



Your ref: 2018 003944

Coroner's Court of Victoria
65 Kavanagh Street
Southbank VIC 3006

By email only: cpuresponses@coronerscourt.vic.gov.au

Dear Sir/Madam

Responses in relation to findings into the death of Eden Herbert-Allan

We refer to your letter dated 6 December 2021, seeking the Secretary's response to recommendations made by Coroner Audrey Jamieson, following her findings into the death of Eden Herbert-Allan.

The Coroner made two recommendations:

1. That VicRoads consider coordinating with Yarra Range Shire Council in establishing a database system that captures, analyses and stores condition data for roadside hazards as part of its strategy for achieving its roadside management objectives; and
2. That Yarra Range Shire Council review its nature strips and roadside guidelines and include the responsibility to provide suitable safety precautions after any work of excavations are done on the nature strips.

Firstly, the Secretary wishes to clarify that the road on which the incident occurred, Warburton Highway, is classified as a non-urban road in accordance with the *Road Management Act 2004* (the Act) and the Road Management Act Code of Practice. Head, Transport for Victoria (Head TfV), formerly VicRoads, is the responsible road authority for roadsides along non-urban roads. Therefore, the Department of Transport will respond to both recommendations outlined above on behalf of Head, TfV.

Response to recommendation one

Where Head TfV's inspections or activities result in the identification of a roadside hazard that falls within the purview of a municipality, that municipality is advised as soon as is practicable by Head TfV. Where a roadside hazard presents imminent risk or danger to the public, Head TfV will exercise its powers under Schedule 3, Section 10 of the Act (power to remove certain trees or vegetation).

Therefore, in effect, a system whereby Head, TfV and the relevant municipalities communicate in relation to hazards falling within the other's purview is already in existence.

Head, TfV manages approximately 23,000km of road within Victoria, across 79 municipalities. Establishing a tailored system which allows for real-time communication with one or more municipalities would require significant investment and financial resources,

which we unfortunately are unable to accommodate at this time. Therefore, the implementation of the system recommended is not currently considered viable.

Response to recommendation two

Section 107 of the Act removes the statutory and common law duty on a road authority to perform road management functions relating to roadsides on any public highway.

This provision recognises that, given the volume of roadside across the State, and the associated vegetation, requiring a road authority to manage inspections and assessments of individual trees within roadsides would be impractical and unfeasible, particularly from a financial perspective. Therefore, proactive inspections and assessments of trees are not possible.

However, Head TfV can undertake more thorough inspections and assessments of trees that are identified as a potential hazard. These could be triggered by routine inspections or notifications from a third party. Similarly, where excavations have been performed nearby, a tree may be identified as a potential hazard.

Trees that are identified as presenting a potential hazard with respect to sight distance, a road or a pathway are assessed further by Department Officers. Trees that are suspected to be potentially hazardous as a result of poor health or on ground conditions are assessed by an independent arborist. Work is then undertaken in accordance with the arborists' recommendations.

Therefore, while Head TfV cannot undertake proactive assessments of vegetation within roadsides, it does, and will continue to, carry out assessments of hazardous trees or vegetation of which it has notice.

Please do not hesitate to contact us should you require any further information.

Yours faithfully



Savoula Lidis
Acting Executive Director
Metro South-East
Department of Transport

31/03/2022