



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquiry into a fire at 167 Parramatta Rd, Auburn
Hearing dates:	30 October 2017
Date of findings:	30 October 2017
Place of findings:	State Coroner's Court, Glebe
Findings of:	Deputy State Coroner T O'Sullivan
Catchwords:	CORONIAL LAW – Fire inquiry Deliberately lit fire s. 30 (1) Coroners Act 2009
File number:	2015/181217
Representation:	Mr Durand Welsh, Advocate Assisting Jehane Ghabrial representing Anes Harambasic and Mikael Mohmand
Findings:	Cause of fire: Deliberate pouring and igniting of an accelerant, petrol, by unknown persons. Origin of fire: A steel pedestrian door at @Fitness Gym at 167 Parramatta Rd, Auburn.

Introduction

This is an Inquiry under s.30 (1) of the *Coroners Act 2009*, concerning a suspicious fire that occurred on 2 June 2015 at the commercial premises of @Fitness Gym, located at 167 Parramatta Rd, Auburn. The officer in charge, Detective Senior Constable Davis, was the only witness to given evidence at the inquiry. I rely on his evidence and the evidence contained within the three volume brief tendered at the inquiry.¹

The evidence

@Fitness Auburn Pty Ltd

Anes Harambasic and Mikaiel Mohmand were the directors of the business known as @Fitness Auburn Pty Ltd. In September 2012 they registered @Fitness Auburn Pty Ltd with ASIC. On 1 March 2013, @Fitness Auburn Pty Ltd commenced a commercial lease with Kayik Trading Pty Ltd for a period of five years with an option to extend for a further 10 years. @Fitness Auburn Pty Ltd commenced trading in July 2013 as a 24 hr gym.

The premises occupied a two story building on the northern side of Parramatta Rd. The premises included a paved car park on the eastern side, accessible from Parramatta Rd. They offered the usual gym services including two cardiovascular training areas, weight training and a spin cycle room. Personal training services were offered in addition to a crèche and cafe. The gym also contained a 'female only' area to cater to Muslim women. The cafe, however, had not traded in the 12 months preceding the fire.

On 28 February 2015, @Fitness Auburn Pty Ltd took out an insurance policy with Hollard Insurance. The policy included \$1 850 000 for contents cover, \$250 000 for accidental insurance and \$1 000 000 in business interruption insurance.

The events of 2 June 2015

About 4 a.m. on 2 June 2015, Mr Anthony Vizas attended the gym intending to use the facilities. Upon arrival he parked in the gym's car park and had a cigarette next to his car. He smelled smoke and noticed condensation forming under the awning. Looking up, he noticed smoke forming on the roof above the middle of the gym. As the minutes passed, the smoke became thicker. He observed that the smoke was primarily in the middle of the building. He also observed that the fire escape door at the top of the stairwell at the car park rear was wide open.

At 4:13 a.m. Mr Vizas called Auburn Police Station and reported the fire.

NSW Fire and Rescue attended shortly afterwards and gained initial entry through a roller door using a petrol powered saw. Fire crews were also able to observe a large

¹ Brief of evidence [Exhibit 1]

fire internal to the building through the fire escape doorway at the building's rear. Fire crews subsequently extinguished the fire.

The police investigation

In the course of investigating the fire, Detective Senior Constable Davis obtained and viewed CCTV footage from the BP service station on the corner of Parramatta Rd and Stubbs St, Auburn. This footage shows a silver BA series Ford Fairmont Ghia four-door sedan travelling east in the direction of @Fitness gym at 9:50 p.m. on 1 June 2015. The vehicle features distinctive rims, a tow ball, a brake light on the back parcel shelf and rear vision mirrors the same colour as the body paint.

Around 9:50 p.m. on the same date other CCTV captured the vehicle entering the @Fitness gym car park. The vehicle made a sharp left turn and came to a stop just outside of the camera's field of view. This same CCTV footage captured an unidentified person walking from the direction of the vehicle to a dumpster below the fire stairs. The unidentified person walked back towards the vehicle before returning again to the dumpster.

