

CORONER'S COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Case Title: Inquest into the death of RIHARNA LOUISE THOMSON

Citation: [2022] ACTCD 3

Findings Date: 26 May 2022

Before: Coroner Stewart

Decision: See [6], [23], [37], [83] & [87]

Catchwords: **CORONIAL LAW** – cause and manner of death – fall from horse during track training – industrial accident – fall due to catastrophic horse breakdown due to horse itself or inconsistent track – hearing unnecessary

File Number: CD 54 of 2017

CORONER STEWART:

A. Introduction

1. On 3 March 2017 the ACT Coroner's Court was notified of the death of Riharna Louise Thomson ("Riharna"). Riharna was 22 years old and studying political science at the Australian National University. She was also working as a stable assistant and had fallen from a horse named Chosen Prayer at Thoroughbred Park on 28 February 2017 during her work hours. Riharna sustained a closed head injury from her fall.
2. Riharna was conveyed to The Canberra Hospital where she underwent surgery in an attempt to relieve intra-cranial pressure caused by her injuries. Despite the efforts of medical staff, Riharna's injuries were unresolvable. Riharna died as a result of her head injuries at 9.47am on 3 March 2017. In doing so, she gave amongst the most generous and precious gifts that can be given – organ donation.
3. Riharna's fall was followed by another rider's fall, on 15 March 2017, at the same part of the track. That rider - Samara Johnson - was not injured, but her horse was euthanised as a result of its injuries just as Chosen Prayer had been.
4. Because of the detailed nature of the WorkSafe ACT and Australian Federal Police investigations, and the absence of a dispute over expert evidence, I decided that a hearing was unnecessary. I am thankful to Detective Daniel Shaw and WorkSafe ACT for those detailed and helpful investigations.

B. Jurisdiction

5. I have jurisdiction pursuant to s 13(1)(g) of the *Coroners Act 1997* because Riharna died after an accident and her death appeared to be directly attributable to the accident. An inquest is mandatory in such circumstances.

C. Findings

6. I find:
 - a. Riharna Louise Thomson was born on 5 June 1994 and died on 3 March 2017 at The Canberra Hospital, Dann Close, Garran in the Australian Capital Territory.
 - b. The cause of Riharna's death was unsurvivable head injury.
 - c. The manner of death was a jockey's fall due to a horse fracturing its leg either by catastrophic bone failure or by being ridden on an inconsistent track.
 - d. No matters of public safety have arisen in this matter.
 - e. Due to the public interest in this inquest, I direct that these findings be published in due course on the ACT Coroner's Court website.

D. An analysis of the investigations

i. The rider – Riharna Thomson

7. By most accounts Riharna was an experienced and skilled rider and well and truly capable of riding Chosen Prayer.
8. Riharna had been riding for most of her life and had worked for other horse trainers at other tracks before working for Keith Dryden at Thoroughbred Park.
9. Mr Dryden had employed Riharna for a little over 12 months prior to her death. He considered Riharna to be an intelligent young woman who was committed to her university studies and work at his stables. Riharna was too tall to be a professional race rider, but had expressed a hope to be a picnic race rider. Mr Dryden had taught Riharna all that he could about riding and he thought that she had become quite competent and experienced enough to gallop flat out. Riharna was undertaking barrier practice and he thought that she would be capable of working towards getting her own trainers licence.
10. Rachel Hunt, a professional jockey, was riding on the sand track at the same time as Riharna's fall. She had known Riharna from when she had commenced working at Thoroughbred Park. Riharna was not the most

experienced rider in the stable however she was competent, talented and had a feel for the horses.

11. It was clear that Riharna was very dedicated to her work and studies. Riharna had a deep affection for Chosen Prayer to the point that she did not want other riders on the horse.
12. Safety Officer and Track Supervisor Garry Buchanan had first assessed Riharna on 04 December 2013 and deemed her competent to ride suitable horses. By the time Riharna returned from working at Goulburn, he judged her to be a very competent rider and competent to carry out most riding tasks including unrestricted track work on horses that were difficult to manage.
13. Rebecca Grintell was employed as a Track Work Rider at the time and rode with Riharna on the morning of her fall. The two women rode onto the tracks together. Riharna's helmet was 'done up properly'. They separated with Riharna riding onto 'Acton Track', being a synthetic track, and Ms Grintell continuing on the grass track. Ms Grintell observed Riharna galloping but did not see her fall. Ms Grintell was about 100m past the winning post when she looked back and saw the horse and rider down on the track. She rode back to the scene of the fall, then back to the stables and from there attended the hospital.
14. Track Supervisor Louise Milton ran to where she saw that Riharna had fallen. She was about 2 or 3 light posts beyond the winning post. Riharna's helmet was off with the strap done up and about 3 metres away from her. Riharna was wearing a hi-vis vest, top, jeans and work boots. She was bleeding from the nose and not breathing but commenced to do so when Ms Milton said her name and grabbed her hand. Ms Milton had never seen a rider's helmet come off in a fall before.
15. Keith Dryden saw that Riharna's helmet had sand on it and he assumed that she had fallen headfirst onto the track because of this. He went to the hospital shortly after the ambulance took Riharna from the track.
16. Brendan Ward, a professional jockey, had not seen a rider's helmet come off in a fall in his 30 years of experience.

