



**STATE CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of Roderick Dillon

Hearing dates: 5-8 March 2015 (Broken Hill Local Court)
26-29 March 2018, 7 June 2018 (Glebe Coroner's Court)

Date of findings: 22 June 2018

Place of findings: NSW State Coroner's Court, Glebe

Findings of: Magistrate Harriet Grahame, Deputy State Coroner

Catchwords: CORONIAL LAW – self-inflicted death, “staged” crime scene

File numbers: 2015/79580

Representation: Ms Sasha Harding (Senior Sergeant)
Coronial Advocate Assisting

Mr Bennett, solicitor - Doyle, Kingston and Swift, for Mr Wayne Pascoe

Findings:

I make the following findings pursuant to section 81(1) of the Act,

Identity

The person who died was Roderick Dillon.

Date of death

He died on 14 or 15 March 2015.

Place of death

He died in a shed at 112-113 Smiths Hill, Whitecliffs NSW.

Cause of death

He died from injuries sustained as a result of a gunshot wound to the head.

Manner of death

I am unable to make a finding in relation to the manner of Roderick Dillon's death. It has not been established to the requisite standard that Roderick Dillon intentionally took his own life or that an unknown person was somehow involved. His death is unlikely to have been an accident.

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Introduction

1. Mr Roderick (“Rod”) Dillon was found sitting in his shed at Whitecliffs, NSW on the morning of 15 March 2015, with a single gunshot wound to his head. Friends called a local nurse, who confirmed that he was already dead. Police arrived soon afterwards and an investigation commenced.

The role of the Coroner

2. The role of the coroner is to make findings as to the identity of the nominated person, and in relation to the date and place of death. The coroner is also to address issues concerning the manner and cause of the person’s death.¹
3. In this case there is no dispute in relation to the identity of Mr Roderick Dillon, or to the date, place or medical cause of his death. However real questions arose during the investigation in relation to the manner or circumstances of his death. While there were strong indications in the evidence which suggested suicide, there were also factors which were inconsistent or troubling and which required that investigators carefully consider the possibility that a third party may have been somehow involved in Rod’s death.

The evidence

4. The court heard oral evidence from people who knew Rod well and from those who had seen him in the period leading up to his death. The Court also heard expert evidence from a number of forensic specialists. Extensive documentary evidence was tendered including witness statements, expert reports, photographs and CCTV recordings, and medical records. I have carefully considered all the material before me.
5. An informal view of the shed where Rod died and the “dugout” home nearby took place on the first day of proceedings.
6. A short list of issues was prepared and circulated prior to the inquest. It included the following questions,
 - I. Is the manner of Rod’s death that of a self-inflicted injury or the infliction of injury by another person?
 - II. With respect to certain evidence within the crime scene, is it possible that Rod could have committed a self-inflicted injury that caused his death?
 - III. Was the crimes scene staged to give the appearance that Rod’s death was self-inflicted?

¹ Section 81 *Coroners Act 2009* (NSW)

7. Section 81 (1) of the *Coroners Act 2009* (NSW) requires that when an inquest is held, a coroner must record in writing his or her findings in relation to various aspects of the death. These are my findings in relation to the death of Roderick Dillon.
8. Rod was 52 years of age at the time of his death. He lived with his wife, Virginia (Vicki) White. Vicki explained that although she and Rod no longer lived as a couple, they remained close and cared deeply for each other. Many in the local community would have assumed that they remained in a committed married relationship, certainly they continued to live together most of the time in a caring partnership.
9. Rod and Vicki married in 1989². Rod had assisted her in raising her two boys and was particularly close to her younger son, Kenneth (Ken). Ken gave evidence at the inquest and explained that Rod was a “permanent figure in my life” and “took the role of father to him”.³ Vicki described Rod as extremely loyal,⁴ he was kind and thoughtful to others.
10. Vicki and Rod lived in a large dugout structure set into the rock face at White Cliffs, NSW. Whitecliffs is an opal mining town and these homes are particular to the area. Close by to the main house was a large shed, which Rod used as a workshop. There was also a caravan on the property.
11. Rod had retired from working for the local Shire about seven or eight years before his death.⁵ After his retirement he continued to pursue his passion for fixing things and spent a great deal of his time in the shed working on a variety of projects. Rod was described by many as a mechanical genius and he was generous in the help he gave to others. Ken described him as a “jack of all trades”. Others described his unusual ability to fix anything mechanical and recounted how he was even known to help tourists passing through town if they struck a mechanical problem.
12. Rod had experienced a number of medical issues throughout his life. His sister, Maria Dingjan said the Rod had experienced “intense physical and emotional pain almost all of his fifty two years.”⁶ He was born with a cleft palate and harelip and underwent many corrective surgeries in relation to these conditions throughout childhood. His sister remembers him returning from hospital as a child with his head encased in a frame of steel rods to protect him as he healed. He experienced long hospitalisations and missed significant periods of his schooling. He was teased by other children and often felt isolated and alone. His sister believed that Rod also had Marfans syndrome, however it does not appear that this was ever formally diagnosed.
13. Rod also had significant back pain throughout his adult life. He had been born with one leg shorter than the other, which affected his spine. His work as a manual labourer caused a herniated disc in his lower spine, which became increasingly painful as the years passed. He had also been involved in a workplace accident that had further exacerbated his problem. Various friends described his obvious and ongoing pain and difficulty in sitting and walking.

