



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2015 4768

**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 ROBERT JAMES ALEXANDER ANGUS ANSTICE

without holding an inquest:

find that the identity of the deceased was ROBERT JAMES ALEXANDER ANGUS ANSTICE  
born 1 January 1957

and the death occurred on 19 September 2015

at 110 Watt Road, Kialla Victoria 3631

**from:**

1 (a) SMOKE INHALATION AND THE EFFECTS OF FIRE

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

1. Robert James Alexander Angus Anstice was 58 years of age at the time of his death. Mr Anstice lived alone at 110 Watt Road Kialla, but was regularly overseas and had a partner in Laos. He was divorced and had five daughters. Mr Anstice worked as a casual employee at the SPC fruit cannery in Shepparton; he had worked there for at least 16 years.

2. At approximately 9.10am on 19 September 2015, a fire was reported at Mr Anstice's property by his neighbour, Mark Warren, who happened to drive past. Upon sighting flames, Mr Warren had approached the house and found that the windows on either side of the front door were blackened. He noticed the chain on the inside of the door was in place and all of Mr Anstice's cars were present. Mr Warren contacted emergency services, and while on the phone the windows cracked and flames emerged, engulfing the veranda.
3. At around 9.30am, the first Country Fire Authority (CFA) units attended and found the front part of the main residence fully engulfed in flames. The fire was initially fought externally, and then internally after access was gained to the carport at the rear of the property. By 9.55am 90% of the fire was extinguished. The residence was destroyed internally but the structure of the building remained intact. Members of Shepparton Police also attended the scene.
4. At 10.11am Mr Anstice was located by firefighters in the corner of a small bedroom at the southeast corner of the residence; it was apparent that he was already deceased. Mr Anstice was crouched on the floor of a standalone clothes wardrobe, partially covered in burnt clothing. His back was against the back corner of the cupboard, with his head resting against the rear wall and his front and left sides exposed to the room.

## **INVESTIGATIONS**

### *Forensic Pathology investigation*

5. For identification purposes, scientific analysis was required, via the use of deoxyribonucleic acid (DNA) comparison. As a consequence, I am satisfied that the identity of the deceased was Robert James Alexander Angus Anstice.
6. Dr Malcolm Dodd, Forensic Pathologist at the Victorian Institute of Forensic Medicine performed a full post mortem examination upon the body of Mr Anstice and referred to the Victoria Police Report of Death, Form 83. At autopsy, Dr Dodd identified extensive soot deposition within Mr Anstice's major and minor airways, and evidence of the inhalation of carbon monoxide. Dr Dodd also observed cardiomegaly.

7. Toxicological analysis of post mortem heart blood identified carboxyhaemoglobin at a level of approximately 56% saturation.<sup>1</sup> Dr Dodd reported that this level of saturation is in keeping with death by fire. Alcohol was also identified in heart blood at 0.09g/mL<sup>2</sup> and vitreous humour levels at 0.13g/100mL. Dr Dodd opined that the vitreous levels were a better indicator that alcohol was present while Mr Anstice was alive. He added that the presence of alcohol may have been a contributing factor in this case and ascribed the cause of Mr Anstice's death to smoke inhalation and the effects of fire.

#### *Police investigation*

8. The Victoria Police Arson and Explosives Squad investigated the fire at the Kialla property and did not identify any signs of third party involvement. Forensic Officers from the Victoria Police Forensic Services Centre and CFA investigators examined the scene.
9. Detective Senior Constable (DSC) Peter Aitken, the nominated coroner's investigator,<sup>3</sup> conducted an investigation of the circumstances surrounding Mr Anstice's death, at my direction, including the preparation of the coronial brief. The coronial brief contained *inter alia* statements made by Mr Anstice's sister Julieanne Anstice, neighbour Mark Warren, friends and colleagues at SPC Justin McAlpine, Brett Maag, Robert Freeman, Steven Williams and Martin Griffiths, and Forensic Officer at the Victoria Police Forensic Services Centre George Xydias. A CFA Fire Report by Investigator Alan Eley was also included in the brief.
10. Mr Anstice's sister Julianne Anstice stated that he recently had a partner in Laos named Mon. She reported that her brother had been through some hard times in the past and had suffered from depression. However, he had recently been really content; things appeared to be working out for him and his future plans were making him happy. Ms Anstice said she could say categorically that Mr Anstice was not depressed or suicidal at the time of his death.