17. Detective Daniel Shaw subjected Riharna's helmet to a rudimentary test regime. He found that the padding at the front of the helmet was stained with dirt. There was damage to the left front of the helmet and the foam lining of the helmet was compressed and separated from the outer shell. The chin straps and clips appeared to be in undamaged working condition.
18. Detective Shaw concluded that the helmet afforded evidence of Riharna wearing her helmet at the time of her fall and her left forehead impacting with the track.
19. The scene of the fall was surveyed by Senior Constable Greg Johns. Chosen Prayer had come to rest 99.18 metres after the winning post on Acton Track. All of that distance after the post was a sweeping right hand bend.
20. There is nothing in the hospital treatment records that suggests anything but optimum medical treatment and care being administered to Riharna after her fall.
21. The horse was fitted with an 'E-TRAKKA' device, which recorded the speed and heart rate of the horse. The data from that device reveals that at the time it broke its leg, Chosen Prayer was running at approximately 66 kilometres per hour.¹
22. Because no-one saw Riharna fall and she was never conscious after her fall, it is impossible to form any conclusion as to why Riharna was riding Chosen Prayer at such a high speed so far beyond the winning post.
23. I conclude that Riharna Thomson was competent and experienced enough to ride and control Chosen Prayer, but due to an absence of evidence I cannot make any findings about:
 - a. Riharna's decision to ride where she did on the inside of the track after the winning post, or
 - b. the speed she took Chosen Prayer to, or kept Chosen Prayer at, or
 - c. the fall itself, or

¹ Item 36, page 2

- d. Riharna's manner of landing on the track surface – other than it appears that her helmet and skull impacted with the track surface.

ii. The Horse – 'Chosen Prayer'

24. Chosen Prayer was a six year old Thoroughbred mare trained by Keith Dryden. Her stable name was 'Madonna' and she had come into Mr Dryden's stable in February 2016 as a five-year old. Mr Dryden has been involved in horse training in Canberra and Goulburn since 1968. Riharna had ridden Chosen Prayer since the horse came into Mr Dryden's stables in February 2016.
25. Chosen Prayer was in good condition from Mr Dryden's perspective – she ran on Acton Track two to three times each week and she had run fourth in a race on Sunday 19 February 2017. She had been vet assessed the following day in Mr Dryden's stables, as per his usual post-race routine.
26. Rachel Hunt had ridden Chosen Prayer on 26 February 2017. The horse trained without any problem on that day. Her view on Chosen Prayer was that she was a gentle, quiet and easy horse with a solid build.
27. On 28 February 2017, Naomi Ward worked as a stable hand for Mr Dryden. Ms Ward reported that Chosen Prayer was a quiet horse, was of a very large build, was very sound and not known to have an injury history as far as she knew. There was nothing unusual about that morning prior to Riharna's fall – Ms Ward had helped Riharna onto the horse but had not watched her work Chosen Prayer.
28. Although there were a number of people at the track that morning, there were no eyewitnesses to the incident. Several people immediately rushed to the aid of Riharna and Chosen Prayer once it became obvious that a serious incident had occurred.
29. Ms Ward saw that Riharna was lying injured about a metre forward of Chosen Prayer who was lying on Acton Track in a distressed state and was struggling to get up. It was evident that the horse had broken her left front leg and a veterinary surgeon attended the racetrack and euthanised

Chosen Prayer with Ms Ward's assistance. Ms Ward saw a depression in the ground before the area that the horse was laying in.