Around 9:52 p.m. CCTV footage captured headlights being turned on and the vehicle re-entering the camera's line of sight as it reversed toward the dumpster, apparently in preparation to exit the car park. A CCTV camera across the road from the @Fitness gym captured the vehicle leaving the premises and then travelling east along Parramatta Rd.

Around 2:30 a.m. on 2 June 2015, CCTV captured a pair of unidentified persons walking towards the @Fitness gym. The first was wearing white paper 'coveralls' and a yellow reflective vest. The second was wearing black clothing and also wearing a yellow reflective vest.

At 2:35 .a.m. the pair walked to the dumpster where they remain out of sight. Senior Constable Davis believes that they collected jerry cans of fuel left behind by the unidentified person who earlier exited the silver BA series Ford Fairmont Ghia. They wait until a patron of the gym, Mr Mohammed, exits the gym at 2:45 a.m., before the person wearing the coveralls proceeds to the fire escape stairs and enters the building.

This person then pours at least five containers of liquid believed to be petrol throughout the gym. Portions of this action are captured on CCTV within the gym. The CCTV captures this liquid being poured liberally over gym equipment and flooring in multiple rooms.

The person with coveralls is then seen on external CCTV to depart the vicinity of the gym via Parramatta Rd. The person in dark clothing remains within the car park area. At roughly this time there are short sporadic flashes suggestive of attempts to ignite a fire. Shortly thereafter, a small fire does ignite in the carpark, but it does not spread to the building. Detective Davis gave evidence that it is sometimes a practice for petrol to be poured in a trail to a fuel load to allow ignition from a distance. It is likely that this was the reason for this first ignition some distance from the building. However, in this instance the first fire did not spread from its initial location in the car

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park and therefore it cannot be said this is the origin of the fire that ultimately destroyed the premises.

The second person, dressed in dark clothing and a reflective vest, can then be seen moving close to a steel pedestrian access door at ground level near the car park. The pedestrian door then ignites in flame and the person in dark clothing is seen departing the scene on foot down Parramatta Rd.

Senior Constable Davis gave evidence that he believes this ignition at the steel pedestrian door to be the origin of the fire at 167 Parramatta Rd. He believes the fire spread through the closed door and into the interior, aided by the accelerant earlier distributed throughout the premises by the person in white coveralls. The person in dark clothing is captured on CCTV immediately leaving the location on foot across Parramatta Rd.

Investigation by Fire Investigator Bertoldi

Fire investigator Gian-luca Bertoldi attended the location of the fire on 2 June 2016 at 8:30 a.m. He observed that the door at the top of the stairwell in the far right corner of the building, the fire escape door, showed evidence of recent mechanical damage. The timber door showed signs of tampering and the locking plate itself had been broken off. This is the point of entry of the coverall wearing male who distributed accelerant throughout the gym interior.

Immediately inside the doorway, on the floor and up against the skirting board on the right hand side, was a black plastic spout with a black plastic threaded collar identical to those supplied with plastic fuel containers. During the examination of the scene by NSW Fire and Rescue and police, two identical black plastic spouts were also located on the other side of an adjoining fence.

While conducting his external examination, Bertoldi detected a strong odour of an ignitable liquid similar to petrol coming from the building. Bertoldi concluded his external examination at 9:45 a.m.

At 10:00 a.m. K9 handler Joel Walton and K9 team leader Philip Etienne arrived on scene with K9 "Opal" to conduct a scene examination. K9 Opal was deployed and gave positive indications that ignitable liquid was present at several locations inside and outside of the building. Guided by positive indications from K9 Opal, samples of rubber matting were removed by Crime Scene Officer Rani Hulme from the inside of the building.

K9 Team Leader Philip Etienne also located a fourth plastic spout in a large commercial rubbish bin close to the stairwell near the far right hand corner of the building. The spout was identical to the three previously located spouts.

