Form 17
Coroners Act 2009, Sections 81 & 82

FINDINGS AND RECOMMENDATIONS

COURT DETAILS

Court	Coroner's Court of NSW
Case number	1/2010

PROCEEDINGS

Inquest into the death of	**David Ian Patten**
Hearing dates	1st March 2011
Date of findings	1st March 2011
Place of findings	Local Court, Muswellbrook, Bridge Street
Findings of	Magistrate R J Maiden

FINDINGS

I find that David Ian Patten died at Wybong Road, 1km east of Yarraman Road, Wybong on the 7th January 2010 at approximately 4.45pm as a result of Multiple Injuries occasioned when he was the driver of a Toyota Hilux Utility which impacted with a Prime Mover.

RECOMMENDATIONS

1 To: Director General of Transport

2 The current legislation requires wide load escorts for any load wider than 3.5 metres require an overmass/oversize permit, flashing warning lights, flags and signs, but does not require a pilot/escort vehicle. The current legislation does not appear to take into account wide loads which are required to travel on narrow country roads.

3 A review of the wide load escort requirements should be undertaken to address amendments to the legislation. The relevant legislation should be amended to reflect travel performed on narrow roads. The maximum width without pilot vehicles, on country roads, particularly on narrow roads should be altered to 3 metres.

4 Furthermore additional escort vehichles should be required where the toal road width at any point is less then 6 metres in width.

5 If these recommended amendments to the pilot/escort vehicle requirements had been in place then this collision may not have , as the pilot/escort vehicle would have provided sufficient warning of the oversize vehicle to oncoming vehicles.

6 An amendment to the legislation may avert any similar collisions occuring in the future.

7 It is recommended that a formal review of the legislation, particularly in relations to pilot/escort vehicle requirement for oversize vehicles on narrow roads, be undertaken with a view of implementing the recommendations as detailed above.

REPRESENTATION

Assisting the coroner	In chambers
Representing the family	na
Other parties	na

REASONS FOR FINDINGS

This case concerns a report to the Coroner of the death of David Ian Patten who died on the 7th of January, 2010 as the result of a motor vehicle accident where the vehicle he was driving came into collision with a prime mover approximately 1 kilometre east of the intersection of Yarraman Road on Wybong Road, Wybong.

The then Coroner requested that a brief of evidence be obtained and that brief was received at Muswellbrook, according to the file, in early July, 2010. The then Coroner held a preliminary view that an inquest might be required and the matter was referred to the State Coroner's Office for consideration as to whether the matter might need to be listed as a special fixture and assistance provided to hear the case. It appears from the file that this request was made by letter dated the 18th of November, 2010. On the 1st of December, 2010, the Assistant Coroner at Muswellbrook received a letter dated the 29th of November, 2010 from the State Coroner's Office indicating that the State Coroner had reviewed the matter and determined that the State Coroner's Office would not be able to provide assistance.

It appears from the file that the matter was then referred to Magistrate Morahan for a final decision to be made as to whether an inquest would be directed in the matter and, if so, what procedures would be required. Magistrate Morahan considered the matter on the 7th of December, 2010 and directed that the matter should be listed in chambers on the 1st of March, 2011 for finalisation.

Magistrate Morahan expressed the view that he would have dispensed with the need for an inquest but he noted that certain recommendations were made as contained in paragraphs 92-97 inclusive of the statement of Senior Constable Oriel. The Senior Constable is the officer in charge of the investigation.

In those circumstances, the matter was, as stated above, listed in chambers at Muswellbrook on the 1st of March, 2011 and the Assistant Coroner was requested to notify interested parties that the only matter to be considered on that day would be the recommendations. Submissions were sought in writing as to whether those recommendations should be adopted and any submissions as to the appropriate wording of them if they were to be made.

I have reviewed the file and I respectfully agree with the view of Magistrate Morahan that an inquest in this matter is not otherwise required. I adopt and agree with Magistrate Morahan that the reasons for that are as follows:

1 There are no suspicious circumstances;

2 No person has been or is reasonably likely to be charged with any offence arising out of the incident;

3 The death was occasioned by driver error by the Deceased.

Senior Constable Oriel set out her findings in relation to what occurred in the following paragraphs of her statement under the heading of "Collision Sequence":

Through my scene investigation, it is apparent that about 4.45 pm on Thursday 7th January, 2010, the Toyota Hilux utility was driven by David Patten, in a westerly direction along Wybong Road, Wybong negotiating a left hand bend. At the time it was daylight and the road and surrounds were dry.

At this time the Kenworth prime mover, towing an oversized load was driven by Paul Dockery in an easterly direction along Wybong Road, Wybong negotiating a right hand bend.

While negotiating the left hand bend, David Patten has seen the oversized load approaching in the opposite direction and applied his brakes, causing the front tyres to lock and slide. Once the tyres of PATTEN's vehicle begun to slide, the vehicle has continued in a straight line, with the driver's side of the Toyota Hilux encroaching into the eastbound lane.

The front driver's side of the Toyota Hilux has glanced the front driver's side guard of the Kenworth Prime mover. The front driver's side of the Toyota Hilux has then impacted heavily with the first driver's side drive tyre wheel arch, which has redirected the Toyota Hilux into the front right hand corner of the Drake Trailer and bucket of the Front end loader.

The utility has impacted heavily with the front right hand corner of the Drake Trailer, tearing the driver's side from the vehicle.

As a result of the collision David PATTEN received fatal injuries and died instantly at the scene.

Further, in her statement, the Senior Constable received information as to what the requirements were for the Prime Mover towing the low loader to enable it to lawfully travel on that piece of road in NSW. She sets out that information in paragraphs 82-87 inclusive of her statement and concludes in paragraph 87 that the vehicle complied with all the relevant conditions of travel.

It appears that the Prime Mover was owned and operated by Mangoola Mine nearby. The Senior Constable, in confirming that the investigation of the matter going to the road worthiness of the Prime Mover and compliance with all relevant road rules and regulations had not uncovered any breaches of those rules or regulations and, indeed, indicated complete compliance together with no issues as to road worthiness, dealt in paragraph 52 of her statement with the fact that the Prime Mover had an escort vehicle:

As part of the agreement that Mangoola Mine had with the local residence (read "residents"). A vehicle was provided to escort heavy vehicles along Wybong Road. The vehicle was a Toyota Hilux dual cab utility, registration number 168-KRW (QLD), driven by Scott CAMPBELL. The vehicle was provided with an orange flashing light and had been travelling ahead of the Kenworth prime mover at the time of the collision.

The Senior Constable is to be congratulated on the thorough, meticulous and thoughtful way in which she has conducted this investigation and the detail which she has provided in her statement. Ultimately, as a result of all her investigation into this matter she has reached a number of conclusions in paragraph 90 of her statement which are presented in dot format. Of those, I set out the final six (6):

- Alcohol is not considered to be a contributing factor in this collision,

- Fatigue is not considered to be a contributing factor in this collision,
- Speed was not considered a contributing factor in this collision,
- Mechanical failure was not a contributing factor in this collision,
- Inattention was considered a contributing factor,
- The road and/or road conditions in this area were not a contributing factor in this collision.

SIGNATURE

Signature	
Name	R J Maiden, Magistrate
Capacity	Coroner
Date	1st March 2011