



## **FINDING OF INQUEST**

*An Inquest taken on behalf of our Sovereign Lady the Queen at Port Lincoln in the State of South Australia, on the 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> and 16<sup>th</sup> days of January 2009 and the 6<sup>th</sup> day of March 2009, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Steven Michael Bradford.*

*The said Court finds that Steven Michael Bradford aged 20 years, late of 4 Esplanade, Tumby Bay, South Australia died at Bratten Way, Tumby Bay, South Australia on the 23<sup>rd</sup> day of May 2006 as a result of severe blunt head trauma. The said Court finds that the circumstances of his death were as follows:*

### **1. Introduction and reason for Inquest**

- 1.1. Steven Michael Bradford was 20 years of age when he died on 23 May 2006. Steven lived with his parents at 4 Esplanade, Tumby Bay on the Eyre Peninsula. He was the youngest of four siblings. At the time of his death he was a trainee accountant with a firm in Port Lincoln. His death followed a police high-speed pursuit in which Steven Bradford while riding a motorcycle was pursued by a police officer who was driving a marked police sedan.
- 1.2. Tumby Bay is said to have a population of approximately 1200 people within the town itself and approximately 2700 within the District Council boundaries. It is situated about 49 kilometres north of Port Lincoln on the east coast of the Eyre Peninsula.
- 1.3. Steven's father was the Postmaster at Tumby Bay. Tumby Bay had one full-time police officer stationed in the town. At the time of Steven's death that officer was Brevet Sergeant Tristan Graham. Mr Graham had been the Officer-in-Charge of the

Tumby Bay police station since 6 February 2006. He was aged 25 years at the time of that appointment and had been a police officer since 2000. The previous sole officer stationed at Tumby Bay had been an officer by the name of Senior Constable First Class John Thomas Hookings. Mr Hookings had been the Officer-in-Charge of the Tumby Bay police station for approximately 6 years. He had been a member of the police force for approximately 30 years. Mr Hookings had known Steven Bradford very well. However, Mr Graham asserts that he did not know, or know of, Steven Bradford.

- 1.4. In February 2006, which is the same month in which Mr Graham assumed responsibility of the Tumby Bay police station, Steven Bradford purchased a motorcycle from a dealer in Port Lincoln. The motorcycle was a Honda CVR 600cc. It was an exceptionally powerful motorcycle. I received in evidence the statement of Senior Constable First Class Ricky Dixon of the Major Crash Investigation Unit<sup>1</sup>. Mr Dixon is an experienced motorcyclist. His statement reveals that this particular machine has an extremely high power to weight ratio with a redline RPM of 15000 RPM. It was capable of very rapid acceleration and it no doubt also had a very high top speed. I accept Mr Dixon's assertions that the rapid rate of acceleration that this motorcycle was capable of achieving would generally be beyond the skills of the novice rider in terms of safe control on a public road. This view of the matter is reflected in the fact that a learner motorcyclist was not permitted by law to ride such a motorcycle. Only a fully licensed motorcyclist was permitted by law to ride a motorcycle such as this on a public road. Nevertheless, Steven Bradford had been riding the machine for 3 months and it is fair to assume that in that time he had gained some familiarity with its capabilities. Steven's parents were unenthusiastic about his acquisition of the motorcycle. However, there is no suggestion that they realised he was riding it unlawfully.
- 1.5. Steven Bradford possessed a full car licence as well as a motorcycle learner's permit at the time of his death. Notwithstanding his lack of a full motorcycle licence, Steven was nevertheless legally entitled to acquire the motorcycle and to have it registered in his own name. He consistently rode it in and around the Lower Eyre Peninsula. The evidence would suggest that he fixed a learner's plate, or 'L' plate, to the machine<sup>2</sup>.

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<sup>1</sup> Exhibits C49 and C49a

<sup>2</sup> Insert reference

Given the legal position that I have described, the affixing of an 'L' plate to a motorcycle such as this was an ironic contradiction.

- 1.6. Steven Bradford died on the evening of 23 May 2006 while riding the motorcycle. The collision that caused his death occurred in Tumby Bay. While riding at a grossly excessive speed of well over 100 kilometres per hour, Steven ran into the rear of a 4WD vehicle that was turning right from Bratten Way into Tresize Street in Tumby Bay. The speed limit for that section of Bratten Way was 50 kilometres per hour. Steven had earlier been detected by an off-duty police officer to be speeding on the Lincoln Highway between Port Lincoln and Tumby Bay. The same officer also established through an internal police check via his mobile phone that the motorcycle was unregistered and uninsured at the time. The officer had then notified Mr Graham, the local Tumby Bay officer. Steven failed to stop after Mr Graham had indicated quite clearly for him to stop. Steven was by law obligated to stop<sup>3</sup>. Mr Graham who was driving a marked police vehicle with siren and roof lights operating had then pursued Steven, also at a high speed. On one view the pursuit was still on foot when the fatal collision occurred. Steven's failure to stop when requested to do so, and the subsequent pursuit, gives rise to the suggestion that this was a death in custody as defined in the Coroners Act 2003. Accordingly, it was considered mandatory under Section 21(a) of the Coroners Act for an Inquest to take place in respect of Steven's death. In any case, it is considered necessary and desirable that an Inquest be held into his death. Whether Steven's death was a consequence of the pursuit by the police officer is a matter that required investigation. The appropriateness of him being pursued at high speed by the police officer is also a matter that is open to question.

## **2. Cause of death**

- 2.1. Steven Bradford sustained very serious head injuries that were incompatible with life. He died at the scene. As a result of the impact between his motorcycle and the 4WD Steven was catapulted from the motorcycle towards another vehicle that was travelling on Bratten Way from the opposite direction. At one point Steven's helmet became dislodged. There was a secondary impact between Steven and the right hand side of the oncoming vehicle. Steven then slid for several metres until his body came to rest at the side of the road. It is not certain at what exact point Steven's severe head

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<sup>3</sup> Section 42 of the Road Traffic Act 1961

injuries were sustained, but it is clear that they were the result of an impact or impacts that occurred between the collision with the 4WD and his body coming to rest.

- 2.2. Dr John Gilbert, a Forensic Pathologist, performed an autopsy on Steven's body. Dr Gilbert's post-mortem examination report is Exhibit C2a. Dr Gilbert has expressed the cause of Steven's death as severe blunt head trauma. I find that to be the cause of Steven's death.
- 2.3. No natural disease that could have caused or contributed to his death was identified at autopsy. Analysis of a specimen of blood obtained at the autopsy showed a blood alcohol concentration of nil and no common drugs were identified. I add here that although there were a number of vehicles involved in the incident in which Steven lost his life, and I include here the police vehicle, there is no suggestion that alcohol or drugs played any part in these events. The blood alcohol testing that was conducted in respect of the various participants in the incident all proved to be negative.

### **3. Steven Bradford's driving record**

- 3.1. Steven Bradford seemingly had an appetite for speed and a casual attitude towards being detected and caught for the same. On 20 November 2002, while a probationary licence holder, he was detected driving a car at 80 kilometres per hour in a 60 kilometres per hour zone and was fined. On 30 March 2005 Steven, again in a car, was detected exceeding the 25 kilometres per hour limit in a school zone and on this occasion was cautioned. On 22 April 2006 he had been stopped for speeding at the wheel of his Mazda MX6 motorcar. He was clocked travelling at 145 kilometres per hour in a 110 kilometres per hour zone. The statement of the police officer who issued Steven Bradford with an on the spot speeding fine on that occasion observed that Steven had a rather blasé, if not cocky, attitude towards having been caught speeding on a public road<sup>4</sup>. It seems from the evidence that Steven also had a similar attitude towards the fact that his motorcycle's capabilities were beyond his riding experience and that the riding of it was, in any event, for him unlawful.

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<sup>4</sup> Exhibit C44 (Steven Wuttke)

#### 4. **Steven Bradford's acquisition and use of the motorcycle**

- 4.1. Steven Bradford acquired the motorcycle from Lincoln Mower and Motorcycle Centre in Port Lincoln on 13 February 2006. The motorcycle had been previously owned. Although Steven did not have a motorcycle licence that would have legally entitled him to ride the motorcycle, there was nothing preventing him from legally acquiring the motorcycle or becoming its registered owner. The motorcycle's registration was duly transferred into Steven's name on the date I have mentioned. The motorcycle was registered with the following details:

STEVEN M BRADFORD  
4 ESPLANADE  
TUMBY BAY SA 5065

The registration plate of the vehicle remained the same, namely YYL-991. The motorcycle registration expired on 28 March 2006 and was not renewed on that date. Nevertheless, it appears that Steven continued to ride the motorcycle beyond the expiry date and was certainly riding it on the day of his death. The fact that the motorcycle registration was not renewed at the end of March 2006 meant that it could not legally be ridden on a public road by anyone, and certainly could not be ridden by Steven Bradford who in any case did not have the appropriate licence. Notwithstanding its expiry, the registration of the motorcycle continued to be recorded in Department of Transport (DTEI) and SAPOL records in Steven Bradford's name. For instance, police registration checks would reveal that the motorcycle's registered operator/owner was Steven Bradford of the above address. They would also reveal the fact that the motorcycle was unregistered and uninsured in respect of compulsory third party insurance. A check on Steven Bradford himself would also reveal that he was only fully licensed to drive a motorcar.

- 4.2. Steven Bradford kept the motorcycle in a shed at his home address at 4 Esplanade, Tumby Bay. Aside from what may have been revealed by a police check in respect of Steven Bradford's licensing situation, there is no evidence to suggest that any person in authority had an appreciation of the fact that Steven was habitually riding a motorcycle unlawfully. I received in evidence a number of statements taken from a friend of Steven's by the name of Jacob Bockelberg<sup>5</sup>. Mr Bockelberg had known Steven Bradford for a number of years. He and Steven had both attended the same

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<sup>5</sup> Exhibits C51, C51a, C51b and C58b

school in Port Lincoln and as of May 2006 they worked together at the same Port Lincoln accountancy firm. In his statement Mr Bockelberg records that Steven purchased the motorcycle 3 to 4 months prior to his death<sup>6</sup>. Mr Bockelberg, like Steven's parents, lacked enthusiasm about Steven acquiring the motorcycle because he had no experience of riding such a machine. Mr Bockelberg had the distinct impression that at the time Steven took delivery of the motorcycle he was quite naïve as to its capabilities. According to Mr Bockelberg Steven rode the motorcycle to work a number of times per week from Tumby Bay. Notwithstanding his misgivings about Steven's actual ability to handle the motorcycle properly<sup>7</sup>, on the occasions that Mr Bockelberg saw Steven riding it he appeared at least to be a '*responsible rider*'.

4.3. Braith Lockwood, who gave a statement to the police that was tendered to the Inquest<sup>8</sup>, was a relative of Steven Bradford. He also resided in Tumby Bay. On the Friday prior to Steven's death Mr Lockwood spoke to him at the front of a Tumby Bay shop. Mr Lockwood claims that the motorcycle had a learner's plate on it at that time. This appears to have prompted Mr Lockwood to remark to Steven that the latter would get into trouble if the police saw him riding the motorcycle. Steven retorted that if the police attempted to stop him he would outrun them. Mr Lockwood believed that Steven was joking as he had a propensity to make flippant remarks of that kind. Mr Lockwood opined that when he saw Steven ride the bike that day he did not have the necessary skill to ride it properly. The observation of Mr Lockwood that the motorcycle bore a learner's plate is not supported by any other evidence. However, I do not doubt the evidence of Mr Lockwood given that the presence of the plate prompted him to say what he did to Steven. Although it is not necessary for me to decide this point, it may well be that as a result of their conversation Steven removed the learner's plate, because one thing is certain and that is that the bike did not bear a learner's plate when it was involved in the fatal accident the following week.

4.4. As seen earlier in these findings a police officer by the name of John Hookings had been the previous sole police officer at Tumby Bay until early in the year 2006. He was then transferred to Port Lincoln. He gave evidence before me. Mr Hookings was a very experienced police officer. He had secured a significant engagement with the

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<sup>6</sup> Exhibit C51a

<sup>7</sup> Exhibit C51a, page 2

<sup>8</sup> Exhibits C17 and C17a

Tumby Bay community in the 6 or so years that he had been in charge of the town's police station. He knew Steven Bradford quite well through a mutual interest in sailing. Mr Hookings had somewhat taken Steven under his wing during the latter's teenage years. Mr Hookings related an encounter with Steven in which he told Steven that he was concerned about him possessing a motorcycle. Mr Hookings told me that he never saw the motorcycle and I accept that evidence. Mr Hookings also told me that he had no knowledge of the fact that Steven did not hold the appropriate licence to ride the motorcycle. I accept that evidence as well. It is of note that Steven, as he had said to Mr Lockwood, remarked to Mr Hookings during their conversation that he would endeavour to outrun police if they tried to stop him. Mr Hookings pointed out to Steven the futility of this as a tactic to avoid detection as police could ultimately identify and catch the rider through registration records. Mr Hookings, of course, had no knowledge of Steven's comment to Mr Lockwood along similar lines. Like Mr Lockwood, Mr Hookings dismissed Steven Bradford's comments about outrunning the police as a joke. Mr Hookings had by then been transferred out of Tumby Bay to Port Lincoln. It did not occur to Mr Hookings to tell any other police officer about Steven Bradford's comment, and that would include the new Officer-in-Charge of Tumby Bay, Mr Graham. Some police officers may have been more concerned about Steven's comment. Other officers may have had a quiet word about it to the local police officer at Tumby Bay or even to Steven's parents, but I suspect that most people in Mr Hookings' position would have simply dismissed this as a frivolous off the cuff comment not worthy of further thought or action. In my view Mr Hookings cannot be criticised for not taking the comment seriously and for not mentioning it to anyone else. In the event, however, when one examines Steven's boasts with the benefit of hindsight, it may very well be that on the day of his death Steven enthusiastically embraced the opportunity to pit whatever skill he thought he may have acquired in respect of the handling of this motorcycle against the skill of Mr Graham. In addition, with Steven's driving record thus far, and even allowing for his casual attitude towards the same, stopping and being caught yet again for speeding would not have been an attractive proposition.

- 4.5. By the date of his death Steven had been in possession of the motorcycle for just over three months. He had been riding it regularly in that period of time. His skill as a rider of such a high performance machine is not known in precise terms. In the event, the fatal collision that he was to have in late May 2006 was the result of a grossly

excessive speed in all of the circumstances. It may well be that the collision occurred not so much through a lack of skill, but through a lack of maturity on Steven's part and an inability to foresee the real possibility that his actions might have a catastrophic outcome.

