



CORONER'S COURT

Name of Deceased: Alec Samuel MEIKLE

File Number: 2010/433582

Hearing Dates: 26 October & 19 December 2012,
1 November & 2–12 December 2013

Location of Inquest: Coroner's Court Glebe, &
Downing Centre, Sydney

Date of Finding: 30 January 2015

Coroner: Paul MacMahon
Deputy State Coroner

Representations: Mr S Kelly and Ms S Harding-Coronial
Advocates Assisting the Coroner,
Mr W Walsh-The Meikle Family,
Mr R Reitano – Workcover NSW,
Mr G Hatcher SC and Mr D Kelly-Downer
EDI,
Ms S Beckett- Western Sydney LHD,
Mr R Hudson-Colin Wiggling, Keith
Sheehan and David Hall,
Mr S Cunningham for William Townsend,
Mr M Schwab for St Stanislaus
College, Bathurst, and
Mr B Ralston- Ben Eagle

Findings:

No Findings or Recommendations are made in accordance with the provisions of the Coroners Act 2009 due to lack of jurisdiction to do so.

Paul MacMahon
Deputy State Coroner
30 January 2015

Reasons:

Introduction:

Alec Samuel Meikle, who I will refer to as 'Alec' in these Reasons, was born on 11 September 1991 in Auckland, New Zealand. He was the youngest of three children of Richard and Andrea Meikle. The Meikle family had moved from New Zealand to Australia in 2002 and commenced living in the Bathurst area of New South Wales.

Alec had begun his schooling in New Zealand and on his arrival in Australia commenced year 6 at the Bathurst West Primary School in 2003.

Following the completion of his primary schooling Alec enrolled at St Stanislaus College at Bathurst where he undertook year 7 (2004) and year 8 (2005). In 2006 he transferred to Bathurst High School for year 9 (2006) and year 10 (2007).

From about year 9 (2006) Alec looked forward to turning 15 so that he could leave school. He did not see himself as being an office worker but wanted to get a job in a trade. He was mechanically minded and sought to improve his chances of obtaining an apprenticeship by enrolling in gas, metal and arc-welding courses at TAFE. He also obtained a casual job as a weekend store hand at a local business known as 'Metaland'.

Alec had a number of interests and hobbies including go-karts, motorbike riding and computer games. He joined the Orange Go-Kart Club and bought himself a second-hand go-kart. In 2008 he also purchased a 250cc motorbike.

In 2007 he began looking for an apprenticeship to commence after he completed year 10. Towards the end of that year he was offered apprenticeships at two firms; Carters Engineering and Downer EDI (which I will refer to as 'Downer'). Alec decided to accept the offer of the apprenticeship offered to him by Downer. Downer was a company that

specialised in design, manufacture, commissioning, servicing, maintenance and refurbishment of railway rolling stock. Alec commenced his employment at Downer on 14 January 2008.

In about March and April 2008 Alec's parents began to notice a change in Alec's demeanour. He began to use foul language and became withdrawn and aggressive towards his family. This situation worsened over time.

On Wednesday 21 May 2008 Alec returned to work after having had a day off on Monday 19 May 2008 and having been at TAFE on Tuesday 20 May 2008. On examination of work that he had been doing before he had left the previous week he believed that someone had interfered with his work resulting in him needing to redo it. This took him the balance of the day. He later said that he was criticised for taking too long to do the work.

On Thursday 22 May 2008 Alec had an incident with another worker involving the turning down of his radio. The incident was reported to his supervisor and he was spoken to about it. Alec's response to his radio being turned down was described as 'out of character'. Alec attended work on the next day with nothing controversial occurring.

The next weekend whilst he was at home Alec took exception to some noise his brother was making and physically attacked his brother. The situation was such that Mr Richard Meikle had to intervene to separate the two brothers and stop the fight. Alec then commenced hitting his father after which he stormed off to his room and slammed the door.

Sometime later, when Alec had calmed down, his father spoke to him. During that conversation Alec made a number of allegations of him having been assaulted and abused during the course of his employment at Downer. Richard Meikle recorded what his son had told him and subsequently made an appointment with Greg Smith, the Downer facility manager, in order to report what he had been told.

On 26 May 2008 Alec attended work. He travelled to work with Mr Lanarch who observed nothing remarkable about his demeanour. Mr Smith the facility manager also saw him at work that day and asked how he was. Alec replied that everything was fine. Alec did not return to work after that day.

On Tuesday 27 May 2008 Alec consulted a local general practitioner Dr Samantha Stevens where he initially presented with symptoms of depression. Alec told her that he was feeling down and anxious and was having trouble sleeping through the night. Alec said that he wanted to return to New Zealand. At the time Alec was experiencing some suicidal ideation so Dr Stevens referred him to a psychologist at Bathurst for assistance.

Dr Stevens also saw Alec on 29 May 2008 when she diagnosed him as suffering from *'depression and anxiety symptoms following workplace harassment and assaults.'* Subsequently, as well as being assisted by his treating practitioners, Alec was assessed by workplace compensation practitioners. Alec's mental health state fluctuated and at times appeared to be deteriorating. On 26 June 2008 he was referred to the Child and Adolescent Mental Health Service (CAMHS) at Bathurst. He was seen by Ms Natasha Mann the next day and presented with suicidal thoughts with some plans to 'either overdose, hang himself or to jump in front of a train'. He was assessed by Ms Mann as being a medium risk of self-harm.

On 4 July 2008 Alec was prescribed an antidepressant and referred to a psychiatrist. With this assistance Alec appeared to be improving although there were continuing concerns as to the state of his mental health.

On 25 August 2008 Alec denied that he had any suicidal thoughts and did not wish to see Ms Mann. On 27 August 2008, however, Alec became involved in a physical altercation with his father during which he grabbed his father around the neck. He later came to his parent's room crying stating that he had unsuccessfully tried to take his life in the gym downstairs using a belt that he said had snapped. He said to his father at the time *'I'm a failure, I can't even kill myself.'*

As a result of this attempt at self-harm by Alec his parents decided to bring forward the decision to return to New Zealand. On 3 September 2008 Alec and his mother left Australia and returned to Auckland.

On his return to New Zealand Alec began receiving medical and psychological assistance from a number of practitioners. He also obtained a part-time job as a builder's labourer with his uncle. Alec resided with his aunt and cousin who was the same age as he was.

Because Alec did not yet have a drivers licence his mother was driving him to and from work. On 13 October 2008, as she dropped him off at his aunt's home after work, Alec told his mother that he had had a good day at work. At the time, as far as his mother was aware, he appeared to be his normal self and there was nothing in his demeanour that caused her any concern.

At about 6.45pm that day Alec's aunt left the house to take her son to a Scout meeting. She returned home at about 9.20pm to find Alec hanging by a rope that had been attached to a stairwell bannister. Alec was deceased. The subsequent police investigation found that Alec had accessed his computer at about 8.10pm that evening and had been looking at family photos.

At the date of his death on 13 October 2008 Alec had just passed his 17th birthday.

Alec's death was reported at the time to the Auckland Coroner in accordance with New Zealand coronial legislation. In 2009 the Auckland Coroner referred the matter to the NSW State Coroner who assumed jurisdiction and directed that the NSW Police conduct an investigation into the circumstances of Alec's death.