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<sup>1</sup> Levels of carboxyhaemoglobin that exceed 30% saturation, alone, may be life threatening. In victims of fire, post mortem carboxyhaemoglobin concentrations ranging from 25% to 85% have been reported.

<sup>2</sup> This compares with the 0.05g per 100ml being the legal limit for blood alcohol concentration for fully licensed car drivers.

<sup>3</sup> 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 corner.

### The property

11. Police observed that Mr Anstice's residence was made of corrugated iron or tin sheeting, with internal chipboard and wooden framing. There was only one point of entry; the door was at the northwest corner of the residence. There were two windows either side of the front door and no other windows throughout the building. DSC Aitken noted that the bedroom Mr Anstice was located in was at the other end of the residence from the front door. He added that for a person to exit the residence from the bedroom, they would have to travel approximately 20 metres from one end of the building to the other. There did not appear to be any mode of ventilation other than the front door and an air conditioning unit in the western wall of the property.
12. DSC Aitken stated that he liaised with the Greater Shepparton City Council regarding the status of the property and was informed there had been no building permits or applications made in respect to 110 Watt Road, Kialla. In a letter dated 9 October 2015, Manager of Building Services at Greater Shepparton City Council, Robert Frame explained that the building could only be classified as a class 10a non-habitable building or structure. Mr Frame added that a Class 1a single dwelling would require a planning permit for the construction of a dwelling on the land; the planning scheme otherwise prohibits the construction of a dwelling on the land.
13. In a letter to DSC Aitken dated 20 October 2015, Marcus Hann of LG Valuation Services Pty Ltd noted that his company is contracted by the Greater Shepparton City Council to perform a municipal revaluation of all properties every two years. The company is required to do a kerbside inspection to gather information to perform the revaluation. The most recent inspection occurred on 7 September 2015, when the inspector confirmed that the improvements on the property were that of 'old sheds and stables'. Mr Hann noted that according to the company records, the land area is 1.25ha and falls under the Urban Flood Zone.
14. Ms Anstice reported that Mr Anstice had lived at the address for approximately 16 years; he had moved in after his divorce. She added that the home was originally an open sided hayshed, in which he had placed a caravan underneath. Mr Anstice gradually started to build external walls to the existing structure and removed the caravan. Neighbour Mark Warren reported that Mr Anstice had built the place himself over time, extending and changing it. Ms Anstice said the place seemed structurally sound but was a tin shed at the end of the day. Mr Warren stated that he visited Mr Anstice a couple of days prior to his death and noticed he had removed an

internal wall, opening up the living area. He could see right through to the tin roof where the wall had been removed, and noticed exposed silvery insulation on either side of the gap.

#### Events preceding Mr Anstice's death

15. On Friday 18 September 2015, a machine broke down at the SPC plant, creating excessive workforce. Mr Anstice volunteered to leave early and departed at approximately 6.00pm. At around 10.30pm that night, Justin McAlpine arrived at Mr Anstice's home to have drinks. Their friends and colleagues Brett Maag, Steve Williams, Martin Griffiths and Robert Freeman arrived just prior to midnight. Mr Williams said that when they arrived Mr Anstice had already started drinking. Mr McAlpine said it was a cold evening so they went inside near the potbelly stove in the main area. Wood was added to the stove throughout the evening. Mr Williams added that some of the friends smoked cigarettes inside the house, and he recalled the cigarettes were put out in empty cans.
16. Mr McAlpine noted that the potbelly stove's flue went up into the ceiling and out of the roof. He said there was a gap of approximately four inches between the ceiling tiles and the flue of the wood burner. Mr Griffiths stated that the flue could have been touching the wall it was against, but he could not be completely sure. Mr McAlpine stated that the flue was a single, not triple flue so its outside surface would have been very hot to touch. At one point during the evening, Mr McAlpine looked up into the hole in the roof where the flue exited and noticed the ceiling material glowing red, similar to paper burning before it catches fire. Mr Freeman said that small sparks would fall down from the hole that the flue exited through; they were only small and would have gone out when they hit the ground. Mr Freeman added that Mr Anstice said this happened all the time and used a jug to throw water up into the hole. The flue hissed when the water hit it and the sparks went out so there were no glowing embers. Shortly afterwards, Mr Freeman noticed more sparks coming from the ceiling and more water was thrown. Mr McAlpine and Mr Williams said they never saw any fire alarms at the premises.
17. Mr McAlpine said he wondered whether by taking out the internal wall Mr Anstice had shifted something in the roof. Mr Freeman reported that Mr Anstice said the whole place had moved an inch or two when he pulled the wall out. Mr Maag reported that he noticed exposed wires in the wall from where the internal wall had been removed. Mr Williams stated that Mr Anstice said there was a new generator powering some of the appliances in the house. Mr Williams noted a number of power boards around the premises, and stated that Mr Anstice said some of the appliances were run off the mains power.