## 5. **Police high risk driving**

- 5.1. At the time with which this Inquest is concerned there was in operation a police General Order entitled 'Operation Safety – High Risk Driving'. This General Order superseded a previous General Order dealing with the same subject. The revised version took effect from 1 January 2006. The General Order was tendered in evidence as an annexure to the affidavit of Inspector Ian Desmond Humby of South Australia Police, State Crime Prevention Branch<sup>9</sup>. Inspector Humby also gave oral evidence. The General Order addresses the subject of high risk driving by SAPOL officers. It describes policy and procedures for police officers driving vehicles in a manner that might breach the Australian Road Rules, with the aim of minimising the risk of danger to police and members of the public. In particular, under the heading '*Rationale*', it is said that police have a duty to protect life and property and that this outweighs the need to apprehend suspects, especially when the offences are minor traffic matters or where safer alternatives are available.
- 5.2. Included within the General Order is a section on pursuit driving. In its preamble, the General Order recognises that pursuit driving involves significant risk and presents great potential for the loss of life, injury or damage to property. The risks increase significantly when high speeds are involved, especially in areas of high vehicle or pedestrian traffic and when combined with adverse road and/or weather conditions. The General Order mandates SAPOL members to take reasonable care and to consider the circumstances against a 'risk assessment' which takes into account the potential danger to police, members of the public, suspects or damage to property and also mandates police to have regard to the likely outcome of a pursuit and what might be achieved by it. It stipulates that the risk involved must be continually assessed.
- 5.3. The General Order refers to the Rule 305 Australian Road Rules exemption in respect of drivers of police vehicles. Rule 305 exempts a police officer from the ordinary operation of the Australian Road Rules if in the circumstances the driver of a police

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<sup>9</sup> Exhibit C57, Annexure IDH7

vehicle is taking reasonable care, if it is reasonable that the breached road rule should not apply and if the vehicle is displaying a blue or red flashing light or is sounding an alarm.

5.4. The General Order defines the concept of a ‘pursuit’ as follows:

**‘Pursuit** – a situation will be considered a pursuit when police are following a driver who:

- fails to stop after being signalled to do so by a police officer; and/or
- is taking deliberate action to avoid being stopped; and/or
- appears to be ignoring police attempts to stop the driver.’<sup>10</sup>

The General Order stipulates that pursuits should not generally be commenced for ‘minor traffic matters’. It does not define a minor traffic matter. Some might argue that a failure of a motorist to stop when requested by a police officer to do so is something more serious than a minor traffic matter. On the other hand, a pursuit presupposes that there has been a wilful failure to stop so arguably the failure to stop adds little to justify a pursuit being commenced in respect of an already existing minor traffic transgression such as exceed speed. Therefore, arguably, the failure to stop would not in itself, absent some other serious traffic transgression, justify the commencement of a pursuit. In the present case, Mr Graham followed the deceased in circumstances in which the deceased failed to stop when it must have been clear to the deceased that Mr Graham wanted him to stop. As seen earlier, the law obligated Steven to stop. At the time the pursuit was commenced, Mr Graham wanted to investigate a possible speeding offence as well as offences of driving without an appropriate licence and driving an unregistered and uninsured vehicle. I will come to the precise circumstances of the incident in due course, but it is reasonably clear that Steven Bradford not only failed to stop, but also took deliberate and unlawful action to avoid being stopped. It will thus be seen that there was in this particular case a ‘pursuit’ of the deceased by Mr Graham.

5.5. The General Order also stipulates that a pursuit is not to take place when the risks outweigh the results to be achieved by such driving and that if a pursuit is occurring it must immediately be terminated should the risks outweigh the results. One could quite easily substitute the word ‘results’ with ‘public benefit’. Either way, the

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<sup>10</sup> Exhibit C57, Annexure IDH7, page 313

overarching consideration would have to be that a pursuit would only be justified where it was conducted in the public interest, not because it might provide an exhilarating challenge for the police officer concerned.

5.6. In conducting a risk assessment, which must be the subject of a continual reassessment throughout the course of any pursuit driving, safety is said to be the priority in all situations. The reason for the driving, based on the known facts, must be assessed against the risk involved. In making the risk assessment, the issues to be considered relevantly include:

- the seriousness of the emergency or offence;
- the degree of risk to the lives or property of police, public and suspect/s;
- the outcome to be achieved;
- the effect on the outcome if the arrival of the police vehicle is delayed;
- local knowledge of road features and surrounding location;
- weather and traffic conditions;
- speed of vehicles;
- in a pursuit, whether immediate apprehension is necessary;
- if the identity of the driver is known.

The General Order also stipulates that if at any time the risk to police, members of the public, suspects or damage to property, and the 'likely outcome' is outweighed by the results to be achieved, or the driving is in breach of any road safety rules, the driving is to immediately cease.

5.7. It will be observed that in conducting a risk assessment, the General Order does not stipulate that the pursuing member of SAPOL need take into account the type of vehicle being pursued, and in this regard it does not recognise that there are certain additional dangers associated with the operation of a motorcycle at high speed as opposed to a car driven at the same speed.

5.8. Whether the identity of the driver who is being pursued is known or not is also a manifestly relevant consideration. If the identity of the driver is known, there may be alternatives to pursuit that might successfully bring the offending driver to justice. Similarly, although the identity of an offending driver may not actually be known, if police have information that might later lead to the establishment of the identity of the driver, such as the registration details of the pursued vehicle, this must also be a

relevant factor in conducting a risk assessment. This would especially be so where the circumstances, such as the driver's proximity to the address of the registered owner, suggest that the driver and the registered owner may be one and the same person. This is not spelt out in terms in the General Order and the evidence suggested to me that this might be poorly understood within SAPOL.

- 5.9. The General Order also makes provision for the introduction of an 'Incident Controller' into an incident involving a pursuit. The Incident Controller must take charge of and closely control the pursuit. Inspector Humby told me that in practice the Incident Controller would have direct radio communication with the pursuing officer and would not be an actual participant in the pursuit itself. The desirability of that state of affairs is manifest. Inspector Humby also told me that in effect the Incident Controller's word in a given situation was law in the sense that if, for example, an Incident Controller ordered the cessation of a pursuit, the pursuing officer would have no choice but to obey such a direction.
- 5.10. Other strategies as alternatives to commencing or maintaining a pursuit are said in the General Order to include monitoring by helicopter or fixed wing aircraft, the deployment of road spikes or the establishment of a roadblock. None of those measures could have been available in the instant case and I would hasten to observe that it is difficult to envisage circumstances that would justify the deployment of road spikes to stop a motorcycle.
- 5.11. Again, in terms of alternatives to pursuit, the General Order recognises that there are other investigative tools besides actually stopping the pursued vehicle and apprehending the offender or offenders. I refer to the following passage in the General Orders:

'If the pursuit vehicle is not stopped or the pursuit is terminated, enquiries are to be made to locate the driver and passengers in the pursued vehicle, and may include:

- fingerprinting the vehicle;
- forensic examination of vehicle;
- obtaining witness statements;
- attending at the home address of the registered owner of the pursuit vehicle;
- allocating the investigation with accountability.'<sup>11</sup>

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<sup>11</sup> Exhibit C57, IDH7, page 316

In this regard the police have certain statutory powers. A police officer is empowered to search for and examine a vehicle, and if necessary enter land for this purpose, if the officer has reasonable cause to suspect that a vehicle has been driven on a road recklessly or at a speed or in a manner that is dangerous to the public<sup>12</sup>. In addition, a person must truthfully answer any question put by a member of the police officer for the purpose of obtaining information which may lead to the identification of the person who was driving, or who was the owner or the operator of, a vehicle on any occasion<sup>13</sup>. At the time of the pursuit with which this Inquest is concerned, the pursued motorcycle was still registered in the name of the deceased with an address of 4 Esplanade, Tumby Bay. The motorcycle's journey was quite consistent, and not just in hindsight, with the rider having an intention to travel to the environs of that particular premises, and the accident eventually happened only a few hundred metres from that premises. Armed with these statutory powers, and even leaving aside whether the section 37 power of search had been enlivened by the manner of Steven's driving, as an alternative to pursuit Mr Graham could have gone to 4 Esplanade, Tumby Bay and required Steven Bradford to truthfully answer any question relevant to the identity of the person who had been riding the motorcycle on the relevant occasion. These matters bring into question whether it had been necessary for the offending motorcyclist's immediate apprehension to be effected, another relevant criterion in determining whether a pursuit is appropriate or not. The issue is whether in the circumstances the exercise of the statutory powers I have described would have been a realistic and feasible alternative to pursuit. In this regard I remind myself that one has to be careful not to examine the issue too readily with the benefit of hindsight. I return to this issue later.

- 5.12. The General Order also deals with the question of termination. The expression "terminate" is defined and the concept includes immediately stopping the police vehicle and turning off all emergency warning equipment.

## **6. Relevant geographical and traffic control features**

- 6.1. At the time of his death Steven Bradford still lived in Tumby Bay at 4 Esplanade. As the name suggests, the Esplanade runs along the Tumby Bay foreshore. Tumby Bay is situated on the east coast of the Lower Eyre Peninsula some 49 kilometres from

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<sup>12</sup> Section 37 (as it then was) of the Road traffic Act 1961

<sup>13</sup> Section 38 (as it then was) of the Road Traffic Act 1961

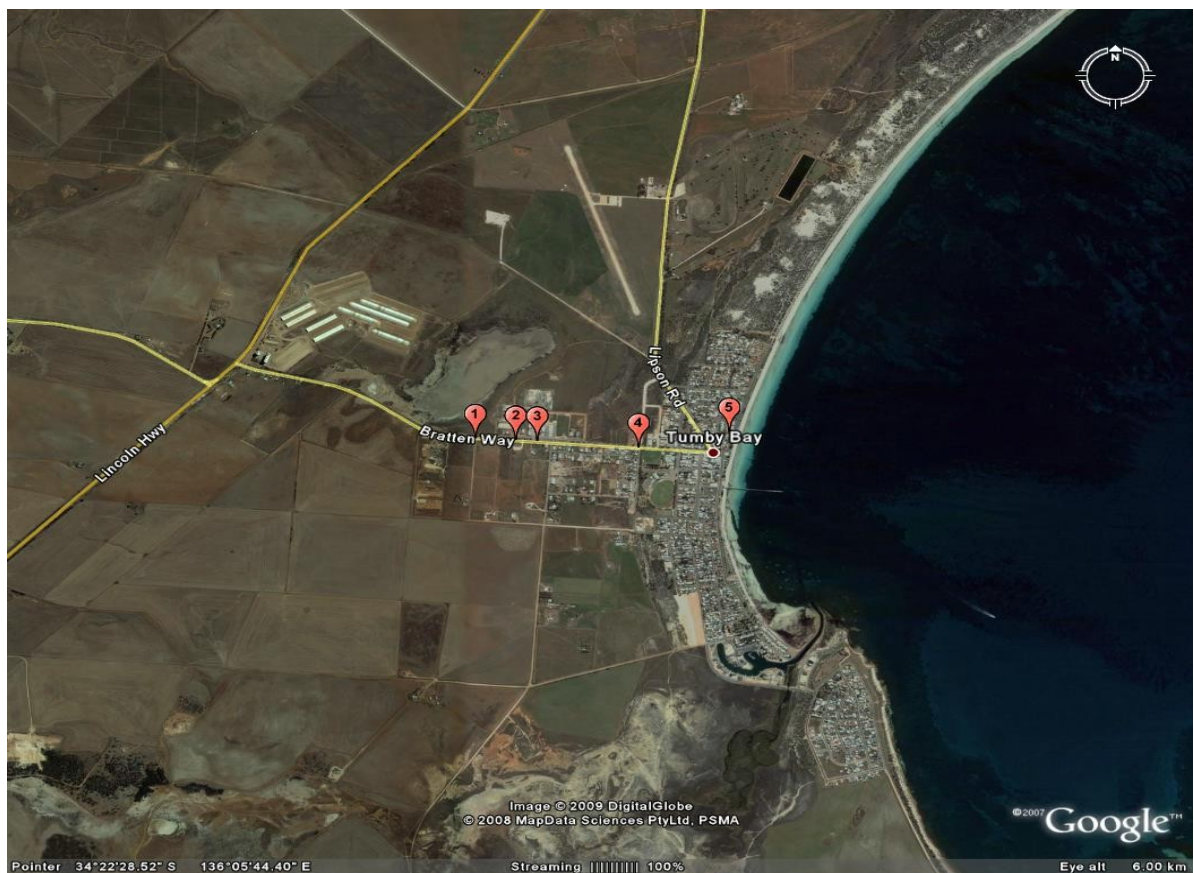
Port Lincoln to the south. Vehicular traffic travelling from Port Lincoln to Tumby Bay will travel along the Lincoln Highway which is a sealed road with one lane for each direction of travel. The speed limit along the Lincoln Highway as one approaches Tumby Bay from Port Lincoln is 110 kilometres per hour.

- 6.2. There are two sealed roads that connect the Lincoln Highway to Tumby Bay. The southernmost connecting road, and the road logically taken by traffic entering Tumby Bay from Port Lincoln, is Bratten Way. Traffic approaching Tumby Bay along the Lincoln Highway from the north would take the other more northerly sealed road into Tumby Bay. That road would also logically be utilised by traffic leaving Tumby Bay to join Lincoln Highway and then travel north towards Whyalla.
- 6.3. We are in the main concerned with the features of the Lincoln Highway before one encounters the turn-off into Bratten Way, and the route along Bratten Way itself into Tumby Bay.
- 6.4. To all intents and purposes the terrain along the Lincoln Highway and along Bratten Way is flat.
- 6.5. Traffic from Port Lincoln to Tumby Bay will execute a right-hand turn from the Lincoln Highway into Bratten Way at the junction of those two roads. The distance along Bratten Way from that junction to the location in Tumby Bay where the fatality occurred is 2.44 kilometres. It is then a few hundred more metres to the foreshore.
- 6.6. Bratten Way is a sealed road along its entire length. It has one lane for each direction of travel.
- 6.7. The 110 kilometres per hour speed limit that pertains along Lincoln Highway as one approaches the Bratten Way junction does not alter once the right-hand turn into Bratten Way is executed. As one travels east along Bratten Way towards the township of Tumby Bay the 110 kilometres per hour speed limit pertains for a distance of 1.5 kilometres before it becomes an 80 kilometres per hour speed zone. Prior to reaching the 80 kilometres per hour zone, one encounters a right-hand sweeping bend that bears an advisory speed sign for both directions of travel of 85 kilometres per hour. The road then straightens for a short distance and then as one travels further east a sweeping left-hand bend with advisory speed signs for both directions of travel of 75 kilometres per hour is encountered. These speed signs are

not obligatory and the speeds may be lawfully exceeded provided it is safe to do so. Of course, the 110 kilometres per hour limit still applies. Bratten Way then remains straight for the remainder of its length and, as seen earlier, terminates near the Tumby Bay foreshore. If one was to execute a left-hand turn from Bratten Way where it terminates at the foreshore, one turns into the Esplanade and Steven Bradford's premises at number 4 was only a short distance along the Esplanade from the junction of that road and Bratten Way.