30. Ms Milton, the track supervisor, had run to the scene of the fall and saw that Chosen Prayer was lying still and her bridle was off. She thought that the horse had suffered a heart attack but it commenced moving later. She observed a skid mark on the track behind the horse. Ms Milton's attention was focused on Riharna but she noted that Mick Miladnovic arrived and controlled Chosen Prayer.
31. Mr Dryden went to the track when he heard about the fall. He noted that his horse had fallen 50-80 metres past the winning post and nearly under the running rail. Chosen Prayer was on the ground flailing around with an obviously broken leg.
32. Mr Dryden reported that break-downs are a part of horse racing and expressed a view that Chosen Prayer's fatal fracture was an unforeseeable accident.
33. A necropsy examination was carried out on Chosen Prayer at The University of Sydney's University Veterinary Teaching Hospital in Camden. The examination revealed that Chosen Prayer sustained the following injuries:
 - a. a severe, open, biarticular, comminuted fracture of the left third metacarpal (cannon) bone; and
 - b. extensive subcutaneous and soft tissue haemorrhage of head and right shoulder and chest wall.
34. A report submitted by Senior Veterinary Pathologist, Dr Neil Horadagoda, dated 10 March 2017, noted that at the time of the examination on 1 March 2017, Chosen Prayer was in good body condition. With the exception of a mild ulceration within the right radiocarpal joint and mild haemorrhage in the carpometacarpal joint, the examination revealed that there were no grossly discernible pre-existing lesions in the carpal bones of the left and right metacarpal bones. Furthermore, there was no evidence of stress fractures in the left and right metacarpal bones. The extensive bruising and haemorrhage on the right side of the body suggested that the horse may have fallen on to the right side after the breakdown. The

subcutaneous and soft tissue haemorrhage in the head and the presence of congealed blood within the sinuses indicated severe head trauma.²

35. Item 32 in the AFP brief contains the veterinary records from the Canberra Equine Hospital. On 23 January 2017, Chosen Prayer was assessed for lameness in the 'left fore'. An examination was conducted but there is no evidence of any specific treatment that was required on the day.
36. A short supplementary report was obtained from Dr Horadagoda and Dr Robin Bell from The University of Sydney. Their opinion is that there was no connection between the 1/5 left forelimb lameness reported a month earlier on 23 January 2017 and the fracture suffered by Chosen Prayer on 28 February 2017. Dr Horadagoda and Dr Bell thought that it was possible but unlikely that there was a spontaneous fracture in the absence of micro-damage to the bone below the joint surfaces. Micro damage is related to the training (and presumably racing) environment that race horses are placed in.
37. I conclude that:
 - a. There remain important questions about the manner of Chosen Prayer's behaviour prior to her break down. Did she maintain her usual pattern of obedient behaviour? Had she become unmanageable or difficult to manage? The evidence is silent on this issue because no witness saw the horse and rider between the winning post and where they came to fall. I cannot make any finding on the behaviour of the horse prior to its breakdown.
 - b. No matter whether the cause is a spontaneous fracture or the result of micro-damage to bone structures, race-horses suffer from catastrophic fractures.

² Item 37.2

iii. The track – ‘Acton’ synthetic track

38. The following facts are directly relevant to an assessment of the status of Acton Track between September 2016 and April 2017:
- a. Acton Track was refurbished in September 2016;
 - b. The track was not safe for racing after that time;
 - c. The hardness of the track changed depending on the weather and how many horses had trained on it;
 - d. There had been multiple complaints about the track having a soft area after the winning post near the turn;
 - e. A horse named Love Dreaming suffered a broken shoulder and was euthanised as a result of a fall on 29 November 2016;
 - f. Chosen Prayer suffered a catastrophic fracture and fell on 28 February 2017;
 - g. Riharna Thomson died as a result of the head injuries she sustained in that fall;
 - h. Samara Johnson also fell on 15 March 2017 after her horse had suffered a catastrophic shoulder injury;
 - i. WorkSafe ACT closed the track on 15 March 2017;
 - j. Chris Engelbrecht of Viscoride Surfaces conducted an assessment of the track on 16 March 2017, and he deemed it unsafe for fast work due to surface inconsistency, unsafe for any work on the inside half and made recommendations for remediation;
 - k. Extensive drainage and rectification work was then carried out on the track in March 2017;
 - l. A further track inspection was conducted on 31 March 2017 by Mr Engelbrecht. Further (small) adjustments to the surface material preparation were indicated and he recommended the track be re-opened on 03 April 2017; and
 - m. WorkSafe ACT re-opened the track on 03 April 2017.
39. There was a 2013 study into the prevalence of jockey falls and injuries on synthetic racetracks undertaken by Kevin Ring who was then the national

OH&S officer for the Australian Jockeys Association (the AJA report).³ That report identified Acton Track as the oldest synthetic track in Australia having commenced racing in 2006. Other synthetic tracks had by then been constructed and racing upon them had commenced at Geelong in 2007, the Sunshine Coast in 2008, Toowoomba in 2009 and Devonport in 2011.

