MAGISTRATES COURT TASMANIA

# MAGISTRATES COURT *of* TASMANIA

## CORONIAL DIVISION

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# Record of Investigation into Death (Without Inquest)

*Coroners Act* 1995
*Coroners Rules* 2006
*Rule* 11

I, Leigh Mackey, Coroner, having investigated the death of Dale Robert Pennicott

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

a) The identity of the deceased is Dale Robert Pennicott, born 6 December 1957. Mr Pennicott was a retired driver for the Department of Premier and Cabinet. He has two sons from a past marriage, Brett and Clint and lived with his partner, Cheryl Nielsenbeck.

Mr Pennicott was a regular patron at the Claremont Returned and Services League (RSL). He attended the RSL often, on average three times a week, frequently with Cheryl. He was a well-known and liked patron at the RSL and drank alcohol to varying degrees whilst there. He was a heavy smoker and took medication to manage high blood pressure but was otherwise in good physical health.

b) On 10 July 2023 Mr Pennicott spent the late afternoon and night with friends, Donald O'Garey and David Newman at the RSL. The three, with others from time to time, sat at a table, near the bar, drank, chatted and played Keno. Primarily they drank beer but also shared two bottles of port.

Shortly after midnight, Mr Pennicott left the RSL with Donald and together they caught a taxi, driven by Mr Chaudhary, from the RSL to Donald's home, dropped Donald off, and then drove to Mr Pennicott's home where Mr Chaudhary assisted Mr Pennicott to his door after he fell when he alighted from the taxi and due to his unsteadiness. Mr Pennicott was not injured in this fall.

At approximately 1.15pm on 11 July 2023, Cheryl returned home having spent the previous night at her elderly mother's house, as she did every second night to provide care. She found Mr Pennicott sitting on the floor with his head on his chest as he leant with his back at the end of the kitchen bench. She noted several pools of blood on the floor and some on the sides

of the kitchen cabinetry. Mr Pennicott's hand was held up holding tissues to the back of his head. He was deceased.

An autopsy was conducted by Dr Ritchey MD, forensic pathologist. Following his examination Dr Ritchey identified a significant blunt force head injury with scalp laceration but without fracture or intracranial bleeding, and which he describes as a non-fatal head injury. Dr Ritchey's opinion regarding the cause of Mr Pennicott's death following his examination is that he died from his airway having become compromised, positional asphyxia, as he sat, unconscious, on the floor of his kitchen, intoxicated. I accept Dr Ritchey's opinion.

The distribution of blood found in Mr Pennicott's kitchen is consistent with Mr Pennicott falling, striking the back of his head on the handle of a kitchen cupboard resulting in a laceration and significant bleeding to the back of his head. Following this fall Mr Pennicott moved about the kitchen before sitting on the floor and holding tissues to the laceration to stem the bleeding. Noting the extent of Mr Pennicott's intoxication and the resulting difficulty he had mobilising, evident upon leaving the RSL and as witnessed by Mr Chaudhary, I find that Mr Pennicott fell in the kitchen of his home because of his intoxication.

Alcohol is a central nervous system depressant and causes incoordination, impaired balance, sedation and decreased intellectual performance.[1] A sample of Mr Pennicott's post-mortem blood was analysed and revealed alcohol in the urine, and vitreous humour of in excess of 0.37g/100ml, and in the blood at 0.316g/100ml,[2] confirming an extreme level of intoxication, well above the point at which severe impairment occurs. At concentrations exceeding 0.4g/100ml alcohol intoxication can cause loss of consciousness and be potentially fatal.[3] I find that because of his intoxication Mr Pennicott, once fallen, experienced sedation, reduced responsiveness and unconsciousness and failed to protect his airway as he sat on the floor.

c) Mr Pennicott's cause of death was positional asphyxia whilst unconscious due to intoxication.

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[1] Toxicology report dated 29 August 2023 p2.
[2] Toxicology report dated 29 August 2023.
[3] Toxicology report dated 29 August 2023 p2.

d) Mr Pennicott died on 11 July 2023 at Rosetta, Tasmania.