- 6.8. As one travels east along Bratten Way towards Tumby Bay one encounters the 80 kilometres per hour zone. The commencement of the 80 kilometres per hour zone to the location of the fatal collision is approximately 940 metres. The 80 kilometres per hour zone exists for a distance of 356 metres before it becomes a 50 kilometres per hour zone. The 50 kilometres per hour zone then persists for the remainder of the length of Bratten Way, which effectively becomes the main thoroughfare of Tumby Bay. The speed limit within the Tumby Bay township itself is naturally 50 kilometres per hour. The collision in which the deceased lost his life occurred within the 50 kilometres per hour speed zone. The distance between the sign where the 50 kilometres per hour zone commences and the location at which the fatal collision occurred is approximately 584 metres.
- 6.9. For a vehicle travelling east towards Tumby Bay along Bratten Way the commencement of the 50 kilometres per hour speed zone occurs at a distance of approximately 30 metres before the junction of Bratten Way and Thuruna Road to the east. The junction of Thuruna Road is on the southern side of Bratten Way, that is to say on the right-hand side for a vehicle travelling east towards Tumby Bay. On the western corner of that junction there is a large workshop which was the business premises of a Mr Bradley John McHendrie who is a panel beater. Certain observations were made of the vehicles involved in this pursuit from the vicinity of that workshop. To the east of the Thuruna Road junction one encounters another junction and that is the junction of Bratten Way and Tresize Street which also runs off Bratten Way to the right for a vehicle travelling east. It was at this junction that the fatal collision occurred. The distance between the Thuruna Road junction and the Tresize Street junction is approximately 550 metres.
- 6.10. The commencement of the 50 kilometres per hour zone along Bratten Way as one travels east virtually coincides with the commencement of the built up area of the

Tumby Bay township. There are business and residential premises along the southern side of Bratten Way between the junctions of Thuruna Road and Tresize Street. On the northern side of Bratten Way between those junctions there is a slip road separated from the Bratten Way carriageway by a bare area of approximately 10 metres. There are commercial premises along the northern side of the slip road. To the east of the Tresize Street junction the areas on both sides of Bratten Way becomes built up with residences and commercial premises. The following Google Earth aerial imagery, which became part of Exhibit C53, is self-explanatory. The significance of the point 700 metres from the point of impact will become apparent later in these findings.



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|---------------------------------|--------------------|--------------------|
| 1. Start 80km zone              | 3. Start 50km zone | 5. 4 The Esplanade |
| 2. 700 metres from impact point | 4. Impact point    |                    |



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|-------------------------|------------------------|-------------------------------------|
| 1. Start 80km zone      | 4. McHendrie Crash     | 7. Approx resting place of deceased |
| 2. 700 mtrs from impact | 5. 8 Bratten Way       | 8. 4 The Esplanade                  |
| 3. Start 50kmh zone     | 6. Approx impact point | 9. Police Station                   |

## 7. The circumstances in which the pursuit of Steven Bradford commenced

- 7.1. On Tuesday, 23 May 2006 Steven Bradford rode the motorcycle to his place of work at Wibberley's Chartered Accountants in Port Lincoln. Steven's colleague Jacob Bockelberg states in Exhibit C51a that he last saw Steven at about 5pm that day when Mr Bockelberg left work. It appears that Steven must have left work reasonably soon thereafter because by 5:47pm<sup>14</sup> his motorcycle was sighted by an off-duty police officer along the Lincoln Highway travelling towards Tumby Bay<sup>15</sup>. This location was approximately 20 kilometres to the south of Tumby Bay.
- 7.2. The off-duty police officer was Brevet Sergeant Jason Doig who at that time was the Officer-in-Charge of the Cleve Police Station. Mr Doig was driving his private Nissan Patrol north along the Lincoln Highway. Shortly before 5:47pm Mr Doig became aware of a motorcycle travelling behind him at a fast speed. The motorcycle overtook his vehicle at a speed, which Mr Doig estimated at between 130 to 160 kilometres per hour, which was significantly in excess of the speed limit. That

<sup>14</sup> The precision of the times that follow emanates from mobile phone and GRN records

<sup>15</sup> Exhibit C54

motorcycle was Steven Bradford's and it was being ridden by Steven. Having overtaken Mr Doig's vehicle the motorcycle settled in behind another vehicle that was approximately 500 metres in front of Mr Doig's vehicle. Thereafter, Steven Bradford's riding behaviour becomes difficult to understand. There appears to have been no reason why Steven Bradford would not have overtaken the vehicle that was to the north of Mr Doig, but he sat behind that vehicle at a speed of around 80 to 90 kilometres per hour which meant that Mr Doig's vehicle gained on the motorcycle. In fact at one point Mr Doig overtook the motorcycle. Mr Doig speculated that perhaps the rider's intention in allowing him to overtake the motorcycle was to inhibit any attempt that Mr Doig might make to ascertain and record the motorcycle's registration number. Be that as it may, Mr Doig was able to ascertain the number in any case. At 5:47pm Mr Doig rang the Whyalla Police Station and requested a motor vehicle check in respect of the motorcycle. As a result Mr Doig established that it was registered to a Steven Bradford but that the registration had expired on 28 March 2006. Mr Doig's witness statement states that when he made the motor vehicle check he was '*told that the motorcycle was registered to Steven Bradford of 4 Esplanade, Tumby Bay*'<sup>16</sup>. This passage rather suggests that Mr Doig at the time was made aware of the fact that the motorcycle was registered to a person who may have resided in Tumby Bay, the very town in the direction of which the motorcycle was generally heading. In his evidence Mr Doig confirmed that when he rang the Whyalla Police Station he was at least told that the registered owner's address was the Esplanade, Tumby Bay, leaving aside the exact number. At any rate, police clearly had access to information that established that the registered owner at that time had a possible connection with a Tumby Bay residential address.

- 7.3. At 5:52pm Mr Doig rang the Tumby Bay police officer's mobile phone. Brevet Sergeant Graham answered it. Mr Doig told Mr Graham that he was on the Lincoln Highway, that he had been overtaken at high speed by a black motorcycle and that the motorcycle's registration had expired in March. He told Mr Graham the registration number and added that the motorcycle was '*one of yours*'. This was intended to convey to Mr Graham that the motorcycle was registered to someone in Tumby Bay. Mr Graham was to tell me in evidence that he did not reach that understanding from what Mr Doig told him. If this is correct, then it would represent a lamentable lack of precision in respect of an important communication about the possible identity of the

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<sup>16</sup> Exhibit C54

motorcyclist. In any event it does not alter the fact that both Mr Graham and Brevet Sergeant Doig, had they chosen to establish the details of the registered owner with precision, could easily have done so because police clearly had that detailed information at their disposal.

- 7.4. Having made this communication Mr Doig proceeded north along Lincoln Highway with the motorcycle remaining to his rear - riding behaviour which seemed at odds with the earlier high speed at which Mr Doig's vehicle had originally been overtaken. At that point it had at least been established that the rider of the motorcycle was riding an unregistered and uninsured motorcycle, which are offences in themselves, and as well there was the matter of the significant contravention of the speed limit perpetrated by the motorcyclist. Whether the motorcyclist would have ultimately been prosecuted for speeding merely on the basis of Mr Doig's estimate is a matter that is open to question, but as events were to transpire, Steven Bradford, the motorcyclist, was to add to the list of traffic infringements his failure to stop when indicated to do so by a police officer and also dangerous riding once in the precincts of Tumby Bay itself.
- 7.5. Mr Graham's version of his telephone conversation with Brevet Sergeant Doig was that Mr Doig had told him that he had been overtaken by a motorcycle at a speed of approximately 140 kilometres per hour, that the motorcycle was now behind him and that they were heading towards Tumby Bay. Mr Graham said that Mr Doig had given him the registration number of the motorcycle. Mr Graham said in evidence that he did not recall whether Mr Doig had told him that the motorcyclist was one of his, but did not go so far as to say that this had definitely not been said. He did, however, concede that if Mr Doig had said that to him he would have understood it to mean that the motorcycle was registered to someone from his town. Mr Graham made an inquiry of the Port Lincoln Police Base via the GRN radio and asked for a motor vehicle check. There is in existence a transcript of the radio communications that followed. The transcript sets out the radio communications between Mr Graham and Lincoln Base from that point onwards, right up until the fatal collision. I have also listened very carefully to a digital recording of the communications. Mr Graham's inquiry was made at 5:55pm. Lincoln Base advised Mr Graham that the motorcycle was registered to a Steven Bradford but that the registration had expired in March 2006. As well, the communication informed Mr Graham that the registered owner,

Steven Bradford, did not have an appropriate licence for the motorcycle. It is clear that the operator did not impart the address of the registered owner to Mr Graham during the course of this communication. Nor did Mr Graham make any enquiry of the operator as to the address of the registered owner. It will be remembered, however, that Mr Doig said that he had told Mr Graham that the motorcycle, or at least the rider of it, was one of his which Mr Graham would have taken to mean that the rider was a resident of Tumby Bay if in fact Mr Doig had said that. The fact that Mr Graham did not make an enquiry of police communications in Port Lincoln as to the address of the registered owner might be in keeping with an understanding on his part that the registered owner was in fact a resident of Tumby Bay. But Mr Graham was to tell me in evidence that in his view the address of the registered owner was in any event not relevant in respect of the action he was then to take in regard to the rider<sup>17</sup>. I found this to be a perplexing proposition, and one that I reject.

- 7.6. I accept Mr Doig's evidence that he told Mr Graham that the motorcyclist was one of his, meaning that the motorcycle was registered to someone in Tumby Bay. I am unable to conclude that Mr Graham heard this and understood what Mr Doig meant. It was unfortunate that the operator in Port Lincoln did not convey the address of the owner to Mr Graham. However, I am not critical of this because Mr Graham could easily have asked for that address. If his failure to properly inform himself that the motorcycle was registered in the name of a person with a Tumby Bay address arose out of a belief that the address was not relevant, in my view Mr Graham acted in error.

## **8. The pursuit**

- 8.1. Mr Graham decided to intercept the motorcycle and to this end made his way from Tumby Bay out onto the Lincoln Highway and headed south. He was able to identify both the vehicle driven by Mr Doig and the motorcycle which at that stage was travelling behind Mr Doig. Mr Graham allowed the two vehicles to pass. He then executed a U-turn with the intention of pulling in behind the motorcycle. Having executed the U-turn, the motorcyclist then sharply accelerated away and passed Mr Doig's vehicle. At that stage Mr Graham was approximately 1 or 2 kilometres from the Tumby Bay turn-off and the motorcycle was approximately 50 metres ahead of

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<sup>17</sup> Transcript, page 147

him. The GRN transcript reveals that at 1757:57<sup>18</sup> Mr Graham notified Port Lincoln that *'Tumby 36 just for information I've got a fail to stop with this motorbike at Tumby Bay'*. Not long after this, and while the vehicle was still on the Lincoln Highway, Mr Graham activated the police vehicle's red and blue emergency lights and siren. Mr Graham told me that he had to accelerate to a speed of 140 kilometres per hour in order to catch up the motorcycle. After Mr Graham himself passed Mr Doig's vehicle there were no vehicles between his and the motorcycle. At the junction with Bratten Way the motorcyclist indicated that he intended to turn right and slowed behind another vehicle also turning right. At that point Mr Graham was between 400 and 500 metres from the turn-off. He had closed to within about 200 to 300 metres of the motorcycle when the motorcycle and the car in front of it executed the right-hand turn. It is worthwhile observing here that the lighting conditions were not by then completely dark. Mr Doig told me that he noticed that Mr Graham's vehicle's red and blue emergency lights were activated at the time Graham executed the U-turn and that they were quite visible. He also said that as soon as Graham had activated them, the motorcycle rider opened the throttle and that after it went past Doig's vehicle it accelerated at what Doig thought was its maximum rate of acceleration. This, together with the fact that the police vehicle gained on the motorcycle, coupled with the fact that there were no vehicles between the motorcycle and the police vehicle and the fact that the police vehicle had lights and sirens operating, it is difficult to lend credence to the assertion that Mr Graham would make in his evidence before me that on the Lincoln Highway he was not certain whether the motorcyclist was endeavouring to elude him. It seems obvious to me, and I so find, that Steven Bradford was in fact endeavouring to elude the police vehicle from the moment that Mr Graham executed the U-turn. I also find that Mr Graham well understood that to be the case. This explains why he communicated with Port Lincoln and said that he had a 'fail to stop'. In my view, Mr Graham's pursuit of the motorcycle commenced at the time that the motorcyclist sped away on the Lincoln Highway. Moreover, the fact that a pursuit was then in progress was understood by both Steven Bradford and Mr Graham. Although Steven slowed significantly at the Bratten Way turn-off, he had little choice in that regard because the turn-off had to be negotiated at a slower speed and as well, there was the matter of the vehicle turning right in front of him.

