

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2013 5470

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 60(2)*

*Section 67 of the Coroners Act 2008*

I, IAIN TRELOAR WEST, Deputy State Coroner having investigated the death of Neil Phillip HAY

without holding an inquest:

find that the identity of the deceased was Neil Phillip HAY

born on 29 March 1965

and the death occurred on 29 November 2013

at Eildon-Jamieson Road, Eildon, Victoria 3713

from:

1 (a) MULTIPLE INJURIES

Pursuant to section 67(2) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances:**

1. Neil Hay was a 48-year-old man who resided in Ferntree Gully. He was married to Mrs Judy Hay and they had two adult children, Ryan and Gemma.
2. Mr Hay was a motorbike enthusiast from a young age and was considered an experienced rider. His motorbike was a Suzuki GSXR 1000, a high performance sports bike. He had purchased this bike new in 2009 and had done several trips on it. Mrs Hay stated that she had been on the back of motorbikes with her husband a number of times and always found him to be a careful rider. A police check of Mr Hay's traffic history showed no record of any prior recorded collisions.
3. Mr Hay was part of a peer group known as the DDTs (Dorset Drinking Team). They were a group of family men who liked to socialise and ride motorbikes together. Each year they would complete a ride through the hills in the northeast of Victoria, going through Buxton, Mansfield and Whitfield before reaching Porepunkah where they would spend the night at the Porepunkah Hotel.
4. On 29 November 2013, Mr Hay left home to go on this annual bike ride with the DDTs. The weather was fine with good visibility. The group comprised of 14 riders and they made their way up to the Maroondah Hwy stopping at the Buxton Hotel where they had a single glass of beer. They then continued north towards Eildon. They turned right into Eildon-Jamieson Road with three or four riders stopping at the intersection to direct the other riders as the

group had spread out and were not in constant visual contact. Mr Hay was one of the first riders through and continued towards Jamieson.

5. Eildon-Jamieson Road is 62km of winding road, which becomes very steep as you get closer to Jamieson. At approximately 12.30pm, Mr Hay approached the intersection of Eildon-Warburton Road, which is a downhill approach and goes into a left hand sweeping bend at the intersection. This bend tightens up as it goes further around to the left. Mr Hay approached the intersection at too high a speed for the bend. He braked heavily causing the rear wheel of his motorbike to skid 45 metres along the dry bitumen surface. The skid mark slightly curved to the left in an apparent attempt to steer around the bend. The bike skidded across the road, high sided just as it left the bitumen and hit the gravel on the right hand side of the road. Mr Hay and the bike were thrown into two trees off the side of the road before landing at the bottom of an embankment. He was out of sight of any other riders who were following.
6. The DDTs made their way to Jamieson where eight of them had lunch at the Jamieson Hotel and continued to Mansfield. It was here that they noticed Mr Hay was missing. Mr John Suckling and Mr Aiden McConvall rode back along Eildon -Jamieson Road and located skid marks at the intersection of Eildon-Warburton Road. They followed the skid marks and found Mr Hay at the bottom of the three metre embankment on the south side of the road at approximately 1.30pm. He was found fully dressed with his helmet and safety gear on except for his gloves that were lying beside him. He was deceased.
7. Police arrived to secure the scene and members of the Mansfield Highway Patrol inspected and photographed the area. They concluded that Mr Hay had approached the bend too fast and could not brake in time. The rear wheel of the bike had gone into a skid and he was unable to avoid the collision. The police could find no evidence of any other factors such as wildlife being involved.
8. Mr Hay's motorbike was subject to a factory recall at the time of these incidents. He was aware of this recall as he had received a letter from Suzuki dated 6 November 2013. The recall was in relation to the braking capacity of the bike and referred to corrosion that may start between the brake piston and the return spring that may result in a 'spongy' feel of the brakes. The Victoria Police Mechanical Inspection Unit subsequently checked Mr Hay's bike but no problems were detected in either the front or rear brakes and they appeared to be in good working order along with the rest of the bike.
9. Senior Forensic Pathologist, Dr Michael Burke from the Victorian Institute of Forensic Medicine, conducted an external examination of Mr Hay and provided a written report of his findings. The CT scan revealed a large hemothorax. There was bruising within the mediastinum and multiple fractured ribs. There was a fracture to the left pelvis and proximal left femur. Toxicological analysis revealed the presence of 0.01g/100ml of alcohol and trace amounts of paracetamol.
10. I find that the cause of death of Neil Hay was multiple injuries he sustained as a driver of a motorcycle. Based on the evidence before me, I conclude that Mr Hay's did not intend the consequences of his actions.