40. The study found that there was limited data to report on, but the report showed that:
 - a. the percentage of falls and injuries per 100 rides was lower on synthetic tracks than the overall incidence of falls per 100 rides on all tracks in Australia combined (turf/dirt/synthetic);
 - b. there were 0.12% of falls per hundred rides on synthetic tracks compared to 0.42% on other surfaced tracks;
 - c. injuries per 100 rides reduced from 0.11% on all surfaced tracks to 0.04% on synthetic tracks;
 - d. injury incidence per fall indicating time off work was consistent at 27.00% for all surfaces and 28.89% for synthetic surface falls; and
 - e. it is prudent to note that this report cites that working as a jockey is the most dangerous land-based profession in the world and the second most dangerous profession in the world behind North Sea fishing.
41. At the time of Riharna's fall in February 2017 many people associated with the track were aware of inconsistencies in the surface of the track.
42. Samara Johnson, a 24 year old strapper, had been working at Acton Track for the previous four years. There was a problem area on the track for about a month prior to Riharna's fall. That area was near the rail after the winning post and it was soft and inconsistent and the horses left deep hoof

³ See Coronial brief folio 74: *"The evaluation of synthetic racetracks relating to falls and injuries to jockeys"* Kevin Ring 2013.

marks. It was avoided by riding in the middle of the track. It had been reported to the club through her stable.

43. Ms Johnson herself suffered a fall after the horse that she was riding (named Jack Flash) suffered a catastrophic shoulder injury and fell in the same soft area after the winning post as Riharna had. Ms Johnson blamed the track for her own fall.
44. Ms Ward said that witches hats were placed out on the track to show riders which parts of the track to use. There were no reports of witches hats being used on the day of Riharna's fall.
45. Racecourse and facilities manager Adam Eyre said that witches hats were utilised on the track to distribute wear. Witches hats were used on the track every day and placed at different distances from the inside rail depending on the number of horses anticipated to be using the track. After fifty horses had been ridden on the track, the track supervisor instructed riders to ride outside the witches hats to prevent overuse of the inside section of the track.
46. Ms Milton said that on the day of Riharna's fall about twenty horses had already ridden on Acton Track prior to Chosen Prayer.
47. By 2017 Rebecca Grintell had been riding as a track work rider and occasional jockey for 10 years. She described the state of the track as being horrendous and inconsistent. It was soft along the inside fence after the winning post to the 1300m mark and riders would avoid that part of the track. Her experience was that riding from a hard to a soft track was like running on a tar road and then hitting beach sand. The horse could knuckle over, trip, stumble, or break a leg and go down. She reported her concerns about the track to other riders, her employer and his foreman, and Ms Milton.
48. Ms Grintell was of the view that the track was more consistent after repairs in 2017.
49. Damon Budler had been a track rider for 15 years at the time of Riharna's fall. He had been riding at Thoroughbred Park for the previous four years and knew Riharna fairly well. He had finished riding when the incident occurred. Mr Budler had identified a soft spot on the track at the corner

past the winning post. He usually rode on the outside of the track where there was less wear. He had experience riding another synthetic track in Durban, South Africa. He was of the view that the synthetic track at Thoroughbred Park was just as inconsistent as a natural surface.

50. Mr Budler thought that the track was safe to ride on in 2017 and improved after rectification work had been completed. He was of the view that some temporary structures around the track that day were causing the horses he rode to react by moving towards the inside of the track just after the finishing post. He thought that this was dangerous, but he continued to ride horses after reporting it to his employer Paul Jones and his foreman.
51. Mr Budler was of the view that the fall was probably due to rider inexperience.
52. Paul Jones had been a horse trainer for 14 years in 2017. All of that experience was in Canberra. He knew Riharna and saw her ride out onto the track on the day that she fell. He saw nothing unusual about horse or rider.
53. Mr Jones was worried about a soft spot on the track near the home turn because at that place on the track the horses are at full galloping speed and turning at the same time. There had been discussions about track softness and inconsistency at trainers meetings and he thought that was why wax had previously been added to the track. He thought that the track was very poor after the new surface was laid in September 2016, although his staff were using it at the time of Riharna's fall.
54. Brodie Joy is a professional jockey who had worked at Thoroughbred Park since 2016. His view was that 9 out of 10 race tracks get patchy once horses have worked on them. His view on Acton Track was that it could be different every morning depending on weather, use and maintenance although it did not appear to drain properly after rainfall.
55. Mr Joy reported that it was not uncommon for horses to break legs on any surface and he did not consider the track dangerous.
56. Rachel Hunt is a professional jockey who had worked for many different trainers in Sydney, country New South Wales and Canberra. She rode onto the tracks with Riharna and Tal Hill on the morning of her fall. They

parted ways and she kept on the sand track, but were riding roughly side by side on the different tracks. She lost sight of Riharna but saw that Chosen Prayer was moving well when she last saw her.

