

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2013 000820

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

**Inquest into the Death of: Nicholas James COULSON**

Delivered On: 19 June 2015

Delivered At: Coroners Court of Victoria  
65 Kavanagh Street  
Southbank Victoria 3006

Hearing Dates: 6 February 2014 and 7 February 2014

Findings of: Coroner Paresa Antoniadis SPANOS

Police Coronial Support Unit Sergeant D. DIMSEY, assisting the Coroner

I, PARESA ANTONIADIS SPANOS, Coroner,

having investigated the death of NICHOLAS JAMES COULSON

and having held an inquest in relation to this death at Melbourne

on: 6 and 7 February 2014

find that the identity of the deceased was NICHOLAS JAMES COULSON

born on 23 October 1983, aged 29

and that the death occurred on 22 February 2013

at Wandong Railway Station, Epping-Kilmore Road, Wandong, Victoria 3758

**from:**

I (a) HEAD INJURY IN A TRAIN INCIDENT

**in the following circumstances:**

#### BACKGROUND AND PERSONAL CIRCUMSTANCES<sup>1</sup>

1. Nicholas James Coulson was a 29-year-old man from Wandong. He was raised by his step-mother, Mrs Cindy Roberts. Mr Coulson was survived by his young daughter.
2. On 22 February 2013, Mr Coulson spent the evening drinking with his friend Jake Ratcliffe and Ashleigh Day, Mr Ratcliffe's girlfriend, at the Magpie and Stump Hotel (the Hotel) on Epping-Kilmore Road, Wandong. This was Mr Coulson's first time at the Hotel following the expiration of a three month ban he received for being abusive to staff while drunk.
3. Mr Coulson, Mr Ratcliffe and Ms Day left the Hotel at about 10.00 pm. An altercation then ensued between Mr Coulson and Mr Ratcliffe in the car park of the Wandong Railway Station. About one hour after Mr Ratcliffe and Ms Day left Mr Coulson in the car park, he was found deceased next to the railway tracks.

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<sup>1</sup> This section is a summary of facts that were uncontentionous, and provide a context for those circumstances that were contentious and will be discussed in some detail below.

## INVESTIGATION – SOURCES OF EVIDENCE

4. This finding is based on the totality of the material the product of the coronial investigation of Mr Coulson's death. That is the brief of evidence compiled by Detective Senior Constable Brownyn Grant of the Mitchell Crime Investigation Unit of Victoria Police, the statements, reports and testimony of those witnesses who testified at inquest and any documents tendered through them. All of this material, together with the inquest transcript, will remain on the coronial file.<sup>2</sup> In writing this finding, I do not purport to summarise all the material and evidence, but will refer to it only in such detail as is warranted by its forensic significance and in the interests of narrative clarity.

## PURPOSE OF A CORONIAL INVESTIGATION

5. The purpose of a coronial investigation of a *reportable death* is to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.<sup>3</sup> The *cause* of death refers to the *medical* cause of death, incorporating where possible the *mode* or *mechanism* of death. For coronial purposes, the *circumstances* in which death occurred refers to the context or background and surrounding circumstances, but is confined to those circumstances sufficiently proximate and causally relevant to the death, and not merely all circumstances which might form part of a narrative culminating in death.<sup>4</sup>
6. The broader purpose of any coronial investigations is to contribute to the reduction in the number of preventable deaths through the findings of the investigation and the making of recommendations by coroners, generally referred to as the *prevention* role.<sup>5</sup> Coroners are also empowered to report to the Attorney-General in relation to a death; to comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice; and to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or

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<sup>2</sup> From the commencement of the *Coroners Act 2008* (the Act), that is 1 November 2009, access to documents held by the Coroners Court of Victoria is governed by section 115 of the Act.

<sup>3</sup> Section 67(1) of the *Coroners Act 2008*. All references which follow are to the provisions of this Act, unless otherwise stipulated.

<sup>4</sup> This is the effect of the authorities – see for example *Harmsworth v The State Coroner* [1989] VR 989; *Clancy v West* (Unreported 17/08/1994, Supreme Court of Victoria, Harper J.)