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

- The Police Report of Death for the Coroner;
- Affidavits confirming identity;
- Opinion of the forensic pathologist regarding cause of death;
- Toxicology report dated 29 August 2023;
- Affidavits of attending and investigation members of Tasmania Police together with body worn camera footage and photographs;
- Affidavit of David Newman sworn 20 July 2023;
- Affidavit of Atif Chaudhary sworn 11 July 2023;
- Statutory Declaration of Cheryl Nielsenbeck declared 11 July 2023;
- Affidavit of Charles Stanford sworn 26 July 2023;
- Statutory Declaration of Donald O'Garey declared 11 July 2023;
- Affidavit of Ian Millington sworn 27 July 2023;
- Report of Ms Jenny Treasure dated 13 September 2025;
- Letter of Mr Murnane President Claremont RSL Sub Branch Inc dated 16 May 2025 and attachments;
- Letter of Commissioner for Licensing dated 9 May 2025;
- Letter of Assistant Commissioner for Operations of Tasmania Police, P Harriss, dated May 2025; and
- Letter of Mr Murnane President Claremont RSL Sub Branch Inc dated 30 April 2026 and attachment.

**The service of alcohol to Mr Pennicott**

Mr Pennicott was a regular patron at the RSL. He was well known and well liked and considered to be a "*seasoned drinker*".[4] On 10 July 2023 he arrived at the RSL at approximately 4.30pm and left just after midnight.

Whilst at the RSL Mr Pennicott's movements and consumption of alcohol were captured on closed circuit television (CCTV). The CCTV covered the bar area and the exit of the RSL. The CCTV commences its relevant coverage from 4.44pm at which time Mr Pennicott is drinking a stubbie of beer whilst sitting at the bar and ends at 12.02am, on 11 July 2023, when he unsteadily exits the RSL and enters Mr

[4] Letter of Mr Murnane President Claremont RSL Sub Branch Inc dated 16 May 2025 and attachments.

Chaudhary's waiting taxi. During the period he is at the RSL, Mr Pennicott is seen on CCTV to drink 15 stubbies of beer and four glasses of port.[5] The RSL was, whilst well patronised, not crowded. Mr Pennicott was in large part sitting and standing at a table drinking with Donald and David and observable from the bar.

Prior to approximately 6.00pm the CCTV does not reveal signs of intoxication regarding Mr Pennicott, however from 6.00pm onwards he slightly sways whilst standing, at 10.40pm walks unsteadily and by 11.56pm he uses the aid of furniture to walk with noticeable swaying.[6] At approximately 12.02am Mr Pennicott left the RSL and got into a taxi driven by Mr Chaudhary. Mr Chaudhary observed Mr Pennicott at this time to be unsteady on his feet and "intoxicated".[7] Once driven by Mr Chaudhary to his home and alighting from the taxi, Mr Pennicott was unsteady, stumbled, and fell to the ground. Mr Chaudhary exited the taxi and helped him back to his feet. He did not observe Mr Pennicott to have suffered any injuries and helped him to his door "*due to how unsteady he was...*".[8]

**The responsible service of alcohol**

Ms Jenny Treasure, Chief Executive Officer of Job Trainer Australia, has over 18 years of continuous professional experience in alcohol service training, compliance consulting and legislation relating to responsible service of alcohol (RSA). She has reviewed the CCTV together with the affidavit of Mr Chaudhary and toxicology report.

Ms Treasure notes that the assessment of intoxication required under the *Liquor Licensing Act* 1990 (the Act) is an objective one and is based on the conduct and movements of the patron. Personal knowledge of the patron and their drinking tolerance is irrelevant to the assessment. The Act prohibits the sale and service of alcohol to a patron who is intoxicated as defined by the Act. Further nationally recognised RSA principles, require licensees and their staff to take proactive harm minimisation steps, including offering free water and encouraging food intake, to slow alcohol absorption, reduce intoxication risks, and promote patron welfare.[9]

RSA calls for immediate intervention for intoxication and identifies the primary triggers for that intervention as:

- Loss of balance and unsteady gait.