57. When Ms Hunt looked back she saw Riharna and Chosen Prayer down on the track at the bend on the track. Riharna's helmet was off.
58. Ms Hunt thought that the synthetic track could be patchy occasionally but had improved since the changes in 2016. There was a soft spot where Riharna fell and Ms Hunt avoided those patches so that her mount would not change its stride. Her own experience of the soft patch on Acton Track was that a horse would not fall upon entering that area, but would trip or change its stride.
59. Importantly, Ms Hunt was of the opinion that grass tracks have more severe changes in consistency from hard to soft than the synthetic track did. She had previously fallen on the old Acton Track when a horse broke its shoulder.
60. Ms Hunt stated that racecourse and facilities manager Adam Ayre would place witches hats on the track to warn riders if there was a problem area.
61. Matthew Dale had been a horse trainer for 15 years in 2017. He had instructed his riders to stay off the part of the synthetic track on the inside just beyond the winning post. Other horses would churn out this part of the track and a horse would 'dip' if ridden there afterwards. 'Dipping' could cause soft tissue injury to a horse, but he had not foreseen an incident like Riharna's occurring.
62. Mr Dale was not concerned about the temporary structures erected at the track.
63. Brendan Ward has been a professional jockey for 30 years. He did not have concerns about Acton track. The track could be soft or firm depending on the temperature and use. It could be patchy but he wasn't aware of any soft spots. If there were no witches hats out then riders would ride on the fence.
64. Mr Ward's overall view was that the track was fit for purpose and that he hadn't heard of other riders complaining about it.

65. Joseph (Joe) McDermott had been riding racehorses for over 25 years and was employed as a track rider at Thoroughbred Park. His view was that the synthetic track warmed up inconsistently as the day wore on and became dangerous at the winning post and thereafter due to softness. He reported that the general consensus amongst the riders was to avoid the rail after 6.00 am due to the soft surface.
66. Gary Kirkup was a professional jockey and trainer with over 25 years' experience in the industry. He stated that Acton Track was either too hard or too soft and that it had developed a soft spot and holes that horses would sink into in the portion of the track between the winning post and the crossing.
67. Mr Kirkup rode in the middle of the track to avoid those areas and thought that a lot of people knew not to ride there. He had reported the holes to Ms Milton.
68. Joe McDermott complained to the Chief Executive Officer (CEO) of the Canberra Racing Club on 04 April 2017. He set out his experience of 25 years in the racing industry in England and Australia and his previous complaints about the state of Acton Track. He expressed his amazement at the CEO having stated that he was aware of no complaints about the surface of Acton track.
69. Samara Johnson made a similar complaint by email on 11 April 2017. The reply from the CEO noted that no complaints had been made at trainer's meetings about Acton Track prior to Riharna's fall.
70. No person had ever reported track issues to Keith Dryden prior to Riharna's fall. He had passed on information about it being hard or soft, but no-one had ever refused to ride on the track due to a safety issue. It annoyed him that faults were not reported. He was a board member of the club as well as a trainer. He felt that the track was not to blame.
71. Louise Milton was the Track Supervisor on the day of Riharna's fall and also worked as a race day steward. It was her task to check that the track was safe for the horses to work on, check that each rider coming onto the track was wearing correct safety equipment and check the soundness of each horse.

72. Ms Milton had received regular reports from riders about the state of the track when they came off. She had passed them on to Adam by telling him or by writing them down in a book located in the supervisor's hut. A number of riders including Joe McDermott complained about the area near the winning post being soft. That was passed on by her to Adam at the end of each track day.
73. Adam Ayre was the Racecourse and Facilities Manager at the track. Acton Track was re-surfaced in July 2016. There are no standards governing the manufacture and maintenance of synthetic tracks. The track surface was comprised of a compacted gravel sub-base, a 30mm layer of porous sand and 120 mm of synthetic material. Acton Track was then used six days a week with about 120 horses using the track on the heaviest days – usually Tuesday and Saturday.
74. Any track incidents were to be reported by Ms Milton to Mr Ayre or Mr Buchanan. Those reports were usually verbal although sometimes Ms Milton had provided written reports.
75. There had been complaints about the inside portion of the track after the winning post up to where Riharna fell. It would become soft after use.
76. Mr Ayre estimated that Riharna would have been the 60th or 70th rider on the track when she fell. He tested the track and found it was about 5 mm too shallow in the area identified as soft. This was remedied by adding more material.
77. Mr Ayre's view was that both Riharna and Samara Johnson's falls were due to horse failure.
78. Garry Buchanan was the Pool and Safety Officer at Thoroughbred Park at the time. He then had 37 years' experience as a professional jockey. He frankly identified the lack of formal occupational health and safety incident notification and reporting in place at Thoroughbred Park at the time of Riharna's fall and the fact that he had received no formal safety training.
79. Mr Buchanan was not the supervisor for Acton Track on the day of Riharna's fall, rather he was working at the horse pool. He received

notification from Ms Milton and called 000 to request an ambulance for Riharna.

