FINDINGS and RECOMMENDATIONS of Coroner Olivia McTaggart following the holding of an inquest under the *Coroners Act* 1995 into the death of:

Janet Lois Mackozdi

Contents

Record of Investigation into Death (With Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

I, Olivia McTaggart, Coroner, having investigated the death of Janet Lois Mackozdi with an inquest held at Hobart in Tasmania make the following findings.

Hearing Dates

21, 22, 23, 24, 25 and 28 August 2017, 22 September 2017, 31 January 2018 and 19 April 2018.

Representation

Counsel Assisting the Coroner: Ms Allison Shand

Introduction

1. Janet Lois Mackozdi ("Mrs Mackozdi"), died between 23 and 24 July 2010 at Mount Lloyd in Tasmania as a result of hypothermia from environmental cold exposure. She was 77 years of age at the time of her death and suffered from advanced dementia. She lived with her daughter, Jassy Anglin ("Mrs Anglin"), son-in-law, Michael Anglin ("Mr Anglin") and their three youngest children.

2. On the night of 23 July 2010, Mrs Mackozdi was put to bed in a large shipping container that was being converted to living premises by Mr and Mrs Anglin at their property at Mount Lloyd. The shipping container was not insulated and there were large gaps surrounding the window and door frames which had been poorly installed in the container. Either during the night or in the early hours of the morning Mrs Mackozdi died in her bed. Although she was located deceased by Mr Anglin in the morning of 24 July her death was not reported by him or Mrs Anglin for approximately five hours.

3. Mount Lloyd is situated approximately 16 kilometres south-west of New Norfolk, at an elevation of about 900 metres above sea level. A report prepared by experts from the

University of Tasmania estimated that the temperature inside the shipping container between midnight and 6.00am on 24 July 2010, was between -1.0 and 2.9 degrees Celsius.

4. Forensic pathologist, Dr Donald Ritchey, conducted an autopsy upon the body of Mrs Mackozdi shortly after her death. Dr Ritchey expressed the opinion that the cause of her death was hypothermia, with significant contributing factors being dementia of the Alzheimer's type, frailty of advanced age and severe atherosclerotic and hypertensive cardiovascular disease. I accept Dr Ritchey's opinion.

5. Dr Ritchey found that Mrs Mackozdi was underweight, weighing 37.9 kg, with a body mass index of 17kg/m^2. I note that, on the evidence, this represented a 28% loss in body weight in the final 12 months of her life. She had little subcutaneous body fat. This factor contributed to her susceptibility to hypothermia. At autopsy she was found to have contusions to her knees, shins and elbows. These were characteristic of injuries often seen in individuals suffering from the delirium or confusion of hypothermia which may cause them to crawl around or undertake a burrowing type action. The injuries seen on Mrs Mackozdi may have been caused by impact with the metal bed frame or exposed sides of the shipping container whilst she was in a state of hypothermic delirium. Dr Ritchey also observed Mrs Mackozdi to have Wischnewski's ulcers, being a pattern of gastric mucosal erosions, which are signs of an acute physiological stress response in persons suffering from hypothermia.

6. The inquest into Mrs Mackozdi's death took place over nine days. Under section 28 of the *Coroners Act* 1995 my functions are, *inter alia*, to find the identity of the deceased, the cause of death, how death occurred and to make comments and recommendations if appropriate. The inquest primarily examined the adequacy of the care provided to Mrs Mackozdi by Mr and Mrs Anglin in the three years before her death and the role played by any lack of adequate care that may have contributed to her physical and mental condition at her death. The inquest, more widely, examined the issue of elder abuse and possible recommendations for prevention of what is a significant issue in this State.

Background

7. Janet Lois Mackozdi (nee Rapkin) was born on 6 December 1932. She was a single woman. She had been married and divorced twice, the divorce from her second

husband occurring many years before her death. She lived the majority of her life in New South Wales where she raised a son and a daughter. Mrs Mackozdi's son is Justin Mack, born 1968, and her daughter, Jassy Anglin, was born in 1961.

8. Mr Anglin was a disability support worker. Mrs Anglin was a qualified registered nurse, although she was not working during the relevant period. They have five children: Holly (born 1989), Ivan (born 1992), Michael (junior) (born 1997), Siobhan (born 1999) and James (born 2002). Mrs Mackozdi loved seeing her grandchildren and spending time with them.

9. The evidence of Mrs Mackozdi's life and health came from a variety of sources in the investigation and inquest, including from witness affidavits and statements, oral evidence at inquest, medical and financial records, and other documentary exhibits.

10. Mrs Mackozdi was, by nature, a dignified and refined lady, interested in art, culture and travel. She lived a simple life, was very careful with money and kept her house and affairs in good order. She loved her grandchildren and was particularly close to her eldest grandchild, Holly.

11. Until about 2002, Mrs Mackozdi lived a settled life in New South Wales. She lived by herself in a unit in Balgowlah that she owned and was self-sufficient in her activities of daily living. She was comfortable in her financial position, living from her aged pension, as well as having modest investments in several funds.

12. She attended her regular general practitioner, Dr Tim Sutherland, at Dee Why Doctors, who monitored her health. She had a history of thyroid problems and had undergone a thyroidectomy. Consequently, she was required to take medication on a daily basis but was inconsistent in taking it as prescribed. Mrs Mackozdi also suffered glaucoma and hypertension. The general practitioner's records show that between June 2005 and May 2007 Mrs Mackozdi maintained a relatively stable weight of between 49 kg and 52 kg (with a BMI between 20.9 and 22.2). However, she became increasingly confused and forgetful as time progressed. On her last appointment with Dr Sutherland in August 2007, he noted Mrs Mackozdi to be "*more forgetful".*

13. In August 2001, Marie Louise Muscat, a financial planner with Fiducian Financial Services based in Sydney, New South Wales, became Mrs Mackozdi's personal

financial planner. Mrs Mackozdi had already been a client of that firm for a number of years. It was Ms Muscat's role to advise Mrs Mackozdi on how best to manage her investment accounts.

14. Ms Muscat, who swore a comprehensive affidavit and gave evidence at the inquest, came to know Mrs Mackozdi very well and developed a friendly relationship with her. She was a key witness at inquest and gave comprehensive evidence about Mrs Mackozdi's life, health, finances and relationship with her daughter.

15. Ms Muscat gave evidence that, prior to her move to Tasmania in 2007, Mrs Mackozdi wished to spend time with her family and felt pressure to provide financial assistance to her daughter, in order to maintain contact with her grandchildren.

16. Ms Muscat described Mrs Mackozdi as a frugal and gullible person who was as *"timid as a mouse".* She gave evidence that Mrs Mackozdi would say that she was scared of not seeing her grandchildren and that her son-in-law did not like her and she was scared of him. Ms Muscat described Mrs Mackozdi complaining to her that she was threatened or punished by Mrs Anglin with not being allowed to see the grandchildren. This was denied by Mrs Anglin. During the course of their evidence both Mr and Mrs Anglin denied significant parts of Ms Muscat's evidence. Mrs Anglin in particular suggested that Ms Muscat had acted inappropriately and misappropriated Mrs Mackozdi's money. There is no evidence whatsoever to support such an allegation. Ms Muscat was clearly motivated to help Mrs Mackozdi maintain a sound financial position.

17. The evidence of Ms Muscat can be accepted over the evidence of Jassy Anglin and Michael Anglin. The evidence of both Mr and Mrs Anglin lacked credibility, was inconsistent with other evidence, and was, at times, fanciful for the reasons expressed further in this finding. Their accounts of relevant events were not reliable, and unashamedly tailored to suit their own interests. I find that Ms Muscat was a credible and reliable witness whose evidence was precise, impartially and genuinely given and consistent with other reliable evidence, such as documentary records. I therefore accept her evidence as credible and accurate.

18. Ms Muscat gave evidence that Mrs Mackozdi lived a simple existence and was very careful with her money, being careful not to spend more than her aged pension and regularly visiting Ms Muscat to seek reassurances as to her account balances. Ms

Muscat said that Mrs Mackozdi was very concerned with ensuring that she had sufficient money saved to live comfortably for the rest of her life. Ms Muscat said that Mrs Mackozdi was always making notes regarding her money and finances. These characteristics were also evident in the personal diaries of Mrs Mackozdi, which included entries recording small items such as bus trips, paying her gardener and inexpensive clothing items. The diaries were received in evidence during the inquest. The diaries also showed entries recording the provision of money to her daughter and her family. Mrs Mackozdi spent very little on herself, for example wearing the same ill-fitting shoes for several years.

19. In August 2002 Mrs Mackozdi sold her unit in Balgowlah, New South Wales, and purchased a less expensive unit in Dee Why. Mrs Mackozdi told Ms Muscat that this was in order to provide $50,000 to her daughter so that she could continue to see her grandchildren. Mrs Mackozdi did not wish to leave Balgowlah and told Ms Muscat that she was not happy living in Dee Why because she did not feel safe, it was noisy and there was no room for her boxes. At this stage, Mrs Mackozdi was not affected by dementia and I accept that Mrs Anglin did induce a belief in Mrs Mackozdi that, if the money was not forthcoming, she would not see her grandchildren. Mrs Anglin rejected Ms Muscat's evidence that she placed pressure on her mother to provide money, using the threat of not seeing her grandchildren. I do not accept such denials. The pattern of Mrs Mackozdi's multiple moves to follow her family, the timid nature of her personality and the ultimate depletion of her finances by Mrs and Mr Anglin (as discussed further) indicate her vulnerability over a period of many years before her death.

20. In April 2003 Mrs Mackozdi withdrew funds from a mortgage trust investment she held and gave Mrs Anglin $50,000 to assist with the purchase of a house. At that time the Anglin family was living in South Australia.

21. There then followed a period of instability where Mrs Mackozdi made several moves between New South Wales and South Australia.

22. On her first move to South Australia, in June 2003, Mrs Mackozdi purchased a house at Christie's Beach. The evidence indicates that she moved to be with her grandchildren. She remained there for about one year, before returning to New South Wales, having sold the Christie's Beach property. A short while later she moved back

to South Australia, where she stayed with Mrs Anglin and family, before again returning to New South Wales. She remained in New South Wales until her move to Tasmania to follow her daughter and grandchildren who had already relocated to Tasmania some months earlier.