Jurisdiction of Coroner:

The applicable coronial legislation in New South Wales at the time of Alec's death was the Coroners Act 1980 (the old Act). The Coroners Act 2009 (the new Act) repealed the old Act. The new Act commenced on 1 January 2010. The relevant coronial legislation for this Inquest is therefore the Coroners Act 2009. All legislative references in these Reasons will be to that legislation unless otherwise indicated.

Section 6 defines a "*reportable death*" as including one where a person died a "*violent or unnatural death*."

Section 35 requires that all *reportable deaths* be reported to a coroner.

Section 18 sets out the circumstances in which a coroner has jurisdiction to hold an inquest concerning a death or suspected death. Section 18(1) provides that a coroner does not have jurisdiction to hold an inquest unless it appears to him or her that:

- (a) *The remains of the person are in the State, or*
- (b) *The death or suspected death or the cause of the death or suspected death occurred in the State, or*
- (c) *The death or suspected death occurred outside the State but the person had a sufficient connection with the State, as referred to in subsection (2).*

Section 18(2) provides that a person has a sufficient connection with the State if the person:

- (a) *Was ordinarily resident in the State when the death or suspected death occurred, or*
- (b) *Was, when the death or suspected death occurred, in the course of a journey to or from some place in the State, or*
- (c) *Was last at some place in the State before the circumstances of his or her death or suspected death arose.*

Section 74(1) (b) provides a coroner with the discretion to make orders during the course of an inquest prohibiting the publication of any evidence given in the proceedings if he or she is of the opinion that it is in the public interest to do so. Section 74(3) provides that it is an offence to breach such an order.

Section 75 deals with proceedings concerning self-inflicted deaths. Section 75(1) authorises a coroner, during the course of an inquest where it appears to him or her that the death may be self-inflicted, to make certain specified non-publication orders. Where, at the conclusion of an inquest, a finding is made that the death was self-inflicted Section 75(5) prohibits the publication of a report of the proceedings unless the coroner makes an order permitting the publication of such report. Section 75(6) however permits a coroner to make such an order where he or she considers that it is desirable in the public interest for such a report to be published.

The primary function of a coroner at an inquest is set out in Section 81(1). That section requires that at the conclusion of the inquest the coroner is to establish, should sufficient evidence be available, the fact that a person has died, the identity of the deceased, the date and place of their death and the cause and manner thereof.

Section 82 (1) of the Act provides that a coroner conducting an inquest may also make such recommendations, as he or she considers necessary or desirable, in relation to any matter connected with the death with which the inquest is concerned. The making of recommendations are discretionary and relate usually, but not necessarily only, to matters of public health, public safety or the conduct of services provided by public instrumentalities. In this way coronial proceedings can be forward looking, aiming to prevent future deaths.

The Inquest:

An inquest touching the death of Alec opened at the Coroners Court, Glebe on 2 December 2013 and concluded on 12 December 2013. Ten parties, including Alec's parents, were granted leave to appear and were represented at the inquest. A six volume brief of evidence assembled by Detective Sergeant Joel Faulkner, the officer in charge of the NSW Police investigation, was tendered. The brief included the brief of evidence prepared by Inspector Ian Batty of the NSW Workcover Authority. Sixteen witnesses gave oral evidence.

Richard John Meikle, Alec's father, gave evidence. He spoke of Alec's background, schooling, future career hopes and his excitement at obtaining an apprenticeship at Downer. He also explained the changes he and his wife noticed to Alec's demeanour, language and general attitude a couple of months into his employment.

Mr Meikle said that on a weekend in May 2008 he was so concerned that he sat down with Alec and discussed his situation with him. He made notes of what he was told and later produced a typed two page document the contents of which were confirmed by Alec.

The document recorded a number of incidents that had occurred during the course of Alec's employment at Downer including allegations of work colleagues setting fire to his welding glasses whilst they were on him, holding his arm down and burning his hand with an oxy-torch, sabotaging his work and a chart that was constructed on which were recorded the errors that Alec made. This chart threatened that if Alec reached a certain number of errors a steel dildo would be inserted into his anus. The chart was known as the *Sphincter Dilation Chart*. The document prepared by his father also recorded allegations of general belittling and abuse that Alec had experienced in his employment at Downer.

Mr Meikle then went and saw Mr Greg Smith the Facility Manager at Downer and gave him the document.

Mr Meikle then outlined his observations of Alec's condition and his response to the treatment that he received. He said that by early July 2008 he and his wife had decided that Alec should leave Bathurst and return to New Zealand. Alec was also very keen to return to New Zealand. They intended to do that in about October 2008 however after the incident on 27 August 2008 when Alec attempted self-harm they brought the decision forward and it was agreed that Alec and his mother should leave earlier. They did so on 3 September 2008.

Mr Meikle was, as a father who had concerns for his son, kept in contact with Alec following his son's return to New Zealand. Indeed he initially phoned him every night. This occurred for about ten days before Alec asked him to stop.

Mr Meikle was asked whether or not Alec expressed any thoughts of self-harm to him in this time and his response was:

'No. no, on the – exactly the opposite. Exactly the opposite. After about ten days I – well, he asked me to stop ringing every night; it was embarrassing, you know, a 17 year old boy being checked on by his dad so we more or less agreed two or three time a week was appropriate and we had good chats.'

Mr Meikle outlined the medical and other support that was arranged for Alec on his return to New Zealand. He said that he was happy with the facilities that were available to assist Alec.

Dr Samantha Stevens gave evidence. She was at the time a general medical practitioner practicing in Bathurst. She first saw Alec on 27 May 2008 when he attended with his mother. At the time Alec described stress from incidents at work and felt down and anxious. His appetite was okay but he felt agitated over the weekend. He had occasional thoughts of suicide but had no plans or intent. He had no drug or alcohol issues. Dr Stevens recorded a number of allegations made by Alec including that of an assault. At the time she diagnosed that Alec was suffering from *'workplace harassment and assault (set on fire).'* Dr Stevens put him off work until there was a WorkCover workplace assessment. She also gave Alec a referral for counselling.

Dr Stevens next saw Alec on 29 May 2008 at which time Alec said that he had depression and anxiety symptoms from workplace harassment and alleged assaults. He told Dr Stevens that he was feeling better and agreed that he needed counselling. On 5 June 2008 when he next saw her he again said that he was feeling better.

On 19 June 2008 Dr Stevens saw Alec. At that time Alec disclosed that his symptoms were more serious than he had first disclosed. He said that he had been bullied from about the third day of his employment and that his depression symptoms had started about three months later. Alec also disclosed to her that in May 2008 he had had serious suicidal ideation and considered jumping in front of a train.

Dr Stevens saw Alec again on 26 June 2008 where he again expressed suicidal ideation during the previous weekend and once again considered jumping in front of a train. Dr Stevens then contacted Ms Natasha Mann, a psychologist, and asked that a risk of self-harm assessment be undertaken. She also notified the Department of Community Service as she considered that he was a young person at risk of harm.

On 27 June 2008 Natasha Mann contacted Dr Stevens and recommended that she commence Alec on the antidepressant medication *Fluoxetine*. Ms Mann also recommended that Alec be referred to a psychiatrist Dr Frukacz.

On 21 August 2008 Dr Stevens saw Alec with his mother after he had had a difficult week. He had had final sessions with Peter Perisce on 13 August 2008 and with Natasha Mann on 7 August 2008. Mrs Meikle expressed concern that Alec continued to need counselling and that it had stopped too soon. Contact was made with a new organisation 'Headspace' which was a specialist child and adolescent counselling service that had recently been established in Bathurst. An appointment was made for Alec to see them on 28 August 2008.