80. Mr Buchanan was surprised at the amount of irregularities found in the track by Mr Engelbrecht. He believed that horses would not have detected those irregularities and that the track was safe at the time of Riharna's fall.
81. Mr Buchanan said that it was Ms Milton's task to ride the tracks each morning to ensure that they were safe for other riders to use. He thought that Ms Johnson's fall was due to her horse losing both front shoes. He noted that a third horse had suffered a broken shoulder in November 2016 in circumstances where generally there was an average of one catastrophic break down per year.
82. As at August 2018 Mr Buchanan had not received any complaints about Acton Track post the track rectification work in March 2017.
83. I conclude that:
 - a. Changes in track surface consistency are common-place and may cause or contribute to race-horse break downs.
 - b. It was important that Mr Dryden thought it was odd that Chosen Prayer had broken its leg at a place on the track where it should have been pulling up and that the E-TRAKKA device recorded a fatal speed of 66 km/hr.
 - c. Riharna should have known about the state of the track on the inside rail after the winning post, but there is no direct evidence to confirm that she was made aware of it or warned about it by anyone. She was a proficient rider, spoke to other people at the track and was there regularly to conduct her work as a strapper and travelling foreman.
 - d. Acton Track was remedied after the falls of Love Dreaming, Chosen Prayer and Jack Flash all occurred within four months. It would seem that there is a direct link between that remediation and the fact that at the time of her interview on 05 September 2017 Louise Milton had received no complaints and Garry Buchanan had received none by August 2018.

- e. The coronial brief is silent as to whether there have been any further horse fatalities on Acton Track since the track remediation. The Canberra Racing Club advise me that between August 2018 and July 2021 there were another three horse fatalities on or near to the Acton track, and one jockey injured. Accordingly I accept the evidence of Mr Buchanan that there is on average one catastrophic breakdown per year at the Acton track.
- f. If it was true that safety issues with the track had not been raised at trainers meetings then there were significant shortfalls in the occupational health and safety policy for Acton Track at the time of Riharna's fall.
- g. It is difficult to understand why there are no national standards in place in relation to synthetic tracks in Australia. This should be considered by the various jockeys and industry bodies as a matter to be resolved.

E. Canberra Racing Club response

- 84. Given the nature of the findings I intended to make, I caused to be provided to the Canberra Racing Club ("the Club") a copy of my then draft submissions and a notice under section 55 of the *Coroners Act 1997*.
- 85. The Club provided a fulsome written response. I annex a copy of the response to these findings.
- 86. I have had regard to the Club's response in finalising my findings, and on the particular matters with which the Club either provided additional evidence or took issue with my proposed findings.
- 87. For the avoidance of doubt:
 - a. Notwithstanding the Club's submission that I must not readily place too much weight on the other incidents as establishing a causative link between breakdowns and the condition of the Acton Track, I am satisfied that the condition of the track was a potential cause of Chosen Prayer's fall.

- b. Notwithstanding the Club's submissions in relation to potential safety issues not being raised prior to Riharna's fall, I am satisfied that a number of people held concerns about the track and took efforts to ensure the Club's management were notified of these concerns. I note with approval the Club's advice as to the steps it has now undertaken to formalise and improve communication and documentation of work health safety matters.

F. Concluding matters

88. I extend my condolences to Riharna Thomson's family and to her friends and colleagues in the racing industry.
89. I thank the investigators and court staff who assisted me in this matter.

DATED 26 May 2022

**J M STEWART
CORONER**

Inquest into the death of Riharna Louise Thomson

CD 54 of 2017

Canberra Racing Club's Submissions

Introduction

1. On 3 March 2017, Riharna Louise Thomson ('Riharna') tragically passed away from head injuries sustained following her fall from a horse named Chosen Prayer on 28 February 2017 at the Canberra Racing Club Inc ('Club').
2. Following investigations by the WorkSafe ACT and the Australian Federal Police, a coronial brief was prepared and the Coroner held an inquest into the manner and cause of Riharna's death. The Coroner decided that a hearing was unnecessary.
3. On 28 May 2021, the Coroner provided the Club's legal representatives a notice pursuant to section 55 of the *Coroners Act 1997* (ACT) together with a copy of the draft findings ('Notice'). The Club's attention was drawn to the adverse comments in the penultimate dot point in paragraph 87 of the draft findings. The Club was invited to provide submissions in relation to the proposed adverse comments or to give a written statement in relation to it.
4. A complete copy of the multivolume AFP and the WorkSafe briefs (collectively 'coronial brief') were made available to the Club's legal representatives on 24 June 2021. An extension was granted to the Club for provision of its submissions by 23 July 2021.
5. These submissions have been prepared in response to the Notice.