23. It is unfortunate that Mrs Mackozdi made numerous moves at a time when, in the interests of her health and general functioning, it would have been preferable to settle in one comfortable environment, with appropriate and regular supports, and assisted by the management of a regular general practitioner. On the expert medical evidence at inquest, Mrs Mackozdi's regular moves are likely to have caused a worsening of her dementia and resulted in functional impairment.

24. The decisions made by Mrs Mackozdi regarding her interstate moves and the provision of funds to her daughter were clearly influenced by her desire to spend time with her grandchildren. Ms Muscat gave evidence that Mrs Mackozdi told her on numerous occasions that, whilst she was in South Australia, when there was an argument with her daughter she would be punished by not seeing her grandchildren. Ms Muscat formed the view that Mrs Mackozdi was correctly describing her treatment during such episodes.

25. In April 2007 Mrs Mackozdi executed a will, in which she appointed Ms Muscat to act as executrix, and divided her property between her daughter and son, with Mrs Anglin to receive 40% of her estate and Justin Mack to receive 60% of her estate. The provision of a greater share to her son was in recognition of the financial assistance given to her daughter, in particular the amount of the $50,000 subsequent to the sale of her Balgowlah property. Consistent with the evidence that she was frugal and careful about money, Mrs Mackozdi hand wrote the will, rather than having it prepared by a solicitor.

26. At about the time of her move to Tasmania, Ms Muscat noticed that Mrs Mackozdi had become more and more confused in her thinking. She described her as having always been forgetful, but she noticed a definite change in her behaviour during her telephone calls with her. Ms Muscat said that Mrs Mackozdi became very quiet, sounded confused and upset when speaking to Ms Muscat on the phone. Ms Muscat's observations are consistent with the records of Mrs Mackozdi's general practitioners in Tasmania and the independent medical evidence. As discussed

below, Mrs Mackozdi was suffering from second stage dementia and severely incapacitated in all aspects of her cognitive function and daily living.

27. Upon arrival in Tasmania in October 2007, Mrs Mackozdi purchased a unit at 2/31 Stevens Street, New Norfolk, where she lived by herself. Although her dementia was progressing rapidly at this time, it seems likely that Mrs Mackozdi was able to understand the nature of this transaction. She had bought and sold several houses previously and understood the process.

28. Nevertheless, by early 2008 Mrs Mackozdi's cognitive state and consequent ability to manage her affairs had deteriorated significantly. Two separate general practitioners, who had seen Mrs Mackozdi following her move to Tasmania, noted concerns regarding her mental and cognitive state. I will discuss this issue further in the finding.

29. On 25 June 2009, Mrs Mackozdi had a serious fall and fractured her cervical spine, and was hospitalised at the Royal Hobart Hospital ("RHH").

30. Whilst hospitalised, Mrs Mackozdi's health was extensively assessed, and an Aged Care Assessment Team ("ACAT") assessment was completed. Its purpose was to confirm the requirements and eligibility for aged care. That assessment concluded that Mrs Mackozdi required high-level permanent and respite care. She could no longer live independently, required 24 hour care and did not have the capacity to make decisions concerning her care. She was formally diagnosed by geriatrician, Dr Jane Tolman, as suffering from dementia.

31. On 9 July 2009 Mrs Mackozdi was admitted to Mary's Grange Nursing Home for a period of respite immediately after her discharge from the RHH.

32. On 13 August 2009 she was discharged from Mary's Grange into the care of Mrs Anglin. From then on until the day before her death she lived with Mrs Anglin and her family at 1/4 Rocks Road, New Norfolk.

33. I accept the expert and medical evidence at inquest that, during this period, Mrs Mackozdi required 24 hour care, requiring full assistance for all activities of daily living, including full assistance for meals and a great deal of encouragement to eat due to her poor appetite, impaired initiation, fatigue and low interest in food. She also

required prompting and supervision for daily hygiene and toileting. Additionally, she required regular monitoring of medication for her thyroid regulation and hypertension.

34. During this time, Mrs Mackozdi's dementia continued to worsen, and manifested in a pattern of agitation and, at times, paranoid delusions. Her mental and physical state were also very poor. She was seen by a general practitioner, Dr Sujeewa Fernando, in Taroona on three occasions only. She was not provided with the care required for a person with her ill-health and incapacities. She lost a significant amount of weight and had become very frail and immobile.

35. On 22 July 2010 the whole Anglin family, and Mrs Mackozdi, moved to 24 Paddy's Flat Road, Mount Lloyd. The property there comprised a main building in poor condition and, as previously noted, a shipping container that was being converted to living premises.

36. Mr Anglin was responsible for the renovations of the buildings on the property to a standard suitable for occupation as a family home. Mr and Mrs Anglin expressed the intention to build a "granny flat" on the property for Mrs Mackozdi. There was, however, almost no progress by Mr and Mrs Anglin in making the property habitable at any time and no construction of a granny flat. Police officers attending the property soon after Mrs Mackozdi's death described the property as a four room hut in poor condition and very cluttered. There was no flushing toilet, although there was a chemical toilet in a dirty state in a stand-alone shed outside the hut. The photographs show an unused shower base in a filthy state without running water. There was also no running water available for the bath.

37. The shipping container, 40 feet in length, was at the rear of the hut and access to it was gained from outside. There were no formed paths to the container and it was necessary to walk through mud, and then step down half a metre, in order to enter it. The walls were steel with essentially no lining. There were four windows and a door, not professionally fitted, so that there were very large gaps at the top and bottom of each window. The only source of power was an extension lead that came across from the house and entered the container through the door, therefore not allowing it to shut and seal. This lead then plugged into a power board which ran a light, a large screen television, a game console unit and an electric heater. The three bar electric heater was the only source of heat for the container.

38. On 22 July 2010, being the first night at the Mount Lloyd property, the Anglin family and Mrs Mackozdi all slept in the main building at the property.

39. Between 9.00pm and 10.00pm on Thursday 23 July 2010, the second night at the property, Mr Anglin moved Mrs Mackozdi into the shipping container by carrying her and putting her into a single bed against the wall of the container. At an unknown time between her bedtime and about 9.30am on Friday 24 July 2010 Mrs Mackozdi died.

40. Mrs Mackozdi was not checked by Mr and Mrs Anglin during the night or before they both left the property the following morning to undertake various tasks, including Mrs Anglin taking Michael (junior) to Hobart for a specialist's appointment and Mr Anglin driving to New Norfolk for several jobs. They returned home at about 9.30am on Friday 24 July 2010 and discovered Mrs Mackozdi deceased in her bed.

41. After her death, Mr and Mrs Anglin initially falsely reported that Mrs Mackozdi had died whilst on a drive to Mount Field. They both later explained that this was not correct, and she had been found deceased at home. They said that they had lied about the circumstances of Mrs Mackozdi's death because they were embarrassed about the state of the property.

42. In actual fact, upon finding Mrs Mackozdi deceased, Mr and Mrs Anglin did not call emergency services. Instead they spent a number of hours with her in the shipping container. They washed and cleaned her and dressed her in warm clothes, including a scarf, beanie and Ugg boots. Eventually, they put her in the back of their car, fastening a seatbelt around her and putting a blanket over her legs. They then drove her to the New Norfolk District Hospital, presented Mrs Mackozdi to nursing staff and gave a false account of the morning's events. Staff at the hospital became suspicious about the circumstances of Mrs Mackozdi's death and contacted police. Then followed an investigation into the circumstances of Mrs Mackozdi's death.

43. Mr and Mrs Anglin were charged with manslaughter contrary to section 159 of the *Criminal Code*. The indictment alleged that they had charge of Mrs Mackozdi on 23 July 2010 and, by omissions amounting to culpable negligence, failed to provide her with the necessaries of life, namely adequate shelter, and thereby caused her death.

44. On 13 April 2015, following their pleas of guilty, Mr and Mrs Anglin were convicted of the charge. Each was sentenced in the Supreme Court of Tasmania to two years imprisonment, wholly suspended for two years, on condition that they commit no offence punishable by imprisonment.

45. The sentencing comments of Justice Tennent included the following passage:

"It is accepted by the Crown that neither of you intended to kill Mrs Mackozdi and that her death resulted from an omission to perform a duty tending to the preservation of human life which amounted to culpable negligence. At the time of her death, Mrs Mackozdi was, due to her age, sickness and unsound mind, in your care. You each had a duty to provide her with the necessaries of life. In particular, you knew that Mrs Mackozdi was frail, that she was not eating properly and that her mobility was very limited. She was also suffering from dementia and was hallucinating. In such circumstances, you placed her in a shipping container in freezing conditions albeit for one night. She was unable to fend for herself or even have the ability to remove herself from the environment for many hours. That amounted to gross negligence on the part of each of you, which caused death. Had you considered your actions you would have known, indeed anybody would have known, of the potential serious consequences of placing Mrs Mackozdi in the shipping container on this night."

Scope of the Inquest

46. I am bound under section 25(4) of the *Coroners Act* to ensure that my findings as to the cause of death and circumstances surrounding death are not inconsistent with the determination of the matter by the result of the criminal proceedings as charged upon the indictment. Therefore I must not make any finding inconsistent with the finding upon which Mr and Mrs Anglin's pleas of guilty were based, that their actions in placing Mrs Mackozdi in a freezing shipping container on the night of 23 July 2010 were a cause of Mrs Mackozdi's death and amounted to criminal negligence on their part by reason of failing to provide her with adequate shelter. I am not, for example, permitted to find that Mr and Mrs Anglin deliberately caused Mrs Mackozdi's death. The facts do not support such a scenario in any event.

47. However, there is no provision in the Act preventing a coroner investigating the broader circumstances and other causes of death outside the scope of the criminal proceeding.

