

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2015 3576

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, AUDREY JAMIESON, Coroner having investigated the death of JUSTIN CHRISTOPHER AZZOPARDI

without holding an inquest:

find that the identity of the deceased was JUSTIN CHRISTOPHER AZZOPARDI

born 31 October 1994

and the death occurred on 18 July 2015

at the Coles Track, Mount Napier State Park, Byaduk North Victoria 3300

from:

1 (a) HEAD INJURY SUSTAINED IN A MOTORCYCLE COLLISION (DRIVER)

Pursuant to section 67(1) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances:**

1. Justin Christopher Azzopardi was 20 years of age at the time of his death. Mr Azzopardi was a mechanic and lived in Monegeeta with his parents. On Saturday 18 July 2015, Mr Azzopardi was camping with friends Steven Schurmann and Hayley Neagle on a block of land on Buckley Swamp Road in Byaduk North. They had travelled to the area to attend and compete in the Hamilton motor cross races scheduled for 19 July 2015.

2. At approximately 3.00pm on 18 July 2015, Mr Azzopardi and Mr Schurmann left the campsite and travelled towards Mount Napier State Park. Mr Azzopardi was riding his Suzuki RMZ 250cc motorcycle, and Mr Schurmann was riding his Honda CRF250R motorcycle. They were both wearing motorcycle boots, helmets, goggles and gloves.
3. Mr Azzopardi and Mr Schurmann rode along Buckley Swamp Road, and then onto the Coles Track. They had been riding in single file for approximately 20 minutes, with Mr Schurmann travelling in front of Mr Azzopardi, when they turned around a right corner at speed. Both men were ejected from their motorbikes. Mr Schurmann got to his feet and located Mr Azzopardi lying in dense vegetation, approximately four metres from the Coles Track, with his motorbike to the left of him. Mr Schurmann took off Mr Azzopardi's goggles and helmet and saw blood on his face; he was unresponsive. Mr Schurmann did not have a mobile phone and rode his motorbike for 15 or 20 minutes back to the campsite to call for assistance. Emergency services were subsequently contacted. Mr Schurmann and Ms Neagle returned to Mr Azzopardi and commenced cardiopulmonary resuscitation, pursuant to the emergency services call taker's instructions. Ambulance paramedics arrived at approximately 4.45pm, but were unable to find signs of life. Mr Azzopardi was declared deceased at 5.00pm on 18 July 2015.

INVESTIGATIONS

Forensic pathology investigation

4. Dr Victoria Francis, Forensic Pathology Fellow at the Victorian Institute of Forensic Medicine performed an external examination upon the body of Mr Azzopardi, reviewed a post mortem computed tomography (CT) scan and referred to the Victoria Police Report of Death, Form 83. Dr Francis noted that the post mortem CT scan showed a number of skull fractures. Toxicological analysis of post mortem blood did not detect any alcohol, common drugs or poisons. Dr Francis ascribed the cause of Mr Azzopardi's death to a head injury sustained in a motorcycle collision as a driver.

Police investigation

5. Upon attending the site of the collision, police noted that the Coles Track is not easily accessed by standard passenger vehicles, and debris and numerous volcanic rocks are on the sides of the track. It was identified that the Coles Track runs in a north-south direction, and is a single vehicular, four wheel drive track, and is for use by management vehicles and walkers only. On

18 July 2015, the Coles Track was muddy, the weather was cloudy and it was evident there had been a lot of rain in recent days. It was noted that visibility was limited at the relevant section of the Coles Track, due to the surrounding forest and bends in the road. Mr Azzopardi's motorcycle appeared to be in good condition, and external observations evinced no damage.

6. Senior Constable (SC) Lauren McGrath, the nominated coroner's investigator,¹ conducted an investigation of the circumstances surrounding Mr Azzopardi's death, at my direction, including the preparation of the coronial brief. The coronial brief contained, *inter alia*, statements made by Mr Azzopardi's friends Steven Schurmann and Hayley Neagle.
7. In the course of the investigation, police learned that Mr Azzopardi and Mr Schurmann were both riding motorcycles that were not registered with VicRoads. Neither Mr Azzopardi nor Mr Schurmann had ever held a motorcycle licence. The police identified that the Coles Track is classed as a road related area / highway as per the *Road Safety Act 1986* (Vic), and as such, Mr Azzopardi and Mr Schurmann were required to have registered vehicles and hold current Victorian motorcycle licences.
8. Mr Schurmann reported that he and Mr Azzopardi had never ridden in Mount Napier State Park before. However, they were both experienced motorcyclists, and rode on motor cross tracks most weekends.
9. Senior Constable Nick Brickley of the Mechanical Investigation Unit conducted a mechanical inspection of Mr Azzopardi's Suzuki RMZ 250cc motorcycle at Aitkins Auto Works in Hamilton. The overall condition of the motorcycle was good; the inspection did not reveal any mechanical fault that would have caused or contributed to the collision.
10. The coronial brief contained a photograph of the Coles Track from Harman's Road, which included a sign stipulating 'management vehicles and walkers only'. SC McGrath noted that the track is open and easy access is obtained from both Harman's Road and Murroa-Buckley Swamp Road in Byaduk North. Within the summary to the coronial brief, SC McGrath suggested that a sign depicting the prohibition of certain activities could also be installed at common access points.

¹ A coroner's investigator is a police officer nominated by the Chief Commissioner of Police or any other person nominated by the coroner to assist the coroner with his/her investigation into a reportable death. The coroner's investigator takes instructions direction from a coroner and carries out the role subject to the direction of a coroner.