18. Mr McAlpine was the first to depart, and left at around 3.00am. Mr Maag said the friends were concerned about the potbelly stove. Mr Freeman stated that he checked the ceiling before he left and could not see a red glow, but told Mr Anstice to check the ceiling before he went to bed. Mr Maag stated that one of their friends also told Mr Anstice to sleep in the car just to be safe. Mr Griffiths observed that Anstice did not take much notice and was fairly inebriated. As he had left work earlier, Mr Griffiths believed Mr Anstice had consumed more alcohol than the others. The friends left at 4.32am on Saturday 19 September 2015.

Victoria Police Forensic Services Centre report

19. Forensic Officer George Xydias reported that the pot belly stove was an old style and made of cast iron; it was placed near the south-western corner of the main living area. It was positioned in very close proximity to the western wall, in contact with a sheet of corrugated iron that appeared to have been placed between the stove and the timber panelled inner wall. It was not possible to determine whether the stove was in use during the fire, or at what stage it had been used prior to Mr Anstice's death.
20. Mr Xydias concluded that a single fire started at the south-western corner of the living area, between the pot belly stove and furnishings at this end, possibly on or in the ceiling space immediately above the furnishings. There was exceptionally localised, intense burning in this area. The likely cause of the fire was the ignition of the available combustible materials in this region, such as the furnishing materials and carpet. From the pattern and extent of burning throughout the premises, there was no indication of the presence of any flammable liquid which would have been used for the purpose of spreading the fire.
21. Mr Xydias stated that the probable means of ignition included the overheating and ensuing smouldering or fire, caused by the pot belly stove. This was likely to have occurred in either the ceiling space, the wall cavity, or by weakening of the plastic outer sheathing on the electrical wiring through the wall, leading to an electrical fault. While no evidence of other ignition sources were found, sparks caused by a fault in the electrical wiring; a smoking related incident; or deliberate ignition by a cigarette lighter or match could not be excluded.
22. Mr Xydias added that the level of fire damage was sufficiently severe to have destroyed or concealed any smoke detector remains.

### Country Fire Authority report

23. The CFA's report noted that no smoke alarm appeared to be fitted at the premises. The block was described as semi-rural and it was stated that weather conditions did not contribute to the spread of the fire. The report noted that an internal examination of the scene indicated the bedroom did not have any windows and that Mr Anstice was trapped by the advancing flames.

### *Further investigations*

24. Following the receipt of the coronial brief, the Court requested further information from the Greater Shepparton City Council and LG Valuation Services, in relation to 110 Watt Road, Kialla.
25. Vin O'Brien, Municipal Building Surveyor at Greater Shepparton City Council sent a letter to the Court dated 10 November 2016. Mr O'Brien noted that the subject land is within the Urban Floodway Zone (UFZ) of the Greater Shepparton Planning Scheme and subject to a Bushfire Management Overlay. Under the UFZ, very few uses are permissible due to flooding, including the use of the land for the purpose of accommodation. Accommodation, including using the land for a dwelling is a prohibited use.
26. Mr O'Brien emphasised that a building permit had not been issued by the council or a private surveyor for works on this land. He added that section 16 of the *Building Act 1993* (Vic) requires that a person must not carry out building work unless a building permit in respect to the work has been issued. Moreover, the *Building Act* requires that prior to the occupation of a building, an Occupancy Permit must be obtained if the Building Permit states an Occupancy Permit is required. Buildings such as sheds are of a minor nature and are not deemed habitable, therefore do not require an Occupancy Permit – they are given a Final Certificate. Mr O'Brien stated that the council has authority under section 212 of the *Building Act* to investigate and deal with illegal building works within its municipal district.
27. In relation to the use of aerial photographs of the Greater Shepparton municipal area, Mr O'Brien stated they are general in nature and although they can be used to view buildings within the area, they are not specific to this purpose. He noted that the council has many responsibilities under the *Local Government Act 1989* (Vic), where information provided by aerial photography can assist in future planning for a broad range of issues and asset management.