48. In passing sentence, Justice Tennent commented that she had regard to the high level of care supplied to Mrs Mackozdi in the long period before her death and that the period in which the Anglin's actions departed from the standards of care expected by the community was limited to the night of her death. I do not consider that such a comment prevents a coroner from examining the care actually provided in attempting to determine how death occurred to the fullest extent permitted under the *Coroners Act.* In making the comment, Justice Tennent was discussing a mitigatory factor for the purpose of sentencing, undisputed between prosecution and defence, and not an essential element of the charge. Therefore, if the evidence at inquest ultimately leads me to a different conclusion, it is not a finding that would be prohibited by section 25(4) of the Act.

49. Therefore, the wider circumstances contributing to the death of Mrs Mackozdi were the particular focus of the inquest. This involved an examination of her cognitive state, mental and physical health and the care provided to her since moving to Tasmania in October 2007. The documentary evidence before inquest suggested that for much of this period Mrs Mackozdi did not receive adequate care from Mr and Mrs Anglin and declined in her cognitive state and physical health because of that fact. The evidence suggested that she required full time care in a nursing home at least from 25 June 2009 after fracturing her neck. Within this context, the inquest specifically examined:

    a. The cause or causes of death, including the respective roles played by Mrs Mackozdi's living conditions immediately prior to death and her poor mental and physical condition at the time of death;

    b. The physical illnesses and symptoms suffered by Mrs Mackozdi at the time of, and prior to, her death, including any incapacity caused by these conditions;

    c. The cognitive capacity and mental state of Mrs Mackozdi at the time of, and in the several years prior to, her death, including any resulting incapacity to make decisions surrounding her own care and welfare;

d. The quality and adequacy of care provided to Mrs Mackozdi by Mr and Mrs Anglin from the time of her move to Tasmania in 2007 until her death; and

e. The circumstances surrounding the dissipation of Mrs Mackozdi's financial resources since moving to Tasmania, and the relationship between the use of Mrs Mackozdi's funds by Mr and Mrs Anglin and the quality of care provided to her.

Circumstances of Death and Issues

Development of dementia and decline in Tasmania

50. I now discuss in further detail the evidence relating to Mrs Mackozdi's progressively worsening dementia and consequent decline in mental and physical functioning, leading to a complete dependence upon her daughter and family for all of her needs.

51. Dementia is a progressive degenerative neurological disease. The term is used to describe the symptoms of a large group of diseases of the brain which cause a degeneration of neurological function in multiple domains and is progressive over time, ultimately leading to a terminal stage and death. It is a broad term used to describe a loss of memory, intellect, rationality, social skills and physical functioning.

52. Dr Alison Cleary, consultant geriatrician, provided an independent report concerning Mrs Mackozdi's condition and cognitive capacity following her review of medical records and witness accounts of the behaviour of Mrs Mackozdi. Dr Cleary also gave clear and knowledgeable evidence at inquest. I accept the evidence of Dr Cleary in its entirety.

53. Dr Cleary stated in her report that each individual with dementia experiences a uniquely different range of impairments and psychological symptoms, based on their education, personality, temperament and mental health. Depression and anxiety are highly prevalent in the early to middle stages of the illness. Behavioural and psychological symptoms are also highly prevalent during the course of the disease. Dr Cleary stated that behaviours can be highly challenging and cause significant distress to the patient and care givers. A range of factors may be attributable and practical approaches by experienced carers whom know the person well are essential.

54. Dementia most commonly occurs in old age, with incidence rates of 10% in the 75-84 year cohort, and 27% (men) and 34% (women) older than 85 years. Dementia is the single greatest cause of disability in older Australians (over 65 years) and the third leading cause of the disability burden overall. Dementia is now the second leading cause of death in Australia and has been rapidly increasing in incidence since 2006. It is the third leading cause of death in men and the second in women.[1]

55. In diagnosing dementia, brain imaging and blood tests are routinely completed, although these are not diagnostic alone. Various cognitive screening tools are utilised as part of a comprehensive assessment. The most commonly used of these is the Mini Mental State Examination ("MMSE"), which has been in clinical practice for over 40 years. It is a standardised part of the aged care assessment process in Australia.[2]

56. Dr Cleary explained that dementia can be clinically categorised into three stages – early, middle and late (or severe). The severe stage of dementia usually indicates the rapidly terminal phase, whereby life expectancy is commonly estimated at 6 to 15 months. She said that death in dementia often occurs due to progressive brain failure, loss of mobility and severe physical frailty. Common incidents that reciprocate a terminal decline are falls, malnutrition and aspiration pneumonia.

57. Dr Cleary noted that there were memory deficits apparent in Mrs Mackozdi's medical records going back to 2005. She noted that from 2005 to 2007 Mrs Mackozdi was experiencing the early stages of Alzheimer's dementia, with prominent memory loss, but preserved physical function and the ability to manage her affairs with the aid of notes and supportive advice from close friends. Dr Cleary was of the opinion, however, that by 2008 Mrs Mackozdi's dementia had progressed to the moderate stage.

58. Dr Cleary's expert evidence accords with other medical evidence and the observations of Ms Muscat.

---

[1] Report for Coroner re-Mrs Janet Mackozdi – Dr Alison Cleary MBBS (Hons) FRACP, exhibit C 54, citing The Australian Bureau of Statistics (2015) Causes of Death, Australia, 2015.
[2] Report for Coroner re-Mrs Janet Mackozdi- Dr Alison Cleary MB BS (Hons) FRACP, exhibit C54.

59. Coinciding with Mrs Mackozdi's progression into a more debilitating stage of dementia following her move, Ms Muscat found it increasingly difficult to make contact with Mrs Mackozdi, who was living by herself. The Anglin family were living separately in New Norfolk and attempting to renovate the Mount Lloyd property. When Ms Muscat was able to speak with Mrs Mackozdi she said that she was not happy and wanted to return to Sydney. She told Ms Muscat that the property at Mount Lloyd was cold, not nice and far away. Mrs Anglin asked Ms Muscat to discourage Mrs Mackozdi from leaving Tasmania and said that she and her husband were proposing to build a granny flat at the Mount Lloyd property. Mrs Anglin agreed that this occurred.

60. In January 2008 Mrs Mackozdi saw general practitioner, Dr Christine Van de Winkel, in Brighton for the first time. The medical notes indicate that Mrs Anglin said that she thought her mother had Alzheimer's disease. She said that her mother could not be left alone, could not cook, was anxious and depressed and was fixed on moving to England. She said that her mother was also *"giving away a lot of money".* In her evidence Mrs Anglin said she did not recall making all of these statements and suggested that it was not the case that her mother had such levels of incapacity or needed that level of care. During her evidence she volunteered that she had done some "research" and did not think that her mother had the typical symptoms of Alzheimer's disease. To the extent that Mrs Anglin denied making these statements to the general practitioner, I do not accept such denials. The notes are a contemporaneous and reliable record of statements made by Mrs Anglin and reflect her mother's significant decline in cognitive functioning and disabilities.

61. In a follow up appointment with Dr Van de Winkel on 11 January 2008 a MMSE was completed to assist in the diagnosis of possible dementia. Mrs Mackozdi's score was 15/30. Dr Clearly indicates that this assessment indicates moderate cognitive impairment and probable dementia. She stated that the score is within the lowest category and indicates an urgent need for a treatment regime. Mrs Mackozdi expressed reluctance to be referred to a specialist. Nevertheless, Dr Van de Winkel made a referral to geriatrician, Dr David Dunbabin. Mrs Mackozdi did not attend Dr Van de Winkel again, although Mrs Anglin wrote to her in February 2008, stating that her mother had taken offence to her and asking for another copy of the referral.

62. Mrs Mackozdi did not attend an appointment with Dr Dunbabin. There is no evidence that Mrs Mackozdi ever attended a consultation with a specialist for cognitive decline or dementia outside the hospital or nursing home setting.

63. In about February 2008 Mrs Mackozdi attended a different general practitioner, Dr Ralph Peters, in New Norfolk. At that practice, Mrs Mackozdi saw either Dr Peters or Dr Gwyneth Asten on about 8 occasions over the following months until October 2008. In Dr Peters' report for the coronial investigation he said in respect of Mrs Mackozdi that *"not only was she a bad historian, but there was evidence of significant cognitive impairment. It became clear that she did not understand the importance of her glaucoma, thyroxine replacement, hypertension and her hypercholesterolemia".*

64. In respect of the consultation with Dr Gwyneth Asten on 20 June 2008, whose notes were available to the inquest, Dr Peters stated that Mrs Mackozdi's mental state gave cause for alarm. He noted the evidence of memory loss, confusion regarding medication, mislaid prescriptions, inability to remember her daughter's name and paranoid delusions. At that consultation, Dr Asten was sufficiently concerned about Mrs Mackozdi's ability to care for herself that she referred Mrs Mackozdi to the Tasmanian Care Point Clinic for assistance as a matter of urgency. There is no evidence that Mrs Mackozdi attended this clinic.

65. Mrs Mackozdi's last appointment at Dr Peters' surgery was in October 2008, although the surgery received notification that Mrs Mackozdi had been treated for a transient ischemic attack (mini stroke) in April 2009. There is scant evidence relating to this condition or treatment for it.

66. There is no evidence that Mrs Mackozdi attended a general practitioner at all between October 2008 and August 2009. Dr Peters indicated in evidence that, before she attended his surgery, she had not been taking replacement thyroxine and therefore thyroxine was prescribed in June 2008. He also prescribed medication for her hypertension and hypercholesterolaemia. Although he gave evidence that prescription repeats may have been dispensed, she would have exhausted the repeats after six months and would have required another general practitioner's appointment.

67. I can only conclude that, despite the seriousness of her thyroid condition, Mrs Mackozdi did not obtain any further prescriptions and did not take her required doses of medication, at least until June 2009 when she was administered medication in hospital and subsequently in respite care.

68. Once Mrs Mackozdi stopped attending at Dr Peter's surgery, she had very little contact with any outside or independent services who may have assisted her. She was clearly in need of regular general practitioner's appointments to monitor her health and medications, advice from a specialist geriatrician and community services to oversee her medication regime and to help her care for herself.