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[5] Letter of Commissioner for Licensing dated 9 May 2025.
[6] Report of Ms Jenny Treasure dated 13 September 2025.
[7] Affidavit of Atif Chaudhary sworn 11 July 2023 p1.
[8] Affidavit of Atif Chaudhary sworn 11 July 2023 p2.
[9] Report of Ms Jenny Treasure dated 13 September 2025.

- Swaying or holding fixed objects for support.
- Clumsiness or fumbling when handling objects.
- Delayed or inappropriate responses to surroundings.
- Physical fatigue (e.g. yawning, drooping eyelids).[10]

Ms Treasure is of the opinion that RSA, in the context of how Mr Pennicott was presenting at the RSL on 10 July 2023 as disclosed in the CCTV, called for the offering of a food menu and free water, proactive monitoring of him from 6.00pm when he began swaying, and showing signs of impaired balance, and proactive intervention by 10.40pm when Mr Pennicott exhibited escalating signs of intoxication, including swaying, unsteady gait, imbalance and incoordination. These signs met the statutory definition of intoxication and were visible over an extended period affording the RSL the opportunity for intervention[11]

**The RSL**

The RSL is not a pub but a club of which Mr Pennicott was a respected, well behaved and "*exemplary*" member.[12] It is a licenced venue where alcohol is sold and served. As such the RSL had strategies in place to mitigate the effects of intoxication of its members. It's bar staff received RSA training, fresh water was constantly available, and a warning that loud abusive and aggressive behaviour will not be tolerated was displayed.[13] The CCTV showed a platter of food was handed around patrons at 10.22pm.

On 10 July 2023 whilst Mr Pennicott was at the RSL one employee tended the bar and served alcohol to him (the barman). Mr Pennicott drank in clear line of sight of the barman. As such the barman was in a good position to understand both the quantity of alcohol purchased by Mr Pennicott but also the quantity of alcohol he drank. The barman was experienced tending bars and had successfully completed an approved course in the RSA. The barman was sufficiently concerned regarding Mr Pennicott's alcohol intake to request he not drive home. It is noted that the barman's attention regarding his RSA obligations and Mr Pennicott's intoxication may have been impacted by events occurring earlier in the evening when a non-member was requested to leave the premises, responded aggressively, caused damage to the premises and threatened him with violence.

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[10] Report of Ms Jenny Treasure dated 13 September 2025.
[11] Report of Ms Jenny Treasure dated 13 September 2025.
[12] Letter of Mr Murnane President Claremont RSL Sub Branch Inc dated 16 May 2025 and attachment.
[13] Letter of Mr Murnane President Claremont RSL Sub Branch Inc dated 16 May 2025 and attachment.

A licence or permit or exemption issued under the Act, is required for the sale and service of liquor at premises including the RSL. The RSL held a licence under the Act for the sale of liquor. The Act requires the sale and service of liquor only by a person who has successfully completed an approved course in RSA.[14] It is an offence to sell or serve liquor at licensed premises to persons who are intoxicated.[15] "*Intoxicated*" is defined in the Act as when a person's speech, balance, coordination or behaviour is noticeably affected and it is reasonable in the circumstances to believe the affect is the result of the consumption of liquor or other substances.[16]

Compliance with the statutory conditions for holding a licence for the sale and service of liquor is achieved primarily through checks conducted by inspectors from the Liquor and Gaming Branch and by members of the Tasmanian Police through intermittent unannounced spot checks. There is approaching 2000 premises licensed for the sale and supply of liquor in the State and, as at May 2025, eight compliance inspectors engaged to undertake inspections to check compliance with the Act.[17] Inspections are necessarily limited by resourcing and are consequently targeted at high risk areas. A spot check of the RSL was undertaken by members of Tasmania Police in April 2023 at which time the RSL was found to be compliant. A further check was undertaken by Tasmania Police later in 2023 after Mr Pennicott's death and the RSL were again found to be compliant.[18] I note that the licensee of the RSL has changed since Mr Pennicott's death.

