

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2013 002001

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, PARESA ANTONIADIS SPANOS, Coroner,
having investigated the death of AJR
without holding an inquest:

find that the identity of the deceased was AJR

born on 11 March 1925 aged 88

and the death occurred on 8 May 2013

at The Alfred Hospital, 55 Commercial Road, Melbourne, Victoria 3004

from:

1a MULTIPLE INJURIES SUSTAINED IN A MOTOR VEHICLE COLLISION
(PEDESTRIAN)

Pursuant to section 67(1) of the **Coroners Act 2008** there is a public interest to be served in making findings with respect to **the following circumstances:**

1. Mr AJR was an 88 year-old pensioner who lived with his wife in Clarinda. Both Mr AJR and his wife enjoyed good health for their age and remained independent, although both wore spectacles and Mrs AJR uses a hearing aid.
2. About twice each week, Mr and Mrs AJR travelled by bus to the Southland Shopping Centre to do their shopping. The Route 631 bus that they took on these occasions stopped at a bus stop on Clarinda Road, near its intersection with Tammany Drive, about 350 metres from the AJRs' home.
3. At the time, Clarinda Road was a well-worn, bitumen road that runs in a north-south

direction, with provision for one lane for vehicles to travel in each direction, divided by a single broken white line. To the east of Clarinda Road, there is a nature strip and residential housing and, on its western side, there are horse paddocks. There is a gravel shoulder on the western side of Clarinda Road, adjacent to the bus shelter, to accommodate buses stopping to collect or drop off passengers. The bus shelter has no lighting and an illuminated billboard on its north end (that provided some lighting) was broken as at 6 May 2013. Clarinda Road has street lighting mounted at a height of ten metres from ground level, on power poles that are spaced about 120 metres apart and the posted speed limit is 60 kph.

4. At about 6.10pm on 6 May 2013, Mr and Mrs AJR were returning by bus from shopping at Southland. The bus driver, Sharma Raj, stopped and lowered the bus at the stop adjacent to the horse paddocks on Clarinda Road so that Mr and Mrs AJR could alight. Mrs AJR waved to Mr Raj as he pulled out into the northbound traffic.
5. Hand in hand, and carrying their shopping, Mr and Mrs AJR walked south on Clarinda Road a short distance from the bus shelter, looking for a break in the traffic so they could cross to the eastern side of the road. When it appeared safe to cross, Mr and Mrs AJR walked straight across towards the nature strip on the other side.
6. At about the same time, David Stewart was returning home from work, travelling south on Clarinda Road in a dark coloured Toyota Hilux dual cab utility, fitted a tubular alloy 'bull bar'. Suddenly, Mr Stewart was aware of a figure in front of his vehicle. He immediately applied the brakes heavily, and steered left toward the kerb in an effort to avoid impact but was unable to do so. He was aware that an impact occurred and so stopped to render assistance. Other motorists also stopped to help, and emergency services were called.
7. As a result of the collision with the Hilux, both Mr and Mrs AJR were thrown some ten metres south of the point of impact, Mr AJR falling onto the southbound lane of Clarinda Road and Mrs AJR coming to rest on the nature strip on its eastern side. Mr and Mrs AJR suffered serious, life-threatening injuries in the collision and were treated at the scene by paramedics before being transported to The Alfred Hospital [the Alfred].
8. On arrival at the Alfred, Mr AJR was hypotensive and required a transfusion of blood products. Evaluation showed bilateral comminuted pelvic fractures and fractures to

the lumbar spine, a small subarachnoid haemorrhage, a right haemopneumothorax and an ascending aortic transection.

9. Prior to surgery on 7 May 2013, Mr AJR experienced a hypotensive cardiac arrest and was successfully resuscitated. He was taken to theatre for urgent external fixation of his pelvic fractures, extraperitoneal pelvic packing, exploratory laparotomy, and endoluminal repair of the traumatic aortic transaction. He remained hypotensive when returned to the Intensive Care Unit postoperatively.
10. On 8 May 2013, Mr AJR underwent a repeat CT of his brain, which showed the presence bilateral subdural haematomas which, if actively managed, would require bilateral craniotomies. The neurosurgical team, in consultation with the intensive care and trauma teams, considered that given the nature and extent of his other traumatic injuries, Mr AJR was unlikely to survive active management of his brain injury. Thus, in consultation with Mr AJR's wife and three adult sons, Mr AJR was palliated and died at 11.40pm.
11. On 10 May 2013, Forensic Pathologist Dr Jacqueline Lee of the Victorian Institute of Forensic Medicine, performed an external examination of Mr AJR's body, reviewed the circumstances as reported by the police to the coroner, post-mortem CT scans of his body and medical records from the Alfred and provided a written report of her findings.
12. Dr Lee observed that post-mortem CTs showed contusions to the right scalp and back of the head, subdural and subarachnoid haemorrhage, multiple pelvic and lumbar spinal fractures, an inferior vena cava filter and stent within the aortic arch. During her external examination she observed injuries to Mr AJR's scalp, torso and extremities and signs of medical intervention. Dr Lee advised that it would be reasonable to attribute death to multiple injuries sustained in a motor vehicle collision as a pedestrian, without the need for an autopsy.
13. This finding is based on the brief of evidence compiled by Leading Senior Constable Matthew Fitzsimon from Moorabbin Highway Patrol who investigated the collision. The brief includes the statements of:
 - i. Mr Raj who described Mr and Mrs AJR as a very frail elderly couple and stated that Mr AJR appeared very unsteady on his feet and was assisted on and off

the bus by his wife. He recalled that both were wearing heavy dark-coloured clothing and that they got off the bus at the stop on Clarinda Road near the horse paddocks. Mr Raj stated that Clarinda Road has an uneven surface and is poorly lit. On 6 May 2013, it was very dark – pitch dark – and very hard to see landmarks such as the bus stop.