69. In late 2007 or early 2008 Mrs Anglin indicated in a letter to Ms Muscat that her mother's health and memory were declining and that she did not want to put her into a nursing home but wanted to care for her herself. She advised that they had made a start on the proposed granny flat with central heating and that it would cost $60,000. She said that they would recoup the cost of the granny flat when they sold Mrs Mackozdi's unit.

70. Further letters from Mrs Anglin to both Ms Muscat and a relative named Jim were adduced at the inquest. In the letters Mrs Anglin refers to Mrs Mackozdi's failing health, and the need for her to be looked after. The correspondence was undated but it seems more likely that they were written between mid-2008 and mid-2009 before Mrs Mackozdi's fall. Mrs Anglin's description of Mrs Mackozdi's deterioration is in direct contrast with her evidence at the inquest, where she described her mother as generally functioning independently prior to her fall in June 2009. I reject the evidence given by Mrs Anglin to that effect. I find that, from about late 2007, Mrs Anglin was aware that her mother's condition was severe and she required significant care. Further, I find that she was aware of the extent of her deterioration as time progressed.

71. The next correspondence from Mrs Anglin to Ms Muscat was an email, in about June 2008, sent after Mrs Mackozdi's fall to advise she would be taking her mother home to care for her.

72. Ms Muscat said that, contrary to the usual level of contact from Mrs Mackozdi, during 2008 she received only a few calls from her. She said that they became more infrequent as the months passed. Ms Muscat recalls one conversation where Mrs

Mackozdi was very upset and sounded confused. In another call, Mrs Mackozdi became quiet and said she had to go as *"Jassy had arrived".*

73. In October 2008 Ms Muscat attempted to call Mrs Mackozdi and found that her home phone was disconnected. The disconnection of the phone coincides with the cessation of visits by Mrs Mackozdi to a general practitioner.

74. At this point I should mention that Mrs Mackozdi had lost contact with her son, Justin Mack. Mr Mack lived in New South Wales and, in previous years, had significant contact with his mother. The evidence indicates that his contact with her diminished during her numerous moves between New South Wales and South Australia and that he was eventually unable to contact her whilst she was in Tasmania. Mr Mack did not take the step of travelling to Tasmania, although he expressed concerns about his mother. His loss of contact with Mrs Mackozdi whilst she was in Tasmania may have been due to his estrangement from Mrs Anglin and his own personal circumstances.

75. During 2008 Mrs Mackozdi's account balances rapidly diminished. It is noteworthy that, despite her cognitive incapacity, she apparently signed many cheques authorising large cash payments from her account to, and for the benefit of, Mr and Mrs Anglin. Additionally, in November 2008, Mrs Mackozdi signed a transfer of her property to Mrs Anglin. I will discuss the issue of her finances and these transactions further in this finding.

76. By the end of 2008 Mrs Mackozdi was therefore living by herself but solely reliant upon Mrs Anglin and her family for all her needs. Her health conditions were not being monitored or treated. Her memory and thought processes were severely impaired by dementia. She did not have the ability to make rational decisions regarding her money. Her account balances were decreasing and she no longer owned her own property. She had no access to independent services that may have provided her with assistance.

77. Mrs Anglin said that she would spend time with Mrs Mackozdi, but that Mrs Mackozdi was capable of cooking and shopping on her own. Mr Anglin gave similar evidence. This is inconsistent with the noted comments made by Mrs Anglin to medical and health professionals, and is also inconsistent with the clinical observations of Mrs Mackozdi's frailty and difficulty eating when hospitalised. I find that such evidence is indicative of Mrs Anglin and Mr Anglin attempting to downplay the level of care and

assistance required by Mrs Mackozdi at that time, perhaps in order to justify why they did not utilise any external services to assist them in the care of Mrs Mackozdi. It may also relate to a desire to convey that Mrs Mackozdi was not kept from proper nursing care because they had convenient access to her money.

78. Due to limited independent witnesses I cannot properly determine how Mrs Mackozdi spent her days in her own home before her fall. It seems that she spent some time with her grandchildren and was taken on trips with her family. It is likely that Mrs Anglin spent a large amount of time with her mother trying to provide basic care for her without the necessary assistance or supports.

Hospitalisation - June 2009

79. On 25 June 2009 Mrs Mackozdi was admitted to the RHH following a fall at home in which she sustained a fracture to her C2 vertebra. She slipped on some stairs and sought help from a neighbour following the fall. On admission she was noted as being frail and confused. The fracture was managed by the fitting of a cervical collar.

80. Whilst hospitalised at the RHH, Mrs Mackozdi's health was extensively assessed. The records of the RHH were received as an exhibit at the inquest. Mrs Mackozdi was diagnosed by Dr Jane Tolman, then Director of Aged Care at RHH, as suffering from dementia and having delirium. She was noted to be underweight, with inadequate oral intake. A speech therapist's assessment noted that her oral intake was minimal and she had difficulty chewing and swallowing. A diet of thin liquids and dysphasia puree was recommended. It was noted that she required full assistance and encouragement for all oral intake.

81. Dr Tolman gave evidence at inquest that Mrs Mackozdi needed around 12 weeks of respite care, and was at an increased risk of falls because of her delirium and being in a cervical collar.

82. An ACAT assessment was completed at the RHH by experienced social worker, Merilyn Orr. Ms Orr was of the opinion that Mrs Mackozdi could not live independently and required 24-hour care. The assessment concluded that Mrs Mackozdi required high-level permanent and respite care. She was assessed as being dependent on others for eating, grooming, shopping, food preparation, laundry,

transport, medications and dealing with finances. Mrs Anglin signed the ACAT report as it was noted that Mrs Mackozdi lacked capacity to sign.

83. Despite such assessment, Mrs Anglin told medical staff that she felt she could manage her mother at home. She said that she had been visiting her daily at her home and did all the housework and cooking for her. Nevertheless, an immediate 12 week period of nursing home respite care was organised for Mrs Mackozdi at Mary's Grange Nursing Home at Taroona.

84. In evidence, Dr Tolman observed that Mrs Mackozdi would not, at the time she was hospitalised, have been able to make her own decisions as to accommodation. Whilst there was not a specific assessment of ability to make financial decisions, Dr Tolman expressed the opinion that Mrs Mackozdi would not have had capacity to make informed decisions regarding her finances.

Respite care — July to August 2009

85. On 9 July 2009 Mrs Mackozdi was transferred directly from the RHH to Mary's Grange for respite care. During her stay she was seen on a regular basis by Dr Sujeewa Fernando, a general practitioner based in Taroona with a large patient base of nursing home residents.

86. On 17 July 2009, after she had been hospitalised and in respite care for two weeks, Mrs Mackozdi's weight was recorded as being 53.25kg. This was the only recording of her weight upon the available evidence until recorded by Dr Ritchey after death as 37.9kg. Dr Fernando described Mrs Mackozdi as having advanced dementia, and as being similar in care requirement to a 2-3 year old child. I accept her evidence. Dr Fernando provided a referral for her to see Dr Martin Morrissey, a specialist geriatrician. However, this did not occur whilst she was at Mary's Grange or subsequently.

87. Dr Fernando stated in her affidavit that, by the conclusion of Mrs Mackozdi's stay at Mary's Grange, her dementia was so advanced that she was not able to recognise her despite Dr Fernando having seen her weekly. The nursing notes from Mary's Grange paint a picture of an extremely confused person, paranoid and teary, with regular episodes of psychosis and in need of high-level care. She was prescribed anti-depressant and antipsychotic medications by Dr Fernando.

88. Mrs Mackozdi did not stay in respite care for the recommended 12 weeks. In evidence Mrs Anglin said that her mother did not want to be in the nursing home and was very distressed whilst at Mary's Grange. It is clear from the nursing notes that Mrs Mackozdi did exhibit distress whilst in respite care, especially after visits from Mrs Anglin. The medical evidence indicates that such behaviour is not unusual and may be part of the dementia illness.

89. When Mrs Anglin said that she intended to take Mrs Mackozdi home on 13 August 2009, after a stay of 5 weeks, Dr Fernando advised her that that was a huge responsibility as she would need 24-hour care. Dr Fernando gave evidence that she advised Mrs Anglin that she could not do home visits, and discussed seeing a doctor closer to them. Despite this discussion concerning the high care requirements, Mrs Anglin maintained that she was able to care for Mrs Mackozdi at home.

90. The Mary's Grange records note an expectation that Mrs Mackozdi would be at that facility for at least 12 weeks. Mrs Anglin came to take her mother home after less than one half of this period. Ms Carolyn Wallace, Director of Clinical Services for Southern Cross Care (Tas) Inc. (which now manage Mary's Grange) gave evidence that it is not the role of the nursing home to follow up the quality of care provided by a family once someone is discharged from nursing home care. Ms Wallace stated that if there were concerns about the safety of the person to be removed from residential care, an application to the Guardianship and Administration Board for a guardian might be considered. I gained the impression that this was an infrequent occurrence.

91. Ms Linda McDavitt, Care Manager at Mary's Grange, gave evidence that, upon discharge, Mrs Anglin was provided with her mother's medication chart and other matters material to her care. There is no suggestion that Mrs Anglin had not been attentive and conscientious through her mother's stay. Mrs Mackozdi wished to go home, was walking independently and was not incontinent.

92. At inquest there was evidence from Ms Wallace as to the cost of full-time, permanent care in 2009. This would have involved Mrs Mackozdi paying a modest daily fee linked to her Centrelink pension, without any interruption or interference to her financial situation. There was therefore no financial impediment to her entry into permanent, high-level nursing care.

Medical care following discharge from respite

93. On 13 August 2009, after her discharge from Mary's Grange, Mrs Mackozdi went to live with Mrs Anglin and her family in a rented house at 1/4 Rocks Road, New Norfolk. She resided with them at this address between 13 August 2009 and 22 July 2010.

94. Upon returning to the care of Mrs and Mr Anglin, Mrs Mackozdi remained in her neck brace. Her dementia became characterised by episodes of psychosis. She was unable to feed or care for herself in any activities of daily living. She remained unable to manage her finances. Her other physical conditions still required medication.