² ERISP of Virginia (Vicki) White Q15

³ Transcript Kenneth White 26/3/18 page 13, line 38 onwards.

⁴ ERISP of Virginia (Vicki) White Q16

⁵ ERISP of Virginia (Vicki) White Q16

⁶ ERISP of Maria Dingjan Q8

14. Rod was not someone who sought out mental health treatment, however there is ample evidence to suggest that he suffered undiagnosed depression throughout his life. Vicki described his “black moods” over many years. She told the court that around the time their marriage ended and Rod experienced sexual difficulties, his depression worsened. There had been times twenty years earlier when she had sat with him throughout the night to prevent him from shooting himself.⁷ He had from time to time cried and told her that he “wished he was dead”. Rod’s sister also spoke of his lifelong depression.

Events of 14 March 2015

15. On the afternoon of 14 March 2015, Rod was working in his shed. It was common for friends to drop by the shed and visit. His friend Mal Burns came by and noticed that Rod was drilling some pins for the bucket of a new excavator. Later they caught up with other friends including, Dietrich Preuss and Darryl Von Stanke (Roundy).
16. About 5pm Rod and his friends went to the White Cliffs Hotel to have a few beers. They were joined by some others and by all accounts it was a pleasant and uneventful social interaction.
17. About 7pm, Rod received a phone call from Vicki, as she had been expecting him home for dinner around 6-6.30pm. Vicki described Rod as sounding happy, and she ended the call as “he didn’t sound like he was coming home as he was having too good a time”.⁸ Vicki was “cross”, but there was no big fight. Vicki had her evening meal and watched television by herself.
18. It was Mal Burns’s evidence that some time later he left the Hotel and drove Rod home. Mal states that he did not get out of the car and did not see exactly where Rod went. Rod and Mal had a plan to meet the following day to attend an excavation job. It was agreed that Mal would collect Rod in the morning.
19. About 8.20pm Vicki got ready for bed. She went to the front door of the dugout and shut and locked it. She could see that the door to the shed was ajar, but the lights were not on. It was generally agreed that when Rod was in the shed, the lights were always turned on. At night, without lighting the shed would be pitch black. Once back inside the dugout, Vicki would hear very little given the thick walls. She switched off her mobile phone, as there is no reception from her bedroom, which is deep inside the dugout. Vicki fell asleep. Given that Vicki and Rod did not share a room, she would not have expected to hear from Rod during the night. However, she left the light on in the front area for him when he returned.
20. About 3am, Vicki woke and noticed that the light was still on in the kitchen. She went to the kitchen and saw that the light in the front area of the dugout was also still on. Vicki assumed that Rod was still not home and must be having a big night out.
21. The following morning, Vicki woke and turned on her mobile phone. She saw a message from Rod, which had apparently been sent at 8.23pm the night before. The message said “Such is life goodbye vickl (sic)”.⁹ At first she thought that perhaps Rod had gone to Broken Hill where he also had a house. However, as she looked around the dugout she noticed that

⁷ ERISP of Virginia (Vikki) White Q 393 and elsewhere

⁸ ERISP of Virginia (Vikki) White Q 18

⁹ Exhibit 23 (photographs of telephone)

all his belongings were still in place. Beginning to panic, Vicki tried to call a neighbour Tony Latham, and then his wife Belinda. Belinda promptly called her back and Vicki asked them to come to her property as she was worried about Rod.