Further investigations

11. Following the receipt of the coronial brief, I sought to understand if pictorial signage, such as a motorcycle with a line through it, was used on other tracks within the Mount Napier State Park, and whether it should be implemented at the Coles Track.
12. By way of email dated 20 May 2016, SC McGrath informed the Court that she had not seen other tracks within the State Park which contain pictorial signage prohibiting motorcycle riding. SC McGrath added that she only observed signs which stated the tracks were for walkers or management vehicles only.
13. In an email dated 26 July 2016, John Stevens, Senior Legal Counsel at Parks Victoria advised that the collision occurred adjacent to Mount Napier State Park, on a road reserve managed by the Southern Grampians Shire Council. However, Mr Stevens noted that all signage at Mount Napier State Park and within the area is installed consistently with Parks Victoria's signage manual, which sets out advice on the design of signage, as well as general principles relating to signage within the Victorian park system. In order to ensure that signage is effective and not unduly intrusive, they are installed on an 'as needs' and 'site by site' basis. Mr Stevens noted there is a focus on signage addressing identified safety risks, and environmental and land management objectives. He added that specific signage forbidding the riding of motorcycles has not been used at Mount Napier State Park or other parks in the area, because:
 - There is signage in place at Coles Track specifying that all forms of private usage apart from walking is prohibited, that is: 'Management Vehicles Only'. Mr Stevens added that this form of signage is regularly used across Victoria as a means to catch all private usages, including all forms of motorised vehicle access, cycling and horse-riding.
 - In addition to signage at relevant access points, Parks Victoria attempts to employ communication methods – such as Visitor Guides – that avoid the requirement to install signage.
 - Whether any additional signage beyond 'Management Vehicles Only' is required is determined by a range of considerations, including the standard of a track, identified safety issues and prior and current use. With respect to the Coles Track and other neighbouring tracks, Mr Stevens advised that off-road motorcycle riding is not generally identified as a

significant issue because of the rocky nature of the area and the rough tracks that make riding uncomfortable.

- The Coles Track was set aside as a track closed to all public vehicular access under the *National Parks Regulations 2013*. Mr Stevens noted that these regulations provide a monetary penalty for any motorised access in breach of the provisions.
14. By way of email dated 24 August 2016, David Moloney, Director – Shire Infrastructure at Southern Grampians Shire Council (‘the Council’) advised the Court that an inspection revealed there were no signs prohibiting the riding of motorcycles in the vicinity of the collision, or the wider shire. However, Mr Moloney noted that the Council’s Road Register indicated that 0.970m section of Coles Track, south of the intersection with Buckley Swamp Road, is managed by the Council. He advised that the remaining section of the Coles Track is not managed by the Council, and the collision occurred in this section.
 15. In a subsequent email dated 14 September 2016, the Council informed the Court that the Department of Environment, Land, Water and Planning’s Property Office had advised that the section of the Coles Track extending 3675m south from the intersection with Murroa—Buckley Swamp Road had government road status, and jurisdiction over this road resides with the Council. The land immediately abutting to the east and south of the government road is Mount Napier State Park, and is managed by Parks Victoria.
 16. In an email dated 18 October 2016, the Council advised that it had undertaken a review through Land Victoria, and confirmed that the Coles Track came under the management of the Council for the 3675m section south from the intersection with Murroa-Buckley Swamp Road. The Council had commenced the process of including the full 3675m section of the Coles Track within its Road Register.

FINDINGS

The investigation has identified that Mr Azzopardi was riding his motorcycle on 18 July 2015 in unfamiliar terrain, at speed – the precise pace of which has not been determined, on a rocky track that was also muddy due to recent weather conditions. I also note that while Mr Azzopardi and his friend Mr Schurmann were wearing appropriate protective gear and apparently had considerable experience with motorcycles, they were riding unregistered motorcycles without appropriate licences.

I note that Mr Azzopardi and Mr Schurmann had not previously ridden their motorcycles along the Coles Track. In the absence of a specific sign prohibiting motorcycles, it is foreseeable that a sign stipulating 'management vehicles and walkers only' could be interpreted as suggesting the track is suitable for vehicles such as motorcycles. While it is questionable as to whether additional signage would have prevented Mr Azzopardi and Mr Schurmann from riding along the Coles Track, it is preferable that people who are unfamiliar with the local terrain are given more precise information than currently exists.

I find that Mr Azzopardi's inexperience riding along the Coles Track, the rocky and muddy terrain unsuitable for motorcycle riding, and possibly speed, were factors which contributed to the collision on 18 July 2015.

I accept and adopt the medical cause of death as identified by Dr Victoria Francis and find that Justin Christopher Azzopardi died from a head injury sustained in a motorcycle collision as a driver.

RECOMMENDATION

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

1. With the aim of deterring off-road motorbike riders from entering upon dangerous and inappropriate tracks and with the aim of preventing like deaths, **I recommend** that the Southern Grampians Shire Council conduct a feasibility study regarding the erection of appropriate signage that assists with these aims.

Pursuant to section 73(1A) of the *Coroners Act 2008*, I order that this Finding be published on the internet.

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

Mr Laurence Azzopardi and Mrs Maryanne Azzopardi

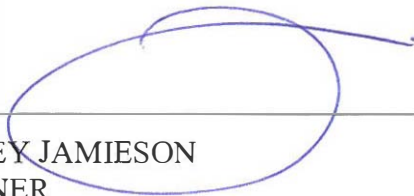
Mr David Moloney, Director – Shire Infrastructure, Southern Grampians Shire Council

Mr John Stevens, Senior Legal Counsel, Parks Victoria

Transport Accident Commission

Senior Constable Lauren McGrath

Signature:

A handwritten signature in blue ink, consisting of a large, loopy 'A' followed by a horizontal line and a small flourish.

AUDREY JAMIESON
CORONER
Date: **2 December 2016**

