 2 January 1959 and was 62 years of age at his death. Mr Balsley is survived by his wife, Eva Balsley, and his two adult daughters. Mr Balsley spent his career as a postman and retired in 2016. He had a long history of excessive alcohol consumption, leading to the breakdown of previous relationships and the regular commission of alcohol-related offences. Mr Balsley was in reasonable health but suffered hypertension, type 2 diabetes and gout.

On the morning of Saturday 11 September 2021, Mr Balsley commenced drinking beer at his home in Midway Point. After leaving his home for a short period of time, he returned with two friends at about 12.30pm. At Mr Balsley's house, they consumed numerous beers until about 2.15pm, at which time Mr Balsley's two friends left to go to the Midway Tavern. After they left, Mr Balsley told his wife he wanted to join them and that he would be back for dinner. At 2.20pm, Mr Balsley arrived at the Midway Tavern and stayed there until 6.30pm. Mr Balsley drank seven beers whilst at the tavern and became heavily intoxicated. When Mr Balsley did not return home for dinner, Mrs Balsley made numerous attempts to contact him through friends, but was unable to ascertain his whereabouts. He did not have his phone with him. The following morning, being 12 September 2021, Mrs Balsley continued to make phone calls in an attempt to locate him. Several people started searching for him. At 8.20am, Mrs Balsley contacted police, very concerned for his welfare.

At 9.30am a local resident, Michael O'Connor, spotted a human foot protruding from a concrete pit, maintained by the Sorell Council, which ran along the paling boundary fence of 2 McKinly Street, Midway Point. This pit was about 420 mm deep (with stone sides) and 360 mm wide. The pit contained a Telstra

service hole, which was covered. The edge of the pit was 1200 mm from the edge of the bitumen footpath with a grass nature strip filling this space.

Mr O'Connor went to investigate and found a person apparently deceased in the pit with his head compressed against his chest. Police officers and ambulance personnel arrived and Mr Balsley was confirmed to be deceased, with rigor mortis already present.

The investigating Police officers observed no suspicious marks on Mr Balsley's body, no evidence of a vehicle collision and no evidence to suggest another person was involved in Mr Balsley's death. No one witnessed what happened to Mr Balsley, although an eyewitness, Mr Aaron Unsworth, subsequently contacted police and told them that he believed he saw Mr Balsley staggering and yelling on the corner of McKinly Street and Penna Road (near the pit) at 7.30pm on 11 September 2021. Mr Unsworth's description of the man he saw closely resembled that of Mr Balsley. I am satisfied that the person seen by Mr Unsworth was, in fact, Mr Balsley. Mr Balsley was not further seen alive and it is likely that he stumbled into the pit shortly after this time.

The forensic pathologist, after conducting a full autopsy, concluded that Mr Balsley died as a result of positional asphyxia following a fall whilst intoxicated. The autopsy also revealed that Mr Balsley had advanced atherosclerotic coronary vascular disease, which contributed to his death. Toxicological testing revealed that Mr Balsley had a very high blood alcohol content of 0.289 g/mL. This alcohol level is consistent with the investigation evidence regarding the number of beers consumed by him before his death.

I am satisfied upon the evidence that Mr Balsley was in the process of walking home from the Midway Tavern when he accidentally fell into the pit in an intoxicated state. He was either knocked unconscious by the fall or because of his intoxication could not remove himself from the position. In this position, his airways were blocked causing an inability to breathe and subsequent death.

- c) The cause of death was positional asphyxia as a result of an accidental fall whilst intoxicated.
- d) Mr Balsley died between 11 and 12 September 2021 at Midway Point in Tasmania.

In making the above findings, I have had regard to the evidence gained in the comprehensive investigation into Mr Balsley's death. The evidence includes:

- The police report of death for the coroner;
- An affidavit of the forensic pathologist regarding cause of death;
- Toxicology report of Forensic Science Service Tasmania;
- Affidavits confirming life extinct and identification;
- Hospital and General practitioner records for Mr Balsley;
- Affidavit of Eva Balsley, wife of Mr Balsley;
- Affidavits of Renae Daft and Nicole Plummer, daughters of Mr Balsley;
- Affidavits of two attending and investigating officers, including body worn camera footage and photographs;
- Affidavits of Joshua Watson, licensee of Midway Tavern;
- Affidavit of Stuart Crowther, bar attendant at Midway Tavern;
- Affidavits of Michael O'Connor and Aaron Unsworth, witnesses;
- Affidavit of Daniel Brown, Benjamin Fisher and Ross Plazier, friends of Mr Balsley;
- Tasmania Police reports, records and documentation regarding Mr Balsley;
- Midway Point Tavern CCTV footage; and
- Correspondence from Sorell Council regarding the Telstra pit.

Comments and recommendations

I do not consider that the service of alcohol to Mr Balsley at the Midway Tavern before his death warrants criticism. He was served mid-strength (instead of full-strength) beers, was not noticed by the bar attendant to be obviously intoxicated and was seen to place his bets without difficulty. However, I am satisfied that he was, in fact, highly intoxicated to the point where he was unable to safely walk the short distance home. Unfortunately, his state of intoxication was the primary cause of his death.

Further, I do not consider that it is appropriate in this particular investigation to make a recommendation that the Sorell Council take action to install a barrier or make modifications to the pit into which Mr Balsley fell. There is no evidence that similar incidents have occurred in that location and it is situated a sufficient distance from the pedestrian footpath so that it does not present any particular hazard to pedestrians.

I extend my appreciation to investigating officer Senior Constable Drew Redburn for his thorough investigation and report.

I convey my sincere condolences to the family and loved ones of Mr Balsley.

Dated: 9 February 2023 at Hobart in the State of Tasmania.

Olivia McTaggart
Coroner