

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2013 2555

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of: James Robert Winchester

Delivered On: 17 October 2014

Delivered At: 65 Kavanagh Street
Southbank 3006

Hearing Dates: 29 September 2014

Findings of: PETER WHITE, CORONER

Representation: Mr Matthew Albert instructed by Maddocks for the Yarra
Ranges Shire Council
Mr Richard Watkins on behalf of the family

Police Coronial Support Unit Leading Senior Constable Stuart Hastings

I, PETER WHITE, Coroner having investigated the death of James Robert Winchester

AND having held an inquest in relation to this death on 29 September 2014

at Melbourne

find that the identity of the deceased was James Winchester

born on 10 October 1994

and the death occurred on 12 June 2013

at Glasgow Road, Kilsyth, Victoria

from:

1 (a) TRAUMATIC INJURY TO THE CHEST SUSTAINED IN A MOTOR VEHICLE
INCIDENT (DRIVER)

in the following circumstances:

Circumstances of the incident

1. James Robert Winchester (herein referred to as James) was an 18 year old man who lived in Kilsyth with his sisters and parents. He had completed his schooling and was aiming to commence a career as an electrician.
2. On Wednesday 12 June 2013, at about 4.23pm, James was driving his silver Commodore in a south easterly direction along Glasgow Road in Kilsyth, the road he lived on. Leading Senior Constable Mathew Lutwyche of the Yarra Ranges Highway Patrol was driving in the opposite direction and observed James travelling towards him. As LSC Lutwyche neared the vicinity of number 20a Glasgow Road, he observed the upper section of a large tree on the north side of the road start to collapse. He saw the stem of the tree fall in a westerly direction across the road and on to the front of James' car. The stem hit James' car and shattered the windscreen, continuing in to the body of the car striking James. James' car continued to travel in a straight line past LSC Lutwyche at approximately 25kph and then veered gently to the left before it collided with another tree near the driveway of 15 Glasgow Road. The vehicle then rotated counter clockwise around the tree and gently onto its roof.
3. LSC Lutwyche used the police radio to advise Intergraph Communications of the incident and request other emergency services attend. LSC Lutwyche observed that James was unresponsive and showed no signs of life. Ambulance crews attended and treated James at the scene however they were unable to revive him.

Medical investigation

4. Forensic Pathologist Dr Yeliena Baber of the Victorian Institute of Forensic Medicine performed a post mortem medical examination on 14 June 2013. Dr Baber provided me with a report of her medical examination. Dr Baber noted that James had suffered significant injuries to his chest. No natural disease was identified and toxicology results were negative for alcohol and drugs. In Dr Baber's opinion, James' death occurred as a result of a laceration to the left subclavian vessels causing exsanguination. Dr Baber noted the cause of death to be 1(a) traumatic injury to the chest sustained in a motor vehicle incident (driver). I adopt Dr Baber's findings in relation to the medical cause of death.

Coronial Investigation

The Tree

5. LSC Lutwyche compiled a coronial brief of evidence that included a statement from Mr Paul Mechelen, the Coordinator Trees at the Yarra Ranges Council (the Council). Mr Mechelen is an experienced arborist and manages a team of arborists at the Council.
6. As a result of this incident, Mr Mechelen performed a full inspection of the tree that failed on 14 June 2013. The tree was a 15.2m, mature Messmate with two stems forming the trunk. The stem on the northern side of the tree failed at a height of 3.9m above ground level. The stem failed due to extensive termite damage and decay caused by white rot fungi.
7. Mr Mechelen obtained an image of the tree from 'Google street view' from 2010 and formed the opinion that it did not appear obviously dangerous without an extensive inspection.
8. On 14 August 2013, a contractor arborist removed the remaining stem of the failed tree. An independent arborist completed a report on the road and recommended the removal of six trees and further pruning. That work was completed in January 2014.
9. Mr and Mrs Winchester wrote a letter to the Court and made an application for an inquest. They also provided an independent report from an arborist on the tree that failed. I granted that application in order to explore the prevention opportunities raised in the Winchester's letter in relation to proactive tree management and public education opportunities and provide the Council with an opportunity to respond to these suggestions.

Yarra Ranges Council tree management

10. Mr Mechelen attended at Court and gave oral evidence as to the Council's tree management programs. The Council employs four qualified arborists and uses two additional contract arboricultural companies to do inspections and write reports. There are approximately five million trees in the Council's area and 1769km of road.¹ Glasgow Road is a rural local road, responsibility rests with the Council.²
11. The Council receives reports from the public to inspect specific trees. These reports can be received by phone, email, in person, or through the Council's website. A series of questions are asked of the person reporting the tree in order to gauge what kind of risk the tree poses. Mr Mechelen gave evidence that when the Council receives a report from the community, if it is something that sounds really dangerous the council will respond promptly. If there are no concerns based on the report from the public, the tree is inspected within the week and a qualified arborist will prepare a report.³
12. Since January 2012, the Council completed seven reports for trees on Glasgow Road.⁴ I note that there were no requests to inspect the tree that failed on 12 June 2013.
13. Mr Mechelen also gave evidence that the authority responsible for maintaining electrical power lines communicates to the Council, usually by email, if they have any concerns about trees they observe when undertaking their work.⁵ SP Ausnet is not permitted to remove trees but if they have concerns they will contact the Council and then a full inspection will be done by a qualified arborist.⁶
14. The Council prioritises tree works by risk levels. Trees assessed as high, very high or extreme risk are actioned promptly. Mr Mechelen stated that the Council receives approximately 500 reports per month⁷, and at least 40 per week but this number does vary.⁸
15. There are varying degrees of assessments conducted by the Council:

¹ T27:15

² T27:21

³ T 34:1-11

⁴ The Council provided the Court with copies of these reports. See Exhibit 2.