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<sup>18</sup> 5:57pm and 57 seconds

- 8.2. Once having executed the right-hand turn into the Bratten Way, Steven quickly overtook the vehicle in front of him, as did Mr Graham who closed to about 50 metres behind the motorcycle. In this speed zone, which was 110 kilometres per hour, Mr Graham pursued Steven at a speed of around 120 kilometres per hour for both vehicles. At 1758:41<sup>19</sup> Mr Graham advised Port Lincoln that the motorcyclist was heading into Tumby Bay. Mr Graham and the motorcyclist overtook another vehicle along the straight section between the right-hand and left-hand bends within the 110 kilometres per hour zone. These were the bends that bore the advisory speed signs of 85 and 75 kilometres per hour respectively. The two vehicles maintained a speed of 120 kilometres per hour through both of those bends. Mr Graham told me that it wasn't until the motorcyclist had overtaken the vehicle between the two bends that he formed a definite belief that the motorcyclist was trying to elude him. I have already explained why I would reject that contention, but whether or not that is the case, it must have been clear to Mr Graham that when the motorcyclist took these bends at a speed of approximately 120 kilometres per hour he was not going to succumb easily to the pursuit. Mr Graham said in evidence that he maintained a constant distance of about 40 to 50 metres behind the motorcyclist at all material times, but that when the motorcyclist completed the left-hand bend and entered the straight stretch of Bratten Way that led all the way to the foreshore the motorcyclist accelerated rapidly away from him. It is clear that from that point Steven Bradford maintained a very high speed well in excess of 120 kilometres per hour. He did this notwithstanding the fact that he firstly entered an 80 kilometres per hour speed zone and then entered the 50 kilometres per hour speed zone that pertained within the Tumby Bay township. Equally as clear in my view is the fact that Mr Graham himself maintained his speed of 120 kilometres per hour for some distance, including for some distance into the 80 kilometres per hour zone.
- 8.3. At about this time a Senior Constable Errington of Port Pirie police took over control of the GRN communications from the clerical assistant who up to that point in time had been communicating with Mr Graham. At 1759:04<sup>20</sup> Mr Errington (Lincoln Vixen 20) called Mr Graham (Tumby 36) and the following exchange took place:

'Lincoln Vixen 20 Lincoln Vixen 20 to Tumby 36 just a speed thanks and conditions

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<sup>19</sup> 5:58pm and 41 seconds

<sup>20</sup> 5:59pm and 4 seconds

Tumby 36                    Roger mate we are doing 120 in the 80 zone at the moment. Er light traffic at the moment

Lincoln Vixen 20        Vixen 20 Roger that and which road are you on at present?

Tumby 36                    Roger mate Bratten Way and 204.'<sup>21</sup>

The code 204 is a reference to a vehicular accident involving a SAPOL departmental vehicle. In this particular case Mr Graham told me that he called the 204 at the moment that he observed in the air evidence of the general debris that was generated by the motorcycle's impact with another vehicle near the junction of Tresize Street and Bratten Way.

- 8.4. This entire transmission takes 27 seconds from the first word uttered, namely '*Lincoln*', to the last, namely '*204*'. In my opinion, the transmission represents in real time the 27 seconds approximately that transpired immediately prior to Steven Bradford's collision with the other vehicle. At 10 seconds into the transmission Mr Graham advises that he is travelling at a speed of 120 kilometres per hour in the 80 kilometres per hour zone. This represents a period of time of about 17 seconds before the collision. At the point where Mr Graham advises that there was light traffic at the moment, the word '*moment*' is uttered 15 seconds into the transmission and therefore 12 seconds prior to the collision. Then 5 seconds of silence ensues before Mr Errington communicates again by saying '*Vixen 20 Roger that ...*'. At 24 seconds into the transmission Mr Graham commences saying '*Roger mate Bratten Way and 204*'. Mr Graham reports the collision (the 204) on the 27th second of the transmission.
- 8.5. Mr Graham asserted in evidence that he decided to discontinue the pursuit during the course of this transmission. However, it will be observed that within the transmission, and before the impact was observed by Mr Graham and reported as a 204, there is no evidence of Mr Graham having at any stage desisted from the pursuit or having formed such an intention. As a matter of certainty, when Mr Graham entered the 80 kilometres per hour zone he was still driving his vehicle at 120 kilometres per hour. It is to be noted that the speed of 120 kilometres per hour is said to have been the speed at which Mr Graham had pursued the motorcycle in the 110 kilometres per hour zone. There is no doubt, therefore, that Mr Graham maintained the pursuit at least into the 80 kilometre per hour zone and did so at a speed that significantly exceeded the speed

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<sup>21</sup> Exhibit C37d, Page 4

limit. However, Mr Graham told me in evidence that he had been conducting a continual risk assessment throughout his pursuit and that it was as a result of such an assessment that he decided to end the pursuit. He said two things about this that I found difficult to reconcile, even allowing for the fact that Mr Graham was endeavouring to reconstruct events that, for him, had taken place in a rapidly moving vehicle. Firstly, he told me that he decided to end the pursuit at the point where the motorcyclist accelerated rapidly away after it had negotiated the second bend within the 110 kilometres per hour zone. It will be observed that this was a little distance before the 80 kilometre per hour zone was encountered. On the other hand, as seen, Mr Graham also said that he decided to end the pursuit during his communication to Port Lincoln relating to road and traffic conditions. He said that he had the microphone to his mouth in order to do this when he saw ahead of him a large amount of dust and smoke that represented the impact. He called the 204 at that moment. When he decided to terminate he placed his foot on the brake. Having regard to the fact that Mr Graham was under an obligation to advise Port Lincoln that he was terminating the pursuit if that was his intention, Mr Graham does not seem to have availed himself of clear opportunities to do so. Mr Graham was already within the 80k zone at the time he described his speed and conditions and there is no hint in that transmission of any reluctance on his part to continue the chase. There was also a 5 second delay between the end of Mr Graham's transmission and the beginning of Mr Errington's enquiry about Mr Graham's precise location. Mr Graham acknowledged that enquiry by saying '*Roger mate Bratten Way*'. He then announced the 204. At no point did Mr Graham say that he had terminated, or intended to terminate, the pursuit. Mr Graham gave an explanation as to why he did not advise Port Lincoln that he intended to terminate the pursuit. I set out two passages relevant to this issue:

'It was while I was - as I stated - giving the SitRep to Lincoln Vixen 20 in relation to speed and traffic conditions that I formed the opinion that I was going to terminate, and as you could hear on the tape, from the time that I gave the SitRep to the time I said that there'd been a 204 was instantaneous pretty much, and rather than telling someone that I terminated, I thought it would be best suited to give them the relevant information, which was there was a crash, which is more important than passing on the information that I'd terminated the chase at that stage.'<sup>22</sup>

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and:

'Because everything was happening at the time. I was still making my risk assessments. I had other things as well to be considering, along with motorists on the road, yet in hindsight, me saying the word 'terminate' on the radio it wouldn't have changed anything. I'd made the decision to terminate, I'd slowed down. The fact that I didn't actually say the words 'I've terminated' on the radio unfortunately it's not recorded there, I know that I made the decision to terminate and that's when it happened.'<sup>23</sup>

The thrust of Mr Graham's explanation for not announcing that he was terminating the pursuit was that he did not have time before he announced the code 204. True it is that once he announced the code 204, events were somewhat overtaken and there was no point in advising of the termination. But it is simply not correct to say that the time from when he gave the SitRep to his announcement of the 204 "*was instantaneous pretty much*". There is in fact a 12 second delay between those two events. In my view a proper analysis of the transmission set out above leads to a compelling conclusion, which I reach, that there was time for Mr Graham to have advised of the termination if indeed he had made that decision when he was giving his SitRep. I also note that at no time did Mr Graham turn off the siren or emergency lights before the collision.

- 8.6. In the event, if Mr Graham terminated or formed an intention to terminate the pursuit, I cannot accept that he did so as and when he described in his evidence. If a termination was to have taken place while Mr Graham's vehicle was still within the 80 kilometres per hour zone, or near the commencement of say the 50 kilometres per hour zone, the general order dictated that he should have stopped the vehicle then and there and switched off all of the emergency equipment. None of this was done when there was ample opportunity before the collision for it to have been done.
- 8.7. As to how far the police vehicle was to the rear of the motorcycle at the moment of impact, we know that Mr Graham continued to pursue at a speed of 120 kilometres per hour into the 80 kilometres per hour zone as his own words in the SitRep transmission demonstrate. Mr Graham told me that the motorcycle accelerated away from him at a speed well in excess of 120 kilometres per hour<sup>24</sup>. Mr Graham said in evidence that his own vehicle was in the vicinity of the junction of LeBrun Street and Bratten Way at the time of the collision. He said '*It was in the vicinity of LeBrun*

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<sup>23</sup> Transcript, pages 156-157

<sup>24</sup> Transcript, page 164

*Street, between LeBrun and Thuruna Road but I could not give you the exact location*<sup>25</sup>. The LeBrun Street junction is in excess of 700 metres from the point of impact. As seen earlier, the 80 kilometres per hour zone extends for 356 metres before Bratten Way becomes a 50 kilometres per hour zone. There is then a further 584 metres to the point of impact. The LeBrun Street junction is still within the 80 kilometres per hour zone by some distance. The junction is featured in image Exhibit C53 reproduced herein as the northern junction just to the west of the 700-metre mark on Bratten Way (point 2.).

8.8. A number of statements of Lower Eyre Peninsula local residents who witnessed either the collision itself or the motorcycle and the police vehicle prior to the collision were tendered to the Inquest. Some of these witnesses also gave oral evidence. For the reasons that follow in my opinion the preponderance of their evidence establishes three things in respect of Mr Graham's location and driving behaviour at the time of the collision. Firstly that Mr Graham was closer than 700 metres behind the motorcycle at the time of the collision; secondly that he had entered the 50 kilometre per hour zone by some distance by that time and thirdly that he was still travelling at a velocity that exceeded that speed limit to a significant degree.

8.9. The evidence of Mr Bascombe

Steven Bradford ran into the rear of a 4WD vehicle. This vehicle was occupied by Mr John Bascombe of White Flat and his partner Ms Patricia Pahl and her two young daughters. Mr Bascombe was driving the vehicle. It is not necessary to relate Mr Bascombe's description of the collision. However, his statement reveals that he was travelling east along Bratten Way and was approaching the Tresize Street junction when he glanced in his rear view mirror. He was about to activate his indicators to signify his right turn into Tresize Street when he saw that there was a utility to the rear of his vehicle and that there was a police vehicle with its emergency flashing lights on to the rear of that<sup>26</sup>. He did not see the motorcycle at any time prior to the impact, but it is clear that at that point the motorcycle must have been situated somewhere between his vehicle and the police vehicle. Mr Bascombe says that he observed that the police vehicle and the utility had started slowing down behind him. This caused him to think that the police officer was pursuing the utility as both appeared to slow down at the same time. Mr Bascombe's statement reveals that in his

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<sup>25</sup> Transcript, page 126

<sup>26</sup> Exhibit C5a

view the utility would have been four or so blocks back from the junction of Bratten Way and Tresize Street which he extrapolates to mean approximately 80 metres back from the junction. Mr Bascombe states that he thought the police vehicle at that time would have been *'a fair way back, approximately where the other road was'* and I take that to be a reference to the junction of Bratten Way Thuruna Road some 550 metres or so to the west. Mr Bascombe adds, however, that at that time it was just on dusk so it was difficult for him to judge how far back the police vehicle was at that time. The observations described above were made at the time Mr Bascombe first observed the police vehicle which of course was moving. After he made these observations he noticed a vehicle coming from the opposite direction. He put his foot on the brake momentarily in order to allow the vehicle to pass before commencing his right turn into Tresize Street. It was at that point that he heard and felt the impact at the rear of his vehicle that was caused by the colliding motorcycle. After the impact Mr Bascombe pulled his vehicle to the left-hand side of the road. Ms Pahl alighted from the vehicle straight away. Mr Bascombe also alighted and at that point the police officer, whom we know to be Mr Graham, was running through the driveway of the garage on the western corner of the Tresize Street junction. Clearly by the time Mr Bascombe alighted from his vehicle the police officer had arrived in his vehicle and had also alighted.

#### 8.10. The evidence of Ms Pahl

Mr Bascombe's partner, Ms Pahl, who was the front seat passenger of the 4WD, gave a statement to the police<sup>27</sup>. Ms Pahl describes the lighting conditions as *'just approaching dusk, you know, just between light and dark'*<sup>28</sup>. Ms Pahl could see in the outside left-hand rear view mirror of the vehicle that there were a number of vehicles behind theirs, including a vehicle with flashing lights. The next thing she became aware of was the impact to the rear of their vehicle. After Mr Bascombe had pulled the car off the road, and having established that her daughters were uninjured, she immediately alighted. At that point she saw a police officer running past her position. That officer was clearly Mr Graham. Ms Pahl states that she is not able to estimate what the distance between their vehicle and the vehicle behind them had been, nor the distance further back to the police vehicle. Ms Pahl does point out that the outside mirror of the vehicle can distort distance by making things appear closer, but the fact

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<sup>27</sup> Exhibit C6a

<sup>28</sup> Exhibit C6a, page 2

of the matter was that she could clearly detect that there had been a police vehicle behind theirs just before the impact. By the time Mr Bascombe had stopped the car and she had spoken to her children and alighted, Mr Graham was out of his vehicle and had reached her position. Ms Pahl yelled out to the police officer words to the effect '*well why didn't you stop the chase*'<sup>29</sup>.

#### 8.11. The evidence of Mr Daniell

Mr John Daniell provided a statement to the police<sup>30</sup>. Mr Daniell was the driver and sole occupant of the utility that Steven Bradford overtook on Bratten Way just before his motorcycle struck the back of Mr Bascombe's 4WD. At the time Mr Bascombe was preparing to turn right into Tresize Street Mr Daniell was about 70 metres behind the 4WD and was closing on it. At about that point Mr Daniell's attention was drawn to a motorcycle rapidly approaching from the rear. He looked into his centrally mounted rear view mirror and saw the motorcycle pull out to overtake his utility. As the motorcycle did this he could see that there was a police vehicle travelling behind it with headlights and flashing roof lights operating. Mr Daniell's statement says that it was probably no more than 100 metres from where the crash occurred that he first saw the motorcycle and the police vehicle. He estimated the motorcycle overtook him at a speed of between 100 and 150 kilometres per hour. When the motorcycle overtook the utility and then pulled to the correct side of the road Mr Daniell knew immediately that a collision was inevitable. The collision then occurred. Mr Daniell pulled over and the police vehicle then pulled to a stop in the middle of the road. Mr Daniell's statement says:

'The police car was close enough, and pulled up quickly enough, that I believed he had been chasing the motorcycle.'<sup>31</sup>

He also states that he believed that the police vehicle was travelling at a speed similar to that of the motorcycle when he first saw it. Mr Daniell and the police officer alighted from their respective vehicles at about the same time, possibly a few seconds apart. In support of his belief that the police officer had been chasing the motorcycle into Tumbly Bay, Mr Daniell maintains:

'He had to have been chasing the bike to be where he was behind me when I first noticed him.'