22. About 9am, before Vicki had entered the shed, Mal Burns arrived to pick up Rod, as planned. Vicki told Mal that Rod had not come home. Mal told Vicki that he had dropped Rod off at the shed the night before. Mal then approached the shed and saw that the door was slightly open and the shed light was not on. He pulled the door further open and entered the shed. He immediately saw that Rod was seated on his old desk chair. His head was back and his mouth was open, his arms were hanging by his sides. Placed across his lap was a sawn-off shotgun. He described it as a "little .22 cut down". At the time Mal presumed that Rod had shot himself in the mouth.¹⁰
23. Mal left the shed and told Vicki "straight out" that Rod had shot himself. She appeared shocked. Mal then re-entered the shed to make sure that Rod was in fact dead, as he said he found it "so hard to believe".
24. A local nurse, Karen Wyatt was called to the shed. She confirmed that Rod was deceased. Following that, members of the NSW Police Force attended and commenced their investigation.
25. An autopsy was conducted by Dr Jane Vuletic on 20 March 2015. Dr Vuletic confirmed that the cause of death was a gunshot wound to the head¹¹. The entry wound was on the right side of the head above the right ear. There was evidence of a traumatic brain injury and no indication of prolonged survival. The toxicology results showed a high level of alcohol, although it is possible that some of that may have been due to post mortem change. There were no external injuries or defensive wounds.
26. Some time later, an expert neurosurgeon, Professor Brian Oowler examined Rod's medical records and came to the view that it is most likely that Rod would have suffered a sudden loss of consciousness immediately after the impact of the bullet.¹²

The police investigation

27. Uniformed police arrived to commence the investigation with the assistance of crime scene officers. From the outset, Detective Jeffcoat identified a number of troubling or potentially suspicious factors that required further investigation. These included, among other things
 - The placement of the weapon on Rod's lap
 - The pattern of blood from the wound and the lack of gunshot residue on Rod's hands
 - The position of the phone and the nature of the text message sent to Vicki
28. As the investigation progressed expert evidence was sought in an attempt to clarify these and other issues. Police also commenced taking statements from those who knew Rod and those who had been with him in the lead up to his death in attempt to understand his state of mind.

¹⁰ See discussion of these events ERISP of Mal Burns Q76 onwards

¹¹ Post Mortem Report, Dr Jane Vuletic. Exhibit 1, page 764

¹² Report of Professor Oowler, Exhibit 1, page 791

29. Investigating police identified three possibilities. It was certainly possible that Rod had killed himself, unassisted. However, there was also the possibility that he had been assisted by an unknown person or that someone had killed him.

Did Rod have access to a gun?

30. The sawn off shot gun that fired the fatal bullet was unregistered and has not been identified in any way. While Rod clearly knew how to fire a weapon, many people close to Rod stated that he was not particularly interested in firearms and was not himself a regular shooter. His neighbour Tony Latham gave evidence that he would bring his own gun and shoot for Rod if a snake was seen on the property¹³. Vicki stated that she was aware that Rod had given some weapons back during “John Howard’s amnesty” and she had not seen a gun on the property since that time. There was also evidence from his step sons and close friends that he was not a “shooter”¹⁴. However, his sister had some knowledge of a gun and his step son, Ken spoke of seeing various weapons many years before.¹⁵
31. More recently, at Easter in the year before Rod died, Ken had seen a sawn off shotgun leaning on the wall, near the fridge in the shed. He did not mention this to anyone at the time. In oral evidence he said that he believed the gun he saw was the same gun that had caused Rod’s death, but it appeared to have been further modified since he saw it.
32. After Rod’s death, Vicki’s other son, Lindsay also found further guns in the cupboard of a rarely used caravan on the property.¹⁶ It was surprising to him, as the Rod he knew was not a “gun enthusiast”.
33. Perhaps the most perplexing evidence in relation to firearms came from Wayne Pascoe. Wayne regarded Rod as “a mate”¹⁷ and was with him on the night he died at the White Cliffs Hotel. Wayne told investigating police that he believed Rod had killed himself. When pressed as to the reason for his belief. Wayne stated “um, first of all I know it wasn’t me. That’s one thousand per cent it was not me”.¹⁸ This was an odd response and in all the circumstances entirely unresponsive to the line of questioning that had gone before. Later in the interview Wayne recalled that about six months prior to Rod’s death he had been at Rod’s shed with two other friends, “Uncle Dick” (Dietrich Preuss) and Mal Burns, when “all of a sudden” Rod produced “a sawn-off rifle which looked like a .22 calibre”. Wayne Pascoe went on to tell police that he had touched the gun and later become concerned that his fingerprints may have been on an illegal weapon, causing him to wipe it with a rag.¹⁹
34. When questioned about this reported interaction, Mal Burns, whose evidence was otherwise unremarkable, strongly denied ever having been present when a sawn off firearm was produced. Similarly when interviewed by police Dietrich Preuss denied ever having been present at such a gathering. It is unlikely that both men would have forgotten such an