<sup>5</sup> The 'prevention' role is now explicitly articulated in the Preamble and purposes of the Act, cf: the *Coroners Act 1985* where this role was generally accepted as 'implicit'.

the administration of justice.<sup>6</sup> These are effectively the vehicles by which the prevention role can be advanced.<sup>7</sup>

7. It is important to stress that coroners are not empowered to determine the civil or criminal liability arising from the investigation of a reportable death, and are specifically prohibited from including in a finding or comment any statement that a person is, or maybe, guilty of an offence.<sup>8</sup> However, a coroner may include a statement relating to a notification to the Director of Public Prosecutions if the coroner believes an indictable offence may have been committed in connection with the death.<sup>9</sup>

#### FINDINGS AS TO UNCONTENTIOUS MATTERS

8. In relation to Mr Coulson's death, most of the matters I am required to ascertain, if possible, were uncontentious from the outset. His identity, the date and place of death were not at issue. I find, as a matter of formality, that Nicholas James Coulson born on 23 October 1983, age 29, died at the Wandong Railway Station, Epping-Kilmore Road, Wandong, Victoria 3758, on 22 February 2013.

#### MEDICAL CAUSE OF DEATH

9. The medical cause of death was similarly uncontentious. On 26 February 2013, Forensic Pathologist Dr Michael Burke from the Victorian Institute of Forensic Medicine (VIFM) performed an autopsy on the body of Mr Coulson, reviewed the circumstances of death as reported by the police to the coroner and post mortem CT scanning (PMCT) of the whole body undertaken at VIFM and prepared a detailed written report of his findings.
10. The post mortem examination showed amputation of the left arm and a significant head injury. A fractured nose was also identified and this is consistent with the history of an altercation.

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<sup>6</sup> See sections 72(1), 67(3) and 72(2) regarding reports, comments and recommendations respectively.

<sup>7</sup> See also sections 73(1) and 72(5) which requires publication of coronial findings, comments and recommendations and responses respectively; section 72(3) and (4) which oblige the recipient of a coronial recommendation to respond within three months, specifying a statement of action which has or will be taken in relation to the recommendation.

<sup>8</sup> Section 69(1).

<sup>9</sup> Sections 69 (2) and 49(1).

11. Forensic Odontologist Dr Richard Basset performed a dental examination. No teeth were loosened or absent and there was no fracture to the mandible. However, a 'tripod' fracture to the left zygoma was identified.
12. Toxicological analysis of post mortem blood samples detected alcohol at 0.26g/100mL<sup>10</sup> and at 0.25g/100mL in vitreous humour. The toxicologist advised that a blood alcohol concentration in excess of 0.15g/100mL (commonly referred to as 0.15%) can cause considerable depression of the central nervous system including depression of the respiration, as well as affecting cognition and potentially producing behavioural changes, such as aggressive and disinhibited behaviour.<sup>11</sup>
13. Based on the advice of Dr Burke, I find that Mr Coulson died as a result of a head injury in a train incident, and that at the time of his death he had an elevated blood alcohol concentration and was significantly impaired by alcohol.

#### FOCUS OF THE CORONIAL INVESTIGATION AND INQUEST

14. In common with many other coronial investigations, the primary focus of the coronial investigation and inquest into Mr Coulson's death was on the circumstances in which he died. Specifically, the altercation with Mr Ratcliffe and the extent to which Mr Coulson may have been incapacitated by any traumatic injuries sustained during that altercation, and how he came to be in the vicinity of the railway tracks where he suffered fatal injuries.

#### EVENTS BEFORE THE ALTERCATION

15. In the late afternoon of 22 February 2013, Mr Ratcliffe and Ms Day picked up Mr Coulson from his home on Rail Street, Wandong, in Ms Day's silver coloured Holden Cruze sedan (the Holden). They drove to Mr Ratcliffe's home on Windham Street, Wallan, where he lived with his mother, Cindy Ratcliffe. Mr Ratcliffe showed Mr Coulson his new car. Mr Ratcliffe told police that Mr Coulson had been drinking before they picked him up and described him as

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<sup>10</sup> The consumption of a standard measure of alcohol increases the blood alcohol concentration by about 0.01-0.02% depending on body weight, consumption of food and rate of consumption.

<sup>11</sup> The toxicologist further advised that a blood alcohol concentration in excess of about 0.30g/100mL can cause death in the absence of other contributing factors, with aspiration of gastric contents being a significant risk factor in such circumstances.

“pretty rowdy.”<sup>12</sup> Ms Ratcliffe reported that while they did not drink alcohol at her house, she could tell Mr Coulson had been drinking, as she had seen him drunk before.<sup>13</sup> They left a short time later to go to the Hotel for dinner and drinks.