- ii. Mrs AJR who recalls holding her husband's left hand in her right hand and looking both ways for cars and waiting for a chance to cross the road. When she perceived that no cars were coming, they crossed the road and as she was about to step onto the nature strip on the eastern side, she heard a bang and was knocked to the ground. She did not see or hear anything before the impact. She sustained multiple fractures in the collision.
- iii. Mr Stewart who estimated his speed on Clarinda Road to have been between 40 and 50 kilometres per hour when he suddenly saw a figure in front of his vehicle and slammed on the brakes. He was unable to determine from which direction the pedestrians had walked.
- iv. Mr Nikodemou, a passenger in the vehicle about 20 metres behind that driven by Mr Stewart, stated that he noticed a couple crossing Clarinda Road in the distance and observed the collision.
- v. Ms Frogley, seated in a vehicle parked on the western side of Clarinda Road about 20 metres south of the bus stop, watched the AJRs wait to cross the road, then proceed, and collide with a utility vehicle. She did not know why the couple did not see the utility vehicle.
- vi. LSC Fitzsimon, who attended the collision scene on the night, observed that it was dark despite street lighting, that the atmosphere was clear and the road was dry. Besides the bus shelter itself, there were no other permanent structures to obstruct a pedestrian's view of approaching traffic.
- vii. LSC Fitzsimon described the scene of the collision, including the relative positions of the point of impact, tyre tracks and gouge marks on the nature strip caused by the Hilux mounting the kerb when the driver took evasive action, the injured individuals, and the nature and extent of the collision damage caused to the front of the Hilux. These observations suggested to him

that the Hilux was not travelling in excess of the posted speed limit.

- viii. L/S/C Fitzsimon also examined the Hilux, finding that the driver had a clear and uninterrupted view through the windscreen, the headlights functioned and the tyres were in good condition. He determined that Mr Stewart was an experienced driver who was wearing spectacles while driving, and was not using his mobile telephone prior to or at the time of the collision.
 - ix. No other collisions near the Clarinda Road-Tammany Drive intersection involving pedestrians had been reported to Victoria Police in the five years prior to May 2013.
 - x. No criminal charges were laid against Mr Stewart arising from the collision in which Mr AJR and his wife were injured.
14. Based on all of the available evidence, I find that Mr AJR, late of an address in Clarinda, died on 8 May 2013 at the Alfred as a result of multiple injuries he sustained in a motor vehicle collision while he was a pedestrian crossing Clarinda Road in Clarinda, on the evening of 6 May 2013.
15. I find that poor lighting on the stretch of Clarinda Road near Tammany Drive in Clarinda is likely to have contributed to the collision in which Mr AJR sustained fatal injuries. The evidence does not support a finding that excessive speed on the part of Mr Stewart played any role in Mr AJR's death.

***COMMENTS**

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected with the death:

1. Although there is no evidence before me of previous collisions involving pedestrians near the Clarinda Road-Tammany Drive intersection in Clarinda, nor of reports to the local City of Kingston Council or VicRoads about poor lighting in the area, I note that both of the drivers who made statements, Mr Raj and Mr Stewart alluded to poor ambient lighting in their account of events. L/S/C Fitzsimon, too, noted that despite street lighting, it was very dark and visibility was poor.
2. Street lighting (luminaries and electricity supply poles) along Clarinda Road,

Clarinda, is owned and maintained by the Victorian Electricity Supply Industry [VESI] and VESI's lighting schemes are owned and maintained by United Energy. At the time of the incident giving rise to Mr AJR's death, there was 80W street lighting installed on Clarinda Road on power poles spaced 120 metres apart, including the pole about 20 metres north of the collision site. This fell below the minimum wattage of 150W applicable to arterials roads according to Australian design standards.

3. During this investigation and as a result of Mr AJR's death, I was advised by VicRoads that it had asked United Energy to upgrade two street lights immediately preceding the bus stop and a third, at the intersection of Clarinda Road and Tammany Drive, to 150W high pressure sodium luminaries. VicRoads bore the cost of these street lighting improvements, which were completed by the end of August 2014.
4. I was also informed that significant roadworks are planned on the relevant stretch of Clarinda Road as part of the Dingley Bypass Project. The proposed works include installation of additional street lighting, road widening, pavement reconstruction and new line marking for the section of Clarinda Road between Bourke Road and the Old Dandenong Road, which encompasses the intersection of Clarinda Road and Tammany Drive. VicRoads anticipates that work on the Dingley Bypass, which commenced in 2014, will be completed in 2016.

I direct that a copy of this finding be provided to the following:

Mr AJR's family, c/o Zaparas Lawyers

The Alfred Hospital, c/o Clinical Governance Unit

VicRoads, c/o Manager, Legal Services

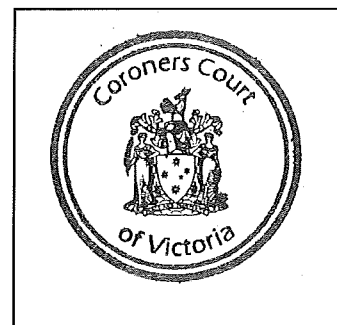
PTV, c/o Director of Governance and Legal

City of Kingston, c/o Team Leader Traffic and Transport Planning

LSC Matthew Fitzsimon (#30732), c/o Moorabbin Highway Patrol Unit

Signature:

P. Spanos



Paresa Antoniadis Spanos

Coroner

Date: 22 September 2015