¹³ Transcript 5/3/18 Anthony Latham, Page 29 , line 20 onwards

¹⁴ See for example the evidence of Michael Lobe

¹⁵ Transcript Kenneth White, 26/3/18 page 18, line 35 onwards

¹⁶ Transcript Lindsay White, 7/3/18 page 73, line 30 onwards

¹⁷ In contrast it should be noted that it was Ken White’s evidence that Rod did not like Wayne at all. He remembered Rod calling him a “lying fuckwit”, “a dodgy bastard” and a “wanker”. While he conceded that these insults occurred many years ago, he believed that Rod would not have altered his view.

¹⁸ ERISP Wayne Pascoe Q80 onwards

¹⁹ ERISP Wayne Pascoe Q137 onwards

unusual episode if it had occurred. Rod's step son Ken, was also surprised that Rod would show a gun to Wayne, given that he believed Rod did not like or trust Wayne. Ken stated "that doesn't sit well with me at all. Rod was never one to boast or show off anything, especially considering everyone thought that he wasn't a shooter ...if you don't trust a person you wouldn't trust him with something of that nature"²⁰

35. However, at the end of the day, it is difficult to make a firm finding about the importance of Wayne Pascoe's evidence in this regard. It is hard to explain and certainly evokes some suspicion, but little more can be said. Whether or not Rod had shown a weapon to his friends on an earlier occasion is unclear, but I accept Ken White's evidence that Rod appears to have had access to a weapon of the type that killed him.

The placement of the gun

36. When Detective Inspector Jeffcoat arrived on the scene he was immediately struck by the neat placement of the gun across Rod's lap, which seemed, on the face of it, unusual given the wound to his head and the fact that his arms were hanging by his sides. The concern was shared by some others who viewed the scene and certainly required further investigation²¹. Intuitively one might think that if Rod had been holding the gun it would have been more likely to have fallen to the floor after the fatal shot, taking into account an immediate loss of consciousness, the expected recoil and the placement of Rod's hands by his side. Certainly, Professor Owler was of the view that Rod would not have had the cognitive function to intentionally place the firearm on his own lap after the shot.²² So it was necessary to investigate whether it was physically possible that the firearm could have landed neatly across Rod's lap accidentally as it fell.
37. Expert opinion was sought from Dr Andrew McIntosh, a specialist in biomechanics in relation to the likelihood that the firearm could land on Rod's lap if he had fired the gun himself. He identified three shooting positions that could account for a self-inflicted gunshot wound, taking into account the position of the wound and the trajectory of the bullet through Rod's head. I do not intend to recount his evidence in any detail.²³ Suffice to say that he conceded that it was possible that at least two positions existed whereby Rod could have shot himself and the gun could have fallen onto his lap. While one might expect the gun to have fallen to the floor, the possibility that it could have fallen onto his lap could not be excluded. Dr McIntosh was not able, with any degree of certainty to factor in the actual force of the projectile or say how that might account for the position of Rod's head. Equally he was not able to factor in the resistance of the wheeled seat base or comment on how that might affect Rod's final position.