16. At about 7.30pm, Ms Day arrived at the Wandong Railway Station car park. The car park is directly across the road from the Hotel. It is a gravel car park situated between the railway tracks that run in a north-south direction and Epping-Kilmore Road, which runs parallel to the railway tracks at that location. On entering, the station platform is to the left, that is at the northern end of the car park. There are about ten post and rail fencing guards bordering the car park and the railway tracks at this end of the car park. Beyond this there are no barriers separating the car park from the railway tracks. There is a wood yard at the southern end of the car park. Parking is available around the borders of the car park. Cars can only enter and exit from the one entrance on Epping-Kilmore Road. Ms Day parked her car overlooking the railway tracks opposite the car park entrance, where there were no barriers.
17. At the Hotel, Mr Coulson, Mr Ratcliffe and Ms Day initially played pool in the bar area. Mr Coulson and Mr Ratcliffe drank beer and Ms Day had one glass of wine. They had dinner at about 8.30pm; and Mr Coulson and Mr Ratcliffe continued drinking beer.
18. Emily Lupton was having dinner with her family in the courtyard of the Hotel. The Hotel manager, who was a family friend, pointed out Mr Coulson and told Ms Lupton and her group, that he had previously been banned from the Hotel because he had made inappropriate gestures and comments to the female staff.<sup>14</sup>
19. Hotel crowd controller, Peter Prideaux was also made aware of Mr Coulson. He reported being told that that Mr Coulson had been banned because he had made threats to staff.<sup>15</sup>
20. Some time after dinner, Mr Ratcliffe went to speak to his ex-partner who was at the Hotel, while Mr Coulson and Ms Day remained at the table together. When Mr Ratcliffe returned, Mr Coulson spoke to him about his relationship with Ms Day, telling him he held her in high regard. Mr Ratcliffe wanted to know what Mr Coulson had talked about with Ms Day and he

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<sup>12</sup> Exhibit I, page 15.

<sup>13</sup> Exhibit B, page 2.

<sup>14</sup> Exhibit D, page 1.

<sup>15</sup> Coronial Brief of Evidence (Statement of Peter Prideaux) page 80.

said that he told her that Mr Ratcliffe was a good kid.<sup>16</sup> According to Mr Ratcliffe, at the end of that conversation, Mr Coulson hugged him.<sup>17</sup>

21. At about 9.45am, Mr Ratcliffe, Mr Coulson and Ms Day returned to the bar area. Mr Prideaux's evidence was that Mr Coulson was drinking beer steadily with Mr Ratcliffe and was "loud and swearing."<sup>18</sup> Bar tender, Tony Johnstone characterised Mr Coulson as "being quite rude" at this time.<sup>19</sup> At inquest, Mr Johnstone stated that Mr Coulson and Mr Ratcliffe were drinking their beers quickly and that Mr Coulson was being disrespectful.<sup>20</sup> He decided to refuse further service to both Mr Coulson and Mr Ratcliffe, but allowed Mr Ratcliffe to purchase two bottles of beer to take-away "to get them out of the bar."<sup>21</sup> He stated it was Mr Coulson's behaviour that led him to refuse service and that he felt that Mr Coulson was trying to provoke him.<sup>22</sup>
22. In his record of interview with police, Mr Ratcliffe stated Mr Coulson "was getting a bit rowdy...and making a bit of a ruckus" before the bar tender refused service.<sup>23</sup> Mr Ratcliffe told the bar tender that he would leave with Mr Coulson if he could purchase two beers to take-away. He stated at inquest that it was only Mr Coulson who was refused service.<sup>24</sup> Mr Ratcliffe, Mr Coulson and Ms Day left the Hotel at approximately 10.00 pm.
23. According to Mr Ratcliffe, they opened their beers while walking across the road to the car park.<sup>25</sup> At inquest, in response to questions regarding Mr Coulson's sobriety, Ms Day stated that when they were walking across the road, Mr Coulson found a cardboard box and was being silly by putting it over his head.<sup>26</sup> When they reached the car, Ms Day told Mr Ratcliffe and Mr Coulson that they were not allowed to drink or smoke in her car. Mr Ratcliffe stated

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<sup>16</sup> Exhibit I, page 16.

<sup>17</sup> Exhibit I, page 17.

<sup>18</sup> Coronial Brief of Evidence (Statement of Peter Prideaux) page 80.

<sup>19</sup> Exhibit G, page 1.