On 27 August 2008 Alec attempted self-harm. He reported that he had attempted to hang himself at his home using a belt however the belt had snapped. After that incident the decision was made by Mr and Mrs Meikle that Alec should return to New Zealand immediately.

On 29 August 2008 Dr Stevens received a fax from Mr Meikle asking that Alec's medical records be sent to New Zealand. Dr Stevens then had a conversation with Mr Meikle and suggested that Alec be taken to a hospital for assessment. Dr Stevens's evidence was that Mr Meikle did not think that was necessary as Alec's mood had improved since it had been decided to return to New Zealand. Dr Stevens maintained her concern and asked that the Community Mental Health Team assess Alec.

Dr Stevens saw Alec for the last time on 2 September 2008. At that time Dr Stevens considered that Alec was safe to go to New Zealand. She recorded in her notes, in part, that:

He feels much better; he is going to New Zealand with mum. His mood this week is good with no reported suicidal ideation. Sleeping well ... agrees to see new GP in New Zealand over the next week if possible. Parents aware of the importance of a mental health review urgently if suicide thoughts again.

Dr Stevens was asked her opinion as to the involvement of bullying of Alec at St Stanislaus College in the development of the condition that manifested itself in 2008. She thought that such events were non-significant and that it was the work incidents at Downer that were the precipitating factor for his condition of major depression.

Natasha Mann also gave evidence. Ms Mann is a psychologist who, at the time, was working with the greater Western Area Health Service in the child and adolescent mental health section. Alec was referred to her on 26 June 2008 for assessment. That assessment occurred on 27 June 2008. At the time of the presentation Alec expressed suicidal thoughts with plans to suicide by either an overdose, hanging or jumping in front of a train. Ms Mann formed the opinion that the risk of him self-harming was a medium one. She subsequently saw him on six occasions up until 7 August 2008 when he was discharged. She stated that her role was to assess and manage the risk that he might self-harm.

Ms Mann's evidence was that in her clinical opinion Alec was suffering from a major depressive episode and post-traumatic stress disorder (PTSD). She explained that PTSD is a condition that can develop when a person suffers, or perceives that they have suffered, a life threatening injury. She was also of the opinion that during the time that she was seeing Alec he was displaying slow but progressive improvements in his condition. Although Alec had been discharged she maintained an interest in his condition and on 25 August 2008 made contact with his family to see how he was going. She was told that he had no suicidal ideation at that time.

Belinda Jane Harris also gave evidence. Ms Harris is a psychologist who prepared a report dated 20 June 2008 as to Alec's circumstances following a request by Alliance Insurance following him making a claim for workplace injury. In preparing her assessment Ms Harris spoke, on 14 June 2008, to

Alec, his parents and Dr Stevens. She also went to the Downer facility at Bathurst on 18 June 2008 and spoke to a number of employees.

Ms Harris stated that there was nothing in the interviews that she undertook that gave her any reason to doubt that the events that Alec relayed to her were other than as Alec perceived them to be. Ms Harris was of the opinion that Alec suffered from *major depressive disorder – single episode which was mild*. She explained that she reached this conclusion because she found that Alec suffered from five or more symptoms outlined in the diagnostic and statistical manual. The disorder was described as single episode because there was no previous history of depressive disorder and mild because the range of symptoms Alec suffered was not greatly in excess of five.

Ms Harris was of the opinion that Alec's work environment was a substantial contributing factor to Alec's recent condition but that at the time of the assessment she would not have diagnosed him as suffering from a major depressive disorder. Ms Harris stated that her task, at the time of her assessment, was to determine if Alec was suffering from a psychological disorder and if so whether or not the workplace was a substantial contributing factor to the injury. She said that her function was not to form an opinion as to whether or not the workplace was the cause of his condition but whether or not the workplace was a substantial contributing factor to the condition.

Ms Harris stated that during her interview with Alec he advised her that he had been the subject of some school yard bullying as a student at St Stanislaus which had resulted in him experiencing some mild anxiety. Ms Harris was of the opinion that whilst that whilst Alec suffered from pre-existing interpersonal related anxiety and interpersonal sensitivity and that this had resulted in some vulnerability to distress it was likely to have played a very minor role in the development of his depressive disorder and was certainly secondary to the workplace practice as a contributing factor to that disorder.

Dale John Finlayson gave evidence. At the relevant time he was a psychologist at St Stanislaus College at Bathurst and held that position until 2007. He met Alec around May or June 2004 when asked to support him after he had been bullied. At the time he was highly agitated. After Alec had settled

down he explained that the source of his distress was that he was being made fun of because of his New Zealand heritage. They discussed coping strategies that Alec might follow to deal with such situations in the future. Alec subsequently reported to him that the strategies had been used by him with success.

Alec also consulted Mr Finlayson about his anxiety about being vaccinated because he was scared of needles. Mr Finlayson helped Alec deal with this issue as well. Mr Finlayson said that he saw Alec on about six occasions. Mr Finlayson was asked whether in his dealings with Alec he formed the opinion that he suffered from an anxiety or depressive condition. He stated that:

If anything I felt that he had a mild anxiety disorder, perhaps associated with the transition he'd made from New Zealand, but also coming from a co-ed state school into an all-boys private school it's possible that one can have anxiety due to that, but no, I wouldn't have suggested that it was, it was more than mildly pathological.

Mr Finlayson stated that the only time he was aware of Alec suffering from incidents of bullying was in 2004 and that he had followed up Alec's situation with his tutors, checked the record book at the school and observed him in the school grounds. As far as Mr Finlayson was aware things were going really well for Alec. He remembered seeing Alec playing handball with a group of students some of whom had been perpetrators in the earlier incident. He was of the opinion that the issue had been resolved for Alec.

Dr Andrew Frukacz gave evidence. Dr Frukacz is a psychiatrist to whom Alec was referred by Dr Stevens. He first spoke to Alec on 8 July 2008. Alec gave a history to him of difficulties he had experienced in his employment at Downer. Alec told him that he was being yelled at by his supervisor and other employees, constantly told he was doing a bad job, was burnt by an oxy torch and other matters. At the time of him seeing Dr Frukacz he was observed to be anxious. Alec also told Dr Frukacz that he had been bullied as a student at St Stanislaus College because of his background of coming from New Zealand.

At the time Dr Frukacz saw Alec he had already commenced taking anti-depressant medication and said that he was feeling better and happier. Dr Frukacz believed that he should continue on the medication for about six months.

After Dr Frukacz saw Alec he advised Dr Stevens, in part, that:

I would therefore suggest that he remain on the Fluoxetine at least for a period of six months after he returns to New Zealand and becomes settled there. At that time Fluoxetine could be reduced to 10mg mane for a period of four weeks, after which it could be ceased. However, he should continue to be assessed on at least a monthly basis by his general practitioner to ensure that there is no further deterioration in his mood.

As he has already shown improvement since going off work I do not feel that he requires any further psychological treatment at this stage unless he wishes to do some work on his self-esteem. However, if he continues to have problems with his mood, then psychological work involving counselling aimed at improving his self-esteem as well as assertiveness would be appropriate treatment.