Pattern of bloodstains

38. Crime Scene Officer Scott Gane gave evidence in relation to the bloodstains evident when he examined the scene. He had made a close study in relation to the pattern and direction of

²⁰ Transcript Kenneth White, 26/3/18 page 31, line 30 onwards

²¹ The nurse who pronounced Rod dead at the scene is reported as telling investigating police "the gun is in his lap which is a bit weird" See statement of S/C Lyons [9]

²² Report of Professor Owler, Exhibit 1, page 791

²³ Report of Dr Andrew McIntosh, Exhibit 1, page 817

blood coming from the Rod's head. It was his evidence that after death, Rod's body had moved or been moved. Specifically his head had moved backwards and to the right. I accept his evidence in this regard.

39. Professor Owler stated that it is likely that there would have been blood loss from the wound very soon after the bullet was fired.²⁴ He stated that while he believed Rod would have lost consciousness immediately, it is possible that there could have been subsequent involuntary movements affecting his arms and legs. It is difficult to know how these could have affected the wheeled chair on which Rod was sitting and therefore impossible to know how it could have affected Rod's posture or indeed the flow of blood from his wound.
40. After examining the evidence, I accept Rod's body moved or was moved after the bullet was fired. However, on the evidence before me it is not possible to identify with any certainty how this occurred.

Gunshot residue

41. Questions were raised in the investigation about the apparently troubling lack of gunshot residue on Rod's hands, if he had indeed shot the weapon. Forensic photographs of the gun being test fired indicated that there was some spray each time it was fired and yet no gunshot residue was found on Rod's hands.
42. Elizabeth Chan, a senior forensic chemist at the Forensic and Analytical Science Service (FASS) gave clear evidence in this regard. She explained that the absence of gunshot residue on Rod's hands did not establish that he was not the shooter. She explained that on firing the majority of the residue is expelled from the muzzle of the firearm. If there is "a hard contact wound" the majority of the gunshot residue will be expelled into the wound and will not escape or be deposited onto the hands of the shooter or onto surfaces nearby.
43. When one considers the post mortem photographs of the wound, it is very clear from the marking and bruising that the gun was pressed tightly to Rod's head.²⁵ For this reason the lack of gunshot residue is of little assistance in trying to establish whether or not Rod shot the gun.

The "suicide" message

44. A message was sent from Rod's telephone at 8.23pm on 14 March 2015 to Vicki's phone. It read "such is life goodbye vicki" (sic). There was evidence that Rod rarely texted and that his usual practice was to text Vicki only in relation to practical matters such as his arrival in Broken Hill after a car trip.
45. Rod apparently always kept his mobile phone clipped onto his belt buckle and it was surprising that the telephone was found on the floor about a metre from Rod's left arm and

²⁴ Transcript Professor Owler, 29/3/18 page 5, line 45 onwards

²⁵ See page 9 of Dr McIntosh's report

yet the gun was placed neatly across his lap.²⁶ The pouch that Rod's phone was always kept in was found on a shelf behind his final resting position.

46. Rod was not wearing his reading glasses and it is likely that at the time the text was sent it would have been very dark in the shed. The toxicological findings suggest that the level of alcohol in Rod's blood would have "caused a substantial degree of sedation and impairment of cognition and psychomotor function" irrespective of any tolerance.²⁷
47. Those close to Rod gave differing opinions as to whether they found the phrase a likely choice as a final message. In Ken White's opinion the phrase did not ring true. He told the court that he had never heard Rod use the phrase and that "he'd be more inclined to say "see ya" instead of "goodbye".²⁸

Fingerprints and DNA

48. Police carefully examined the DNA found on various items in the area where Rod's body was found. Fingerprints were also taken. I do not intend to recount this evidence in detail as ultimately it is unable to assist the court in relation to ascertaining the manner of Rod's death. Rod's and his friend Dietrich Preuss's DNA was found on cigarettes disposed of on the floor of the shed. DNA of his friend Mal Burns was also found on a stubby holder. Given their pattern of visiting the shed this is uncontroversial.
49. DNA testing was unsuccessful on the trigger of the firearm, but Rod's was unsurprisingly found on the barrel end.
50. Perhaps most interestingly, the DNA of Mal Burns was found on Rod's telephone. Mal could not explain this except to say that he may have touched Rod's telephone on their recent car journey.
51. The telephone was also examined for fingerprints. NSW police were unable to establish the identity of a print that was recovered from the top corner of the telephone. However, a second opinion sought from Victorian Police concluded that it belonged to Rod Dillon.²⁹

The staging of a crime scene

52. Dr Claire Ferguson gave evidence of her expertise in the field of forensic criminology. In particular she has studied and is regarded as an expert in the field of the staging of crime scenes. She identified a number of factors which led her to the view that Rod's death was more likely to have involved a third party, than to have been an unassisted and straightforward suicide. While Dr Ferguson provides an interesting assessment of the circumstances surrounding Rod's death, I do not intend to review her evidence in any detail.