<sup>20</sup> Transcript, page 24; Mr Johnstone gave evidence that Mr Coulson was calling him 'sweetie'.

<sup>21</sup> Transcript, page 25.

<sup>22</sup> Ibid.

<sup>23</sup> Exhibit I, pages 4 and 5

<sup>24</sup> Transcript, page 53.

<sup>25</sup> Ibid.

<sup>26</sup> Transcript, page 5.

he lent against the passenger side of the car, and Mr Coulson stood near him as they drank their beers.<sup>27</sup>

24. Mr Coulson again broached the subject of Mr Ratcliffe's relationship with Ms Day. Mr Ratcliffe's evidence at this point is that "he just kept going on" and he was "mumbling on about useless information."<sup>28</sup> Mr Ratcliffe reported Mr Coulson became frustrated, possibly because he was not listening to him.<sup>29</sup> Mr Coulson tried to walk home, but Mr Ratcliffe told him to wait and "stop carrying on."<sup>30</sup> Mr Ratcliffe testified that Mr Coulson then "got pretty violent...he grabbed me by the throat and put me up against the car and gave me an elbow to the chin."<sup>31</sup>

#### THE ALTERCATION

25. A number of people witnessed the altercation between Mr Coulson and Mr Ratcliffe in the car park. I will deal with each witness in turn, firstly with Mr Ratcliffe's version of events.

#### Jake Ratcliffe

26. Mr Ratcliffe said that he tried to push Mr Coulson away and told him to stop. Mr Coulson told him he had changed.<sup>32</sup> Mr Coulson then "came swinging". Mr Ratcliffe's evidence is that -

"I pretty much punched him...before he hit me...I hit him with me [sic] right [arm] into his rib cage...[we] grabbed each other, tackled each other to the ground, had a bit of a scuffle..."<sup>33</sup>

27. During this scuffle, Mr Ratcliffe received grazes, cuts and a swollen ankle. Then while scuffling with Mr Coulson on the ground he "got on top of him and...tried to settle him

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<sup>27</sup> Transcript, page 53.

<sup>28</sup> Transcript, page 54.

<sup>29</sup> Transcript, page 53.

<sup>30</sup> Exhibit I, page 7 and 8.

<sup>31</sup> Ibid, page 8.

<sup>32</sup> Ibid, page 8 and 9.

<sup>33</sup> Ibid, page 9.



down...told him to calm down.<sup>34</sup> Mr Coulson broke free and punched Mr Ratcliffe to the face:

“We both just went at each other and that was it...just punching each other... I was going for...body shots, headshots, wherever I could just to protect myself.”<sup>35</sup>

28. Mr Ratcliffe said he punched Mr Coulson three to four times and Mr Coulson tried to punch him about three times.<sup>36</sup> Mr Coulson broke Mr Ratcliffe’s gold chain from around his neck and held on to it.<sup>37</sup> The fighting moved from the vicinity of Ms Day’s parked car, towards the car park entrance and a little closer to the Hotel. Mr Ratcliffe believes he threw the last punch, somewhere near the car park entrance, which caused Mr Coulson to fall to the ground.<sup>38</sup> Mr Ratcliffe took this opportunity to run back to the car and Mr Coulson pursued him. Mr Ratcliffe told Ms Day to get in the car. She drove to the wood yard, did a U-turn and drove back towards the car park entrance.<sup>39</sup> Mr Ratcliffe stated that Mr Coulson was standing near the car park entrance when they left.<sup>40</sup> He heard a bottle smash, believing that a bottle was thrown at the car, possibly by Mr Coulson.<sup>41</sup>
29. After leaving the car park, Mr Ratcliffe and Ms Day travelled onto the Hume Highway and stopped at a service station where Mr Ratcliffe bought a packet of cigarettes. Mr Ratcliffe was upset and Ms Day tried to calm him down. They then drove to Mr Ratcliffe’s home. He left shortly after and drove to a friend’s house in Broadford.<sup>42</sup> His evidence was that he had no further contact with Mr Coulson that night.<sup>43</sup>

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<sup>34</sup> Ibid.

<sup>35</sup> Ibid, page 10.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid, page 14.

<sup>38</sup> Transcript, page 59.

<sup>39</sup> Exhibit I, page 11.

<sup>40</sup> Ibid, page 13 and 14; Transcript, page 60.

<sup>41</sup> Transcript, page 60.

<sup>42</sup> Exhibit I, page 17.