## COMMENTS

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

Eildon-Jamieson road is the most direct route between the townships of Jamieson and Eildon and was sealed towards the end of 2010. The road has been described as an intense, spectacular and challenging road. It is sealed from end to end, two lanes for the entire 56km stretch, with the longest straight section no more than a kilometre or two. It is a popular route for motorcyclists, 4WD vehicles, bicyclists, tourists and campers as well as local traffic. In the winter, the road often stays damp due to the thick eucalyptus forest and slippery lichen can grow on the bitumen. When it snows, it also contributes to the dangerous conditions.

According to Sergeant Martin McLachlan of the Mansfield Highway Patrol, the road length is not conducive to family travel in an average family sedan, particularly not for those towing caravans or campers. The bends are constant, continual and sharp and not a comfortable drive for those with young children or subject to travel sickness. The bends in the road also appear to encourage in some road users rally type driving, cutting of corners and driving at speeds higher than would be considered safe.

The Goulburn Valley Division Road Policing provided a very informative brief that showed that there were 39 reported collisions on the road during the period of 1 June 2010 and 28 February 2014. These figures included 1 fatality, 20 serious injury, 14 other injury and 4 no injury collisions. Male drivers/riders made up for the majority of persons involved accounting for 93% of the total number of persons involved. Motorcycles were the majority of vehicle type involved in these collisions, accounting for 32 of the 39 collisions (82%). 'High Risk Motorcycle Area' signs are displayed for both east and westbound traffic on this road.

Sergeant McLachlan provided a Fatal Collision Audit Report that stated that it is likely that these types of collisions along this road length will continue to increase. At the time of the road surface being sealed, Police foresaw this road user group (sports motorcyclists) as being attracted to the area and identified associated risks, which were conveyed to the Local Government and Vic Roads. Sergeant McLachlan further states that this area has limited frequency of Highway patrol activity due to the lack of straights to enable visual enforcement. There are also associated problems performing U-turns and lack of shoulders to conduct intercepts.

Additionally, rapid casualty response to collision scenes is limited due to the terrain and forest environment, making helicopter ambulance access unfeasible. Road ambulance access is at best one hour from Mansfield to the middle of the road length. The medical response delay exposes casualty crash victims to an increased risk of death or injury severity.

A request was made of Murrindindi Shire Council, Mansfield Shire Council and VicRoads to provide a review and their comments on the issues raised by Sergeant McLachlan. All 3 authorities stated in letters to the court that the suggestion to take some sections of the road back to gravel is not supported, and more conventional safety interventions should be implemented to improve the safety of the road. The Infrastructure Assets teams of both Councils are jointly preparing a funding application under the Federal Government's Black Spot Program for works including;

- Remarking the centre line;
- Providing a fog line (i.e edge line) to improve the definition of the traffic lanes;
- Providing additional chevron signage at bends;
- Providing additional guardrails;
- Providing potentially "Black Ice" signs at critical locations;

- Providing additional signs “High Risk Area for Motorcycles;”
- Eliminating any existing reverse camber;
- Reviewing and providing advisory speed limit signs on slow corners;
- Providing two helipad locations with 40m radius for air ambulance for general emergency use;

Whilst I am satisfied it is necessary and appropriate to modify the route, removing sections of the sealed surface on the road should only be considered as a last resort.

### RECOMMENDATIONS

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

1. That the proposed joint funding application by Murrindindi and Mansfield Shire Councils to the Federal Government’s Black Spot Program, be prepared and submitted without delay.
2. In the event of the application not being successful, the identified safety interventions referred to above, be funded and implemented by the responsible councils.

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

**Mrs Judy Hay**

**Leading Senior Constable Murray Moser, Mansfield Highway Patrol**

**Sergeant Martin McLachlan, Mansfield Highway Patrol**

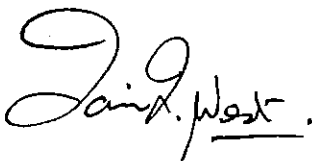
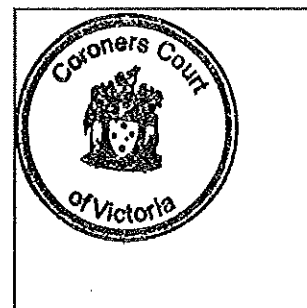
**Mr Pietro Pellegrino, OnePath Life Insurance**

**Ms Margaret Abbey CEO of Murrindindi Shire Council**

**Mr David Roff CEO of Mansfield Shire Council**

**VicRoads**

Signature:


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IAIN WEST  
 DEPUTY STATE CORONER  
 Date: 29 September 2014