Dr Frukacz said in evidence that he thought that Alec returning to New Zealand would be a good idea as he thought it would remove Alec from the source of his distress and place him in a supportive environment that would assist his recovery. As to Alec's prognosis Dr Frukacz thought that, so long as Alec was not in a situation of being harassed, it was relatively good.

As to the risk that Alec would self-harm Dr Frukacz thought that although unpredictable the risk was low. Dr Frukacz explained that he had reached this conclusion because:

'he was away from a stressful situation and was planning to do good things that he was looking forward to such as his return to New Zealand ...although he was anxious, he was also quite reactive so he could smile at times when talking about things in the interview that he was looking forward to. So I thought that provided he was no longer in a situation of being harassed then he had a relatively good prognosis.'

Dr Frukacz was asked whether, from his assessment of Alec, he had been able to form an opinion about the factors contributing to the development of

his mental health condition. He thought that, from the history he had obtained, the events that had occurred in Alec's employment at Downer were:

'The sole contributing factor to the development of his anxiety, depressive or post-traumatic condition. He had alluded to being harassed in the school; he had some counselling but clearly he – it never got to the point where he had to be on medication or see a psychiatrist at that time.'

It was only after Alec's death that Dr Fruckacz become aware of the attempted self-harm by Alec on 27 August 2008. As to the circumstances of Alec's death in New Zealand on 13 October 2008 Dr Fruckacz was asked whether from his assessment of Alec he had observed any warning signs of the possibility that Alec might self-harm. Dr Fruckacz said in reply:

Look this tragedy highlights the tragedy of youth suicide in general that it is an unpredictable event and there are warning or there are risk factors that people talk about and of course in Alec's case his past stating of suicidal ideation and his attempts would be one of the significant risk factors; the fact that he had been diagnosed with a mental health condition would be another risk factor, but the risk factors are very general and unfortunately we're not very good at being able to tease out the fine details of when a person is actually going to carry out threats of suicide, put those plans into action. I'm not aware of anything that will allow people to pick that up in a way that will prevent this tragedy, this tragic death, particularly in a young person where we know that young people are more impulsive, tend to be more impulsively (sis).

Dr Fruckacz whilst giving evidence was asked about whether he had, from the information he had been provided, formed an opinion as to what might have been the catalyst for the events that led to Alec's death. He said that there were various theories of suicide. He described some of the theories as follows:

Some people see it as a sort of anger expressed inwardly; other people will think of it as a statement of utter despair and hopelessness; other people will see it as an impulsive act done at a time of distress where the consequences are not thought of.

Applying these theories to Alec's situation Dr Fruckacz said that:

I think that you could kind of think of all these things but it would be difficult to point to one particular situation I guess. One would need to really kind of look at what had happened in the one or two hours beforehand, even the 24 hours beforehand because as I say particularly in people of Alec's age, these things seem to develop and develop a life of their own, very quickly for reasons that don't often make sense in looking back. It could be one particular event that has triggered off a particular experience from the past or one particular event that has made him feel in a particular way and things just come to a crescendo.

Alec was also referred to the Centacare Child, Adolescent and Family Counselling at Bathurst for counselling. He was seen by Peter Perisce a psychologist. He had appointments with Mr Perisce on nine occasions between 2 June 2008 and 13 August 2008. Mr Perisce did not give evidence but a report of his involvement with Alec formed part of the brief of evidence.

Mr Perisce administered two psychological assessment scales to Alec. The results of each scale suggested that Alec was suffering a mild level of depression. Mr Perisce considered whether or not Alec was suffering from PTSD and looked for signs of that condition when assessing him. He said that in the time he was working with Alec:

He had not observed in Alec or been informed by him of any hyper-vigilance on his behalf, startled responses, persistent re-running of the traumatic events in his mind, roller coaster emotions, any comments from him about nightmares, emotional numbing, or intrusive vivid images on his behalf.

Mr Perisce stated that Alec's presenting demeanour or behaviour in each session that he had with him was consistent with a more settled manner and that there was nothing in his manner that was observed by him during the sessions that, in his opinion, would suggest otherwise.

Alec expressed a strong desire to Mr Perisce to return to New Zealand. It was apparently a constant theme in Alec's discussion with Mr Perisce. He also expressed an ongoing disillusionment with his perceived treatment as a New Zealander in Australia.

Alec's parents were aware that on his return to New Zealand it was important that the treatment and counselling he had been receiving continue. On 5 September 2008 he saw Dr Keith Wilson at the Titirangi Medical Centre. Mr Meikle had previously asked Dr Stevens to send Alec's medical records to Dr Wilson.

Following that consultation Dr Wilson recorded that Alec had told him that he 'now feels on top of things' that he was 'quite positive' and that he was 'not currently suicidal'. Dr Wilson referred Alec to the Marinoto Youth and Family Services (Marinoto) for a risk of self-harm assessment and to Dr Kerry Gould, a psychologist, for counselling.

The Marinoto team reviewed Alec's referral on 8 September 2008 and the assessment was discussed with Mrs Meikle the same day. Marinoto notes record that at the time of the discussion Mrs Meikle considered that there had been a 'big improvement since returning to NZ' that the 'GP is monitoring antidepressant use' and that 'therapy (had been) arranged with Kerry Gould.' Consideration was given to whether or not it was necessary for there to be any further involvement by Marinoto and it was concluded that it was not necessary.

Alec first saw Dr Kerry Gould on 5 September 2008 and had a further three consultations on 23, 16 and 30 September 2008. Dr Gould received a history of minor bullying at school and workplace bullying that precipitated Alec's suicide attempt on 27 August 2008. On each consultation Mrs Meikle was present. When seen on 9 September 2008 Dr Gould found Alec to be 'emotionally labile' which, Dr Gould said, meant that he was 'sad, angry and frustrated.'

During the consultations that Dr Gould had with Alec she administered three tests. The first was the 'Children's Impact of Events Scale' in which he received a score of 23 which Dr Gould said indicated a 'post-traumatic stress response'. Dr Gould also administered a 'Pourleson Depression Test' in which he received a score of 17 which Dr Gould said was 'the threshold score indicating depression'. Dr Gould also administered a sensitivity test in which

Alec received a score of 15 out of a possible 23 which, Dr Gould said, indicated Alec was highly sensitive.'

Mrs Andrea Meikle gave a statement to the NZ Police on 13 October 2008. In her statement Mrs Meikle describes her interaction with Alec and her observations of him that day. Mrs Meikle said:

Since we have been back in New Zealand Alec has been a lot more up-beat. He has had a couple of down days, but mostly he has been fine.

I last saw Alec at about 6.30pm that evening. He was not depressed. He was his usual self. He told me that he had a good day at work.

Louise Jane Reid also gave a statement to NZ Police on 13 October 2008. Ms Reid was Alec's aunt and Alec was living with her at the time of his death. Ms Reid said:

At around 6.45pm today the 13 /10/08 I left with son Christopher for Scouts.

Before I left I thought Alec was a little more quiet than usual but I just put that down to him having a hard day at work

I asked if he was OK and he replied that he had just had a long day at work. Other than that I didn't notice anything else about him that was unusual and he seemed perfectly fine.

Ms Reid subsequently returned home at around 9.20pm to find Alec hanging. Assistance was immediately provided to Alec and emergency services contacted however it was not possible to revive Alec.

Constable Clare Rogers of the NZ Police prepared a report for the Auckland Coroner as to the circumstances of Alec's death. That report included a note that in the period shortly before his death Alec had been looking at family photos on a computer.