<sup>43</sup> Ibid, page 14.

30. At inquest, Mr Ratcliffe stated he had been friends with Mr Coulson for about four years. While he had seen Mr Coulson being aggressive to other people when he was drunk, stating he “can be pretty violent sometimes,”<sup>44</sup> he had never had a fight with him before that night.

Jessica Day

31. Ms Day’s evidence was that as Mr Coulson and Mr Ratcliffe stood beside her car and had a smoke; she was standing on the driver’s side. They were talking about her just before they started fighting. She saw Mr Coulson push Mr Ratcliffe against the back passenger door by the throat and punch his chin.<sup>45</sup> After this first blow, they both started swinging punches. Mr Coulson was stumbling because he was so drunk. They wrestled on the ground and Mr Coulson grabbed the chain from Mr Ratcliffe’s neck and broke it.<sup>46</sup> They stood up and carried on arguing and fighting, moving towards the car park entrance.
32. Ms Day got into the driver’s seat as Mr Ratcliffe came back towards the car.<sup>47</sup> At this time, Mr Coulson was down towards the road. Ms Day testified as follows -

“I drove out of the car park to get [Mr Ratcliffe] out of there as I was scared of what [Mr Coulson] would do. The car park was quite dark. I did not see where [Mr Coulson] was when I drove out. I heard some glass smash near my wheel as I drove off and thought I must have ran [sic] over a bottle. I turned right onto the Epping-Kilmore Road, I drove onto the Hume Freeway.”<sup>48</sup>

33. Ms Day stopped at a service station where Mr Ratcliffe bought a packet of cigarettes. She stated that Mr Ratcliffe was upset and they talked.<sup>49</sup> At inquest, she stated she “made sure [Mr Coulson] was ok before we got into the car” and that he was “up and about” and walking normally.<sup>50</sup>

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<sup>44</sup> Transcript, pages 64-66.

<sup>45</sup> Exhibit A, page 1.

<sup>46</sup> Ibid, page 2.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Transcript, page 7.

Emily Lupton

34. At about 10.00pm, Ms Lupton was sitting in the courtyard of the Hotel facing towards the Railway Station car park. Ms Lupton saw two men (now known to be Mr Coulson and Mr Ratcliffe) fighting in the car park.<sup>51</sup> When she first saw them, they were at the car park entrance, at the edge of the road, coming towards the pub.
35. Ms Lupton described seeing Mr Ratcliffe punching Mr Coulson, forcing him backwards to the point that Mr Coulson was almost tripping over.<sup>52</sup> Mr Ratcliffe appeared to her be in complete control of Mr Coulson. Ms Lupton stated that it looked like Mr Coulson could not defend himself. She saw Mr Ratcliffe punch Mr Coulson with “single straight right punches while he was holding him with his left hand” and using a closed fist.<sup>53</sup> Ms Lupton saw Mr Ratcliffe punch Mr Coulson three to four times before she got up to get help. Her evidence was that she had never seen someone “get punched so hard before.”<sup>54</sup>
36. Concerned they were coming towards the Hotel and fighting on the road, Ms Lupton informed Mr Prideaux about the fight. She then went out the front of the Hotel and heard a car turning on gravel, saw headlights in the car park and then a “small silver car” driving towards the car park entrance.<sup>55</sup> Ms Lupton saw Mr Ratcliffe hanging out of the open front passenger window and when the car stopped to turn onto Epping-Kilmore Road, he threw a glass bottle. She saw another bottle thrown from the car after it had turned onto Epping-Kilmore Road.<sup>56</sup>
37. At inquest, Ms Lupton said she believed she did not witness the fight from the beginning, but that her attention was drawn when she heard yelling and the sound of gravel scuffing.<sup>57</sup> Ms Lupton left the Hotel shortly after the end of the altercation.

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<sup>51</sup> Exhibit D, page 2.

<sup>52</sup> Ibid, page 3.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Exhibit D, page 4. Mr Coulson refutes this, see transcript page 60.

<sup>57</sup> Transcript, page 16.