**Was Mr Pennicott intoxicated whilst at the RSL?**

The RSL was provided with the opportunity to comment on the investigation and potential findings into Mr Pennicott's death and have responded through a letter from the President of the Claremont RSL Sub Branch Inc dated 30 April 2026. The RSL observes that whilst Mr Pennicott had undisputably consumed alcohol over an extended period at the RSL he was not "*swaying uncontrollably*", nor "s*taggering*" had not fallen or bumped into people or knocked over furniture and as such there were no "*obvious triggers*" calling the barman into action based on his intoxication.[19] Mr Pennicott's speech remained clear and coherent, he was balanced and coordinated throughout the evening and "*as a long time member he was afforded every possible*

[14] Section 46A of the Liquor Licensing Act 1990 (the Act).
[15] Section 78 of the Act.
[16] Section 3B of the Act.
[17] Letter of Commissioner for Licensing dated 9 May 2025.
[18] Letter of Assistant Commissioner for Operations of Tasmania Police, P Harriss, dated May 2025.
[19] Letter of President of the Claremont RSL Sub Branch Inc dated 30 April 2026.

*duty of care and even to the extent of ensuring his safe passage home...".*[20] This description of Mr Pennicott is inconsistent with observations made of him on CCTV and by Mr Chaudhary's observations of Mr Pennicott on his journey home.

Intoxication occurs along a continuum and can be multifaceted. Whilst Mr Pennicott may not have staggered, fallen, or knocked over furniture whilst still receiving service at the RSL he was showing signs of intoxication by swaying, and being unsteady on his feet. His balance and coordination became noticeably affected over the course of the evening and fell within the definition of intoxication in the Act. Whilst he may have been coherent and well behaved the extent of his intoxication was apparent from at least 10.00pm onwards demonstrated by his movements on CCTV and the volume of alcohol he had been supplied with. By the time he left the RSL he had difficulty walking and fell on his arrival both outside and then inside his home. I find the signs of intoxication were sufficiently present so as to require some action to have been taken under RSA principles at the RSL from at least 10.00pm. Whilst action was taken by the barman to ensure Mr Pennicott did not drive home, greater action was called for including the cessation of further service of alcohol to him earlier in the evening. In effect the RSL provided a venue in which Mr Pennicott was allowed, without intervention, to purchase and consume a significant volume of alcohol.

**Comment**

Whilst drinking alcohol is part of the Australian vernacular significant health risks result from its excessive consumption. As noted earlier in these findings alcohol is a central nervous system depressant and generally its effect is proportionate to its concentration in the blood.[21] Alcohol intoxication causes imbalance, incoordination, slowed reactions, impaired judgement, confusion, and in sufficient concentrations a loss of consciousness. The impact of excessive alcohol consumption is not confined to the experience of unruly, disruptive and aggressive public behaviour but can result in serious health impacts and be a primary or significant secondary cause of death.

The licensing of venues and associated regulatory requirements including that bar staff engaged in the sale and service of alcohol be trained in RSA, recognises and attempts to moderate this risk. Given the number of licensed venues and inspectors, compliance with the Act and license conditions relies in large part on licensees and bar workers recognising the importance to their patron's health and safety of preventing excessive alcohol consumption and the need to take pre-emptive and decisive action including

[20] Letter of Mr Murnane President Claremont RSL Sub Branch Inc dated 16 May 2025 and attachment.
[21] Toxicology report dated 29 August 2023 p2.

by ceasing to supply alcohol to an affected individual regardless of whether they are thought to be a "*seasoned drinker"*, are a regular and well behaved patron, or are not being disruptive.

The requirement of the Act is that the service of alcohol be through a person who has undertaken a course in RSA. There is no requirement for the course to be repeated. A requirement to attend a repeat, refresh or update of the course at regular intervals would assist and reinforce the importance of supplying alcohol responsibly and ensure that bar workers have sufficient knowledge and tools to recognise and intervene in a timely way when faced with an intoxicated patron.

I **recommend** pursuant to Section 28 of the *Coroners Act* 1995 that consideration be given to amending the *Liquor Licensing Act* 1990 and licencing conditions of licensed venues to include a requirement for all persons selling and serving liquor to undertake an approved refresher course in RSA annually.

I extend my appreciation to investigating officer Constable Rachel Fellowes for her investigation and report.

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

**Dated**: 29 June 2026 at Hobart, in the State of Tasmania.

**Leigh Mackey**
**Coroner**