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<sup>29</sup> Exhibit C6a, page 3

<sup>30</sup> Exhibit C8a

<sup>31</sup> Exhibit C8a, page 4

However, he then adds:

‘But then I believe that, around the time that the bike pulled out to overtake me, the policeman has pulled out of the chase. He has backed off to some extent because I don’t remember him skidding to a stop. He was already going slow enough to stop safely where he did.’<sup>32</sup>

The salient feature of Mr Daniell’s statement is that when the motorcycle overtook his utility it was travelling at a speed somewhere between 100 and 150 kilometres per hour and that the police vehicle was travelling at a speed similar to that when he first saw it. Mr Daniell says that he based his speed estimations on nearly 40 years of driving.

#### 8.12. The evidence of Ms Lawrie

Ms Merryn Lawrie was the driver of the vehicle that Steven Bradford struck after he had been catapulted from the motorcycle<sup>33</sup>. Ms Lawrie was driving her vehicle along Bratten Way from the opposite direction to that driven by Mr Bascombe and Mr Daniell. It was Ms Lawrie’s vehicle that Mr Bascombe intended to let pass before commencing his right turn. Ms Lawrie was approaching the junction of Tresize Street and Bratten Way when she saw the headlights of a number of vehicles travelling along Bratten Way from the opposite direction. She estimates that the first vehicle was 50 to 100 metres from the junction. When she was about 20 to 30 metres east of the junction she observed for the first time the red and blue flashing lights that we know belonged to Mr Graham’s police vehicle. She states that when she first saw the lights she estimates that they were about 100 to 150 metres west of her location. This observation caused her to begin moving her vehicle closer to the left-hand side of the road to enable the police vehicle to get past her vehicle if need be. She observed the 4WD vehicle driven by Mr Bascombe at about the intersection with Tresize Street. It was moving slowly and we know that at that point Mr Bascombe was preparing to turn right into Tresize Street. Shortly after seeing the 4WD Ms Lawrie witnessed the motorcycle collide with the rear driver’s side corner of the vehicle. Ms Lawrie then felt an impact on the driver’s side of her vehicle. This was the impact between her vehicle and Steven Bradford after he had been catapulted from the motorcycle. Ms Lawrie stopped her vehicle. At first, she had difficulty opening her door. After a couple of attempts she managed to get it open. The statement of Ms Lawrie suggests

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<sup>32</sup> Exhibit C8a, page 6

<sup>33</sup> Exhibit C7a

that at that point she saw the motorcyclist sliding in an easterly direction along the road surface. If this is correct then she must have been able to stop and alight from her vehicle very quickly. She states that she also saw a stationary marked police vehicle to the west of the 4WD. Ms Lawrie started to walk along the southern side of Bratten Way when she saw a police officer moving towards the location where the motorcyclist had come to rest.

8.13. There are two features of Ms Lawrie's statement that are worthy of note. Firstly, she states that when she first saw the lights of what turned out to be Mr Graham's police vehicle it was approximately 100 to 150 metres to the west of her location. This was at a time before the collision between Steven's motorcycle and the 4WD had occurred. Whether the police vehicle was definitely within those distances as quoted by Ms Lawrie, the impression given by her statement is that the police officer's vehicle was relatively close behind the motorcycle and that it was close enough to cause Ms Lawrie to endeavour to clear its path. The second aspect of her statement that is significant is that she was out of her vehicle quickly enough for her to observe that Steven Bradford was still moving at that time. The police vehicle was stationary. Whether the police vehicle had actually come to a dead stop or not by that point, on Ms Lawrie's version there was little delay between the impact and the arrival of the police vehicle. This version of events does not sit comfortably with Mr Graham's evidence that his vehicle was as much as 700 metres or more back from the point of impact at the time the impact occurred.

8.14. The evidence of Mr Holliday

A Tumbly Bay resident by the name of Troy Holliday was also interviewed by police<sup>34</sup>. Mr Holliday lived at 8 Bratten Way. This address was pointed out to me during the Court's site visit. The premises are situated on the southern side of Bratten Way in the block constituted by the junctions of Thuruna Road and Tresize Street with Bratten Way. Number 8 is situated approximately 60 metres to the west of the approximate point of impact. Mr Holliday was taking a bath when he heard a motorcycle '*absolutely scream past*'<sup>35</sup> his premises. He then heard a thud which caused him to get out of the bath, get a towel, dry himself, put on a robe and walk out to the front of his premises in order to see what was taking place. He said that he was out at the front before the arrival of the police vehicle. At a later point in the

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<sup>34</sup> Exhibit C16a, Record of Interview

<sup>35</sup> Exhibit C16a, page 1

interview he said that the police vehicle arrived just as he was coming out of the front door of the house. When asked for an estimate as to the time that had elapsed between his first hearing the motorcycle to the time that he saw the police vehicle arrive, he said '*minute and a half two minutes*'<sup>36</sup>. When asked whether he thought it would be as long as that he said:

'I thought it was about that long, but, it wasn't long, but it didn't feel that quick, but if you know what I mean, it didn't take long to get out, but it seemed a fair while from when the bike hit. If he was in pursuit it seemed a fair time.'<sup>37</sup>

Given that Mr Holliday had to emerge from the bath, dry himself and robe, it would seem reasonable that a minute or perhaps even longer would have elapsed between the point at which he heard the motorcycle and the point at which he arrived at the front of his premises. However, his statement that the police vehicle arrived after a period of 1.5 to 2 minutes does not sit with anyone's version of these events including that of Mr Graham, the driver of that vehicle. If Mr Graham was, as he says, approximately 700 metres or slightly more from the point of impact when it occurred, it would not have taken him 1.5 to 2 minutes to arrive at the scene. To my mind, Mr Holliday's account of these events, insofar as they describe a very late arrival of the police officer at the scene, cannot be relied upon. Even if one were not to hold Mr Holliday to a figure of 1.5 to 2 minutes, but viewed the time lapse as one that would have enabled him to get out of the bath, dry and robe and proceed to the front of the house all before the arrival of the police vehicle, this in my view would also not sit well with anyone's version of the events.

8.15. A number of witnesses viewed the motorcycle and the police vehicle from the vicinity of the junction of Thuruna Road and Bratten Way. I called these witnesses to give oral evidence.

8.16. The evidence of Mr McHendrie

Mr McHendrie operated a panel beating service from a large shed on the western corner of the Thuruna Road junction with Bratten Way. Mr McHendrie and his friend Mr Damon Lawrie were in the workshop at a time just before these events occurred. The doors of the Thuruna Road entrance to the shed were open. Both men heard the sound of a motorcycle being ridden at high speed along Bratten Way towards Tumbly

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<sup>36</sup> Exhibit C16a, page 3

<sup>37</sup> Exhibit C16a, page 3

Bay. Mr McHendrie and Mr Lawrie then walked out of the workshop through the Thuruna Road doors. As seen earlier, this location is in the 50 kilometres per hour zone. The junction of Thuruna Road is approximately 30 metres from the 50 kilometres per hour zone sign. Mr McHendrie's statement explains that as he arrived at the doors of his workshop he heard the motorcycle going past on Bratten Way but that he never saw it at all. In his evidence before me, however, he said that he was able to see the taillight of the motorcycle go past his position and that given the position of nearby fences which obscured his view, his sighting of the taillight was only momentary. Although his statement is silent as to the speed at which the motorcycle was being ridden, in his oral evidence before me he offered a view that it may have been travelling at 150 or 160 kilometres per hour<sup>38</sup>. Mr McHendrie was cross-examined about his original statement to the effect that he had never actually sighted the motorcycle. Mr McHendrie emphasised that all he saw of the machine was a red flash. At no stage did he suggest that he saw the outline of an actual motorcycle so I do not necessarily hold any apparent inconsistency in this regard against Mr McHendrie. His statement and his evidence both make it clear that the principal sense upon which he was relying was that of hearing. The speed and presence of the motorcycle was something that actually caused him and his friend Mr Lawrie to exit the workshop. In my view Mr McHendrie was aware of the passage of the motorcycle as it went past the Thuruna Road junction and that his impression that it was travelling at an extremely high speed was one upon which I can rely. Mr McHendrie rejected the suggestion in cross-examination that what he had been aware of was some other vehicle. To my mind that was a fanciful suggestion given the fact that Mr McHendrie was not so much aware of the presence of the motorcycle through what he saw but through what he heard. The possibility that he mistook the sound of the motorcycle for another vehicle is to be dismissed. Clearly what Mr McHendrie sensed go past was Steven Bradford's motorcycle. In his statement, Mr McHendrie says that he had only taken about three steps out of the workshop entrance when he then saw the police vehicle go by with its red and blue roof lights and siren all operating. The point Mr McHendrie was making there was that there was only sufficient time to take those two or three steps between the passage of the motorcycle and the passage of the police vehicle. In terms of seconds, his statement states that the police vehicle was no more than 5 seconds behind the motorcycle. He also said

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<sup>38</sup> Transcript, page 255

that the police vehicle was travelling, on his estimate, at 120 to 130 kilometres per hour as it went past the workshop. It is apparent that Mr McHendrie was unable to continually view the passage of these vehicles because of the presence of the fence that belonged to the property across Thuruna Road. However, Mr McHendrie says in his statement that about 3 seconds after the police vehicle went past, he heard a loud 'thud' from the east of his workshop. Mr McHendrie associated the noise with the motorcycle and correctly suspected at that time that the motorcycle had struck the rear of another vehicle. There is no doubt in my mind that what Mr McHendrie heard by way of a thud was Steven Bradford's motorcycle's impact with the 4WD. After the police vehicle passed his workshop Mr McHendrie ran to the corner of Thuruna Road and Bratten Way and looked east along Bratten Way. He saw that by then the police vehicle had stopped in the centre of Bratten Way in the vicinity of the Tresize Street junction.

- 8.17. When giving his oral evidence Mr McHendrie was challenged about his assertion that the passage of the police vehicle past the workshop preceded his hearing the thud. He rejected that challenge. Mr McHendrie was indeed unshaken as to that and has, at all times, been consistent about the fact that the police vehicle went past his location at a time before he heard the thud of the motorcycle. However, he did concede in cross-examination that the police vehicle may have been travelling at a speed less than 120 kilometres per hour, but pointed out that it was difficult to be precise because he only saw it for a short time. Whether Mr Graham's police vehicle was being driven at 120 kilometres per hour or not, in my view Mr McHendrie's evidence makes it plain that at the point in time when he saw it go by, the vehicle was still being driven at a speed that was significantly in excess of the 50 kilometres per hour speed limit at that location. Mr McHendrie has held a driver's licence for many years and he based his estimations of speed on his driving experience. I found Mr McHendrie to be an honest witness who was doing his best to describe the events that he witnessed. He was prepared to make concessions about matters that he was not entirely clear on and I refer here to the example of conceding that the speed of the police vehicle may have been less than 120 kilometres per hour. This led me to believe that Mr McHendrie was also a careful and reliable witness. Quite apart from the fact that Mr McHendrie's evidence on this point was corroborated by that of Mr Lawrie, I have no hesitation in accepting Mc Hendrie's evidence that the police vehicle was only a matter of a few seconds behind the motorcycle when it went past the Thuruna Road

junction and that the police vehicle in any event was well into the 50 kilometres per hour speed zone at the time that Mr McHendrie heard the thud of the motorcycle. Of course, it is not possible to establish with precision how far the police vehicle was to the rear of the motorcycle in terms of metres, but on Mr McHendrie's evidence, which I accept, it was closer than Mr Graham's asserted distance of 700 metres or more.

8.18. The evidence of Mr Lawrie

Mr Lawrie gave a statement to the police and also gave oral evidence<sup>39</sup>. Mr Lawrie was a less impressive witness than Mr McHendrie. Mr Lawrie was hesitant in his answers to questions that sought to elicit detail. On the other hand, Mr Lawrie's witness statement which was taken three days after the incident and taken independently of Mr McHendrie's statement, is clear as to the sequence of events, particularly in relation to the passage of the motorcycle and the police vehicle relative to the sound of the crash. He was unshaken on that issue in his oral evidence. Mr Lawrie's statement says that he saw the rear of the motorcycle and, like Mr McHendrie, had been relying for the most part on his hearing in respect of his description of the passage of the motorcycle. He says in his statement that no more than about 5 seconds after the motorcycle went past he saw the police vehicle go past at '*high speed*'. Mr Lawrie estimates that the police car was travelling at more than 100 kilometres per hour, although Mr Lawrie suggests that it is difficult to place a figure on the speed because everything happened so quickly. Mr Lawrie also says in his statement that about 5 seconds after he saw the police vehicle he heard what he describes as a '*loud crashing sound*' to the east. He says that he went to the corner of Bratten Way and saw the police vehicle pull up on the road near Tresize Street. Mr Lawrie is also an experienced motorist and based his estimations of speed on his experience. As to the 5 second gap between the passage of the two vehicles Mr Lawrie said in his evidence, '*it seemed pretty quick*'<sup>40</sup>. He was sure in his evidence that the crashing sound was heard after the police vehicle had gone past. In his evidence he rejected the suggestion that the police vehicle was possibly travelling less than 100 kilometres per hour. Whether Mr Lawrie is accurate in his estimations about the speed of the police vehicle, I accept his evidence that the police vehicle was travelling at a significantly greater speed than the 50 kilometres per hour speed limit. In cross-examination by Ms Taylor, Mr Lawrie conceded that the time lapse between

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<sup>39</sup> Exhibit C13a

<sup>40</sup> Transcript, page 273

the passage of the police vehicle and hearing the crashing sound could have been less than 5 seconds because everything happened very quickly. However, to my mind Mr Lawrie's evidence, when looked at as a whole, supports the evidence of Mr McHendrie and establishes that the sound of the impact of Steven Bradford's motorcycle with the 4WD, as heard by both of them, occurred after the police vehicle had passed their location. On that analysis the police vehicle was a significant distance into the 50 kilometres per hour zone at the time of the impact. It also establishes that the police vehicle was still being driven at a speed that was well in excess of that 50 kilometres per hour limit.

8.19. There were two other witnesses who were called to give oral evidence. Mr Glen Atkinson and Mr Peter Arthur, both of Tumby Bay, were the occupants of a vehicle that was overtaken by both the motorcycle and the police vehicle in the vicinity of the Thuruna Road junction.