28. By way of email dated 7 November, Marcus Hann, Chief Executive of LG Valuation Services Pty Ltd noted that kerbside inspections take between 30 seconds and five minutes, depending on the property type and complexity and quality of existing data. Mr Hann noted that basic residential inspections where data quality is high are quick and rural inspections where there are a number of different improvements are slower. In the case of the subject land, because the improvements were assessed to be in fairly average condition, the inspection process would have been on the quicker end of the scale. Also, because the property is situated in the UFZ, which prohibits the construction of a dwelling, Mr Hann said they would not assume that any permanently habitable dwellings existed. However, Mr Hann did acknowledge it is not uncommon in these types of locations for people to occupy sheds on a temporary/permanent/semi-permanent basis in his experience.
29. Mr Hann noted that the valuer advised he did not undertake anything other than a standard cursory kerbside inspection, and did not attempt to ascertain whether or not someone was living at the property on the date of the inspection on 7 September 2015. In addition, the valuer could not recall whether someone was or was not living at the property.
30. Mr Hann also forwarded an email dated 21 October 2016 to the Court, from the valuer Neale Hawks. Mr Hawks noted that the inspection process involves the verification of data relating to land and structural improvements, held on the valuation database for each property. It involves inspecting a large number of properties for the day, and physically entering properties and following up permits with council building departments is only done when there is a substantial new building constructed. Mr Hawks noted that in this case and in this area in general, there were only a couple of old sheds that could have been used for storage or weekender/getaway properties. The area is a UFZ and would not allow for any dwellings to be constructed. As a result, Mr Hawks did not believe the buildings to be a permanent residence.

## **COMMENTS**

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

1. It is difficult to reconcile that Mr Anstice was able to live at 110 Watt Road Kialla for approximately 16 years, building the structure over time and extending it without applying for a building permit, but did not come to the attention of the authorities. It is concerning that the Greater Shepparton City Council, with the assistance of LG Valuation Services Pty Ltd, was



apparently collecting rates from Mr Anstice throughout this period and conducting kerbside inspections, without any apparent awareness that he was inhabiting what has been deemed a class 10a non-habitable building.

## RECOMMENDATIONS

Pursuant to section 72(2) of the **Coroners Act 2008**, I make the following recommendations:

1. With the aim of preventing like deaths, **I recommend** that the Greater Shepparton City Council conducts an audit on properties within the municipality that are assumed to be uninhabited, and considers how it can better use its authority under section 212 of the *Building Act 1993* (Vic) and be alert to, investigate and deal with illegal building works within its district.

## FINDINGS

Mr Anstice's death is a terrible reminder of the importance of fire safety awareness and adhering to safe building practices and regulations.

The evidence suggests that Mr Anstice was complacent about the dangers posed by the ad hoc construction and ramshackle structure of his property, in which the sole external door and two windows were located on the opposite side of the building to his bedroom. I note that there do not appear to have been building permits or applications made through the Greater Shepparton City Council regarding the property and that it was thus classifiable as a class 10a non-habitable building or structure.

The evidence available to me supports a finding that the fire at 110 Watt Road Kialla began in circumstances where the overheating and ensuing smouldering of the pot belly stove has ignited the wall or ceiling space in the early hours of 19 September 2015. This has occurred on a background of Mr Anstice recently removing an internal wall which possibly shifted the building's structure slightly; and the observations of friends that sparks were visible near where the pot belly stove's flue exited the ceiling just a few hours prior to Mr Anstice's death. I note that friends of Mr Anstice expressed concerns about the pot belly stove prior to departing that morning, and I further note the role that intoxication has possibly played in Mr Anstice's apparent complacency about the inherent dangers of the situation. In the circumstances, I find that Mr Anstice's death was preventable.

I accept and adopt Dr Malcolm Dodd's forensic pathology report and find that the cause of Robert James Alexander Angus Anstice's death was smoke inhalation and the effects of fire.

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:

Ms Kylie Savage

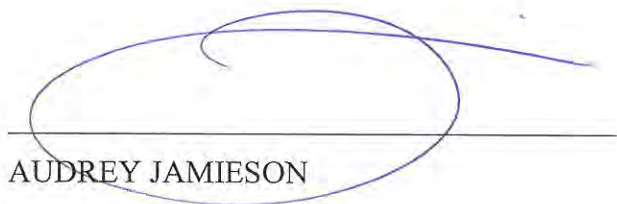
Mr Vin O'Brien, Greater Shepparton City Council

Mr Marcus Hann, LG Valuation Services Pty Ltd

Municipal Association of Victoria

Detective Senior Constable Peter Aitken

Signature:



AUDREY JAMIESON

CORONER

Date: **23 November 2016**