95. In an article co-written by Dr Tolman and tendered in evidence, she states that in the second stage of dementia, a person requires 24-hour care. As care needs increase, typically the person will move into residential aged care. In some cases the use of extra services or family support within the home may be appropriate. During this phase, medication should be reviewed regularly to optimise treatment and plans should be drawn up to minimise the need for unnecessary hospital transfer as medical care should be provided in most circumstances within a care facility. Finally, care plans should be arranged through collaboration with family, care staff and medical professionals.[3]

96. Similarly, Dr Cleary gave evidence that, after her discharge from the nursing home, Mrs Mackozdi required close daily 24-hour care. She also required approximately monthly appointments with a general practitioner to monitor her condition and treat her. She said that Mrs Mackozdi would have qualified for a home care package, although such a service is dependent upon the family accepting such services.

97. After her discharge from Mary’s Grange, during an 11-month period until her death, Mrs Mackozdi was taken to see Dr Fernando at her practice at Taroona on only three occasions. These are set out in the following paragraphs.

98. On 31 August 2009 Mrs Anglin attended Dr Fernando to collect prescriptions for Mrs Mackozdi, who was not with her. Dr Fernando noted that Mrs Mackozdi was recovering from a psychotic episode and was suffering from major depression.

[3] Dementia care: how we get it wrong and what's needed to get it right – Tolman and Morrisey, Vol 5 No 1 February/March 2016 Australian Journal of Dementia Care

99. Mrs Mackozdi was next seen by Dr Fernando on 16 November 2009. She was very confused and had poor insight and judgement. Mrs Anglin said she was having difficulties looking after Mrs Mackozdi. Dr Fernando spoke to Mrs Anglin about palliative care and gave her information about the services that were available, and also told her that she could return her mother to nursing care. During this conversation Dr Fernando gave Mrs Anglin details of a number of supports that were available to her to assist with the care of Mrs Mackozdi at home. These supports were not taken up by Mrs Anglin.

100. Dr Fernando gave evidence that, in her 25 years as a general practitioner, she has never encountered a situation where a family do not want any assistance, as families come to the doctor to obtain help. She said that Mrs Mackozdi was the most severely demented patient that she had ever seen being cared for in the home, let alone without nursing help. However, she explained in evidence at inquest that she was not able to impose any services on them, as it is for the family to decide whether to engage and use outside services. Similarly, Dr Cleary gave evidence that the responsibility is on the family to accept services and help.

101. Mrs Anglin had the care of three young children and was attempting to renovate a property in a rural location. The additional task of providing full-time care to her dependent mother in a small rented premises would have been practically impossible without help. This should have been obvious to both Mrs Anglin and her husband.

102. In January 2010 Mrs Anglin attended Dr Fernando's surgery to obtain prescriptions for her mother. Mrs Mackozdi remained in the car. When Dr Fernando went to the car to see her she did not know where she was and did not recognise Dr Fernando.

103. In March 2010 Mrs Mackozdi was seen at the neurosurgery clinic at the RHH where it was recorded that her fracture was healing well. This consultation was limited to assessing the neck injury, rather than any assessment of general health, mental health or cognitive capacity.

104. Dr Fernando last saw Mrs Mackozdi on 18 June 2010. She was in a wheelchair. Her toe nails were inflamed from not being cut. Dr Fernando said that she would organise a home visit by a podiatrist, but Mr Anglin said he knew a podiatrist through his work and he would organise the visit. This never occurred.

Care provided at home following respite

105. There was evidence from Dr Cleary, Dr Tolman and Dr Fernando about the level of care that was required for Mrs Mackozdi in the home. They described the time required to provide an adequate feeding regime as significant. Dr Cleary said that getting a person to eat was a “labour intensive process”. Dr Fernando indicated that meal times could take 30-45 minutes in feeding alone. In addition, showering and toileting would take around one hour per day.

106. Dr Tolman said that it is a “big ask” for family to care for a person in Mrs Mackozdi’s condition. She described needing “heaps of money” or “heaps of family”. She gave evidence that alarm bells would ring with her if she was told that a person suffering second stage dementia was being cared for by the family without any outside help.

107. Mr and Mrs Anglin's children gave evidence about their recall of Mrs Mackozdi in the home with them. Their evidence is of limited assistance, given the age of the younger children, their focus on other things, and the older children not always being present. Apart from these issues, I had the distinct impression that they had been “coached” by their parents to a degree.

108. None of the children recalled a special or time-consuming feeding regime occurring, and referred to Mrs Mackozdi consuming the same food as the rest of the family. Michael (Junior) indicated that Mrs Mackozdi would sometimes eat in her room and she would eat the same food as the family.

109. Both Mr and Mrs Anglin indicated that what Mrs Mackozdi ate was consistent with what the rest of the family ate. It is perhaps difficult to reconcile this with other evidence indicating that the family were often eating takeaway and fast food, which is evident from bank statements and also the evidence of Michael (Junior) that the stove in the house that they lived in (in New Norfolk) was broken and they would eat out because they could not cook.

110. Mrs Anglin described softening food for Mrs Mackozdi and encouraging her to eat. She also described adding vitamin supplements to her food. Mr Anglin did not recall pureeing (he referred to it as ‘mulching’) her food and referred to her eating very little but said that there was very little that she would not eat.

111. Apart from the above, there is, again, little evidence of how Mrs Mackozdi was cared for or how she spent her days.

112. On the 22 July 2010 the Anglin family and Mrs Mackozdi moved from the house in New Norfolk to the property at Mount Lloyd. It would appear that this coincided with the end of the lease at the New Norfolk property, although there was evidence from members of the Anglin family that the move was due to the theft of items and materials being stored at the Mount Lloyd property. Whatever the reason, the property remained virtually uninhabitable with almost no progress made to renovate it in the three years since its purchase.

Financial situation

113. As part of the investigation into Mrs Mackozdi's death, a very thorough investigation took place regarding a large reduction in her account balances and associated increase in spending patterns from those accounts since commencing to live in Tasmania.

114. For a period of many years, Mrs Mackozdi operated several accounts. Specifically, she had three managed investment accounts that she did not, by choice, access. The funds were unable to be accessed by anyone but Mrs Mackozdi through the agency of Ms Muscat. The combined amount held in these accounts was about $110,000.

115. Mrs Mackozdi had always been careful to ensure that she lived mostly upon her aged pension. As a result, her financial situation was very comfortable and well-monitored with Ms Muscat's help. Ms Muscat's role as Mrs Mackozdi's financial planner was to conduct annual reviews with her and provide advice on the funds in her three investment accounts. Whilst she was aware of their existence, she had no direct involvement with Mrs Mackozdi's transaction accounts, and was not involved in her day-to-day finances. Ms Muscat said that Mrs Mackozdi had, historically, only used her pension, and was always conscious to preserve her investment funds. She had accumulated sufficient funds to live comfortably for her last years of life, even in the event that she required permanent nursing home care.

116. In addition to her investments, Mrs Mackozdi had three further accounts from which she could access funds autonomously. These were a Commonwealth Bank Visa Card

account, a Commonwealth Bank cheque account and a Macquarie Cash Management trust account.

117. Mrs Mackozdi's pension and interest from the Macquarie account and one other investment fund was paid into her Commonwealth cheque account. She used these amounts for living. She did not use or spend from her Macquarie account.

118. The investigators obtained all of Ms Muscat's records, banks records and cheques in order to calculate the extent of the account activity and to understand the circumstances in which it occurred. Ms Muscat provided full disclosure and co-operation to the officers. The records kept by her were complete and ordered. All other documents and affidavits that could assist were obtained.

119. The investigation into Mrs Mackozdi's finances, led by Detective Constable Fiona Howard, involved calculating the depletion of Mrs Mackozdi's finances from the time of her arrival in Tasmania in late 2007 until her death in July 2010. The main bank records were tendered in evidence. Constable Howard also swore a comprehensive affidavit regarding the nature and timing of transactions on Mrs Mackozdi's accounts.

120. The transactions were indicative of a clear pattern of spending that was most uncharacteristic of Mrs Mackozdi's expenditure. These included purchases of items not relating to Mrs Mackozdi (but to Mr and Mrs Anglin and their children), as well as regular, large cash withdrawals and large transfers into the personal accounts of Mr and Mrs Anglin. There were also numerous withdrawals from the Macquarie account into Mrs Mackozdi's Commonwealth Bank cheque and Visa accounts.

121. A stark example of the depletion of Mrs Mackozdi's funds is shown in Mrs Mackozdi's Macquarie account statements. They reveal that after the purchase of her New Norfolk unit, the account had a closing balance of $187,677.54 on 30 November 2007 and by 30 June 2009 the balance of the account was only $30,061.43.

122. Constable Howard also undertook the task of calculating the amounts withdrawn from the Commonwealth cheque account and Visa account over this period. Her task was complicated by virtue of Mr and Mrs Anglin transferring money between the three accounts, primarily significant sums were drawn by cheque from the Macquarie account and placed in the Commonwealth Bank accounts. It is not useful to set out all of Constable Howard's calculations except to say that, in round figures, the total

expenditure from the three accounts was just over $200,000, comprising approximately $133,000 from the Macquarie account, $40,000 from the Commonwealth Bank Visa account and $27,000 from the Commonwealth Bank cheque account.

123. Mr and Mrs Anglin, at inquest, agreed that they were responsible for the withdrawals. Mr and Mrs Anglin's position in evidence remained that Mrs Mackozdi permitted them to spend from these accounts because the money was Mrs Anglin's inheritance and she should have the immediate benefit of it for the happiness of herself and her family. Mr Anglin said that he believed that Mrs Anglin had general authority to use the money and the accounts. Further, they maintained that Mrs Mackozdi was of sound mind in providing such permission. As discussed below, I do not accept either proposition.