8.20. The evidence of Mr Atkinson

Mr Atkinson operated a motor business at Cummins. Mr Arthur was an employee of the same business. At the material time Mr Atkinson was driving his vehicle along Bratten Way towards Tumby Bay. He was preparing to turn right into Thuruna Road where he lived. As we have seen Mr McHendrie's workshop is on the western corner of that junction. At that time Mr Atkinson's attention was drawn to flashing emergency lights behind him and he started to pull over to the left and slow down. He was then overtaken by a motorcycle that was being ridden very fast. In his statement he suggests that it was travelling no less than 150 kilometres per hour<sup>41</sup>. Approximately 3 to 5 seconds later, the police vehicle overtook him at a 'steady' speed. He says that the police vehicle was 'going fast'. Mr Atkinson's statement suggests that the police vehicle was travelling at a speed no less than 100 kilometres per hour. At that point Mr Atkinson suggests that his vehicle was already into the 50 kilometres per hour zone which commences only about 30 metres back from the Thuruna Road junction. The speed of the police vehicle made such an impression on Mr Atkinson that he believed at the time that it was being driven at a speed that was inappropriate for the township. Mr Atkinson makes the point in his statement that he did not believe the police vehicle was accelerating when it overtook his vehicle, but that he did not see its brake lights illuminate. If this is correct it would suggest that

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<sup>41</sup> Exhibit C9a

the driver was taking no steps to slow his vehicle. In any case it was travelling at a speed significantly less than that of the motorcycle. Nevertheless, like the evidence of Mr McHendrie and Mr Lawrie, Mr Atkinson's statement suggests that the police vehicle was being driven at a speed that was significantly in excess of the limit at that location. After the two vehicles passed his car, and before he executed the right turn into Thuruna Road, he observed that the police vehicle had stopped in about the middle of Bratten Way near the Tresize Street junction. Mr Atkinson did not see the motorcycle's impact nor hear anything consistent with that before he executed his turn into Thuruna Road. In his oral evidence before me Mr Atkinson said that the motorcycle was being ridden at a speed of 140 kilometres per hour and he reiterated his view that the police vehicle was being driven at no less than 100 kilometres per hour when it went past his vehicle. In his oral evidence Mr Atkinson was asked to describe more precisely his location at the time the two vehicles went past him. He said he had stopped his vehicle just past the 50 kilometres per hour sign about 30 metres back from the Thuruna Road corner. He thought he was closer to the 50 kilometres per hour sign than the junction. Mr Atkinson did say that the speed of the police vehicle as it went past his position was constant and that he saw no brake lights. It was being driven at a speed significantly less than that of the motorcycle and Mr Atkinson made the point that the motorcycle covered much of the distance between the Thuruna Road junction and the Tresize Street junction at a time before the police vehicle went past his position.

#### 8.21. The evidence of Mr Arthur

Mr Arthur was the front seat passenger of Mr Atkinson's vehicle<sup>42</sup>. In his statement, Mr Arthur confirms that Mr Atkinson had already driven into the 50 kilometres per hour zone and that Mr Atkinson was preparing to turn right into Thuruna Road when he heard the sound of the motorcycle going past the vehicle. Mr Arthur makes the point that he had no prior warning of this and that he was frightened by the sudden passage of the motorcycle. He suggests that its speed was about 140 to 150 kilometres per hour. Mr Arthur then goes on to describe the police vehicle passing their vehicle about 2 or 3 seconds later and describes the passage of the police vehicle as making a 'whooshing' sound. He estimates the speed of the police vehicle to be in excess of 100 kilometres per hour. Mr Arthur could not determine whether the police vehicle was gaining ground or losing ground on the motorcycle. Mr Arthur continued

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<sup>42</sup> Mr Arthur's statement is Exhibit C10

to watch the police vehicle and saw the brake lights of the police vehicle illuminate at about the junction of Tresize Street. He estimates that the time between the police vehicle passing his vehicle and seeing its brake lights illuminate would have been no more than 2 to 3 seconds. This suggests that at the time the police vehicle passed his vehicle it was not taking any steps to slow down save and except for the possibility that the vehicle was coasting.

- 8.22. Mr Arthur gave evidence before me. He struck me as being an observant witness but one who was nevertheless careful. Mr Arthur is an experienced motorcyclist as well as the driver of a motorcar. Although he maintained in his evidence that the police vehicle passed him 2 to 3 seconds after the motorcycle, the motorcycle was '*well ahead of the police car*'<sup>43</sup>. He could not give a precise figure on the distance between the two vehicles but the motorcycle was travelling considerably faster than the police vehicle and it disappeared into the distance relatively quickly, so much so that Mr Arthur entertained grave doubts as to whether or not the motorcycle would be able to stop before it reached the foreshore. Mr Arthur did not see or hear anything that was consistent with the motorcycle striking the rear of another vehicle but reiterated in his evidence that he did not see the brake lights of the police vehicle illuminate until it had gone well past and was in the process of pulling up. Mr Arthur did concede that it was possible that the driver of the police vehicle was coasting with his foot off the accelerator without actually braking. To him the police vehicle was travelling much more slowly than the motorcycle and he conceded that it was possible that the police vehicle was travelling at less than 100 kilometres per hour. However, he suggested that the pace of the vehicle was still reasonably quick and certainly was not 50 kilometres per hour. When Mr Arthur was asked to look at a clock in the courtroom and to view a passage of 2 or 3 seconds on it, he maintained that his estimate that the time lapse between the two vehicles was 2 or 3 seconds was an accurate one.
- 8.23. Neither Mr Atkinson nor Mr Arthur could say for certain whether the police vehicle passed their vehicle before or after the motorcycle's collision with the 4WD. This is because neither of them actually saw or heard anything consistent with the motorcycle's impact. Nor can it be gauged in precise terms how far the motorcycle was ahead of the police vehicle when the police vehicle went past. Mr Arthur at one point in his evidence suggested it might be a few hundred metres, bearing in mind that

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<sup>43</sup> Transcript, page 311

the distance from the 50 kilometres per hour sign to the point of impact was about 584 metres and that they were therefore approximately 550 metres or so from the point of impact. It is clear, however, that the time lapse between the passage of the two vehicles was only a matter of seconds and probably a maximum of only 5 and possibly as little as 2. These estimates are very much in keeping with those given in evidence by Messrs McHendrie and Lawrie. It is clear that Messrs McHendrie and Lawrie witnessed the passage of the two vehicles past their location almost immediately after the passage of the two vehicles had gone past Messrs Atkinson and Arthur's location. I have no doubt when looking at the whole of the evidence of those four individuals that the police vehicle was being driven at a speed considerably in excess of the 50 kilometres per hour limit. None of their original estimates put the police vehicle as travelling less than 100 kilometres per hour. Even allowing for Mr Arthur's concession that the police vehicle may have been travelling at less than that speed, it was probably in my view still travelling at a speed that was not far short of the figure of 100 kilometres per hour. Mr Graham himself confirmed in his evidence that by the time he proceeded through the 50 kilometres per hour zone his vehicle was travelling at a speed that was still significantly in excess of the limit. He said he was doing '*somewhere between 80 and 90 kms maybe*'<sup>44</sup>.

- 8.24. Although it is not possible in precise terms to determine how far behind the motorcycle the police vehicle was at the time of the collision, I find that the police vehicle at that time was no more than a few seconds behind the motorcycle and was still being driven at a fast speed, although it may have been decelerating. When one also considers the evidence of Ms Lawrie who was driving her vehicle from the opposite direction and who says in her statement that the police vehicle was 100 to 150 metres west of her location at a time before her vehicle was stuck by Steven Bradford, it becomes even clearer that the police vehicle was well into the 50 kilometres per hour zone when the collision occurred and was considerably less than the 700 or so metres behind the motorcycle, the figure that Mr Graham puts on that distance.
- 8.25. In the event, I prefer the evidence of Messrs McHendrie and Lawrie to that of Mr Graham as to the location of the police vehicle at the time of the motorcycle's collision. Their depiction of the police vehicle already being into the 50 kilometres

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<sup>44</sup> Transcript, page 163

per hour zone at the time of the collision in my view is an accurate one. I think that Mr Graham is mistaken when he states that he was in the vicinity of the LeBrun Street junction when he saw evidence of the collision. He was in a moving vehicle being driven at a fast speed at that point and the description of his position on Bratten Way is in my view less likely to be accurate than that of the stationary and independent observers, Messrs McHendrie and Lawrie. The evidence of those two gentlemen is also supported by the evidence of Ms Lawrie who states that the lights of the police vehicle were a relatively short distance from her position at a time before the impact between Steven Bradford and her vehicle.

#### 8.26. **Conclusions as to the pursuit**

I conclude the following. I do so on the balance of probabilities and indeed with a very high degree of satisfaction.

- a) Mr Graham commenced pursuing Steven Bradford when Steven failed to stop on the Lincoln Highway. Steven Bradford accelerated away from the police vehicle in an endeavour to get away from, and to avoid detection by, the driver of the police vehicle. I find that at that point Brevet Sergeant Graham was aware of the fact that the rider of the motorcycle harboured that desire.
- b) Mr Graham activated his red and blue roof lights and siren whilst driving along the Lincoln Highway in pursuit of Steven Bradford. Both vehicles turned right into Bratten Way. Mr Graham pursued Steven Bradford at a speed of approximately 120 kilometres per hour at a distance of about 40 to 50 metres behind Steven's motorcycle. Both vehicles negotiated the right-hand and left-hand bends on Bratten Way at speeds of approximately 120 kilometres per hour separated by the distance that I have already referred to.
- c) At a distance of approximately 940 metres from the eventual point of impact, the 110 kilometres per hour speed zone became an 80 kilometres per hour speed zone. Just prior to the motorcycle entering the 80k zone, Steven Bradford sharply accelerated away from the police vehicle which at that time was still maintaining a speed of approximately 120 kilometres per hour. Steven Bradford achieved a speed on his motorcycle that is difficult to determine with absolute precision but it must have been something of the order of between 140 and 160 kilometres per hour. Mr Graham maintained his vehicle's speed at 120 kilometres per hour into

the 80 kilometres per hour zone. At the time that Mr Graham entered the 80 kilometres per hour zone he was still maintaining his pursuit of Steven Bradford albeit at a speed which was by then less than that of Steven's motorcycle.

- d) The distance between the motorcycle and the police vehicle increased and ultimately the motorcycle crashed into the rear of a 4WD vehicle in the vicinity of the junction of Tresize Street and Bratten Way. By then Bratten Way had entered a 50 kilometres per hour zone. It is not possible to determine precisely how far to the rear of the motorcycle the police vehicle was at the time of the collision but I am satisfied that it was considerably closer than 700 metres, or closer than the junction of LeBrun Street and Bratten Way, and was in any event an appreciable distance into the 50 kilometres per hour zone. It was as a matter of certainty placed somewhere between the junctions of Thuruna Road and Tresize Street at the time of the collision and therefore less than 550 metres to the rear of the motorcycle at that time.
- e) I find that at the time the police vehicle passed the junction of Thuruna Road and Bratten Way it was no more than 5 seconds behind the motorcycle and was possibly less than that. At the same time, I find that the police vehicle was still being driven at a speed well in excess of the 50 kilometres per hour speed limit at that location and was approaching a speed of 100 kilometres per hour. It is possible that at that point in time Mr Graham no longer had his foot on the accelerator. However, I find that Mr Graham did not apply the brakes of the police vehicle for the first time until after the motorcycle's collision with the 4WD.
- f) I reject Mr Graham's evidence that he was at a distance of about 700 metres from the site of the collision, or in the vicinity of LeBrun Street at the time of the collision. Mr Graham's dogmatic assertion that it was not possible that he was within the 50k zone when the collision occurred is rejected. I also reject Mr Graham's evidence that it was during his communication with Port Lincoln, in which he described his speed and location within the 80 kilometres per hour zone, that he formed the intention to desist from the pursuit of the motorcycle. I find on the balance of probabilities that in the period between his announcing that he was travelling at a speed of 120 kilometres per hour in an 80 kilometres per hour zone and the moment of impact between the motorcycle and the 4WD, Mr Graham had

an adequate opportunity to desist from the pursuit and to advise Port Lincoln by radio accordingly. I am unable to reach any conclusion as to whether or not at any point Mr Graham formed an intention to desist from the pursuit. It is possible that he did form that intention at one point but in my view it is highly unlikely that he formed that intention any earlier than his vehicle's entry into the 50 kilometres per hour zone. Even at that point there was time for Mr Graham to have immediately stopped his vehicle and switched off the emergency lights and siren before the collision occurred. However, if he had done so at that point it probably would not have made any difference to Bradford's driving behaviour. The occasion for Mr Graham to have taken that action had passed. The opportunity to have positively affected Bradford's driving behaviour had been missed.

- g) Whether or not Mr Graham ever formed an intention to desist from the pursuit, in my view at the time of the collision Mr Graham was in all of the circumstances too close to the motorcycle and was still travelling too fast. Any decision to terminate had been taken too late for it to have manifested itself to Steven Bradford. It is more likely than not that at the time Steven Bradford's motorcycle collided with the 4WD he believed that he was still being pursued by police. This conclusion to my mind would not in any sense have been an irrational one on Steven Bradford's part having regard to the persistent nature of the pursuit especially through the right and left-hand bends on Bratten Way within the 110 kilometres per hour zone and for the entirety of the length of the 80 kilometres per hour zone. Right up to the moment of impact, there would have been nothing in the behaviour of the police vehicle which would have given Steven Bradford reason to believe that the driver of the police vehicle had desisted from the pursuit. I draw this conclusion from the duration, the tenacity and the persistence of the pursuit, from the fact that the lights and siren of the police vehicle were still operating at all times and from the proximity of the police vehicle to his motorcycle up to the point where Steven Bradford accelerated away. The police vehicle was still too close to the motorcycle even after Steven Bradford accelerated away. The conclusion that Steven Bradford still believed that he was being pursued right up to the moment of impact is to my mind reinforced by the fact that he maintained an extreme speed right up to the moment of impact.

h) It may well be that Steven Bradford welcomed the opportunity to provoke a pursuit, but I also find that a significant causative factor in Steven Bradford's speed at the time of his collision with the rear of the 4WD was a rational belief on his part that the police vehicle was still pursuing him at a high speed in a 50 kilometres per hour zone. This finding is in no sense designed to excuse Steven Bradford's riding behaviour, and the point is obvious that to a very large extent he brought about his own death. However, it is also clear in my opinion that Mr Graham's tenacious pursuit of Steven Bradford's motorcycle at high speed was a significant causative factor in Steven's collision and consequent demise.