At 10:35 a.m. Bertoldi commenced his internal investigation at the doorway at the top of the stairwell in the right hand corner of the building. He observed that the doorway led through a short passage and onto a mezzanine level that showed severe fire damage. There was a strong smell of ignitable liquid. Bertoldi did not enter the

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mezzanine level due to safety concerns. The mezzanine level visible from the passage showed approximately 90 percent of the internal fit-out to be completely destroyed by fire. The damage was consistent with the high heat release associated with fires involving large volumes of an ignitable liquid.

Bertoldi exited the building and re-entered at ground level via the front right hand corner. He noticed a broken glass entry door to the gym and an office with a broken door. He detected a strong odour of an ignitable liquid similar to petrol. Further into the building he examined the main gym area, which was severely fire damaged. Heavy duty rubber mats that comprised the floor covering had burned away in areas and lifted and warped in other areas. The water trapped under the matting showed an oily film floating on the surface.

Bertoldi walked across the foyer to the left hand side of the building where a stairwell was located. The second level foyer had minor smoke and heat damage and smelled strongly of an ignitable liquid similar to petrol.

Bertoldi located a yellow plastic fuel container within the central passageway off the foyer. It contained a liquid that smelled like petrol and K9 Opal later gave a positive indication that the container had been used to store an ignitable liquid. There were three rooms leading off to the sides of the passageway and a double doorway leading to the main area of the mezzanine. These doors appeared to Bertoldi to have been forced from within the mezzanine area. He later confirmed that fire-fighters had not forced these doors.

On the other side of the double doors was the mezzanine area, which exhibited severe fire damage.

Bertoldi concluded in his statement that the classification of the fire was “incendiary”. An incendiary fire classification is defined in the “Guide for Fire and Explosion Investigations” as a fire that is deliberately set with the intent to cause a fire to occur in an area where the fire should not be.

He based his finding of an incendiary classification on the following:

1. There was evidence of forced entry to the premises during the early hours of the morning
2. There were the remains of four fuel containers found at the scene, one of which was intact and capable of storing twenty litres of ignitable liquid
3. The fire damage that he observed, combined with the strong odour at the scene, is consistent with the number and volume of fuel containers that had been introduced to the scene
4. The presence of ignitable liquid at ground level on both levels indicates that large amounts of ignitable liquid had been poured inside the premises
5. A gym occupied the premises and as such the presence of ignitable liquid was not common to the scene and was probably introduced

Investigation by Crime Scene Officer Hulme

Senior Constable Rani Hulme attached to West Sydney Crime Scene also conducted an examination of the premises. I will recount the main points of his statement here, noting that there will be some overlap with Bertoldi's observations.

Hulme notes that a steel access door allowing entry into the building was locked and secured. There was smoke damage at the top of the door and "clean burn and oxidisation" at the bottom, indicating direct flame impingement in this area for an extended period of time. This is the same doorway Senior Constable Davis referred to in the CCTV footage as the origin of the fire.

Hulme collected as an exhibit a black plastic corrugated pouring spout from a skip bin in the car park. Behind a Colorbond fence at the edge of the property, Hulme located two further black corrugated pouring spouts.

Hulme notes that there was an entry door on the upper level in the north eastern corner, accessible from the carpark via a metal staircase. The door was timber with a locking handle. The striking plate was missing and the frame had split vertically where the striking panel had been. There were jemmy marks on the door around the tongue. These jemmy marks are inconsistent with any NSW Fire Brigade entry tools or techniques.

The door provided access to a short hallway that had heat and smoke damage. Immediately inside the door was another black plastic spout. On the right side of the hallway there was a doorway leading into a room containing electronic media equipment. There was smoke damage to the room but no evidence of direct flame impingement. Hulme later collected the hard drive from this room as an exhibit.

