



CORONERS COURT OF NEW SOUTH WALES

Inquest: Inquest into the death of Valmai Jane BIRCH

Hearing dates: 26 August 2025, Coroners Court, Lidcombe

Date of findings: 26 August 2025

Place of findings: Coroners Court, Lidcombe

Findings of: Deputy State Coroner, Magistrate Devine

Catchwords: CORONIAL LAW – homicide – mandatory inquest

File numbers: 2011/00387674

Representation: Advocate Assisting the inquest: Sgt Timothy O'Donnell

Findings: **Identity of deceased:**
Valmai Jane BIRCH

Date of death:
Between 9 March 2011 and 21 March 2011

Place of death:
1-5 Woods Avenue, WOONONA NSW 2516

Manner of death:
Homicide by a known person

Cause of death:
Unascertained

Recommendations: Nil

Publication orders: Nil

Findings

Introduction

1 This is an inquest into the death of Ms Valmai Birch, who was 34 years old at the time of her death in March 2011.

Jurisdiction

2 Section 21 of the Coroners Act (“the Act”) gives jurisdiction to a Coroner to hold an inquest into the death, or suspected death of a person, if there is reasonable cause to suspect that the death, or suspected death, is a reportable one. Reportable deaths are defined in section 6 of the Act.

3 In this particular matter, the Court is dealing with a suspected violent or unnatural death, and so it falls within the Court’s jurisdiction.

4 Furthermore, an inquest is mandatory if it appears to a coroner that a person died or might have died as a result of homicide: s27 of the Act.

Inquests generally & the evidence

5 The primary purpose of an inquest is to make formal findings as to the following five aspects of the death pursuant to s81 of the Act: (1) the identity of the person who died, (2) the date they died, (3) the place they died, and what was (4) the cause and (5) the manner of that person’s death.

6 A coronial investigation precedes an inquest. During the investigation evidence, in form of witness statements, expert opinions, reports, photographic evidence and more are obtained by, and provided to, the Coroner.

7 In the case of the investigation into Ms Birch’s death, a 8 volume brief of evidence compiled by the Officer in Charge of the coronial investigation,

Detective Sergeant Hamilton, was tendered to the Court and became Exhibit 1 at the inquest that was held at Lidcombe on 26 August 2025.

- 8 Given the evidence already contained in the brief, as well as the criminal proceedings that occurred in relation to Ms Birch's death, there was only formal evidence called from the current Officer in Charge of the investigation, Detective Brendan Ritchie.
- 9 It is important to stress at the outset that the length of this inquest and the number of witnesses being called, is in no way a reflection of the importance this court places on Ms Birch's life. That is more accurately reflected in the preparation and investigations undertaken by police and other responsible parties to find out what happened to her.
- 10 Although I will touch on aspects of this evidence that I consider important, and not make mention of other aspects, I have had the opportunity to consider the entirety of this material during the coronial process.

The Assistance of Sgt O'Donnell

- 11 In relation to non-contentious factual matters and issues in these findings I have drawn from the opening submissions of the advocate assisting the inquest, Sgt O'Donnell. I am grateful for his considerable assistance in this regard.

Ms Birch's background

- 12 Ms Birch was born on 14 May 1976 to Shirley and Phillip Birch and grew up in Thirroul, NSW with her parents and older brother, Ian. She lived in the Wollongong area for most of her adult life. Information received is that she had two children, but both were taken from her by DOCS. Her mother passed away in 1991 and her father in 1999.
- 13 Ms Birch was a known habitual drug user. She had participated in a number of drug rehabilitation programs but invariably returned to drug use. Leading up to her death, she had been residing at an apartment on Woods Avenue in Woonona. She had been in a relationship with Mr David Bagster since they

were introduced in 2010. Witnesses to this relationship stated that it was characterised by regular drug use and violence.