## **9. Was the pursuit justified in the public interest?**

9.1. It was clearly appropriate for police to take action in respect of Steven Bradford's riding behaviour and it was not unreasonable for an attempt to be made to pull him over, at least to establish his identity for certain and then to take whatever action was appropriate. Of course, when Steven Bradford first failed to stop on Lincoln Highway, and indeed subsequently failed to stop altogether, he committed an offence contrary to Section 42 of the Road Traffic Act as it then existed. Once having committed this offence, Steven Bradford ultimately committed other offences including what would undoubtedly be regarded as driving at a speed dangerous to the public, particularly within the 50 kilometres per hour zone. If Steven Bradford had been caught, either by his voluntarily having stopped or by his being cornered into a position where he had no option but to stop, his identity probably would have been established, as would the fact that he resided at 4 Esplanade, Tumby Bay. But Mr Graham told me in his evidence that he may have felt compelled to actually arrest the rider of the motorcycle. He said:

'The way in which - if that had occurred, which obviously is hypothetical, and he eventually stopped after a pursuit, is that where you're going with it? He would have been arrested.'<sup>45</sup>

Barring an unforeseen circumstance, such as the rider of the motorcycle having existing warrants out for his arrest, or his being unable to establish his identity to Mr Graham's satisfaction, it is difficult to see why Mr Graham would entertain as a probability the need to arrest and take into custody the rider of the motorcycle. None of the offences that the motorcyclist had committed, including speeding, driving

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<sup>45</sup> Transcript, page 140

unlicensed, driving an unregistered and uninsured vehicle as well as failing to obey a direction under Section 42 of the Road Traffic Act attracted imprisonment. Imprisonment for an offence of speed dangerous<sup>46</sup> was at that time proscribed only for repeat offenders in respect of that offence and in any case speed dangerous was probably not committed until Steven Bradford rode at those dangerous speeds into Tumby Bay proper. By then it would have been manifestly inappropriate to have continued the pursuit at speed in any event. While in Mr Graham's mind the possibility of him having to arrest the motorcyclist may have been a live one, it was by no means inevitable or even probable. One should not lose sight of the fact that the pursuit was commenced and maintained with a view to bringing to justice, as it were, a person who might only have been prosecuted for traffic infringements for which fines and a moderate period of disqualification would have been appropriate. It will be remembered that the police General Orders that govern pursuits stipulate that pursuits should not generally be commenced for 'minor traffic matters'. One could, I suppose, endlessly debate the question whether speeding, driving unlicensed, unregistered and uninsured and failing to stop when directed to do so are minor traffic matters. But even if Steven Bradford's offences could not be so characterised, it would not mean that a pursuit would necessarily be justified for serious traffic matters. It would all depend on the circumstances. Suffice it to say, however, there was nothing in the motorcyclist's riding behaviour to suggest that inevitably an arrest would have been necessary in order to commence whatever prosecutorial proceedings were considered appropriate.

- 9.2. That said, it is difficult to escape the conclusion that the pursuit in its initial stages while the speeds were restricted to not much more than the appropriate speed limit, was justified. The speed at which the motorcycle took off along Lincoln Highway, and the speed at which Mr Graham commenced the pursuit, were not such that would necessarily cause concern that an unacceptable level of danger was being presented either to the motorcyclist or to the public at large. It would be wrong in my view to suggest that a police officer should not make some initial effort to follow or even pursue a motorcyclist. To say otherwise would be to encourage motorcyclists to disobey directions to stop in the knowledge that they will not be pursued. It seems to me that an initial pursuit would be justified if for no other reason than to test the resolve of the motorcyclist not to stop. However, my view is that in this case a proper

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<sup>46</sup> Section 46(1) of the Road Traffic Act

analysis of risk would have led to a conclusion that the circumstances had changed quite dramatically when the motorcyclist turned into Bratten Way and headed towards speed restriction zones and a township. I can find little evidence that at that stage Mr Graham conducted a proper risk assessment that took all of the relevant matters into account. If he had done so he ought to have been led to a conclusion that a continuation of the pursuit was fraught with an unacceptable level of danger. As seen, Mr Graham in fact told me that he did not necessarily understand that the motorcyclist was endeavouring to elude him until they were well onto Bratten Way. For reasons that I have already mentioned, I would reject that evidence. To my mind it was clear to Mr Graham that the motorcyclist was endeavouring to elude him on Lincoln Highway. Everything after that only served to highlight the motorcyclist's desire to elude police. Be that as it may, and given the fact that police had information in their possession that suggested that the registered owner of the vehicle may well have lived in Tumby Bay, and especially taking into account the fact that the motorcyclist was riding towards Tumby Bay and riding towards significant speed restriction zones, at the time the motorcyclist turned towards Tumby Bay the question of whether or not the pursuit should have been initiated or continued on Bratten Way needed to be seriously reassessed. For one thing, at that stage the motorcyclist's determination to elude the police vehicle must have been well and truly entrenched in the mind of Mr Graham, and the fact that the rider failed to slow down for the 85 kilometres per hour and 75 kilometres per hour advisory speed signs that governed the two bends on Bratten Way could only have served to reinforce this impression. Mr Arthur, an experienced motorcyclist whose evidence I have already referred to, suggested that those bends would be negotiated on a motorcycle at speeds of 110 kilometres per hour with some difficulty. It seems to me that in negotiating those bends at a speed of 120 kilometres per hour, the motorcyclist strongly signified the possibility that he would continue to ride carelessly and present as a danger at least to himself. The fact that to Mr Graham's knowledge the road beyond those bends would become an 80 kilometres per hour zone and then a 50 kilometres per hour zone that led into a built up area in my view cried out for the need to revisit the wisdom of and need for the pursuit.

- 9.3. The importance of the fact that there was information that should have been available to Mr Graham and which could possibly have led to the identity of the motorcyclist being established without the need for a pursuit, cannot be overstated. I speak here, of

course, of the name and address of the registered owner of the motorcycle. The motorcyclist was heading towards the very town and in the direction of the very address with which the registered owner of the motorcycle was said in police records to have a connection. Although it is to be accepted that general police experience is that a motor vehicle in respect of which the registration and insurance has expired might well be ridden by a person other than the registered owner, that was by no means a certainty in this case, especially when it is considered that Tumbly Bay is a small and relatively insular community. Added to this is the fact that police have wide powers in relation to the investigation of traffic offences where the perpetrators are not immediately detected. I refer here to the existence of the then Section 38 of the Road Traffic Act which entitled a member of the police to require truthful answers to questions put to any member of the public for the purpose of obtaining information which may lead to the identification of the person who was driving or the person who was the owner or the operator of a vehicle on any occasion. This power could have been utilised to compel Steven Bradford to answer questions not only as to the person who was the actual owner of the motorcycle as of the day of these offences, but also questions as to who had actually been riding the motorcycle. In this case if Steven Bradford had answered all such questions truthfully, such an investigation would naturally have revealed that he himself was still the owner and that he had been the rider of the bike. But that, of course, is to view the matter with the benefit of hindsight. However, even if it had not been the case that Steven Bradford had been the rider, the power could still have been utilised to compel him to divulge who the current owner of the motorcycle was and also, if he knew, the identity of the rider on the occasion in question. This in my view was a real option that Mr Graham could have considered and in the circumstances was one that was open to him as an alternative to pursuit.

- 9.4. I have already referred to the fact that Mr Graham regarded the address of the registered owner as not relevant, and for that reason did not make any enquiry via the GRN about this. I am of the view that this was an erroneous position to take. The registered owner's address was clearly relevant in this case and was a piece of information that was fundamental to any proper risk assessment.
- 9.5. The fact that the vehicle being pursued was a motorcycle was in my view also relevant to a question of risk assessment. Common experience suggests that a

collision involving a motorcycle at high speed can have more dire consequences than the same collision in a four-wheeled vehicle. The rider simply does not have the same protection that a person in a car might have. As well, although it presents as a smaller target, a motorcycle is more difficult to control at high speeds than a car. If a pursued motorcyclist ultimately fails to stop through his own actions, and the pursuit is maintained at high speed, as a matter of common sense there can only be two possible outcomes. Either the motorcyclist will successfully elude police or he will find himself in a situation in which he is physically forced to stop. In the latter scenario, which represents just as likely an outcome as the former, the inherent danger to the motorcyclist is manifest.

- 9.6. To my mind a proper risk assessment would have dictated that a termination of the pursuit should have taken place well before the motorcycle entered the 80 kilometres per hour speed zone. There was little to suggest that once the motorcycle encountered that speed zone he would comply with the speed limit. The same applies in relation to the 50 kilometres per hour zone. Indeed, on Mr Graham's evidence the motorcyclist escalated his speed in spite of the speed limits. There was no certainty that the motorcycle would slow down before it reached the built up area of Tumby Bay. When asked by me whether in the circumstances it was inevitable that the rider would enter the town limits of Tumby Bay at high speed, Mr Graham disagreed by pointing out that the rider had been riding at only 10 kilometres per hour above the speed limit in the 110 kilometres per hour zone. He emphasised that the rider may have slowed down once he reached the 80 kilometres per hour zone<sup>47</sup>. The difficulty with an assessment of risk that assumes a bare possibility that the pursued person might slow down is that it leaves too much to good fortune. Indeed, the continuation of the pursuit right up to the commencement of the 80 kilometres per hour zone might only have served to reinforce in the mind of the motorcyclist a determination to get away. In any event its continuation was highly unlikely to have prompted the motorcyclist to stop. On the contrary, it was obvious that the continuation of the pursuit was only serving to encourage the motorcyclist to ride recklessly. The termination in my view should have occurred no later than, if not well before, the two bends on Bratten Way that were governed by advisory speed signs. There was indeed a strong case for the termination occurring as early as the Lincoln Highway turn-off into Bratten Way given that it was therefore inevitable that the motorcycle would

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<sup>47</sup> Transcript, page 185

encounter speed restrictions and a town. In any case, the termination should immediately have been accompanied by a reduction of the speed of the police vehicle to the applicable speed limit or below and by a cessation of the emergency lights and siren so as to signify to the rider that the pursuit had been terminated.

- 9.7. In the event, Mr Graham maintained a high speed well into the 50 kilometres per hour zone and at no stage switched off the lights and siren. To Steven Bradford the belief that he was being pursued was no doubt still in his mind right up to the point of the collision.
- 9.8. The position as to whether this pursuit should have been continued may well have been different if, say, Mr Graham had been pursuing an escaped prisoner who had a propensity to commit violent crime. In these circumstances the public interest in securing the capture of the individual might outweigh the exposure of the individual and the general public to a measure of risk. No doubt there are other examples of situations in which a pursuit might be justified in the public interest. However, in this case there were no such considerations at work and in the final analysis Steven Bradford was being pursued for matters that, at worst, would simply have involved a licence disqualification and a fine. The balancing considerations were as follows. On the one hand there was a risk that if the pursuit had been terminated, and as a consequence the rider escaped, he might never have been identified and prosecuted. As well, he may not have been deterred from offending again. On the other hand, the more the pursuit became a protracted one the person being pursued, and very possibly the general public as well, were going to be exposed to a significant risk of serious injury. In my view, the engagement of Steven Bradford in a protracted pursuit at high speed was a disproportionate response to the need to stop, detect and prosecute him and was not in the public interest.

**10. Involvement in the incident of SAPOL officers other than Brevet Sergeant Graham**

- 10.1. As seen earlier in these findings, the General Order that related to police high risk driving makes provision for an Incident Controller to take charge of, monitor and closely control a police pursuit. If there were an Incident Controller in respect of this particular pursuit it would have to have been Senior Constable Richard Errington who was present at the Port Lincoln police station. The pursuit was initiated unilaterally

by Mr Graham without reference to any other police officer except insofar as he, by way of the GRN, advised Port Lincoln that he had a 'fail to stop' on his hands. It is interesting to observe that when Mr Graham made that communication he did so 'just for information'. He did not give any specific advice that he was actually pursuing the motorcycle at that time and the operator, who was a clerical assistant and not a sworn police officer, merely acknowledged Graham's communication without making any enquiry as to the nature of the action that was being taken by Graham.

- 10.2. Mr Errington provided a number of statements to the Inquest and, in addition, a record of interview that had been conducted with a senior police officer was also tendered<sup>48</sup>. Mr Errington was the Port Lincoln shift supervisor at the time of this pursuit. A clerical officer by the name of Anna McGrath was initially operating the radio at Port Lincoln. Mr Errington overheard Ms McGrath responding to the Tumby Bay police officer and gained an understanding that the officer had advised that he had a 'fail to stop' near Tumby Bay. When Ms McGrath acknowledged that transmission, Mr Errington's interest was obviously aroused so he then he took some notice of what was taking place. The communication by Mr Graham, as we saw earlier, occurred at 1757:57. The next transmission occurred at 1758:41 when Mr Graham advised that the motorcyclist was heading into Tumby Bay. Again, there was the usual short acknowledgement of that transmission by the operator, Ms McGrath, with nothing said at that stage about the fact of, or nature of, any pursuit that was taking place. At 1759:04 Mr Errington intervened and asked Mr Graham for speed and conditions. It was then that Mr Graham advised that they were travelling at 120 kilometres per hour in an 80 kilometres per hour zone with light traffic. It was during the course of this transmission that Mr Graham witnessed and then announced the 204, meaning the departmental collision. That advice, as we saw, was given 27 seconds into that transmission.
- 10.3. When the above is examined closely it is obvious that the whole incident was over in less than 3 minutes. It is to be acknowledged that in that time it would have been difficult for Mr Errington to have assumed complete control of the incident and to have formed a view about whether or not the pursuit was being appropriately conducted. The only information that he had from Mr Graham was that Graham, and by inference the motorcyclist, were both doing 120 kilometres per hour in an 80

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<sup>48</sup> Exhibit C26b

kilometres per hour zone but with light traffic. This information in itself ought to have heightened Mr Errington's level of concern if for no other reason than that, save for the Rule 305 exemption, Mr Graham may well have been committing an offence himself. Mr Errington's reaction was to ask Mr Graham where he was and Graham responded with the information that they were on Bratten Way and very shortly after that advised Errington of the 204. While it is true that Mr Graham provided Errington with only scant information, it is to be observed that at no time did Mr Errington engage Mr Graham in any discussion as to the underlying reason for the pursuit or whether Graham was in possession of any information that was relevant to the identity of the person being pursued. These matters were not only relevant to what Mr Graham was doing, but were also relevant to any action that an Incident Controller might take. In this regard, the General Order specifically imposes upon an Incident Controller the duty to establish the reasons for the pursuit. To my mind this requirement would not be satisfied simply by gaining an understanding that the pursuit was being conducted because of a failure of a motorist to stop. The reason why the motorist was directed to stop in the first place is manifestly a more important piece of information in assessing whether or not a pursuit is justified.