During inspection of the building, Hulme entered a walkway off the women's only gym area that ran in a north/south direction to the mezzanine level. There was heat and smoke damage to the southern end of the walkway. The ceiling at the northern end of the walkway had been consumed and the paint was peeling off the walls, indicating that the temperatures had been higher at the northern end.

Hulme observed a 20 litre plastic jerry can on the floor near the southern end of the walkway. The jerry can contained an amount of liquid. Hulme later collected a sample of the liquid and the jerry can as exhibits.

At the northern end of the walkway were double timber doors. Damage to the doors was indicative of direct flame impingement. Heavier soot deposits on the northern side of the door frame indicated that more fire activity had occurred on that side of the door.

Hulme examined a bike room on the western side of the walkway, determining that direct flame impingement had occurred in this room. The mezzanine level was severely fire damaged and Hulme could not access it to conduct a full examination. As also described by Bertoldi, fire detection dog Opal made a positive detection in the women's only section of the gym. Hulme referenced this location with a marker A and later collected a sample of the rubber flooring at the location. Additionally, Hulme

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also took a sample of flooring from the south western corner of the women's only area as a control.

A certificate of analysis was obtained from Forensic Analytical Science Services and the certificate states that petrol was present on the sample of flooring Hulme collected at marker A and in the liquid Hulme obtained from the jerry can. Hulme is in agreement with Bertoldi that the fire was deliberately lit. Hulme believes petrol was used as an accelerant. He believes the fire was ignited from the car park on the eastern side of the building where a trail of petrol was poured to the pedestrian access door and lit using an unknown ignition device. Hulme bases his opinion on the oxidisation on the external side of the steel pedestrian door as well as CCTV footage.

However, I find Detective Davis's analysis of the CCTV more compelling. As earlier discussed, he gave evidence that a fire was ignited in the car park with the likely intention that it would spread to the door, but this failed to eventuate. The person in dark clothing then directly approached the steel door and applied a source of ignition to it.

Detective Davis gave evidence that he was unable to determine what device had been used to ignite the accelerant. Matches, cigarette lighters and gas lighters are all possibilities. However, it is sufficient to say that while there are multiple potential devices, they all have equivalent effects once the accelerant has ignited.

Investigation into the Identity of the Individuals Responsible for Lighting the Fire

In respect of the identity of the individuals responsible for lighting the fire, a comprehensive investigation was undertaken. The investigation sought to identify the driver of the BA series silver Ford Fairmont Ghia sedan believed to have deposited jerry cans behind the @Fitness dumpster. It also sought to identify the two persons directly involved in lighting the fire.

In their inquiries, investigator's spoke several times to the directors of @Fitness, Mr Mohmand and Mr Harambasic. Both denied any involvement or connection to the fire. Investigators also employed a forensic accountant to examine the @Fitness business records. They also arranged for forensic examination of motor vehicle BS-09-TL, which is a BA series silver Ford Fairmont Ghia sedan in the possession of Omar Salti, a friend of Mr Harambasic and Mr Mohmand.

The brief of evidence, which was tendered, details the investigation into the identities of suspects and the financial position of the business, but it was not the purpose of the coronial inquiry to explore in depth that aspect of the investigation. Detective Davis indicated in evidence that his current position on the 30 October 2017 is the same as that expressed in his statement within the brief of evidence: he is unable to conclusively identify any of the parties involved in lighting the fire. He also conceded that although he refers in the brief of evidence to the two persons directly involved in

spreading the accelerant and lighting the fire as male, there is a potential for them to be female.

Findings

I find the cause and origin for the fire at 167 Parramatta Rd, Auburn, on the 2 June 2015, to be the following:

Cause of fire:

Deliberate pouring and igniting of an accelerant, petrol, by unknown persons.

Origin of fire:

A steel pedestrian door at @Fitness Gym at 167 Parramatta Rd, Auburn.

I close this inquiry.

T. O'Sullivan
Deputy State Coroner

30 October 2017