Events leading up to Ms Birch's death

- 14 The facts relating to the circumstances of Ms Birch's death were largely examined in the criminal jurisdiction and are contained within the judgments handed down by the District Court and Criminal Court of Appeal: see *R v Bagster* [2022] NSWDC 614 and *Bagster v R* [2024] NSWCCA 224.
- 15 On 10 March 2011, Mr Bagster was seen by a neighbour at Ms Birch's unit knocking on her front door and touching her doors and windows before walking away.
- 16 On 12 March 2011 between 11:30pm and midnight, the same neighbour heard a lady scream from Ms Birch's unit. He looked out his window and saw the sensor light at the front of her unit was activated.
- 17 Between 15 and the 21 March 2011, residents of 1-5 Woods Avenue reported noticing a smell emanating from the complex.
- 18 On 21 March 2011, Mr Bagster spoke to a neighbour of Ms Birch and said he was concerned about her because he hadn't seen her for two or three weeks. He complained about the smell coming from Ms Birch's unit, and the neighbour watched him write a note to Ms Birch.
- 19 Later that day, police forcibly entered Ms Birch's unit and located her body face down in a wheelie bin in the bathroom. The top half of her body was submerged in water. There was material tied around her right ankle which was tied to another piece of material around her waist. As a result, her right heel was positioned against the underside of her right buttock. She was wearing an identical dress to that which was shown in CCTV footage from 9 March 2011 in Wollongong.
- 20 A forensic examination found a DNA profile matching Mr Bagster's DNA on the handles of the wheelie bin. A fingerprint of Mr Bagster was also located on the

wheelie bin under the rim. His DNA was also found in other areas within the house.

Investigation following death

- 21 A post mortem examination of Ms Birch's body was performed by pathologist, Dr Johan Duflou on 23 March 2011. Dr Duflou subsequently provided a report concluding the cause of death should be listed as 'undetermined' due to there being a number of possibilities and it not being possible to determine which was ultimately responsible. The possibilities which could not be excluded were:
- (1) Positional asphyxia as a result of Ms Birch being placed in an upside down position in the wheelie bin with her lower limbs restrained.
 - (2) Drowning. It was noted that a significant quantity of water was found in the bin which covered her nose and mouth.
 - (3) Neck compression. It is possible her neck was compressed through some form of strangulation, before being placed in the wheelie bin, and decompositional changes would mask the physical evidence on the neck.
 - (4) Drug overdose. Toxicological testing revealed the presence of morphine in liver and bile. The levels of the drug, which may have been injected as heroin into the body, could potentially have caused death due to overdose, but the limited toxicological analysis able to be conducted could not be more conclusive.
 - (5) A combination of two or more of these mechanisms.
- 22 Between 2011 and 2014, Mr Bagster cooperated with police and participated in 3 records of interview in which he denied killing Ms Birch and didn't know how she died.
- 23 He was eventually charged in 2019 and tried in February 2021, with the jury unable to reach a verdict. A second trial commenced in May 2022 in which

evidence was adduced from a cell mate of Mr Bagster, and also an acquaintance of Mr Bagster and Ms Birch, of apparent admissions made by Mr Bagster of murdering Ms Birch. The crown case also relied on evidence of Mr Bagster having a tendency to be physically violent towards Ms Birch, and of a tendency to tie Ms Birch up in a similar manner to how she was found. Mr Bagster was convicted in the District Court of manslaughter, and that conviction was upheld by the Court of Criminal Appeal in 2024. He was sentenced to 11 years and 6 months imprisonment, with a non-parole period of 8 years which expires on 30 September 2027.

24 It should be noted that in the decision of the Court of Criminal Appeal Davies J (with Wright & Rigg JJ agreeing) found at paragraph [120]:

“The evidence demonstrates that the deceased died from an unlawful and dangerous act, being the assault, tying up and placing the deceased into the wheelie bin and introducing water into the wheelie bin so that the deceased’s head was immersed, and that applicant was the person responsible for that act. On an examination of all of the evidence, I am entirely satisfied that it was open to the jury to find the applicant guilty of the manslaughter of the deceased.”

Conclusions

25 Ms Birch’s identity, time, place and manner of death are sufficiently disclosed on the evidence. I am not able to ascertain the precise cause of her death.

Findings

26 Based on the evidence before me I make the following findings:

Identity of deceased:

Valmai Jane BIRCH

Date of death:

Between 9 March 2011 and 21 March 2011

Place of death:

1-5 Woods Avenue, WOONONA NSW 2516

Manner of death:

Homicide by a known person

Cause of death:

Unascertained

Concluding Remarks

- 27 I will close by extending my deepest sympathies to Ms Birch's family and friends.
- 28 I thank the officer in charge for his work in conducting the investigation and compiling the brief of evidence.
- 29 Even more so, I thank Sgt O'Donnell for his outstanding support in the conduct of this inquest.
- 30 I close this inquest.



Magistrate Stuart Devine

Deputy State Coroner

Lidcombe Coroners Court