- 10.4. In Mr Errington's interview he was asked about the factors that may have hindered a proper decision on his part whether or not to order a termination of the pursuit. Mr Errington's response was that there had been a lack of information. He said that he was waiting for Graham to tell him what was going on, but had been reluctant to prompt him because he did not want to distract him in a potentially dangerous situation. In response to a question posed to Mr Errington by the interviewer, the thrust of which concerned what Errington may have done in respect of the pursuit if he had more information, Errington said this:

‘Well you stop it. What I'm saying is it's an inherently dangerous thing to chase a motorcycle, particularly in a township. That's obvious. OK. My point of view, being a, I think I've discussed this before, being an experienced police man I wouldn't be doing it.’

It is hard to assail the validity of that response. All of this to my mind brings into question whether it can be regarded as appropriate for police to pursue a motorcycle in any circumstances, and as well, casts doubt about the appropriateness of a pursuit being conducted where the pursuing officer is solo.

- 10.5. Although the introduction of an Incident Controller into a police pursuit is a mandatory and necessary one, the effectiveness of an Incident Controller in circumstances such as these is obviously limited. The fact of the matter was that Mr Graham was exercising his judgment quite independently of any other police officer. This for the most part was accounted for by the fact that he was solo and, owing to the rapid nature of the incident, he had little or no guidance from Port Lincoln. That said, Mr Graham did not ask for any guidance either.

## **11. Recommendations**

- 11.1. Following Steven Bradford's death a Police Commissioner's Inquiry into the circumstances of his death was conducted by Superintendent James Blandford. I take this opportunity to commend the excellence of the Commissioner's Inquiry into Steven Bradford's death. As a result of the Inquiry a number of recommendations were promulgated. The recommendations were as follows:

### **'Recommendation 1**

It is recommended that SAPOL request that the Learner Approved Motorcycle Scheme is re-examined by Transport SA to further restrict learner riders from riding overly powerful motorcycles.

### **Recommendation 2**

It is recommended SAPOL approach Transport SA to examine legislation and procedures which would prevent learner riders from purchasing or registering motorcycles they are not permitted to ride.

### **Recommendation 3**

It is recommended SAPOL approach Transport SA to ensure a consistent approach to accredited driver training, testing and licensing across the State at the earliest opportunity.

### **Recommendation 4**

It should be a requirement for all Sworn and Non Sworn SAPOL members likely to work in a Country Headquarter communication room to undertake an approved Communication course (SAPOL radio procedures) so that their standard of communication protocol are similar to that found in the metropolitan area.

**Recommendation 5**

It is recommended that the functionality of the Port Lincoln Police Station and its management of police communications and incidents is reviewed by the Officer in Charge West Coast Local Service Area to ensure service delivery and safety to both the public and police. It is recommended that this review is audited by Service Enhancement Branch.

**Recommendation 6**

I recommend that the duties of Senior Sergeant Roberts be reviewed as a matter of priority so as to enable him to focus on the Training & Development needs of the West Coast Local Service Area. I recommend that this review is conducted by Service Enhancement Branch.<sup>49</sup>

- 11.2. I am advised that all of the recommendations with the exception of Recommendation 6 were approved within SAPOL at a high level. I need make no comment about Recommendations 5 and 6.
- 11.3. The first three recommendations concern issues surrounding the desirability or otherwise of placing powerful machines such as the one Steven Bradford possessed into the hands of inexperienced riders. Recommendation 4 deals with the competencies of Sworn and Non Sworn SAPOL employees who undertake duties in country headquarters communication rooms, having regard to the fact that when this incident began, the Port Lincoln communications' GRN radio was being operated by a Non Sworn employee who would have been ill equipped to take on the duties of an Incident Controller. I need say no more about that recommendation other than that I endorse it.
- 11.4. As to Recommendations 1 to 3, I received in evidence the affidavit of Assistant Commissioner Grant Stevens<sup>50</sup>. I also received into evidence the affidavit of Mr Martin Small who is the Director Road Safety, Department for Transport, Energy and Infrastructure in South Australia (DTEI)<sup>51</sup>. I also heard oral evidence from Mr Small. Much of this material concerned licensing requirements in respect of motorcyclists and safe riding programs and the training that is required for, and provided in respect of, motorcycle licensing. I am not certain what training, if any, Steven Bradford had undertaken in respect of his attempt to obtain a full motorcycle licence. He did have a motorcycle Learner's Permit but this did not permit him to ride this particular motorcycle on a public road. In any event, the evidence that Steven Bradford did not

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<sup>49</sup> Exhibit C55, pages 2-3

<sup>50</sup> Exhibit C55

<sup>51</sup> Exhibit C52

have the necessary skill to ride a motorcycle, leaving aside engine capacity, was not particularly convincing. What killed Steven Bradford was the high speed at which he chose to ride this motorcycle. This accident occurred in a 50 kilometres per hour zone and was precipitated by a police pursuit. Save and except for very advanced courses designed for legitimate racing, I doubt whether any motorcycle training is going to equip a person to safely ride a motorcycle at speeds in excess of 150 kilometres per hour, especially in a built up area. On some versions of events Steven Bradford may well have been travelling at a speed around 150 kilometres per hour at the time of the collision. I have already made the observation that a lack of riding skill may not have been the catalyst for this collision. It seems to me that a speed of 150 kilometres per hour in a 50 kilometres per hour zone borders on the suicidal. It appears that what prompted this collision was the fact that Steven Bradford was simply unable to, or chose not to, appreciate the possible consequences of his actions. The fact that he had this very powerful motorcycle at his disposal of course did not help.

- 11.5. To my mind the questions that need to be addressed are as follows: what steps can feasibly be taken to prevent motorcycles of this capacity and horsepower being placed in the hands of inexperienced and immature riders in the first place? Secondly, what can be done to prevent persons who are not lawfully authorised to ride these bikes on a public road from doing so? In this regard I observe that the second recommendation of Superintendent Blandford is to the effect that SAPOL should approach Transport SA to examine legislation and procedures that would prevent learner riders from purchasing or registering motorcycles they are not permitted to ride. As I say, this recommendation was approved at a higher level within SAPOL. As to this issue, Mr Small's affidavit points out that all Australian jurisdictions allow vehicles to be registered by persons who will not necessarily be riding or driving the vehicle that is registered<sup>52</sup>. Other jurisdictions do not require registration applicants in respect of motorcycles to have the appropriate class of driver's licence. Mr Small points out that any legislative attempt to ensure that riders are unable to register motorcycles unless they are licensed to ride them can be circumvented by having the motorcycles registered in someone else's name<sup>53</sup>. He also points out that the legislative requirement that may have prevented someone like Steven Bradford from having a motorcycle registered in his own name would not necessarily have dissuaded Steven

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<sup>52</sup> Paragraph 28

<sup>53</sup> Paragraph 30

Bradford from purchasing the motorcycle. By extension, I take it that Mr Small would also argue that it would not have prevented him from riding the motorcycle in any event. In his affidavit, Mr Small states that DTEI is not currently pursuing any measure that would require purchasers of motorcycles, or those registering motorcycles, to be the holder of an appropriate motorcycle licence<sup>54</sup>. When Mr Small gave evidence to the Inquest he reiterated that attitude.

- 11.6. During the course of the Inquest I raised with the parties the question of whether or not it would be desirable or feasible for legislation to be enacted that would prevent a person from registering a motorcycle in their own name when the person did not have the appropriate licence for that motorcycle. Feasibility to my mind would not be an issue. At the moment of registration it would clearly only require a clerical check to determine whether the prospective registered owner had the appropriate licence or not. As I understand the position DTEI is the registering and the licensing authority in respect of both vehicle registration and the issuing of motorists' drivers licences.
- 11.7. The objection as I understand it, as articulated by Mr Small, is that such a measure could easily be circumvented by having the motor vehicle registered in the name of another person. During the Inquest I queried whether another legislative measure that would render it an offence for a registered owner to knowingly cause or permit an unlicensed person to ride the motorcycle that was the subject of the registration, would be appropriate or not. It seems to me that such a measure would have a two-fold possible benefit. Firstly, it might deter persons from agreeing to have vehicles registered in their names when in fact they are not the true owner of the vehicle but who are nevertheless aware of the possibility that it may be ridden by someone who is unlicensed. Secondly, if a person did agree to have such a vehicle registered in their own name it might deter that person from relinquishing the vehicle into the possession of another person whom they know to be unlicensed in respect of that type of vehicle. Nothing that I heard in the Inquest, either in the evidence or from counsel, persuaded me that such a measure would either not be feasible or would be inappropriate for some other reason. I intend to recommend that the relevant authority give consideration to implementing such a measure.

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<sup>54</sup> Paragraph 32

- 11.8. As to a measure that might be designed to prevent persons from actually purchasing vehicles that they are not licensed to drive or ride, I fail to see how such a measure would be feasible. It would be unenforceable in the case of private sales.
- 11.9. The other issue that is of concern is whether police high risk driving protocols and training are adequate to determine in advance the circumstances in which it is appropriate to initiate or continue the pursuit of a motorcycle. In my opinion police culture insofar as it applies to the pursuit of motorcycles needs to be revisited in its entirety. As indicated earlier in these findings, the nature of the vehicle being pursued is not a matter that is specifically addressed within the General Order as a relevant factor in any risk assessment made in connection with a police pursuit. The circumstances in which a motorcycle ought to be pursued for what amount to traffic offences, be they characterised as minor or otherwise, would need to be very compelling, save and except perhaps for an initial pursuit in order to test the resolve of the rider. It is simply attended with too much risk as the circumstances of this case graphically demonstrate. In my view, as part of any educational program designed for police officers in respect of high speed pursuits, special emphasis needs to be focused upon the circumstances in which it would be appropriate to pursue a motorcyclist.
- 11.10. The other issue that needs to be addressed as far as police high risk driving protocols are concerned is that concerning the establishment of the identity of the motorist. If it is a universally held view within the police force that the name and address of the registered owner of the vehicle is irrelevant in conducting a risk assessment in respect of a pursuit, it would represent an unsatisfactory state of affairs. I have already made the point that it is clearly relevant, especially in circumstances such as these where the rider of the motorcycle appeared, on the face of it, to have a connection with the location at which the registered owner was said in government records to reside. To my mind, this issue needs to be the subject of further education and needs to be specifically addressed in police General Orders.
- 11.11. The police General Order also in my view needs to address the circumstances in which a pursuit is conducted by a sole officer and where the Incident Controller is for whatever reason unable to exert effective control of the incident and there is no secondary vehicle involved in the pursuit.

- 11.12. Inspector Humby helpfully produced to the Court a revised version of the General order that came into effect in August 2008. I note that while certain matters have been clarified, the General Order does not specifically address any of the concerns raised in the preceding paragraphs of this finding.
- 11.13. The remaining issue is this. It needs to be acknowledged that any measure that will curtail the ability of police to pursue motorists might only serve to encourage motorists to fail to stop when directed to do so. At the time with which this Inquest is concerned, the penalty for a contravention of the then Section 42 of the Road Traffic Act was a moderate fine. The current equivalent of Section 42, namely Section 40(h) of the Road Traffic Act, now proscribes a maximum penalty of a fine of \$5,000 for failing to stop when directed to do so. It has always been the case that a Court might, in addition to fining a transgressor in respect of this offence, also disqualify that person from holding or obtaining a driver's licence. It is to be acknowledged that a prosecution for the offence of failing to stop when directed to do so is commonly accompanied by a prosecution for the other offences that gave rise to the direction to stop in the first instance. Accordingly, when the offender comes before the Court it is likely that they will receive substantial fines and even a substantial licence disqualification quite apart from the penalty that might be imposed for the failure to stop. Thus the penalty for failing to stop is very often subsumed within other penalties. It occurs to me that there is a possible need for further deterrent measures to be put in place in order to encourage motorists who are directed to stop by the police to actually stop, or in other words to deter motorists from failing to stop. In this regard consideration perhaps needs to be given to increasing the penalty for the offence of failing to stop, and in particular by the introduction of a mandatory minimum period of disqualification that would be served consecutively upon any other period of disqualification that is imposed for other offences.
- 11.14. It is to be acknowledged that there would be a need for caution in considering the introduction of such a measure. If a motorist has failed to stop when directed to do so, thereby having completed the commission of the offence, the realisation that the offender will receive a mandatory period of disqualification if they ultimately do stop might actually serve to strengthen the resolve of that person to elude police. This

might prolong a pursuit as a result. I intend recommending that such a measure nevertheless be considered.

11.15. I make the following recommendations:

- (1) That the Commissioner of Police establish a panel to investigate the appropriateness or otherwise of police officers pursuing motorcyclists at high speed.
- (2) That the Commissioner of Police in any event amend the General Order relating to high risk driving by including reference to the circumstances in which it would be considered appropriate and inappropriate for police officers to pursue motorcyclists, by including specific reference to the relevance of the identity of the registered owner of the pursued vehicle in any risk assessment, by making specific reference to existing police powers of investigation that might obviate the necessity for a pursuit and by specifically addressing the situation in which a police pursuit is being conducted by a sole officer in circumstances where an Incident Controller is unable to exert effective control of the incident and there is no secondary pursuit vehicle.
- (3) That the Commissioner of Police cause education programs to be devised in relation to the topics identified in Recommendation (2) herein with a view that the said programs be delivered to all police officers.
- (4) That the relevant government Ministers consider the introduction of legislation that would prevent the registration of vehicles in the names of persons who are not licensed to drive vehicles of the kind sought to be registered. I further recommend that the relevant Ministers at the same time consider the introduction of legislation that would render it an offence for the registered owner of a vehicle knowingly to cause or permit an unlicensed person to operate that vehicle.

- (5) That the relevant government Ministers consider the introduction of legislation that would penalise the offence of failing to stop a motor vehicle having been directed to do so by a police officer by the imposition of a minimum period of licence disqualification that would be served consecutively upon any other period of disqualification.

*Key Words: Death in Custody; High Speed Chase; Motorcycle*

*In witness whereof the said Coroner has hereunto set and subscribed his hand and*

*Seal the 6<sup>th</sup> day of March, 2009.*

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*Deputy State Coroner*