Downer's Employees:

Samuel Edmond Larnach commenced as an apprentice with Downer on the same day as Alec. He had known of Alec before he commenced at Downer

but was not a friend. At Downer they became friends, had meal breaks together and travelled to work together from time to time.

Mr Larnach worked in the loco shop at Downer so only saw Alec during meal breaks and whilst travelling to and from work. He remembered Alec complaining about various issues. He thought that Alec appeared agitated in the last week or so he was at work. He wasn't as talkative and appeared less keen to go to work at the time.

His memory of events was not very good however he did remember Alec complaining 'once or twice' about being called a 'fucking useless cunt.' He said that swearing was not unusual in the factory environment at Downer. Mr Larnach also remembered Alec complaining about his work being tampered with. He was asked about the existence of a 'sphincter chart'. He said that he was aware of the chart because Alec had told him about it. He said that he never saw it himself. He had the impression that Alec thought the chart was a joke. Playing practical jokes on other employees were, in his experience, not uncommon at Downer at the time.

Mr Larnach remembered a time that Alec's hand was burnt. He noticed the injury and asked Alec what had happened? Alec replied that 'I just burnt my hand.'

Jason Ian Gallagher worked for Downer from about 1994. He began work in the paint section and said that he had a hard time in the first few years at Downer. He said that his supervisor would yell and scream at him and throw things at him when he made a mistake or did not do his work to an acceptable standard.

Initially he was concerned about making a complaint however eventually he spoke to his Union representative about it. He was advised to write out what had happened. He did this and then gave it to Mr Smith the administration manager. Mr Smith acted on the complaint by moving Mr Gallagher to another section where he said he had fewer problems. He eventually was returned to the paint section where he was working at the time he gave evidence. Mr Gallagher said that he had made two written complaints in 2002 and again in

2004. Mr Gallagher acknowledged that on each occasion he had made a complaint it had been acted on by Downer management.

Mr Gallagher stated that he had observed practical jokes being played on employees and items being thrown around the factory but not at other employees. He had heard of performance charts and knew of a steel caged G-string that been constructed as a trophy as well as a half metre steel dildo that was constructed about 8 or 9 years before. He also confirmed that swearing was a part of the culture of the factory floor.

Ben Fraser Eagle also gave evidence. He had commenced as an apprentice at Downer in 2002. He began working on the bogie line in 2007 and worked there when Alec was employed on the line. At the time he was working limited hours because of an injury. He worked for four hours a day. He was asked to work with Alec and supervise his work. He did not know who supervised Alec when he was not there.

Mr Eagle stated that swearing was commonplace on the factory floor at Downer. Mr Eagle denied that he 'constantly verbally harassed (Alec)'. He remembered a situation where Alec, while Mr Eagle was assisting another employee, damaged the top and bottom of the plates. Mr Eagle stated that when he returned and saw what had happened he became frustrated and said to Alec 'You've ground the fuck out of that.' Mr Eagle said that he was frustrated as he initially did not know how he was going to be able to correct the mistake.

Mr Eagle agreed that there had been a Sphincter Chart created for Alec that was to record his mistakes. He agreed that he had been involved in its creation and that he had written on it. He also agreed that when the chart was complete Alec was to receive a steel dildo as a trophy and that the more mistakes he made the larger the dildo was to be. Mr Eagle said that the dildo was, to his knowledge, not built and was never to be associated with a sexual act. It was meant as a joke and not a threat.

Mr Eagle also agreed that there were occasions when practical jokes were played on Alec and remembers that there were occasions when he heard other employees laughing at incidents.

Mr Eagle denied that there was ever an occasion where he said to Alec that he (Alec) was 'doing a shit job and grabbed an oxy torch from Alec and held it over his hand until it burned the hand.' He also denied ever seeing Alec with such an injury. Mr Eagle stated that the temperature of an oxy flame was about 15000 degrees and if it were held over a person's hand it would cause an extremely serious burn. He said that he was never told of any burn injury suffered by Alec.

Mr Eagle also recalled Alec alleging that his work had been sabotaged and stated that, if it had occurred, he was not involved. In general terms he thought that he had a good relationship with Alec.

William James Gerard Townsend gave evidence. He commenced at Downer as an apprentice at the same time as Alec and Mr Larnach. He had not known Alec before he met him at Downer. He did not ordinarily work with Alec as he was in a different section of the factory. He did, however, from time to time talk to Alec. He said that the use of swear words was commonplace on the factory floor however when he was present he never heard anyone speak to Alec in a derogatory fashion. Swear words were used but never directed towards any of the employees. Mr Townsend said that he did not notice any change in Alec's demeanour in the time that he worked with Alec at Downer.

Mr Townsend was aware of the Sphincter Dilation Chart that was created for Alec and had seen it on David Hall's locker. Mr Townsend stated that he was involved in playing a practical joke on Alec around Easter 2008. He said that he and Alec were working together that day and became a bit boisterous. Alec dusted him with chalk dust and he later retaliated by spraying white spray paint on Alec's disposable splatter lens. As it was the end of the day Alec would not have used the welding helmet again that day. He spoke to Alec the next day to find out how Alec had responded to the joke and see if he had to change the lens. He said that he did not remember what Alec's response was.

David William Hall gave evidence. He commenced at Downer in 2002 as a trades assistant and subsequently commenced an apprenticeship. He said that he met Alec shortly after Alec commenced work there. Mr Hall said that in his experience playing practical jokes on other employees was common at

Downer. He gave examples as being turning off the gas while someone was welding, throwing water around the workshop, particularly at Christmas, and dragging – tackling someone to the ground and then pulling them through the workshop by their feet. Mr Hall said that he had been dragged.

Mr Hall said that swearing was commonplace on the factory floor however he had not heard anyone being sworn at in a derogatory manner.

Mr Hall said that he, along with Ben Eagle and Colin Wiggins, had been involved in the creation of a chart to record Alec's mistakes. He said that Alec has also been involved in what Mr Hall thought at the time was a joke. He said that the chart had been created in late February 2008. He had been involved in the construction of the chart and had made a number of the entries. He thought that Ben Eagle had come up with the name 'sphincter' for the chart. Mr Hall also said that he and Ben Eagle had thought up the prize of a steel dildo for when the chart was complete. He said that the steel dildo was never built.

Mr Hall candidly agreed that there was a threat implied that when the chart was complete the dildo would be inserted into Alec. He said that the threat was either made or implied by himself, Ben Eagle and Colin Wiggins. Mr Hall believed that Alec understood that when the chart was complete he would be assaulted.

Mr Hall also agreed that on the Thursday before Easter when Alec was welding he sprayed contact cleaner onto the bench near him knowing that the cleaner would ignite. When it did Alec's glove also caught alight and Alec had to take off the glove to put it out. At the time Mr Hall thought that what he did was a joke. He said that other people present also thought it was a joke and laughed at the time.

Mr Hall said that he did not notice any change in Alec's demeanour whilst Alec was working at Downer however he thought that Alec's reaction during an incident with Keith Sheehan was out of character. Mr Hall said that the incident involved Mr Sheehan turning down Alec's radio and Alec turning it up again on a number of occasions after which Alec called Mr Sheehan a 'silly

old cunt' and wanted to fight him outside. He said that the matter was reported and it seemed to be resolved.