### Gabrielle Bennett

38. Ms Bennett was told about the fight by Ms Lupton, when she sought assistance from Mr Prideaux. She went to the front of the Hotel and saw a man staggering in the railway station car park. He sat down and leaned against a pole situated in the car park close to the entrance. Ms Bennett said that the man was wearing white shorts.<sup>58</sup> She had a direct view from where she was standing into the car park, but said the lighting was poor.
39. Ms Bennett saw a silver car drive towards the southern end of the car park, toward the wood yard; before doing a U-turn and driving back toward the car park entrance and the man sitting against the pole. Ms Bennett saw a man hanging out the passenger side window, appearing to throw something across the bonnet of the car, in the direction of the man sitting against the pole.<sup>59</sup> She then heard glass smash. The silver car turned right out of the car park onto Epping-Kilmore Road and Ms Bennett again heard glass smash. When Ms Bennett left the Hotel some time later, she looked towards the place where she had last seen the man against the pole, but did not see him.<sup>60</sup>

### Peter Prideaux

40. Mr Prideaux reported that he was told about the fight by a Hotel patron.<sup>61</sup> He quickly made his way to a balcony facing the railway station car park. While he did not see any fighting between the people standing in the car park, he could hear yelling and swearing. Mr Prideaux testified that as a car drove out of the car park, its headlights illuminated the people in the car park, but not enough to enable him to identify any person.
41. As the car turned right onto the Epping-Kilmore Road. Mr Prideaux saw an object thrown from the driver's side of the car, heard glass smash and angry yelling from the car. At approximately 10.15 pm, he used a patron's mobile phone to call the Kilmore Police Station, leaving a message about what he had just witnessed.<sup>62</sup> He walked out of the Hotel and looked

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<sup>58</sup> Coronial Brief of Evidence (Statement of Gabrielle Bennett) page 74.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Coronial Brief of Evidence (Statement of Peter Prideaux) page 80.

<sup>62</sup> Ibid, page 81.

towards the car park, but could not see anyone in the car park or hear any noise coming from the area.

## THE AFTERMATH

42. Mr Coulson was last seen in the car park, either leaning up against a pole or standing near the car park entrance, according to witnesses. Thereafter his movements are unknown. What is known is that at some time between 10.25pm and 10.30pm an express V/Line train travelling between Melbourne and Seymour passed through Wandong Railway Station.<sup>63</sup>
43. Ms Day and Mr Ratcliffe arrived at Mr Ratcliffe's home at the same time as his mother, Ms Ratcliffe. They told her what had happened. Ms Ratcliffe's evidence is that her son was visibly upset and said he wanted to leave and "clear his head."<sup>64</sup> Shortly after, he left home in his own car.
44. Ms Ratcliffe then asked Ms Day to drive her to the scene of the altercation as she wanted to make sure Mr Coulson got home safely.<sup>65</sup> Ms Day drove her to the car park and parked in the same location and in a similar position as earlier. Ms Ratcliffe found clothing and thongs on the ground where she understood Mr Coulson and her son had been fighting.<sup>66</sup> The car headlights lit up the railway tracks immediately in front of the car, and both Ms Day and Ms Ratcliffe saw something next to the railway tracks. Ms Ratcliffe approached and saw that it was a male wearing white shorts. He was unresponsive. She recognised the shorts to be the same as those she had seen Mr Coulson wearing earlier that evening.<sup>67</sup>
45. Ms Ratcliffe and Ms Day both went to the Hotel for assistance. Ms Day stated that she asked them to call an ambulance.<sup>68</sup> Ms Ratcliffe stated that she asked Mr Prideaux to help move the man away from the railway tracks. Mr Johnstone overheard Ms Ratcliffe and also walked across the road to provide assistance.<sup>69</sup>

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<sup>63</sup> Transcript, page 72.

<sup>64</sup> Exhibit C, page 3.

<sup>65</sup> Ibid, page 4.

<sup>66</sup> Ibid.

<sup>67</sup> Exhibit B, page 5.

<sup>68</sup> Exhibit A, page 2.

<sup>69</sup> Exhibit G, page 1.