⁵ T20:13

⁶ T24:20-23

⁷ T21:19

⁸ T21:24

- a. A windshield assessment where members of the tree team drive down a road and look for obvious faults.⁹ Mr Mechelen indicated that the tree team do not do this kind of assessment presently as it is difficult to see faults not on the road side of the tree and he considers that it is more useful to spend the money on doing more work.¹⁰ It was acknowledged that the damage to the tree in questions was on north side of the tree away from the road side and it would have been difficult to observe the faults in the tree by a windshield assessment.¹¹
- b. A visual assessment where the arborist walks around the base of a tree.¹² The arborist will prepare a report if there are no obvious faults. They perform about 40-50 per week but the number varies greatly due to weather conditions for example if there has been a storm.¹³
- c. A mallet sounding inspection to assess decay.¹⁴
- d. Sonic tomography technology that sends soundwaves through the trees and gives an accurate picture to state of tree. These tests cost \$450 each and the Council uses a contractor as required to perform these tests.¹⁵

16. The Council also has a proactive works program with three components:

- a. Electric Line Clearance in Declared Areas
- b. Road Clearance
- c. Council owned Parks and Buildings inspections and works. These works are done every four years, and every year for high risk sites¹⁶

17. During the hearing, Counsel for the Council provided the Court with the Council's Tree Management Plan. Counsel took the Court to the relevant parts of plan. Inote that there is

⁹ T28:8-14

¹⁰ T28:17-24

¹¹ T:27:7-8

¹² T29:23-25

¹³ T 30:8-12

¹⁴ T30:20-27

¹⁵ T32:2-14

¹⁶ T17 1-3

no suggestion that the Council did not act in accordance with its own Tree Management Plan or should have taken action in removing the tree in question prior to James' death. The focus of the inquest was to explore possible education and prevention opportunities.

18. Mr Mechelen outlined that the Tree Management Plan is due to be reviewed this month¹⁷ and I note that the Council has invited the Winchester family to be part of the review process.¹⁸ I also discussed with Counsel the possibility of simplifying parts of the Tree Management Plan in order to make it more accessible to the public.

Current public engagement and education opportunities

19. During the course of Mr Mechelen's evidence, I questioned him on his involvement with public education in relation to hazardous trees and the community's ability to report concerns to the Council. Mr Mechelen has spoken on the local radio station about such issues¹⁹ and has met with a number of community groups, spoken at schools and prepared newspaper articles.²⁰

20. Mr Mechelen also stated that the Council was looking at making the website more interactive including photos of what a risky tree might look like and an explanation in order to help the public identify whether they should make a report to the Council.²¹

21. Mr Mechelen also discussed the possibility of placing educational material about trees in a newsletter produced by the Council that is sent to residents every two months.²² I discussed with him the possibility of sending out that kind of material with rates notices. It appears that there a number of groups within the Council that would like the opportunity to reach the community in this way and I acknowledge that the Council is responsible for a range of issues, all important and worthy of the public's attention.

22. When asked about mechanisms by which members of the public know about the Council's service to look after trees, Mr Mechelen also mentioned that the trucks which perform the tree maintenance work display council logos.²³ I questioned whether there was potential to

¹⁷ T16:4

¹⁸ T42:3-6

¹⁹ T23:29

²⁰ T39-70

²¹ T40:23-25

²² T41:1-5

²³ T37:25 – T38:6

include some advertising on those vehicle to identify precisely the work they are undertaking, and although Mr Mechelen did not have the authority to answer the question, he did indicate that it could be discussed by the Council.²⁴

23. I take this opportunity to thank the Winchester family and the Yarra Ranges Council for their participation in this inquest.

FINDING

24. I find that the deceased was James Robert Winchester who died on 12 June 2013 as a result of traumatic injury to his chest sustained in a motor vehicle incident in which he was the driver in the above circumstances.

RECOMMENDATIONS

Pursuant to section 72(2) of the **Coroners Act 2008**, I make the following recommendation(s) connected with the death:

Recommendation one

That the Council consider sending information about tree safety and reporting risky trees to rate payers with the annual rates notices.

Recommendation two

That the Council continue their engagement with the community on the issue of tree safety and further consider the possibility of more advertising on local radio stations.

Recommendation three

That the Council continue to consider options in relation to their website for reporting trees in order to make it more accessible and informative for the public.

Recommendation four

That, as part of the Council's the review of the Tree Management plan, they consider simplifying parts of the plan to make them more accessible and readable.

Recommendation five

²⁴ T38:16-30

That the Council consider the possibility of placing advertising on their tree maintenance vehicles, this to inform the public about the work being undertaken and possible Council contact, if they have concerns about the health of a particular tree.

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

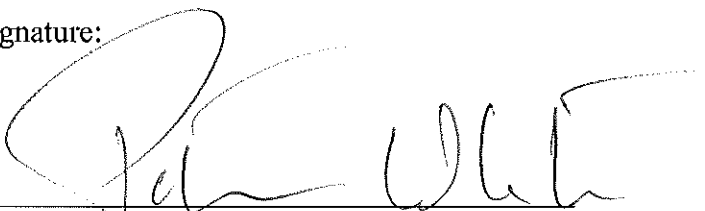
The Winchester family

The Yarra Ranges Shire Council

Leading Senior Constable Stuart Hastings, Police Coronial Support Unit

Leading Senior Constable Mathew Lutwyche, coroner's investigator

Signature:



PETER WHITE
CORONER

Date: 17 October 2014