Mr Hall said that he was not aware of Alec sustaining an injury with an oxy torch, having his work sabotaged or having his helmet welded. He denied that Alec was targeted or singled out by him or anyone else to his knowledge.

Keith Raymond Sheehan also gave evidence. Mr Sheehan had been working with Downer for many years. He met Alec shortly after he commenced with Downer in 2008. Mr Sheehan said that he worked in a different section to Alec and did not have much to do with him.

Mr Sheehan said that the first involvement he had with Alec was when he noticed him lifting a load with the crane and the load was swinging. He asked Alec if he had been trained to use the crane and Alec said he had not. Mr Sheehan offered to show Alec how to stop the load swinging and Alec accepted the offer. Mr Sheehan showed Alec what to do and Alec then showed that he was able to operate the crane effectively. Mr Sheehan said that Alec thanked him.

Mr Sheehan said that his next involvement with Alec was in May 2008 when he was working on top of a loco putting cover strips on and another employee was inside the loco. The radio was on and he could not hear the other employee. He got off the loco and walked to the radio. He did not see anyone. He then turned the radio down. Alec then came from where he was working and yelled at him. Words were exchanged between them and Alec threatened to take him outside. At that point David Hall came and separated them. Mr Sheehan then went and reported the incident to Colin Wiggins. Mr Sheehan said that he was surprised by Alec's reaction to the situation. He said that he did not see Alec again after the incident.

Colin John Wiggins also gave evidence. Mr Wiggins had also been employed by Downer for many years. In 2003 or 2004 he became supervisor of the bogey line which, when Alec commenced employment at Downer had about 12-15 workers on it.

Mr Wiggins said that he first met Alec in December 2007 or January 2008. He became Alec's supervisor. He said that Alec was very competent and

enthusiastic to learn. He said that although Alec made mistakes they were no more than any other apprentice would be expected to make. Mr Wiggins said that he was involved in a lot of work on the shop floor and as a result his level of supervision of Alec was not as close as it should have been. Mr Wiggins said that he did not notice any change in Alec's demeanour during the time of his employment other than thinking that his reaction to the incident with Mr Sheehan about the radio was totally out of character.

He said that he became aware of the incident when Mr Sheehan came to him and complained that Alec had sworn at him and that there had been an altercation between them. He could see that Mr Sheehan was upset by the incident. Alec did not return to work after that day.

Mr Wiggins said that he was 'very shocked' when he was informed of the allegations that Alec had made. Mr Wiggins agreed that he used swear words when speaking on the shop floor but denied that they were ever directed towards anyone. He denied that he had ever verbally abused Alec using swearwords or any other derogatory comments. He also denied that he had ever witnessed anyone else verbally abusing Alec either.

Mr Wiggins said that he became aware of the sphincter dilation chart. He denied that he was involved in its construction. He said that he first saw it when he returned to work after a trip to China in late March or early April 2008. At the time he first saw it Dave Hall, Ben Eagle and Alec were standing around it. It was on Dave Hall's locker.

Mr Wiggins described his understanding of the chart to Detective Sergeant Fawcner in the following terms:

My understanding of the chart when I found out about it was basically thereto make a trophy for the end of the year which was going to be I the shape of a penis or a big dick or something. They say the more measurements that were on it, the bigger the size it was going to be. That was my understanding of it. I've seen – I've basically seen it as a joke. Alec used to laugh at it. My understanding - well he actually contributed to the chart. He actually wrote some of his own measurements on it.

When giving evidence at the inquest Mr Wiggins said:

It just seemed like a bit of a joke, you know, just a bit of fun they were having. I didn't see any malice in it.

Mr Wiggins agreed that the existence of the sphincter dilation chart for Alec was totally inappropriate in the workplace and accepted that the existence of the chart could be distressing for the person for whom the chart had been made. He agreed that as the supervisor he should have had it removed as soon as he became aware of its existence.

Mr Wiggins denied that, before he had become aware of the allegations Alec had made, he had become aware of an incident of contact cleaner being set alight or any incident involving Alec being injured by an oxy torch. Mr Wiggins said that he had no recollection of Alec sustaining an injury to his hand and did not recall seeing Alec with a bandage on his hand.

Mr Wiggins did recall an incident when Alec came to him and said that the measurements he had done on some work on a dumpy were now incorrect. He remembered that he told Alec to redo the measurements. He did not think much of the matter because he was aware that the dumpy can easily be bumped and that would put out any measurements or settings that had been done. He was not aware until later that Alec thought his work had been sabotaged.

Mr Wiggins agreed that from time to time practical jokes were played on various workers. He could recall water-bombs being thrown at various times, had seen one worker being 'dragged' and was aware of gas being turned off while a worker was welding but had not seen it himself.

Gregory Raymond Smith gave evidence. He was initially employed by Downer in 1990 as administration manager and then became the facility manager at about the end of 2001. In both roles he was responsible for the induction of new employees. He undertook the induction for Alec and other new employees in 2008. He described the nature of the induction and the various policies that were given to new employees.

Mr Smith acknowledged that swearing was a common practice on the factory floor. He said that he did not like it himself and if an employee was to use swear words in an inappropriate situation he would reprimand the employee.

Mr Smith first became aware of an issue involving Alec at about 9am on 26 May 2008 when Mr Meikle contacted him and said that he needed to speak about Alec's employment. They arranged to meet at 4pm that day. At that meeting Mr Meikle provided a written summary of allegations to him.

Mr Smith said that he took the matter very seriously and contacted the Human Resources section of Downer about the issue. Mr Smith said that he had meetings at the Meikle household on three occasions (27 May 2008, 29 May 2008 and 5 June 2008) in order to clarify the issues that needed to be addressed.

On 27 May 2008 after Mr Smith became aware of the '*sphincter dilation chart*' he went to the factory floor and found it in order to remove it. When it was found it was not in full view as it was covered by technical drawings. It was then photographed in situ and removed.

Expert Medical Review:

Dr Yvonne Skinner was asked to review on my behalf the various medical and other records that had been collected during the investigation into the circumstances of Alec's death and provide an expert report. Dr Skinner is a highly regarded consultant psychiatrist. Dr Skinner also gave evidence at the inquest.

Having reviewed the history she had received and considered the medical and other information available Dr Skinner formed a number of opinions relating to the circumstances that resulted in Alec's death including:

- Alec's case was a complex one,
- The bullying that Alec experienced at school sensitised him to the subsequent events he experienced in his employment at Downer,
- The incident on 26 May 2008 where Alec, out of character, displayed aggression towards another employee was an indication that Alec was not coping any longer with the environment in which he was working.

- That he'd been subjected to bullying *and the incident had just all crystallised out at that point.*
- That major depression was the appropriate diagnosis for Alec's condition at the time when Dr Stevens first saw him,
- That the medical and other treatment provided for Alec by Dr Stevens, Dr Frukacz and other practitioners in New South Wales was appropriate,
- That the prescription of antidepressant medication to Alec was appropriate and that Fluoxetine was an appropriate antidepressant in the circumstances.

Dr Skinner was more concerned about the care and treatment that was provided to Alec once he reached New Zealand. She noted that the Mental Health Service did not accept the referral of Alec to the service by Dr Wilson. Dr Skinner considered that given his history and the recent attempt at self-harm Alec should have been accepted and reviewed by a psychiatrist.