²⁶ For description of the placement of articles see statement of Detective Sergeant Ryan Jeffcoat, Exhibit 1, Page 14 onwards

²⁷ Report of John Farrer

²⁸ Transcript Ken White 26/3/18, Page 27, line 45 onwards

²⁹ See Report of D.F Beare, Exhibit 25. Compare this to the earlier investigator's not at Exhibit 16

In my view, while her analysis raises questions, it cannot be used to reliably establish one possibility over another.

53. Dr Ferguson analyses the lack of available lighting in the shed to facilitate a suicidal shooting. She notes that Vicki describes the shed light as having been turned off and postulates that at the time the text message was sent there would have been little or no natural light. She notes that Rod had small pieces of tobacco on his lap at the time of discovery and wonders whether he would have had the capacity to roll a cigarette, in the dark, without his glasses on, whilst intoxicated, prior to sending a text message and shooting himself in the head.
54. Dr Ferguson also questions the position of the firearm on Rod's lap, taking into account the bloodstain pattern and the evidence of Dr McIntosh. She notes that according to the research a common element of staging a suicide is frequently the deliberate placing of a weapon. This possibility should not be discounted.³⁰
55. Dr Ferguson questions the authenticity of the "goodbye" text message. She considers the message is inconsistent with the known characteristics of genuine final communications and is also inconsistent with Rod's known communication habits. While her analysis is interesting, I am less certain that the authenticity of the message can be questioned on the grounds she raises.³¹ I note that Dr Ferguson's opinion also referred to the unidentified fingerprint found on the telephone, which was later identified as belonging to Rod Dillon.

Was Rod's death intentionally self-inflicted?

Rod's state of mind at the time of his death

56. There was little doubt that Rod had experienced "black moods"³² and untreated depression. Both Vicki and his sister, Maria spoke of his pain and despair at various times throughout his life. Both also recounted prior talk of suicide. While Vicki reported that he seemed to have improved after retirement, it was Maria's evidence that she was aware of a recent "exit plan". She told the court that they spoke often and that "...we just decided we weren't going to make old bones and we were going to arrange things for ourselves in our own time and then we were going to take our own lives as we each saw fit".³³
57. Vicki told the court that although she was shocked when it happened, it was her "gut feeling" that Rod took his own life".³⁴
58. Rex Duncombe, an acquaintance of Rod's told the Court that he recalled having a conversation with Rod in September 2014, where Rod stated that he would ""do himself" when his pain became too much. Rex said that Rod explained that he and Roundy (Darryl Von Stanke) "have it all worked out, he'll make sure it happens right"³⁵. There is no obvious reason for Rex Duncombe to invent this conversation.

³⁰ Exhibit 9, Report of Dr Claire Ferguson, See her review of the literature at page 9 of her report

³¹ See her discussion of this issue at page 12 onwards

³² For discussion of this see ERISP of Virginia (Vicki) White Q390 onwards and elsewhere