46. Mr Johnstone and Mr Prideaux saw that the man had sustained serious injuries. They were unable to find a pulse. Mr Prideaux called emergency services, told Mr Johnstone to return to the Hotel and waited next to the man until services arrived.<sup>70</sup>
47. Police received a job to attend the Wandong Railway Station car park from police communications at 11.12pm.<sup>71</sup> They found a male lying parallel to the northbound railway line with his left arm severed below the shoulder. Attending paramedics confirmed that he was deceased. The attending police officers were able to identify Mr Coulson from previous dealings.
48. The following day, 23 February 2013 at about 12.40am, Acting Sergeant Samantha Murphy attended the Seymour rail yard siding to conduct an examination of a V/Line train. The train consisted of two carriages, commonly referred to as sprinters, with the identifying numbers of 7005 and 7007. A/g Sgt Murphy located what appeared to be blood on a wheel at the rear of the first carriage.<sup>72</sup> The coroner's investigator, Detective Senior Constable Bronwyn Grant reported that the train driver returned a negative preliminary breath test. He was not requested to provide a statement, however, the coroner's investigator was satisfied that he had been unaware his train had hit anyone.<sup>73</sup>
49. At inquest, DSC Grant stated her belief that Mr Ratcliffe provided an accurate account of the events on 22 February 2013. There was no indication that there was "anything more to it" than what was presented by police.<sup>74</sup> Detective Senior Constable Grant further stated there was no explanation as to how Mr Coulson came to be on the railway tracks.
50. At inquest, Mr Ratcliffe stated that Mr Coulson's home was at 85-87 Rail Street Wandong on the other side of the railway tracks and about a five minute walk from the Wandong Railway Station car park.<sup>75</sup> Rail Street runs parallel to the railway tracks and, in order to get home, Mr Coulson needed to cross the railway tracks. According to Mr Ratcliffe, and consistent with

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<sup>70</sup> Coronial Brief of Evidence (Statement of Peter Prideaux) page 81.

<sup>71</sup> Transcript. Page 38.

<sup>72</sup> Coronial Brief of Evidence (Statement of Samantha Murphy) page 123.

<sup>73</sup> Transcript, page 72.

<sup>74</sup> Ibid, page 75.

<sup>75</sup> Ibid, page 68.

photographs of the scene in the coronial brief, they would usually cross the railway tracks at the pedestrian crossing at the northern end of the car park, close to station platform.<sup>76</sup>

## CONCLUSIONS

51. The standard of proof for coronial findings of fact is the civil standard of proof, on the balance of probabilities, with the *Briginshaw* gloss or explication.<sup>77</sup> The effect of the authorities is that Coroners should not make adverse findings against or comments about individuals, unless the evidence provides a comfortable level of satisfaction that they caused or contributed to the death.

52. Having applied the applicable standard to the available evidence, I find that:

- Mr Coulson was the aggressor and instigator of the altercation with Mr Ratcliffe, possibly motivated by misguided chivalry.
- Mr Ratcliffe got the better of Mr Coulson during the altercation and, in evidence, minimised the extent of the altercation.
- When Ms Day and Mr Ratcliffe left the scene in Ms Day's Holden, Mr Coulson remained in the vicinity of the car park entrance for some time, was still alive but likely dazed and/or otherwise affected by the altercation and impaired by the effects of alcohol.
- I am unable to determine Mr Coulson's movements thereafter, save that it is probable that he found his way to the railway tracks in an effort to walk home and either fell or lay down near the tracks by the time V/Line train passed through Wandong Railway Station between 10.25 and 10.30 pm.
- The V/Line train impacted Mr Coulson and he sustained fatal injuries and died almost immediately after impact.

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<sup>76</sup> Ibid.

<sup>77</sup> *Briginshaw v Briginshaw* (1938) 60 C.L.R. 336 esp at 362-363. "The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences..."

## COMMENTS

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

1. It is apparent, after the event, that Mr Coulson's elevated blood alcohol concentration rendered him incapable of looking after himself. He was as much at risk at the car park entrance as he was in the vicinity of railway tracks. His life could have been saved by intervention of any number of people - Mr Ratcliffe and Ms Day, any of the bystanders from the Hotel becoming involved, if only to check on his welfare, or a call to 000 asking for police or ambulance assistance.
2. I note that Mr Prideaux reported the altercation in the Wandong Railway Station car park to the local police station, by leaving a message left on an answering machine. While a call to the local police station may be expedient in many circumstances, particularly in regional areas, in this situation, a call to 000 may have resulted in a more timely response and possibly a different outcome for Mr Coulson.

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

Mr Coulson's family

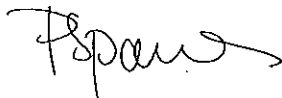
Mr Ratcliffe

Mr Michael Averkiou, Department of Transport

Detective Senior Constable Bronwyn Grant c/o O.I.C. Mitchell Crime Investigation Unit

Senior Sergeant Jenette Brumby, Police Coronial Support Unit

Signature:



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**PARESA ANTONIADIS SPANOS**

Coroner

Date: 19 June 2015