Dr Skinner was also concerned about the treatment Alec received from the psychologist Dr Gould. She considered that the notes suggested that Alec was continuing to suffer from depression and that the approach that seemed to be taken by Dr Gould was to emphasise the positive when it might have been the case that Alec was not ready for such therapy at the time. Dr Skinner described her concerns as follows:

I think it is an approach that I would not have taken with a person with that history of depression. It seemed to me from what I can understand of the sessions, that they were kind of – what could be described as perhaps cognitive therapy, trying to – to get him to take a more positive attitude, to learn to deal with problems which may not have been appropriate for the person in his state of mind. That perhaps needed a different approach because he had been really quite depressed and perhaps was not as well as she thought he was. Perhaps – what I mean is perhaps he was not in a position to benefit from that kind of approach.

Dr Skinner thought that had Alec been referred at the time to a psychiatrist for assessment:

Then perhaps they might have better appraised the depth of his depression and the extent of the problems that he was experiencing.

Dr Skinner was asked about precursors of youth suicides in general. She said that it was a complex issue and that:

It depends on many different factors including the personality and the underlying personality characteristics and coping strategies of the particular individual person and then the prior history, as we've said the difficulties he had at school in this case and in this case the workplace bullying and probably other factors that we might not know about are important, important factors, and in this case the previous attempt at self-harm is always a risk factor. So in an adolescent who has had a history of previous self-harm that would be important to recognise as a risk factor and then the kind of social supports, family supports which of course Alec had. All those things are important and his perceptions, the adolescent person's perceptions of what is happening, his goals and his values, all those things are important.

Dr Skinner was asked about the connection between Alec's experience in the work environment at Downer and the development of the severe depression that resulted in him leaving work and whether that severe depression was caused by the experience of bullying at Downer. Dr Skinner responded by saying:

What I meant was it's one of a number of important factors. It's a significant contributing factor but not the only factor

Dr Skinner was also asked about the effect on a person such as Alec of the 'Sphincter Dilation Chart', the recording of mistakes on the chart, the displaying of the chart on the locker wall and the prize for completing the chart of a steel dildo. She responded by saying:

Well I think yes, I think for any 16 year old it's a humiliating and very frightening situation, humiliating because other people can see it, frightening situation and for this young persons he was perhaps a bit more immature and more sensitive than some other 16 year olds, it was particularly serious for him, but would have been serious for anybody.

Dr Skinner was also asked, in general terms, whether a condition such as that suffered by Alec would result in a gradual onset and deterioration or the subject of a specific trigger. Dr Skinner thought that it was more likely that it would be a specific trigger but such trigger might have been acting on a person who was already vulnerable for other reasons. She also thought that the trigger may not be something that would appear to be important to other persons but would be very important to the person concerned.

Senior Counsel appearing for Downer asked whether or not she agreed with a number of general propositions that were put to her. In general Dr Skinner agreed with some of the propositions put, in particular, that:

- Self-reporting of people suffering clinical depression may not chronicle traumatic events accurately,
- There is likely to be a correlation between the degree of inaccuracy and the level of stress to the point where particularly stressful events may be omitted completely,
- If an adolescent suffers clinical depression and during a period of stress inaccurately chronicled history, and in so doing has implicated friends, feelings of guilt and self- deprecation will be exacerbated, thereby aggravating the condition,
- There is no direct correlation between clinical depression and suicide and that suicide is a rare event,
- If depression is caused by environmental factors then, whatever the factor is, if you remove the person from the environment then you would expect the person to recover,
- The re-emergence of clinical depression symptoms is suggestive of a re-emergence of particular stressors,

In amplification of the second last proposition when questioned about whether or not she thought that Alec's condition of depression was unresolved when he went to New Zealand Dr Skinner said:

Yes I think he did, I mean I think it is a simplistic proposal to say like I think when I answered the question I was saying in a – if the

environment is causing the depression if that is causing the stress and you remove them from threat environment, in a simple case if that is the only issue then you would expect it to resolve but in this case it is quite a complex case with a longitudinal history and I don't think from all the accounts that I've read I don't think that the depression had resolved when he went to New Zealand.

Dr Skinner was also asked by Senior Counsel appearing for Downer whether further investigation of various matters that were put to her would assist in understanding the circumstances of Alec's death. Dr Skinner, as one would expect, indicated that all information, even negative information, is helpful in trying to reach and understanding of the circumstances that lead to a person's death.

Consideration and Conclusions:

There are many aspects of this case about which there is little, if any, controversy.

It is very apparent that Alec came from a loving, caring and supportive family. The involvement of Alec's parents is advising and supporting him in his life decisions, arranging for medical, psychological and other care and being prepared to uproot themselves and return to New Zealand when they thought that was best for him shows a high level of commitment to his welfare that is most commendable. The manner in which his siblings spoke of him also attests to the closeness of the family.

Alec experienced some difficulty in his transition from New Zealand to Australia and that he had some incidents of bullying whilst at school. The evidence is that those difficulties, to the extent that they were known at the time, were managed appropriately but may have resulted in Alec being more vulnerable to future difficulties.

Alec was a sensitive young man.

At the time Alec left school and commenced as an apprentice at Downer he was in a positive state of mind and was looking to the future with enthusiasm. The evidence is also that as a person commencing his trade training he was bright, enthusiastic to learn and competent in what he did. He had his future before him.

There is also no doubt that during the course of his employment at Downer Alec experienced a variety of incidents that either were, or were perceived by him to be, harassment. These included incidents that were thought to amount to practical jokes by his work colleagues. This led to a situation where he came to suffer a serious mental health condition.

There is little doubt that by May 2008, if not earlier, Alec began to suffer from clinical depression. It is uncontroversial that Alec's employment at Downer was a significant contributing factor if not, as Dr Fruckaz considered, the precipitating factor, that led to the development of this major depressive condition.

The most egregious of the incidents that Alec suffered in his employment with Downer was that involving what has been known as the *sphincter dilation chart*.

When it was created this was seen as a 'joke' on the part of Alec's work colleagues and it would seem that Alec had some involvement with it. This involvement was interpreted by his colleagues as being him '*playing along*' with the '*joke*'. In reality however Alec, as a young 16 year old, had little choice but to '*play along*' with the joke.

Dr Skinner has eloquently described how the existence of such a chart would humiliate a young man. I do not need to repeat her description here. I am in no doubt that the existence of the chart would be a constant humiliation to Alec and the possibility of him being assaulted with the '*prize*' or '*trophy*,' even if there was no real intention to do so by the perpetrators, would add fear and anxiety to humiliation.

On the evidence available there is little doubt that Ben Eagle and David Hall were the creators of the chart. I accept Colin Wiggins evidence that he was on leave when the chart was created however, as the supervisor, he bears a significant responsibility for the damage that the chart caused by not having it removed and destroyed when he became aware of it. Indeed by not doing so Mr Wiggins implicitly gave official endorsement to its existence.

Alec also gave a history of an incident in which a fellow employee took an oxy-torch from him and held the lighted fire above his hand until he was burnt. I do not think that the evidence available supports the suggestion that this happened. As anyone who has burnt themselves on a stove or iron knows it does not take much heat to cause a burn injury. An oxy-torch is designed for use in an industrial setting and involves the use of very significant heat. A burn with an oxy-torch would undoubtedly cause a major injury and there is no evidence available to me to suggest that Alec suffered such an injury. I am satisfied that the history of this occurring as given by Alec is incorrect.