124. The bank records show that money from Mrs Mackozdi's Macquarie and Commonwealth Bank accounts was used constantly from January 2008 until after Mrs Mackozdi's death by Mr and Mrs Anglin to pay for a wide variety of things, from basic living expenses to luxury items. They used the accounts to pay for family expenditure – supermarket shopping, telephone and power, clothing, petrol and vehicle expenses, doctor's appointments and pharmaceutical items. The expenditure involved a very large number of payments to fast food outlets, restaurants and recreational venues. There were also numerous withdrawals in favour of PayPal and Amazon. There was evidence of spending on holidays, such as a family trip to Luna Park in Melbourne without Mrs Mackozdi. Mrs Anglin used cheques from the Macquarie account for skin treatments totalling about $5,000. She also used funds from this account to pay stamp duty in the sum of about $3,500 on the transfer to her of her mother's house. Mr Anglin bought a Kawasaki motorcycle for himself and three quad bikes for the children.

125. There is little evidence that Mr and Mrs Anglin were using the funds from Mrs Mackozdi's account for her benefit, as opposed to the benefit of themselves and their children. There is no evidence of using the funds for renovation of the Mount Lloyd property except for the purchase of a shipping container and a barn, the latter costing about $9,500. After Mrs Mackozdi's death there was no barn on the property, and Mr Anglin said in evidence that it had been stolen.

126. There is no evidence that Mrs Mackozdi had control over her own finances during this period, and, as discussed, I am positively satisfied that she did not have the capacity to make the decision to give over her finances to her daughter and son-in-law.

127. Mrs Anglin gave unconvincing evidence about the process of writing the cheques and her mother signing them, giving full and free consent to the expenditure. Although unable to articulate specific details, she speculated that she *would have* explained the specific need for the money which was the subject of the cheques. Mrs Anglin did not dispute that she wrote the cheques but said that her mother always signed them.

128. I do not accept that Mrs Mackozdi signed all of the cheques, being 70 cheques from the Macquarie account and 150 Commonwealth Bank cheques.

129. Tendered in evidence at inquest was a report from a handwriting expert, John Ganas, of QD Forensics who examined 12 of the Macquarie account cheques purportedly signed by Mrs Mackozdi. This document was provided to the inquest by the solicitors for Ms Muscat in her capacity as nominated executrix of Mrs Mackozdi's estate. Given her concerns, it was appropriate that she undertook such an enquiry. The handwriting examination of the signatures on the cheques was limited by the non-original nature of the documents. Mr Ganas concluded, using comparison handwriting, that four of the signatures were consistent with the signature of Mrs Anglin. A further two signatures may have been those of Mrs Anglin. Although all original cheques have now been recovered in this investigation, I did not consider that my function extended to ordering further forensic examination of the signatures.

130. I comment, though, that there is further credible evidence that most of the signatures on the Macquarie cheques are not those of Mrs Mackozdi but Mrs Anglin. Both Ms Muscat and Senior Constable Ann Edge, an investigator in this matter, spent a full day examining the 70 cheques from the Macquarie account. Ms Muscat deposed in her affidavit that, in her opinion, 61 of the cheques to a total of $138,361.37 were written out and signed by another person who was not Mrs Mackozdi. Senior Constable Edge gave evidence at inquest of her belief to the same effect.

131. It is quite possible, in the circumstances of this matter, that the vast proportion of the cheques were not signed by Mrs Mackozdi but by Mrs Anglin. The lack of credibility of Mrs Anglin's evidence and the apparent desperation for Mrs Mackozdi's money

certainly leads me to suspect that Mrs Mackozdi did not sign the cheques and that, in fact, she knew very little about the dissipation of her estate.

132. In July 2008 a letter was sent to the Commonwealth Bank purportedly from Mrs Mackozdi, asking to not be questioned about her account transactions. The letter was fluently written and contains the following passage:

> *"… In future could I not be requested for a review by the bank tellers to determine ways for me to save money. I would like you to be aware of the fact that I'm perfectly happy with the way I'm spending my money and would appreciate the tellers leaving it at that. I'm aware you may have a requirement or policy for your tellers to encourage to give reviews and advice, but at my age I just wish to be left alone, I have a financial advisor who I pay to do the advising and reviewing."*

133. I am satisfied that Mrs Anglin wrote the letter although it was possibly signed by Mrs Mackozdi. The letter was detailed and coherent, and clearly not within the capacity of Mrs Mackozdi to write at that time. She would not have understood its contents or significance. The letter must have been written at the instigation of Mrs Anglin, at least partly for the purpose of deflecting the bank's attention from the high level of spending.

134. Ms Muscat gave evidence that in July 2009 she had contact with Centrelink, regarding the depletion of the Macquarie account. As a result Ms Muscat spoke with Mrs Anglin and told her that any further use of those funds may affect Mrs Mackozdi's pension. The records reveal that following this, there were only two further withdrawals from that account. Mrs Anglin, in evidence, denied that this conversation occurred. I reject her denial.

135. Following Mrs Mackozdi's discharge from Mary's Grange, on 14 August 2009 an 'Authority to Operate' was registered with the Commonwealth Bank, allowing Mrs Anglin to operate Mrs Mackozdi's accounts. The original authority was not retained by the bank. There was no power of attorney or guardianship order in place, and neither Mr Anglin nor Mrs Anglin were in receipt of a carer's pension. Dr Cleary examined the Authority to Operate form. She expressed the opinion that it was complicated and may be difficult to read. I am satisfied, in accordance with the evidence of Dr Tolman and Dr Cleary, that Mrs Mackozdi had no understanding of the document or its

significance. At that stage, she was suffering episodes of psychosis and anxiety and was in rapid cognitive decline.

136. Following the signing of the Authority to Operate, there was an immediate and significant increase in the activity on Mrs Mackozdi's Commonwealth Bank accounts, including card and internet based transactions and cash withdrawals.

137. The Commonwealth Bank records show an ATM withdrawal at New Norfolk made two days after Mrs Mackozdi's death. Both Mr Anglin and Mrs Anglin vehemently denied being responsible for this transaction, as they asserted that they would not operate Mrs Mackozdi's account after her death. Again, their reasoning for this position was illogical and self-serving, particularly in light of accepting that they were responsible for the many hundreds of previous withdrawals from her accounts. I find that either Mr Anglin or Mrs Anglin used Mrs Mackozdi's account on this occasion.

138. Upon arrival in Tasmania Mrs Mackozdi purchased her unit in New Norfolk for $155,000. On 18 March 2009 the title to the unit was transferred to Mrs Anglin. The transfer was prepared and witnessed by Virginia Atkinson, a childhood friend of Mrs Anglin who worked in a Hobart law firm as a probate clerk.

139. For the purpose of executing the transfer, Ms Atkinson was invited by Mrs Anglin to her house for a barbecue at which Mrs Mackozdi was present. Ms Atkinson took with her a draft transfer for Mrs Mackozdi's property nominating a value of $112,000. In her affidavit, Ms Atkinson said that she *"told Janet that this was the document she wanted, she read over it and signed it in front of me."*

140. Having considered Ms Atkinson's affidavit and oral evidence at inquest, it was apparent that she made no assessment of Mrs Mackozdi's capacity to sign the document and had very little communication with her so as to be able to make even a preliminary assessment of her ability to understand the transaction. The communication appeared to be limited to a statement made to Ms Atkinson at the barbecue where Mrs Mackozdi greeted her by her name and said that it was nice that she and her daughter *"still had each other after so many years".* Ms Atkinson was told by Mrs Anglin that Mrs Mackozdi wished to help her by transferring the property to her, particularly as Mrs Anglin needed the funds to renovate the Mount Lloyd property to accommodate Mrs Mackozdi.

141. With respect to Ms Atkinson, it does not follow that a transfer of Mrs Mackozdi's property to her daughter as a gift would achieve this purpose, especially as the transfer would attract the payment of stamp duty. If Mrs Mackozdi wished to transfer her property, she should have had the opportunity to have independent legal advice and assistance to understand the nature of the transaction. It is clear, however, that Ms Atkinson, a friend who maintained close contact with Mrs Anglin, was acting solely on the instructions of Mrs Anglin.

142. When questioned in evidence about Mrs Mackozdi's cognitive capacity, Ms Atkinson insisted that Mrs Mackozdi *"knew what was going on"* up until the time of her fall in July 2009. Ms Atkinson could not have made any such assessment based on her limited contact with Mrs Mackozdi. Her statements in this regard mirror those made by Mrs Anglin and simply reflect what she was told by her friend.

143. Ms Atkinson's assertion that Mrs Mackozdi was able to understand financial transactions is contrary to all expert evidence at inquest. It is to be given no weight.

144. Dr Cleary provided evidence that at this time Mrs Mackozdi would not have understood what she was signing and its implications.

145. Mrs Anglin gave evidence that the transfer occurred at Mrs Mackozdi's suggestion, so she would not have to deal with the property later. This explanation is nonsensical, as the transfer of the property meant that Mrs Anglin became liable to pay stamp duty. This would have been avoided by Mrs Mackozdi selling the unit herself, or retaining it until her death (at which time there would be a duty exemption). Further, Mrs Anglin had previously written to Ms Muscat stating that "down the track" when Mrs Mackozdi was in the granny flat she would help her sell the unit to make a profit for her. Her reasons given in evidence for acquiring this property are to be rejected. Her decision to transfer to herself do not reflect well on her and demonstrates the extent to which she was motivated to obtain her mother's property.

146. Six months later, in September 2009, Mrs Anglin sold the unit. Again, Mrs Anglin did not give her mother the opportunity to seek legal or other advice about the decision to sell or her mother's intentions regarding safekeeping of the proceeds of sale.

147. The next set of financial transactions are quite extraordinary and, in my view, starkly reveals the knowledge of Mr and Mrs Anglin that they were not dealing with Mrs Mackozdi's money as she would wish, as well as the desire to avoid scrutiny.

148. On 19 October 2009 the proceeds of sale in the sum of $144,199.37 were deposited into Mr Anglin's own National Australia Bank account. On that date he also opened a brand-new account with the National Australia Bank.

149. On 23 October 2009 Mr Anglin withdrew from that account the sum of $127,408, being most of the proceeds of sale of the unit, and deposited $110,000 of that sum into the new account.

150. Having opened a new account, now with a balance of $110,000, Mr Anglin then proceeded over the next four months to make a series of seven "flexiphone" transfers into his original account. These transfers ranged from $5,000 to $27,000, the last being on 5 February 2010.