³³ Transcript Maria Dingjan, 26/3/18, page 39, line 31 onwards

³⁴ Transcript Vicki White, 7/3/18, page 64, line 6

³⁵ See evidence at Inquest and Exhibit 3

59. At the time of the inquest, Roundy was dead, but his partner gave evidence that she found this evidence very hard to believe. She was of the view that Roundy would not have been able to keep a secret of that nature and would have told her of such a plan if it existed. She also said that she was “one hundred per cent certain that Roundy did not assist Rod”³⁶ She stated that when Roundy found out that Rod was dead on the morning he was found, they had just left White Cliffs to travel east and were already on the road. She said that they were both shocked. At that time Roundy had been recently diagnosed with cancer and he said something to the effect of “I can’t believe it. Here I am trying to cling onto life and he goes and tops himself.”³⁷
60. In contrast to the evidence of Rex Duncombe, Rod had other close friends who knew Rod suffered pain and depression but who refused to believe he would ever take his own life.³⁸
61. Rod’s step son, Ken stated that he was “not surprised” that Rod would end his life as he was aware of his depression over many years. However, he found it “out of character” especially as he was expecting Rod and Vicki to visit soon and see their grandchildren. Ken told the court that he had considered that the possibility that someone may have hurt Rod. He also believed that if Rod had made the decision to kill himself, he would ask someone he trusted for help, “that he wasn’t the type of person to do it in a solitary fashion”.³⁹
62. Rod’s sister, Maria, on the other hand found it very difficult to believe that Rod would have asked for help. She said he was stubborn and found it hard to reach out to others. In her view “he was quite capable of doing it on her own”.⁴⁰
63. What emerges from the evidence is that Rod found it hard to share his feelings. He may have presented different faces to his close friends and his family. His true state of mind on 14 March 2015 is difficult to determine. At the pub he appeared in good humour, he had plans for the following day and family arrangements in the near future. His death, even within the context of his longstanding pain and depression was sudden and surprising.

The law in relation to a finding of suicide

64. A finding that someone has taken their own life intentionally should never be made lightly. The usual standard of proof to be applied by a coroner in an inquest is the civil standard of the balance of probabilities. However, it is generally accepted that a finding of suicide should only be made if the evidence is clear, cogent and exact. Coroners should apply the *Briginshaw* standard⁴¹ to their deliberations.
65. I have considered the evidence carefully and while I accept that there is a real possibility that Rod took his own life, I am unable to state that the evidence in this regard is clear, cogent or exact. While the court accepts that suicide is often a seemingly sudden and shocking act to family and friends, there are nevertheless aspects of Rod’s death which appear out of character or unusual. The “suicide communication” sent in the dark on a mobile phone is one such factor. A number of other issues also remain unexplained. There is a real possibility that

³⁶ See evidence of Janene Judge, Transcript 8/3/18, page 12, line 35 onwards

³⁷ See Exhibit 4, Statement of Janene Judge [13]

³⁸ See for example the evidence of Michael Lobe, Transcript 7/3/18, Page 13, line 25 onwards

³⁹ See evidence of Ken White at Transcript 26/3/18, page 27 10 onwards

⁴⁰ Transcript Maria Dingjan, 26/3/18, page 41, line 25

⁴¹ *Briginshaw v Briginshaw* (1938) 60 CLR 336. For discussion of this issue see Waller’s *Coronial Law and Practice in NSW* (Fourth Edition) [81.30]

his body was moved after death. The placement of the gun on his lap, while not impossible is certainly unusual. Given other evidence, there is a possibility that Rod did not act alone and that a friend or associate offered some assistance on the night. I remain troubled by the possibility that someone else may have been involved

66. I consider the possibility of an accident most unlikely. The gun was held firmly to his head and there is nothing to suggest a faulty trigger or mechanism. I see no evidence which suggests a motive or reason to suspect murder.
67. Having heard all the evidence I remain unable to come to a final conclusion in relation to the manner and circumstances of Rod's death and I return an open finding in that regard.

Findings

68. For the reasons set out above, I make the following findings pursuant to section 81(1) of the Act,

Identity

The person who died was Roderick Dillon.

Date of death

He died on 14 or 15 March 2015.

Place of death

He died in a shed at 112-113 Smiths Hill, Whitecliffs NSW.

Cause of death

He died from injuries sustained as a result of a gunshot wound to the head.

Manner of death

I am unable to make a finding in relation to the manner of Roderick Dillon's death. It has not been established to the requisite standard that Roderick Dillon intentionally took his own life or that an unknown person was somehow involved. His death is unlikely to have been an accident.

Conclusion

69. Finally, I offer my sincere condolences to Vicki and her family and to Rod's sister, Maria. I am aware that some family members and friends are personally satisfied that Rod chose to end his own life, while others do not accept that possibility. I trust that all close to Rod will understand that these proceedings have been conducted out of respect for Rod's life and for human life in general. I hope that the return of an open finding in relation to his manner of death does not cause them further anguish.

70. Having visited White Cliffs and spoken to family members, I am aware that Rod was greatly loved and is certainly missed. He will be remembered as a loving partner and father, a good friend and as a kind and helpful member of the local community.

71. I close this inquest.

Magistrate Harriet Grahame
Deputy State Coroner
22 June 2018
NSW State Coroner's Court, Glebe