The fact that Alec made this incorrect allegation does not however mean that Alec was deliberately making false allegations. It does however highlight one aspect of the condition of clinical depression that Dr Skinner discussed in her evidence. She said that a person who suffers from such a condition may not report traumatic events accurately. It would seem likely that this is what happened in this event.

It seems clear from a retrospective analysis of Alec's employment at Downer that at some stage Alec formed the view that he was being *harassed* or '*singled out*' by his supervisors and other workers. It would also seem that from about that time events that occurred were likely to be perceived by him in a different light.

An example of this may well be his conclusion that someone had sabotaged his work. There was, apparently, a reasonable, and innocent, explanation for what had caused the measurements to be put out (the equipment was bumped). The evidence was also that workers shared a production bonus that

related to work being completed so to deliberately slow down production would cost employees money. Alec's perception of the events was, however, more sinister.

This change in his perception of events is also exemplified by Alec's reaction to Keith Sheehan turning the volume of his radio down. Mr Sheehan was not someone who worked with Alec. The evidence is that the only substantial interaction that they had previously had was a positive one. Alec's response was described as being out of character. In the circumstances his response would seem to be extreme and unreasonable. In the context of a person who perceives that he is being harassed however his response becomes understandable – the action of Mr Sheehan is just another attempt to harass him. As Dr Skinner said in her evidence there is usually a trigger however the trigger is not necessarily something that would be thought important to an outsider but is very important to the individual who is suffering from the condition.

Alec also complained about being sworn at and spoken to in derogatory terms over a long period of time. The evidence from his supervisor and work colleagues was that swearing was a regular event on the factory floor however they each denied that they had sworn at Alec or described him in a derogatory manner. On the evidence available it is hard to determine who is correct.

It may well be that the use of swearing was so engrained into the ordinary conversation of the factory floor that it was used in moments of frustration and directed at Alec when mistakes were made.

On the other hand otherwise ordinary situations in which swearing was involved might well have been perceived by Alec to be an attempt to humiliate him when at the back of his mind the Damocles Sword of the *sphincter dilation chart* was hanging over his head. Either way; it is clear that, at some stage during the course of his employment at Downer, he began to perceive that he was being harassed or singled out and that the events that occurred

and, more importantly, Alec's perception of those events contributed to the development of his major depression.

There is also no doubt that Alec's development of major depression meant that he was no longer able to continue with his apprenticeship at Downer.

Dr Skinner reviewed the care and treatment provided to Alec by practitioners whilst he remained in Australia. Her evidence was that that care and treatment was appropriate in the circumstances. I accept Dr Skinner's evidence on this issue.

I also accept Dr Skinner's evidence that at the time Alec returned to New Zealand he continued to suffer from clinical depression. This was so notwithstanding that Alec had been removed from the precipitating circumstances of that depression. I accept Dr Skinner's explanation that this was indicative of the complexity of the condition that Alec suffered and the multi-factorial contributors to its development.

I note the concerns that Dr Skinner expressed relating to the decision, once Alec arrived in New Zealand, to not refer him to a psychiatrist for review and the therapeutic approach adopted by Dr Gould. On the evidence available however I would not be able to reach a conclusion as to whether or not this was relevant to the circumstances of Alec's death.

Alec was in New Zealand for just on 40 days before his death. Mrs Meikle stated that he appeared happy and well adjusted. She thought he was apparently enjoying his work and making plans for the future. He was looking forward to passing his driving licence. He was socialising with his cousins. Mr Meikle reached a similar opinion following his regular telephone conversations with Alec.

On the night that he died Alec expressed to his mother that he had a 'good day' and his aunt thought that he had experienced a hard day at work. As far

as his mother and aunt were concerned there was nothing about Alec's demeanour that caused them concern at the time.

It is not in contention that the direct cause of Alec's death was due to hanging. It is also not in contention that Alec's death was self-inflicted.

If I have jurisdiction to do so as I would now proceed to make Findings to that effect in accordance with Section 81(1) and then proceed to consider whether or not I would exercise by discretion to make Recommendations in accordance with Section 82. Senior Counsel for Downer has, however, challenged by jurisdiction to do so.

I have already outlined above the terms of Section 18 which sets out the basis of a coroner having jurisdiction to hold an inquest and make Findings in accordance with Section 81(1) and Recommendations in accordance with Section 82.

Alec died whilst residing in New Zealand. Auckland had become his home, and therefore his *usual place of residence*, again. The specific requirements for a '*sufficient connection*' with New South Wales as set out in Section 18(2) do not therefore appear to be satisfied.

In the circumstances I have jurisdiction only if the evidence allows me to be satisfied that that '*the cause of the death*' occurred in the New South Wales in accordance with Sections 18(1) (b).

This gives rise to an examination of what constitutes the cause of death and whether or not I could be satisfied that the cause of Alec's death occurred within New South Wales.

It is not contentious that in the coronial jurisdiction the concept of '*cause of death*' is to be given a wide meaning. In *Ex parte Minister of Justice; Re Malcolm; Re Inglis* (1965) NSWLR 1598, McClements J said (at 1604):

...I think where the Coroners Act speaks of the cause of death it means the real cause of death; namely, the disease, injury or complication, not the mode of dying as e.g. heart failure, asphyxia, asthenia, etc.

Cause is defined in the Macquarie Concise Dictionary, and adopted by the authors of *Waller's Coronial Law and Practice in New South Wales*, as being:

Something that produces an effect; the thing, person, etc., from which something results.

For me to have jurisdiction I would therefore need to be satisfied, on the balance of probabilities, that something associated with New South Wales produced the effect of, or resulted in, Alec acting to end his life by hanging.

As I have already found I am satisfied that Alec suffered from clinical depression and that the circumstances of Alec's employment with Downer was a substantial contributing factor to the development of that depression. I accept De Skinner's evidence that whilst the working environment was a substantial contributing factor it was not the only factor. I have also found that at the time of his return to New Zealand he continued to suffer from that condition of depression.

Whilst in New Zealand the evidence is that, to all who observed him, his mood appeared to be improving and he had not expressed any suicidal ideation or acted in a manner that caused his loved ones to have concerns. There is, unfortunately, no evidence available to inform me what was going on in Alec's mind at the time he acted to end his life and, in particular, there is nothing to suggest that at the time of his death the circumstances of his employment at Downer or the incidents in his schooling or anything else associated with New South Wales produced the effect of him acting to end his life.

The evidence from Dr Skinner is that suicide is a rare event and that there is no direct correlation between clinical depression and suicide. The ordinary outcome of clinical depression is not suicide. Dr Skinner's evidence was that the circumstances in which a suicide will occur are complex. Dr Frukacz's

evidence referred to the possible precursors of such an event among which, in the case of an adolescent, can be an impulsive act.

In this case I do not know what the precipitating factor that led to Alec taking the action he did to end his life was. He did not leave a note or say anything to anyone that would allow us to understand what precipitated his action. It would be speculation to find that the events at Downer precipitated his action. It could just as well have been something else. I cannot therefore be satisfied to the standard of proof required that the *cause of his death* occurred in New South Wales. As a consequence I do not have jurisdiction to make Findings in accordance with Section 81(1) or Recommendations in accordance with Section 82.

Having reached the conclusion that I have I do not consider it appropriate to consider what Recommendations, if any, it would be appropriate to make if I were to have such jurisdiction to do so.

Paul MacMahon
Deputy State Coroner
30 January 2015