151. After that final transfer the balance in the new account was $24.24. Mr Anglin did not use the new account on any further occasion. In evidence, he could give no explanation about his transactions. He said that a teller at the bank advised him to open a fresh account but he did not know why that advice was given and he did not ask. I do not accept this evidence.

152. Upon depositing each of these seven large sums of money into his existing account, Mr Anglin then withdrew smaller sums of up to $8,000 in cash.

153. I can make no finding as to how Mr Anglin spent the money. It would appear that he may have bought several vehicles. When asked by counsel in evidence how he spent the money he could not give any answer. At one stage he speculated that it may have been for building materials for the Mount Lloyd property. When it was put to him that there were no building materials located at the property, he embarked upon a fanciful narrative about valuable building materials being stolen from his property and an equally fanciful account of why he did not call the police upon discovery of the thefts.

154. Mr Anglin had also received cheques from Mrs Mackozdi's Macquarie account in the sum of about $54,000. When asked in his police interview about the use of such money, he simply stated *"Well it must have been used for stuff, you know. Like I'm buggered if I know what it was used for, you know".* He gave evidence that he often

kept large amounts of cash in his wallet, up to about $25,000. He said that he would often give Mrs Anglin large sums.

155. Mrs Anglin's account of the dissipation of Mrs Mackozdi's money was also most unsatisfactory. She gave vague answers and simply reiterated that she and her family were using her mother's money to enjoy life in accordance with her mother's wishes. At the conclusion of her evidence, however, counsel assisting pressed her for adequate explanations. She then gave evidence that she had an envelope containing $80,000 in cash that she kept at the Mount Lloyd property taped under the kitchen cabinet. She said that the money was stolen, together with the kitchen cabinet and grandfather clock about two weeks after the death of her mother. She did not report the theft of this amount to police. Mr Anglin, in evidence, said that he was surprised to hear of an envelope containing that amount of money. I do not accept Mrs Anglin's evidence or that she accumulated and kept any of her mother's money.

156. In summary, Mr and Mrs Anglin spent a total of approximately $350,000 of money belonging to Mrs Mackozdi. This represented almost three quarters of her total estate. The money was spent throughout a period when Mrs Mackozdi, by reason of dementia, did not have the capacity to make informed decisions regarding her money.

Conclusion

157. For a lengthy period before her death, Mrs Mackozdi was not, due to dementia, in a position to care for herself in any significant respect, access medical care, or control her own living arrangements or finances. She was therefore reliant solely upon Mr and Mrs Anglin for her day-to-day needs and to make all decisions for her. Mr and Mrs Anglin had the responsibility of ensuring that her needs were met and that decisions relating to her living arrangements and finances were made in her best interests.

158. The care provided to Mrs Mackozdi by Mr and Mrs Anglin was inadequate for her high needs. The lack of adequate care, including insufficient oral intake and medical oversight, resulted in a worsening of her dementia and other medical conditions. Her physical condition, including the loss of almost one third of her already low body weight, contributed to her death from hypothermia.

159. Mr Anglin, as a disability support worker and Mrs Anglin, a trained nurse, should have been fully aware of Mrs Mackozdi's medical and support needs and have known how

to organise and provide optimal care, including deciding upon nursing home residency. In particular, after her period of respite care a palliation plan to ensure her comfort, and ease her psychotic episodes, should have been developed.

160. It was apparent from the evidence that Mrs Anglin had convinced herself that she and Mr Anglin were caring properly and fully for Mrs Mackozdi and that she was happiest when surrounded by her family members. Mrs Anglin gave an account of her mother immersed in a happy household with many family outings together. I accept that there were benefits for Mrs Mackozdi from being with her family. However, her arrival in Tasmania can be viewed against a background of emotional control exerted over her by Mrs Anglin for many years previously, primarily involving threats to prevent her from seeing her grandchildren.

161. I am in no doubt that Mrs Anglin did spend time and energy caring for her mother, although she did so alone and with no adequate medical planning or home support.

162. Notwithstanding this most difficult situation, Mrs Anglin systematically disengaged her mother from outside care, support and assistance. Mrs Mackozdi stopped seeing her regular general practitioner in New Norfolk and was not taken to any referrals provided for her. She was discharged from respite care prematurely at the request of Mrs Anglin. Nursing home care was refused. All offers for home services were not taken up. The bank was instructed not to enquire into her finances.

163. Mrs Anglin gave evidence that she did not consider it necessary to engage with outside services stating that she thought they were coping well. Her stance in this regard is not a reasonable response to being told by medical and health professionals that care services were available to help.

164. The refusal to engage services in this case leads me to the conclusion that Mr and Mrs Anglin's wish was to avoid the inevitable scrutiny that such services would attract.

165. If outside services had been involved with Mrs Mackozdi's care, it is likely that there would have been some advice to the family against the proposed move to Mount Lloyd, which may have led to Mrs Mackozdi not moving there at that time, either because Mrs Anglin may accepted that advice or, alternatively, those services may have taken steps to secure her protection.

166. The evidence clearly allows me to conclude that the decision not to place Mrs Mackozdi into residential care and the decision not to have any outside services involved with her care were influenced by the fact that she was a source of money.

167. During the period of their responsibility for her care, Mr and Mrs Anglin exploited Mrs Mackozdi financially, spending almost three quarters of the value of her estate, leaving only a small balance in one of the three accounts to which they had access.

168. Although Mr and Mrs Anglin insisted that they were spending Mrs Mackozdi's money as she permitted, it was spent in ways that would reduce opportunities for detection, and subsequent scrutiny. There were particularly notable circumstances surrounding the transfer and sale of Mrs Mackozdi's unit that clearly demonstrated concern over the rectitude of their actions.

169. For the reasons discussed in this finding, I reject the evidence of Mr and Mrs Anglin that they were using Mrs Mackozdi's money in the manner that she wished them to. I also reject their evidence that she had capacity to understand and make decisions about her finances.

170. Mrs Mackozdi died from exposure to freezing conditions in an uninsulated and draughty shipping container. She was unable to raise the alarm, remove herself from the environment or insulate herself. But for her frailty and dementia, she may not have died. Had Mr and Mrs Anglin utilised just a small proportion of Mrs Mackozdi's money to build her a heated unit, she would not have died. Had she been receiving the care, treatment and services that she required, she may have lived for some years to come.

171. Mrs Mackozdi should not have died how and when she did. She deserved proper care, dignity and respect in her last years of life and in her death. Sadly, that was lacking in many respects on the part of those responsible for providing it.

Formal Findings: pursuant to section 28 (1) of the Coroners Act 1995

172. I find as follows:

a) the identity of the deceased is Janet Lois Mackozdi;

b) Mrs Mackozdi's death occurred as set out in this finding;

c) The cause of death was hypothermia, with contributing factors being advanced dementia, frailty and heart disease; and

d) Mrs Mackozdi died between 10.00pm on 23 July 2010 and 9.30am on 24 July 2010 at Mount Lloyd in Tasmania.

Comments

173. Section 28(2) of the *Coroners Act* provides that a coroner must, whenever appropriate, make recommendations with respect to ways of preventing further deaths and on any other matter that the coroner considers appropriate, and may comment on any matter connected with the death, including public health or safety or the administration of justice.

174. The facts of this sad case raise for comment the issue of elder abuse, a matter of increasing concern for the community as the Tasmanian population ages. The care of vulnerable elderly citizens is a matter of increasing community attention.

175. "Elder abuse" has been defined in this state as the *"abuse of older people in a single or repeated act occurring within a relationship where there is an implication of trust, which causes harm to an older person."*[4] It is a broad term that may encompass a variety of acts and omissions including physical, psychological/emotional, financial, sexual and social abuse as well as intentional or unintentional neglect.

176. In my view, the neglect of Mrs Mackozdi's health and her financial exploitation over an extended period by family members whom she trusted, falls within the definition of "elder abuse".

177. Elder abuse is recognised worldwide as a serious human rights violation requiring urgent action. It is also a major public health problem that results in serious health consequences for the victims, including increased risk of morbidity, mortality, institutionalisation and hospital admission. It has a negative effect on families and society at large.

178. Despite the severity of its consequences, major gaps remain in estimating the prevalence of elder abuse. Understanding the magnitude of the issue is the first step

[4]http://www.dhhs.tas.gov.au/__data/assets/pdf_file/0017/231812/Protecting_Older_Tasmanians_from_Abuse.pdf

in the public health approach to prevention. The lack of consensus in defining and measuring elder abuse have resulted in wide variations in reported prevalence rates. However, the literature suggests that elder abuse appears to affect one in six older adults worldwide.[5]

179. Despite its apparent prevalence, elder abuse has not achieved the same public health priority as other forms of violence. If the proportion of elder abuse victims remains constant, the number of victims will increase rapidly due to the ageing population. Therefore, the health sector has an important role to prevent, raise awareness of and provide evidence-based guidance for healthcare practitioners to respond to elder abuse, particularly psychological and financial abuse which are more prevalent, although few evidence-based interventions exist at present.[6]

180. Preventing Elder Abuse in Tasmania ("PEAT") is a group comprising academics from a number of disciplines at the University of Tasmania including Associate Professor and Director of the Tasmania Law Reform Institute, Terese Henning. The role of the group is to further the understanding of elder abuse, and how it can be prevented, specifically focused on the Tasmanian context.

181. A very helpful report prepared by PEAT at my request was received into evidence at the inquest.[7] PEAT had available the evidentiary documents and provided an analysis of points in time when potentially intervention to protect or assist Mrs Mackozdi may have occurred.