Submissions

6. At the outset, the Club wishes to express its heartfelt condolences to Riharna's family for her tragic and untimely death. That the circumstances of Riharna's death have had an immense impact on her family and friends is acknowledged and deeply regretted by the Club.
7. The Club also observes at the outset that subject to the submissions below, it considers that the draft findings fairly and appropriately refer to the extensive evidence in the coronial brief and that the findings are properly based on the evidence available in the coronial brief¹.

Other horse fatalities at the Acton track since the track remediation

8. The draft findings note that the coronial brief is silent as to whether there have been any further horse fatalities on the Acton track since the track remediation². Given the importance of this issue, the Club wishes to bring to the court's attention the following relevant horse fatalities since August 2018:
 - a. On 18 September 2018, a horse named "Probably" who was in the care of Gratz Vella suffered a fractured off-fore shoulder whilst exercising on the Acton track. The horse was euthanised and WorkSafe did not attend.
 - b. On 12 March 2019, a horse named "Lamawila" trained by Fred Skerbic suffered a fractured nearside shoulder and was euthanised. WorkSafe attended. The rider was injured and sustained a concussion and pelvic injury. This horse fell near the crossing on the Acton track.
 - c. On 24 February 2021, an unnamed 3yo gelding (Real Impact/Choice Blend 2017) sustained a catastrophic fracture of his near foreleg near the winning post, approximately 100m away from where Chosen Prayer broke down and was euthanised. The rider was uninjured. WorkSafe was notified but advised they would not attend.

¹ For completeness sake the Club notes that Ms Hunt and Ms Grintell whose evidence is referred to in the draft findings at [9] and [12] respectively were both apprentice jockeys

² Draft findings at [87], fourth bullet point

9. The relevance of the above incidents is two-fold. First, not only do they highlight as observed by Mr Garry Buchanan (Safety Officer and Track Supervisor) that there are generally on average one catastrophic break downs per year at the Acton track³ but they also serve as a caution that the court must not readily place too much weight on other incidents as establishing the causative link between breakdowns and the condition of the Acton track and in particular the cause of Chosen Prayer's fall.
10. In light of the above and to the extent that there is said to be a direct relevance of the incidents involving Love Dreaming on 29 November 2016, Jack Flash on 15 March 2017 and Chosen Prayer as set out in paragraph 38 of the draft findings, the Club draws the court's attention to the following features of those falls:
- a. In relation to Love Dreaming, there were no detailed investigations and there is therefore no evidence as to the precise location of the fall⁴, the nature and circumstances of the fall, nor any evidence as to the state of the health of that horse. The court should therefore be extremely cautious in placing any weight on that fall as being directly relevant to circumstances of Chosen Prayer's fall.
 - b. In relation to Jack Flash, once again whilst the location of the fall was in the general vicinity of the winning post, it was not at the "*same soft area*"⁵. Furthermore, according to the evidence of his trainer, Mr Steve O'Brien who observed the horse fall during pulling up and damaging his shoulder⁶, there were also other important distinguishing features including:
 - that the horse was late to racing due to health issues and he was in fact attempting his first jump out on the morning of the fall⁷;

³ Draft findings at [85]

⁴ Whilst there is no evidence in the coronial brief as to the location of the fall, evidence available to the Club indicates that the fall occurred some 400m away from where Chosen Prayer fell.

⁵ Draft findings at [43]; See photographs in the coronial brief marking with arrows the different locations which also show that Chosen Prayer fell on the inner side of the track whereas Jack Flash on the outer edge

⁶ Item 29, transcript of interview with Steven O'Brien at Q2

⁷ Ibid at Q12

- Samara Johnson (the jockey riding the horse on the day) was not the regular track rider of the horse but did the jump out that morning⁸;
- the horse had issues with its feet because the horse was wearing “Bar Plates” which are a therapeutic plate. Relevantly, Ms Milton also observed Jack Flash coming onto the track on the day of the accident and recalls that she rang Mr O’Brien to report the horse as it did not look “sound”. Ms Milton specifically questioned Samara Johnson if the horse was all right as she observed that the horse had a “noticeable limp”⁹.

