

**FORM 38**

Rule 60(2)

**FINDING INTO DEATH WITHOUT INQUEST**

*Section 67 of the Coroners Act 2008*

**Court reference:** 923/08

In the Coroners Court of Victoria at Melbourne

I, JUDGE JENNIFER COATE, State Coroner

having investigated the death of:

**Details of deceased:**

Surname: Human remains of identity unknown  
Address: Old Melbourne Gaol

without holding an inquest:

find that the identity of the deceased was unknown at Old Melbourne Gaol

1. Sometime prior to 2007, the State government entered into the sale of the former Pentridge Prison site to a developer, Pentridge Prison Pty Ltd. It was known that the Pentridge site contained a large number of interred judicially executed prisoners including the remains of some prisoners who had been relocated from other places of execution to the burial ground inside Pentridge Prison.
2. An exhumation licence no. 65/ 2007 was granted by the Department of Human Services to Heritage Victoria and Pentridge Village Pty. Ltd (ACN 087 151 068) on the 18 December, 2007 to assist with the necessary exhumation and reinterment of the human remains. However, once the exhumations were performed, all of the human remains exhumed were thereafter reported to the coroner.
3. The basis of the reports to the coroner were that the deaths were likely to have been deaths of persons immediately before death, persons in custody, and further, the identities of the exhumed remains were almost without exception, unidentified.
4. A considerable amount of investigation has been undertaken by Heritage Victoria and Terra Culture to determine the historical and archaeological provenance of the exhumed remains. The results of those investigations are contained in reports provided to me. In particular, Mr Jeremy Smith, Senior Archaeologist from Heritage Victoria and Ms Catherine Tucker Senior

Archaeologist from Terra Culture provided a joint statement of August 16, 2010 which sets out the historical detail of the human remains exhumed from a smaller plot where these remains were relocated from the Old Melbourne Gaol in 1937. Investigations were also undertaken by Dr Soren Blau, Forensic Anthropologist at Victorian Institute of Forensic Medicine.

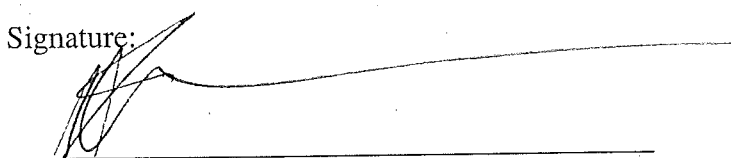
5. Notwithstanding the identity of the deceased contained in this case number is unknown, and the deceased probably was, immediately before death a person placed in custody or care within the meaning of s. 52 (1)(b), pursuant to section 52(3)(a) of the *Coroners Act 2008*, I am not required to hold an inquest if satisfied that the unidentified human remains are more than 50 years old at the time of reporting to the coroner.

6. I am satisfied on the basis of the substantial evidentiary material provided by Mr Jeremy Smith, Senior Archaeologist from Heritage Victoria and Ms Catherine Tucker, Senior Archaeologist from Terra Culture and Dr Soren Blau, Forensic Anthropologist from the Victorian Institute of Forensic Medicine that these human remains are likely to be those of an unidentified, judicially executed prisoner who died more than 50 years ago.

7. For all of the above reasons, having exercised my discretion not to hold an inquest given that these remains are likely to be more than 50 years old, I find that these human remains are likely to be of a judicially executed prisoner of identity unknown.

8. Pursuant to Section 47 of the *Coroners Act 2008*, I direct the remains to be released to Mr Jim Gardner, Executive Director of Heritage Victoria.

Signature:

  
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**Judge Jennifer Coate**  
**State Coroner**

Date: 2nd September, 2010