182. The particularly relevant "red flag" points identified by PEAT are as follows:

    a. In February 2008, when Mrs Mackozdi received a very low score on her MMSE test, did not attend a proposed follow-up specialist's appointment and then changed general practitioners;

    b. On 18 March 2009, when the probate clerk organised the transfer of Mrs Mackozdi's property at Mrs Anglin's request without taking measures to

[5] "Elder abuse prevalence in community settings; a systematic review and meta-analysis" Yongjie et al The Lancet, Vol 5 February 2017
[6] "Elder abuse prevalence in community settings; a systematic review and meta-analysis" Yongjie et al The Lancet, Vol 5 February 2017
[7] Matter of Mrs Mackozdi; Responses to Coroners questions, PEAT group, exhibit 21.

ascertain whether Mrs Mackozdi was of sound mind and understood the transaction;

c. On 3 July 2009, at the RHH when Mrs Mackozdi was known to be demented with no capacity to sign documents, no ability to eat properly, was recommended for permanent and high residential care and had no power of attorney;

d. On 13 August 2009, when Mrs Mackozdi was prematurely discharged from Mary's Grange into the care of Mrs Anglin, without any independent assessment as to whether her care needs would be met;

e. The following day, 14 August 2009, when the bank gave Mrs Anglin an Authority to Operate Mrs Mackozdi's accounts in circumstances where there was no power of attorney, guardianship order or assessment of capacity, and in circumstances where Mrs Anglin was not in receipt of a carers' benefit from Centrelink for her mother;

f. On 20 January 2010 and 18 June 2010, when there were two irregular visits to the general practitioner in Taroona, with Mrs Mackozdi unable to walk on both occasions, with no take-up of offers of community support; and

g. Continuing bank account withdrawals from Mrs Mackozdi's accounts, including numerous large amounts.

183. PEAT comments that the general practitioners, ACAT, speech pathologist, banks, financial planner, RHH discharge planners, and Mary's Grange all could have potentially "raised the alarm" regarding the risk of Mrs Mackozdi receiving inadequate care and/or being subject to financial exploitation. I do not consider it appropriate to provide detailed comment regarding any failure of the above to question the risk to Mrs Mackozdi. Each of these persons and organisations had only limited perspective regarding the extent of care being provided to Mrs Mackozdi. None of these persons or organisations were in communication with the others so as to provide a clear picture of the inadequacy of her care. As far as I am aware, none of them had a legal duty to take any particular action.

184. I do, however, comment that the bank, in hindsight, could have been significantly more diligent in protecting Mrs Mackozdi's finances by making enquiries into her capacity for

decision-making before allowing Mrs Anglin Authority to Operate. Dr Cleary suggested that banks could require an assessment before allowing a person access to the money of another, and suggested that banks should have increased responsibility to look at spending patterns, similar to monitoring of credit card fraud. There is force in her suggestion.

185. In hindsight, Dr Fernando might also have more assiduously followed up on the quality of Mrs Mackozdi's care at home in light of the surprising decision made by Mrs Anglin to care for her elderly, demented mother. However, as a general practitioner servicing many patients, her role was understandably centred on providing appropriate treatment and advice at scheduled consultations. Even if she had taken the initiative to contact Mrs Anglin to again discuss the use of home services, Mrs Anglin would not have used those services to assist her mother.

186. It would appear that there may well be a lack of monitoring of older persons being cared for in the community. Whilst there are considerations of autonomy and freedom of choice, effective measures for the protection of older persons from abuse are desirable.

187. Even if any of the above entities or organisations suspected that Mrs Mackozdi was being exploited or neglected, the question arises as to how "the alarm" should have been raised and to which person or organisation?

188. PEAT observes that both Mr and Mrs Anglin would have met the criteria for satisfying the role of "person responsible" in any application for legal guardianship or administration under the *Guardianship and Administration Act* 1995*.* PEAT further comments that a third-party application for administration of Mrs Mackozdi's finances could have been made at any time that a party reasonably suspected that Mr and Mrs Anglin were dealing with her money without her consent. On the facts of this case, it could only have been the bank or Ms Muscat to make such an application. Ms Muscat was in Sydney, removed from the situation and operated in the limited role of advising Mrs Mackozdi on her investment accounts. On the face of it, the bank believed that there was informed consent. Dr Tolman commented that such a belief, without further assessment of capacity, is not justified given the extent of under-identified financial abuse of older persons in the community.

189. In its report, PEAT also provided a helpful summary of current proposals for preventing elder abuse contained in *Elder Abuse – A National Legal Response (ALRC Report 131)* and the *Legislative Council General Purpose Standing Committee No.2 – Enquiry into Elder Abuse in New South Wales.* The recommendations contained in these reports highlight that there are a number of areas where potential law reform could be undertaken to aid in the prevention and /or response to elder abuse. These include the enactment of adult protection legislation; reform of guardianship, powers of attorney and related laws; reviewing the criminal law (specifically, whether an offence of elder abuse should be created); consideration of mandatory reporting requirements; community awareness campaigns; expansion of the role of helplines or the Public Advocate (including the power to investigate suspected cases of elder abuse); and training service providers (including health professionals and general practitioners) in detecting and responding appropriately to elder abuse.

190. PEAT stated in its report that ACAT and Commonwealth agencies have an important role in monitoring the possibility of abuse to the high-risk cohort. It suggests that if assessed by ACAT as requiring high-level residential care, then those who are to remain in the care of family or others could be referred to an advocacy/monitoring service. PEAT also suggests that an ACAT or general practitioner assessment of capacity could create an alert system to anyone remaining in the community but designated as needing high-level residential care, requiring a response such as visit by advocate and nursing specialists, with regular monitoring and reporting as to physical condition and carers being mandated to accept minimal levels of assistance if the person with high care needs is not receiving adequate care.

191. PEAT states that the ageing population of Tasmania makes it urgent for this State to adopt an assertive approach. A large proportion of responsibility for dealing with elder abuse rests with the States and therefore the responsibility must be assumed by this State and not delayed until such time as federal action may occur.

192. The Tasmanian government currently has in place the *Elder Abuse Prevention Action Plan* 2015 – 2018 produced by the Department of Health and Human Services (DHHS). This plan is a follow-up plan from the initial *Tasmania's Elder Abuse Prevention Strategy* produced in 2011. The aims of the Action Plan, ending in 2018, are, amongst others, to provide a three-year elder abuse training strategy for the community, continue the Helpline and awareness campaign, and for DHHS to work

with other agencies to continue a "whole of government and community" approach in promoting the rights and respect of older Tasmanians.

193. The Helpline is a service operated by Advocacy Tasmania Inc., a non-government organisation, on behalf of the Tasmanian Government. Its role is to provide information and support in respect of options for prevention and responding to elder abuse, including referrals to appropriate services.[8] In its report, PEAT states that there appears to be no quantitative analysis of the use of this referral service or any other approach to examining the extent of elder abuse in Tasmania to date. I note that the Action Plan refers to the collection of data from the Helpline although it is unclear as to the form in which such data is available. A further strategy for proper data analysis is required both in respect of the Helpline data and from other public sources in order to inform sound prevention strategies.

194. PEAT is of the view that, at present, there is currently no adequate complaint mechanism or oversight body in respect of protection of older persons.

195. Whilst the police, Public Guardian, Ombudsman and Courts all have a role in responding to complaints of elder abuse, their role may be limited in their respective spheres. For example, the Public Guardian under *the Guardianship and Administration Act* 1995, may perform general advocacy for people with a disability (a person such as Mrs Mackozdi would fall within such definition under that Act). However, the Office of the Public Guardian does not have additional advocacy programs, other than its direct role as a guardian for individuals, by reason of its limited resources.[9] Even putting aside adequate resourcing, the *Guardianship and Administration Act* does not appear to provide comprehensive and targeted powers to the Office of the Public Guardian.

196. In my view, there should be consideration given to a body in Tasmania that is appropriately empowered and resourced to deal with complaints, investigations, education and oversight of elder abuse. Such a body may, for example, also undertake the following:

[8] https://advocacytasmania.org.au/
[9] Tasmania Law Reform Institute, A review of the Guardianship and Administration Act 1995 (Tas) Issues Paper number 25, December 2017

1. Compile and manage a register of at-risk individuals, based on complaints or concerns received;
2. Case manage individual matters, including on an inter-agency basis;
3. Provide family or staff conferencing, mediation, conciliation or other remediation;
4. Refer matters to the police;
5. Assist in organising independent legal and advocacy support at critical decision-making times including prior to signing residential aged care contracts, property transfers and other contracts; and
6. Conduct or commission research, and develop and disseminate information and resources to support awareness, responsiveness and prevention of elder abuse.[10]

Recommendations

197. I **recommend** that the Tasmanian government undertakes a review of legislation to determine whether current components of legislation effectively and efficiently prevent or respond to abuse, neglect or exploitation of older persons; and in the event that they do not, commence a program of legislative reform to achieve that purpose.

198. **I recommend** that the Tasmanian government develop, as a matter of priority, a renewed Elder Abuse Prevention Action Plan, such Plan to include:
    1. A strategy to ascertain the prevalence of elder abuse in the Tasmanian community;
    2. A strategy for responding to and preventing elder abuse in the Tasmanian community; and
    3. Establishment of a steering committee or other mechanism to ensure efficient implementation of the Plan.

199. I **recommend** that, in developing the Plan, the government undertakes an analysis of the applicability of the recommendations for preventing elder abuse contained in *Elder Abuse – A National Legal Response (ALRC Report 131)* and the *Legislative Council General Purpose Standing Committee No.2 – Enquiry into Elder Abuse in New South*

[10] Matter of Mrs Mackozdi: Responses to Coroners questions,PEAT Group

Wales.

200. **I recommend** that the Tasmanian government give consideration to the establishment of an independent body with specific responsibility for elder abuse by, *inter alia*, investigating complaints, researching and responding to the ill-treatment of older people, developing community education programs and by overseeing cases where there is a risk of elder abuse.

201. **I recommend**, alternatively, that the Tasmanian government give consideration to enhancing the powers of, and appropriately resourcing, the Office of the Public Guardian so that the above functions can be effectively performed.

202. **I recommend** that the government give consideration to resourcing and utilising Preventing Elder Abuse Tasmania (PEAT) as an appropriately qualified advisory group in respect of both law reform considerations and other prevention strategies.

203. I am grateful to Ms Allison Shand, counsel assisting, Sergeant Anthony Peters, coroner's associate, and Detective Constable Fiona Howard, investigating officer, all of whom have considerably assisted me in this inquest.

Dated: 13 July 2018 at Hobart in the State of Tasmania

Olivia McTaggart
Coroner