11. The above incidents are consistent with the proposition that unfortunately race horses do suffer from catastrophic fractures. Indeed, the Club embraces the observations in the draft findings that changes in track surface consistency are common-place and *may* cause or contribute to race-horse break downs which the Club notes can be caused for variety of reasons¹⁰. Whether they did in the present case cannot be determined. The comments of Louise Milton that “*no one is ever happy as everyone has a different opinion*”¹¹ highlight the difficulty with the evidence in the present case and the inability for any conclusive findings being made about the contribution (if any) of the condition of the track to Chosen Prayer’s fall. The court must therefore be vigilant in resisting the temptation of placing much weight as to the relevance of any prior or subsequent falls.
12. These submissions are also consistent with what has been properly recognised in the draft findings that given the absence of any eyewitness accounts as to the behaviour of Chosen Prayer prior to and at the time of the incident, there can be no basis for any findings in that regard. Indeed, the fact that the evidence indicated that at least **fifty one** horses had ridden on the Acton track prior to incident is compelling¹².

⁸ Ibid at Q63

⁹ Item 45, transcript of interview with Louise Milton at Q683-699

¹⁰ Draft findings at [37], bullet points two and three

¹¹ Item 45; transcript of interview with Louise Milton at Q487

¹² Tab C, WorkSafe brief, Track Crossing records of the Acton track for 28 February 2017

Occupational Health & Safety

13. The draft findings state at [87]:

- *“If it was true that safety issues with the track had not been raised at trainers meetings then there were significant shortfalls in the occupational health and safety policy for Acton Track at the time of Riharna’s Fall”*

14. Although it is not entirely clear, the Club assumes that what is meant by the above is a reference to shortcomings in relation to communication and recording of complaints.

15. At the relevant time, the Club’s OH&S systems and processes in place can be summarised as follows:

- a. Louise Milton, the track supervisor was responsible for ensuring that the racecourse tracks, including the Acton track were safe to be utilised, prior to the commencement of track work. She undertook that process by inspection of the tracks every morning prior to the tracks being opened to ensure that they did not present any safety concerns. She did so on the day of the incident. Ms Milton also maintained a diary of reports made to her by track riders which did not record any prior complaints or reports of concerns concerning any defects in the Acton track¹³. She would then verbally advise the racecourse and facilities manager Mr Ayre and/or Mr Buchanan by phone.
- b. Garry Buchanan, was the Safety Officer of the Club and had 37 years’ experience as a professional jockey. Given his extensive experience, he had responsibilities in an advisory capacity and advised on aspects of horse safety. He was also responsible for reviewing and implementing the safety policies at the Club¹⁴.
- c. There were monthly trainers meetings whereby the trainers had the opportunity to raise any issues including any safety issues. The minutes of these meetings reveal that there were no complaints by any of the trainers in relation to any

¹³ The Club notes that Ms Milton’s diary was taken by SafeWork however it seems to have been misplaced

¹⁴ Item 64; transcript of interview with Garry Buchanan at Q31-Q36

safety concerns in relation to the Acton track particularly in relation to inconsistencies.

- d. There were *bi-monthly Safety Committee meetings*. During mid-2016 to the time of the incident the Safety Committee comprised the following members:
- Garry Buchanan – WHS Manager
 - David Segrott – Principal Safety Consultant (Segrott Safety Management Pty Ltd)¹⁵
 - Tihik Avramov – Assistant Racecourse Manager
 - Andrew Clark – Chief Financial Officer
 - Eugene Utting – Head Chef
 - Adam Ayre – Racecourse and Facilities Manager
 - Yumin Zhou – Finance Manager

The minutes of the Safety Committee meetings from May 2016 to February 2017 are **attached**. They make no reference to any reported or perceived issues in relation to the safety concerns of the Acton track.

- e. *David Segrott-Principal Safety Consultant*: Since 2005, the Club had engaged the services of an external safety consultant, David Segrott of Australian Health and Safety Services who assisted the Club with investigations or large events amongst other duties.
16. Since this incident, to ensure that any shortcomings associated with communication and documentation of OH&S matters were improved the Club has implemented a more formalised process whereby although the track supervisor still reports any incidents via phone to the race course and facilities manager, the track supervisor now prepares a daily report that is emailed at the conclusion of the days track work which lists the number of horses that used the track and also details any incidents that may have occurred as well as feedback received from riders. This report is emailed to the CEO, Racecourse and Facilities Manager, WH&S Manager and the Equine Welfare Officer.

¹⁵ Mr David Segrott was the Principal Consultant for Australian Health and Safety Services: See reference to Mr Segrott in the transcript of Mr Buchanan's interview at Q.109

Conclusion

17. Subject to the matters discussed above, the Club does not wish to cavil with any of the court's findings which the Club accepts fairly and accurately reflect the evidence which was available in the coronial brief. The Club remains committed to assisting the coronial process by providing any further submissions and/or documents upon request.

Dated: 23 July 2021

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